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Rules and Regulations

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

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

OFFICE OF MANAGEMENT AND BUDGET

2 CFR Part 200

Uniform Administrative Requirements, Cost Principles, and Audit Requirements

AGENCY: Office of Management and Budget.

ACTION: Notice of availability; request for comments.

SUMMARY: This document announces the availability of the 2023 Compliance Supplement (2023 Supplement) for the Office of Management and Budget's uniform administrative requirements, cost principles, and audit requirements regulations. This document also offers interested parties an opportunity to comment on the 2023 Supplement.

DATES: The 2023 Supplement replaces the 2022 Supplement (issued in May 2022). The Supplement applies to fiscal year audits that cover any period beginning after June 30, 2022.

ADDRESSES: All comments to the 2023 Supplement must be in writing and received by July 21, 2023. Late comments will be considered to the extent practicable. Comments will be reviewed and addressed, when appropriate, in the 2024 Compliance Supplement. Electronic mail comments may be submitted to: <http://www.regulations.gov>. Please include "2 CFR Part 200 Subpart F—Audit Requirements, Appendix XI—Compliance Supplement—2023" in the subject line and the full body of your comments in the text of the electronic message and as an attachment. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message. Comments may also be sent to: GrantsTeam@omb.eop.gov.

Please note that all public comments received are subject to the Freedom of Information Act and will be posted in their entirety, including any personal

and business confidential information provided. Do not include any information you would not like to be made publicly available.

The 2023 Supplement is available online on the OMB home page at the subpage for the Office of Federal Financial Management at: <https://www.whitehouse.gov/omb/office-federal-financial-management/>.

FOR FURTHER INFORMATION CONTACT: Recipients and auditors should contact their cognizant or oversight agency for audit, or Federal awarding agency, as appropriate. The Federal agency contacts are listed in appendix III of the Supplement. Subrecipients should contact their pass-through entity. Federal agencies should contact GrantsTeam@omb.eop.gov.

SUPPLEMENTARY INFORMATION: The 2023 Supplement (2 CFR part 200, subpart F, and appendix XI to Part 200) adds new programs and provides updates on other programs, where necessary.

As part of the development of the audit guidance contained in the Supplement, OMB shared the draft language developed by the agencies with recipient and audit stakeholders, including the American Institute of Certified Public Accountants (AICPA), the National Association of State Auditors, Controllers and Treasurers (NASACT), the U.S. Government Accountability Office (GAO), and agency Inspector General offices for comments. The comments were reviewed, adjudicated, and addressed by the relevant agencies and OMB. All necessary changes are reflected in the final published version.

Deidre A. Harrison,

Deputy Controller performing the delegated duties of the Controller.

[FR Doc. 2023-10954 Filed 5-19-23; 8:45 am]

BILLING CODE 3110-01-P

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R-1778]

RIN 7100-AG37

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Final rule; correcting amendments.

SUMMARY: The Board is updating its Rules Regarding Delegation of Authority to add delegations of authority previously approved by the Board and make certain technical corrections.

DATES: Effective May 22, 2023.

FOR FURTHER INFORMATION CONTACT: Andrew Hartlage, Special Counsel, (202) 452-6483; Amory Goldberg, Senior Counsel, (202) 452-3124; or Brian Kesten, Senior Attorney, (202) 843-4079, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. For users of TTY-TRS, please call 711 from any telephone, anywhere in the United States.

SUPPLEMENTARY INFORMATION: Section 11(k) of the Federal Reserve Act authorizes the Board to delegate, by published order or rule and subject to the Administrative Procedure Act, any of its functions, other than those related to rulemaking or pertaining principally to monetary and credit policies, to one or more administrative law judges, members or staff of the Board, or the Reserve Banks.¹ The Board has delegated authority to Board members (in their individual capacity and as chairs of committees of the Board), Board staff, and the Federal Reserve Banks to take certain actions under the various statutes that the Board administers. The Board's Rules Regarding Delegation of Authority (delegation rules) implement section 11(k) of the Federal Reserve Act and enumerate the actions that the Board has determined to delegate. By delegating actions that do not raise significant legal, supervisory, or policy issues, the Board can respond more efficiently to applications, requests, and other matters.

The Board published a final rule in 2022 that comprehensively revised the delegation rules.² The Board is amending the delegation rules to publish delegations of authority previously approved by the Board and make certain technical corrections, including cross-references that

¹ 12 U.S.C. 248(k).

² Rules Regarding Delegation of Authority, 87 FR 53988 (September 1, 2022).

erroneously used the letter “l” in place of the number “1”.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies); Banks, Banking.

Authority and Issuance

For the reasons stated in the preamble the Board of Governors of the Federal Reserve System amends 12 CFR part 265 as follows:

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

1. The authority citation for part 265 continues to read as follows:

Authority: 12 U.S.C. 248(i) and (k).

Subpart B—Delegations of Authority

2. In § 265.4, in paragraph (a)(3)(i), remove the words “the Primary Dealer Credit Facility,” and add, in their place, the words “the Bank Term Funding Program, Primary Dealer Credit Facility.”

3. In § 265.7:

a. In paragraph (d)(7)(ii)(E)(1), remove “252.156(g)(l)(i)” and add in its place “252.156(g)(1)(i)” in two places;

b. Add paragraph (e)(9);

c. In paragraph (j)(3)(i), remove “115.8(h)(1)” and add in its place “225.8(h)(1)”;

d. In paragraph (k)(3)(ii)(A), remove “§ 217.20(c)(l)(v)(C) and (d)(l)(v)(C) of Regulation Q (12 CFR 217.20(c)(l)(v)(C) and (d)(l)(v)(C))” and add in their place “§ 217.20(c)(1)(v)(C) and (d)(1)(v)(C) of Regulation Q (12 CFR 217.20(c)(1)(v)(C) and (d)(1)(v)(C))”;

e. In paragraph (k)(3)(iii)(A), remove “§ 217.20(b)(l)(iii), (c)(l)(vi), or (d)(l)(x) of Regulation Q (12 CFR 217.20(b)(l)(iii), (c)(l)(vi), (d)(l)(x))” and add in their place “§ 217.20(b)(1)(iii), (c)(1)(vi), or (d)(1)(x) of Regulation Q (12 CFR 217.20(b)(1)(iii), (c)(1)(vi), (d)(1)(x))”;

f. In paragraph (k)(3)(iii)(B), remove “§ 217.20(c)(l)(v)(A) or (d)(l)(v)(A) of Regulation Q (12 CFR 217.20(c)(l)(v)(A), (d)(l)(v)(A))” and add in their place “§ 217.20(c)(1)(v)(A) or (d)(1)(v)(A) of Regulation Q (12 CFR 217.20(c)(1)(v)(A), (d)(1)(v)(A))”;

g. In paragraph (k)(5)(iii)(M), remove “§ 217.131(e)(l)(i) of Regulation Q (12 CFR 217.131(e)(l)(i))” and add in their place “§ 217.131(e)(1)(i) of Regulation Q (12 CFR 217.131(e)(1)(i))”; and

h. Add paragraph (r).

The additions read as follows:

§ 265.7. Functions delegated to the Director of the Division of Supervision and Regulation.

* * * * * (e) * * *

(9) Bank-affiliate transactions. With the concurrence of the General Counsel, to approve, or to make the requisite findings for approval of, requests for an exemption from the requirements of section 23A of the Federal Reserve Act (12 U.S.C. 371c) and the Board’s Regulation W (12 CFR part 223) for the purchase of assets by a State bank or other insured depository institution from an affiliate, provided that the purchase of assets is:

- (i) Part of a one-time corporate reorganization;
(ii) Does not involve the purchase of low-quality assets;
(iii) Is accompanied by a commitment to repurchase any assets that have become low quality within two years of the transfer; and
(iv) Has been approved by the Federal Deposit Insurance Corporation and the institution’s appropriate Federal banking agency.

* * * * *

(r) Submission of reports. (1) With the concurrence of the General Counsel, to prepare and submit to Congress reports under section 165(b)(5) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5365(b)(5)).

(2) With the concurrence of the General Counsel, to prepare and submit to Congress reports under section 37(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831n(c)), and to submit such reports to the Federal Register for publication.

4. In § 265.10, revise paragraph (b) to read as follows:

§ 265.10. Functions delegated to the Director of the Division of Monetary Affairs.

* * * * *

(b) Form FR 2900. With the concurrence of the General Counsel—

(1) To reassess the deposit reporting threshold each year, starting in February 2022, as is necessary to maintain a weekly reporting panel of 1,000 institutions comprised of foreign-related reporters and the largest M2 deposit holders for the weekly Report of Deposits and Vault Cash (Form FR 2900); and

(2) To determine the frequency with which the deposit reporting threshold is reassessed (e.g., annually or less frequently than annually) consistent with maintaining a stable panel of weekly reporters for the Form FR 2900 and enabling accurate construction of the monetary aggregates.

§ 265.11 [Amended]

5. In § 265.11, in paragraph (a)(1), remove the words “Dodd-Frank Act” and add in their place the words “Dodd-

Frank Wall Street Reform and Consumer Protection Act”.

§ 265.13 [Amended]

6. In § 265.13, in paragraph (b)(1)(i), remove “115.8(h)(1)” and add, in its place, “225.8(h)(1)”.

7. In § 265.20:

a. In paragraph (a)(6)(i), remove the words “§ 225.22(c)(1) of Regulation Y (12 CFR 225.22(c)(1))” and add in their place the words “§ 225.22(d)(1) of Regulation Y (12 CFR 225.22(d)(1))”.

b. In paragraph (c)(6)(iv)(E), remove the words “Regulation LL (12 CFR 238.41)” and add in their place the words “Regulation LL (12 CFR 238.31)”.

c. Add paragraph (c)(14)(xvi);

d. In paragraph (l)(1)(i)(A), remove the words “§ 217.20(b)(l)(iii), § 217.20(c)(l)(vi), or § 217.20(d)(l)(x) of Regulation Y (12 CFR 217.20(b)(l)(iii), 217.20(c)(l)(vi), or 217.20(d)(l)(x))” and add in their place the words “§ 217.20(b)(1)(iii), § 217.20(c)(1)(vi), or § 217.20(d)(1)(x) of Regulation Y (12 CFR 217.20(b)(1)(iii), 217.20(c)(1)(vi), or 217.20(d)(1)(x))”;

e. In paragraph (l)(1)(i)(B), remove the words “§ 217.20(c)(l)(v)(A) or § 217.20(d)(l)(v)(A) of Regulation Q (12 CFR 217.20(c)(l)(v)(A) and 217.20(d)(l)(v)(A))” and add in their place the words “§ 217.20(c)(1)(v)(A) or § 217.20(d)(1)(v)(A) of Regulation Q (12 CFR 217.20(c)(1)(v)(A) and 217.20(d)(1)(v)(A))”.

The addition reads as follows:

§ 265.20 Functions delegated to Federal Reserve Banks.

* * * * *

(c) * * *

(14) * * *

(xvi) To grant a request to waive the application of § 239.59(d)(1), (h), (j), and (p)(2) of Regulation MM (12 CFR 239.59(d)(1), (h), (j), and (p)(2)) as those provisions relate to applications and notices seeking the Board’s prior approval to conduct a stock issuance pursuant to § 239.24 of Regulation MM (12 CFR 239.24) related to a reorganization to mutual holding company form pursuant to section 10(o)(3) of the Home Owners’ Loan Act (12 U.S.C. 1467a(o)(3)), or subsequent to a mutual holding company reorganization, and that do not raise any significant legal, policy, or supervisory concerns, except that the authority to grant waiver requests under this paragraph (c)(14)(xvi) is limited to requests by firms that—

(A) Do not qualify for federal preemption of state securities filing requirements;

(B) Propose to register their shares in states with ten or more eligible account

holders, as that term is defined in § 239.52(c) of Regulation MM (12 CFR 239.52(c)); and

(C) Would make a proposed stock offering available to account holders eligible to participate in the offering in states where the offering would qualify for an exemption from state securities filing requirements.

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority.

Margaret McCloskey Shanks,
Deputy Secretary of the Board.

[FR Doc. 2023–10502 Filed 5–19–23; 8:45 am]

BILLING CODE 6201–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

RIN 3245–AH92

Small Business Lending Company Application Process

AGENCY: U.S. Small Business Administration.

ACTION: Notification.

SUMMARY: The purpose of this notification is to announce that SBA's Office of Capital Access (OCA) is opening the application period for new Small Business Lending Companies (SBLC) licenses from June 1, 2023, to July 31, 2023, and share the process by which interested entities may apply. SBA is not accepting applications for Community Advantage SBLCs (CA SBLCs) at this time; however, qualified entities may apply under the Community Advantage pilot authority until September 30, 2023.

DATES: This document is effective on June 1, 2023. SBA will accept applications for new SBLC licenses from June 1, 2023, to July 31, 2023.

Comment Date: Comments must be received on or before June 21, 2023.

ADDRESSES: You may submit comments, identified by SBA docket number SBA–2023–0006, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov/>. Follow the instructions for submitting comments.

- *Mail:* Jihoon Kim, Office of Financial Program Operations, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

- *Hand Delivery/Courier:* Darrel Eddingfield, Office of Financial Assistance, U.S. Small Business

Administration, 409 Third Street SW, Washington, DC 20416.

SBA will post all comments on <https://www.regulations.gov>.

If you wish to submit confidential business information (“CBI”) as defined in the User Notice at <https://www.regulations.gov>, please submit the information to Jihoon Kim, Office of Financial Program Operations, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416; or send an email to SBLCApps@sba.gov. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination as to whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: Jihoon Kim, Director, Office of Financial Program Operations (OFPO), Office of Capital Access, Small Business Administration, at 202–205–6024 or Jihoon.Kim@sba.gov. The phone number above may also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Communications Commission's TTY-Based Telecommunications Relay Service teletype service at 711.

SUPPLEMENTARY INFORMATION:

I. Background Information

On April 12, 2023, SBA published the Final Rule on Small Business Lending Company (SBLC) Moratorium Rescission and Removal of the Requirement for a Loan Authorization (88 FR 21890, effective May 12, 2023). Through that rule, SBA lifted the self-imposed moratorium on licensing new SBLCs and established the plan to approve three SBLCs in the first year following implementation. An SBLC, as defined in 13 CFR 120.10, is a non-depository lending institution authorized by SBA to make loans pursuant to section 7(a) of the Small Business Act and loans to Intermediaries in SBA's Microloan program. An SBLC is:

- Supervised and examined solely by SBA at the federal level, although the entity may be subject to state supervision;
- Subject to additional SBA Loan Program Requirements, as defined in 13 CFR 120.10, including but not limited to regulations specific to SBLCs regarding formation, capitalization, and enforcement actions; and
- Subject to all other 7(a) Loan Program Requirements including but not limited to, those specific to origination, servicing, and liquidation.

This SBLC moratorium was put in place in 1982, prior to access to modern digital tools that enhance oversight and mitigate risk. For 41 years, SBA has overseen the application and approval process approximately 60 times for the transfer of the existing SBLC licenses including determining the capability and experience of the acquiring entity's leadership; the financial capacity to make, service, and liquidate loans; and the safety and soundness of its portfolio. This ensures compliance with SBA's regulatory requirements and origination of loans based on standards consistent with similarly sized commercial loans made by other lenders.

As stated above, the purpose of this notification is to announce that SBA's Office of Capital Access is opening the application period for new Small Business Lending Companies (SBLC) licenses. SBA is also maintaining the process for purchasing one of the existing lending authorities from a current SBLC in accordance with 13 CFR 120.468.

Although SBA is not accepting applications for Community Advantage SBLCs (CA SBLCs) in this open period, SBA will continue to accept applications for new lenders in SBA's Community Advantage (CA) Pilot Program through the end of the CA Pilot Program, which will sunset on September 30, 2023. Entities that are interested in applying to become a CA Pilot lender should follow the application instructions in the Community Advantage Participant Guide, version 7, effective May 31, 2022. In accordance with SBA Information Notice 5000–846918, Community Advantage Small Business Lending Company Conversion, effective May 1, 2023, SBA will continue to work with all CA Pilot lenders to transition them to CA SBLCs.

II. SBLC Requirements

SBLCs must comply with SBA's requirements for SBA Lenders, SBA Supervised Lenders, and the additional requirements presented in 13 CFR part 120, subpart D, §§ 120.470 through 490 specifically for SBLCs.

SBLCs must:

1. Submit to the D/OCRM via OCRMSBLC@sba.gov for review their credit policy that demonstrates compliance with Title 13 of the CFR and SBA's Standard Operating Procedures (SOPs) for origination, servicing, and liquidation of 7(a) loans, and which must be acceptable to SBA in its discretion.
2. Submit to the D/OCRM via OCRMSBLC@sba.gov for review and approval annual validation, with

supporting documentation and methodologies demonstrating that any scoring model used by the SBLC is predictive of loan performance.

3. Each SBLC's Board of directors must adopt and fully implement an internal control policy that provides adequate direction to the institution for effective control over and accountability for operations, programs, and resources. The Board-adopted internal control policy must, at a minimum, comply with 13 CFR 120.460. For example:

a. The internal control policy implemented must ensure satisfactory monitoring and management of the SBA loan portfolio, including but not limited to, providing for a periodic loan review function to be performed at least annually by a person who is not directly or indirectly responsible for loan making or by outside contractors.

b. It must include a list of monthly reports provided by the SBLC's management for Board review to support adequate Board oversight.

c. It must provide for internal controls for loan making, servicing and liquidation.

d. It must provide for a risk rating system to risk classify SBA loan assets satisfactory to SBA.

e. Internal control policies and procedures must include provisions to ensure compliance with SBA's Loan Program Requirements on eligibility.

f. Internal control policies and procedures must include provisions to ensure the SBLC exercises due diligence and prudent oversight of its third-party vendors, including Lender Service Providers (LSP) and other loan Agents. Such policies and procedures should include, but not be limited to, monitoring performance of loans referred by an Agent or where an Agent provided assistance.

g. SBLCs must provide documentation demonstrating that the internal control policies and procedures are fully implemented and followed.

4. SBLCs must adhere to their internal policies and procedures for originating, closing, servicing, and, when necessary, liquidating SBA loans. When SBA procedures require Lenders to follow their own policies and procedures on their similarly-sized, non-SBA guaranteed loans, SBLCs must follow the written policies and procedures that have been reviewed by SBA.

5. An SBLC may not make a loan to an Applicant that has received assistance from an affiliated Small Business Investment Company (SBIC). (13 CFR 120.476)

III. Process To Acquire an SBLC License

Per SBA regulations, to acquire an SBLC license, including a CA SBLC license, an entity must (1) purchase one of the existing lending authorities from a current SBLC or CA SBLC; or (2) apply for a new SBLC license or CA SBLC license when SBA opens an application period for new SBLC and/or CA SBLC licenses.

(1) Purchase Existing SBLC Licenses, Including CA SBLC Licenses

SBA does not participate in facilitating the transfer of an SBLC's SBA lending authority. Private party negotiations culminate in a definitive purchase and sale agreement which includes the terms and conditions related to the transfer of the SBA lending authority. This agreement must include provisions which condition the transfer upon the *prior* written approval of the SBA.

SBA's prior written approval is required per 13 CFR 120.468 for any proposed transaction or event that results in a change in ownership or control by any entity or person(s) not previously approved by SBA. Control as defined in this paragraph means the possession, direct or indirect, or the power to direct or cause the direction of the management or policies of an SBLC, whether through the ownership of voting securities, by contract, or otherwise.

To obtain written approval, the selling SBLC must send a written request or notice of intent to transfer to the SBLCApps@sba.gov. The written request should include:

- a. The name and address of the acquiring concern; and
- b. The primary name and contact information for the acquiring concern's contact.

The purchasing entity must submit an SBLC Application, as outlined below, for SBA's prior written consent with respect to any change of ownership or control transaction as specified in 13 CFR 120.468. The purchasing entity must also file a request for transfer with SBLCApps@sba.gov.

For change of control transactions, the Lender will need to reapply for any delegated authorities separately.

If the proposed change of ownership is for less than a majority interest, SBA may in its sole discretion limit the items required from the Lender in the SBLC Application, as outlined below, to support a request for prior written SBA consent.

(2) New SBLC Application Process, Including CA SBLCs

SBA will issue notices in the **Federal Register** with information regarding the SBLC license application processes, including important timelines and procedures. Applicants must complete and submit an SBLC Application, as outlined below, during designated application periods.

IV. SBLC Application

The entity applying for a new SBLC license must submit an executed electronic scanned copy (in pdf format) to SBLCApps@sba.gov addressing each of the elements set forth below ("SBLC Application"). The SBLC Application must be complete and organized in tabular format. The application must include:

1. The Legal name, address, telephone, and email address of the proposed SBLC;
2. Identification of the form of organization of the proposed SBLC along with file-stamped copies of the concern's certificate of incorporation, certificate of formation or certificate of limited partnership (as applicable), and a copy of the concern's corporate bylaws, limited liability company operating agreement, or limited partnership agreement (as applicable);
3. Identification of the proposed SBLC's capitalization including the form of ownership, the identification of all classes of equity capital and proposed funding amounts, rights and preferences accorded to each class of stock or members interest (including voting rights, redemption rights, and rights of convertibility) and conditions for transfer, sale, or assignment of these interests;
4. The proposed SBLC's geographic area of operation;
5. Identification of all officers, directors, managing partners, managing members, and Key Employee(s) of the proposed SBLC, which includes senior managers, members of loan committees, and individuals who have a meaningful participation in the direction of the operations, policies, or financial decisions of the proposed SBLC), and all other individuals or entities that propose to hold an equity interest of at least 10% of the economic interest in any class of stock or ownership interest in the proposed SBLC (such identification should include a discussion of any prior SBA experience);
 - a. An organization chart showing the relationship of the proposed SBLC with all related Associates (see Appendix 3, Definitions) and affiliates within the organization;

b. All individuals or entities identified in this paragraph must submit an executed SBA Form 1081 and either a Form FD-258 (fingerprint card) or Electronic Fingerprint Submission. SBA Form 1081 and the Form FD-258 or Electronic Fingerprint Submission must be signed and dated within 90 days of submission to SBA.

c. A director or Key Employee of the lender organization is only required to submit either Form FD-258 (fingerprint card) or Electronic Fingerprint.

d. Submission if the director or Key Employee answered affirmatively to questions 10a, 10b, 10c, 11a and/or 11b on the SBA Form 1081. For SBLCs, proof of fidelity insurance coverage as detailed in 13 CFR 120.470(e).

6. A comprehensive business plan that details:

a. The nature of proposed operations, including the organizational units involved in sourcing, evaluating, underwriting, closing, disbursing servicing, and liquidating small business loans in the organization;

b. The identification of all sources of capital used to finance lending operations;

c. An operations plan detailing the nature of the Lender's proposed loan activity, the volume of activity projected over the first 3 years as an SBA Lender, projected balance sheets, income statements and statement of cash flows of the Lender, with alternative profit and loss scenarios based on run rates equivalent to 70% and 50% of projected loan activity, the type and projected amount of financing needed to support its lending plan, along with a discussion of Lender's proposed wind-down plan in the event the Lender decides to leave the program;

d. A detailed analysis of the Lender's projected secondary market activities during the first 3 years of operation, including a sensitivity analysis of the effect any changes in premium from the sale of the guaranteed portion of 7(a) loans in SBA's secondary market may have on the Lender's prospective earnings. The analysis must also include a description of the Lender's plans (if any) to securitize or sell participations in the unguaranteed portion of 7(a) loans; and

e. If the Lender intends to acquire any 7(a) loans, a written plan detailing the extent of this acquisition activity in its operating plan, and how the Lender will manage the transition of the 7(a) loan portfolio;

7. All documents associated with any type of external financing expected to be undertaken by the proposed SBLC;

8. A written statement from an authorized official of the acquiring

concern certifying that the SBLC will not be primarily engaged in financing the operations of an Affiliate as defined in 13 CFR 121.103.

9. The most recent audited financial statements of the acquiring concern if it has been in operation for more than 1 year, or the audited financial statements of the acquiring concern's parent company.

10. A certified copy of a Board, limited partners, or members resolution specifying the individual(s) or official(s) granted the authority by the organization to submit this SBLC application;

11. A certification by the proposed SBLC that it is in full compliance with all Federal, State, and local laws;

12. A written legal opinion of independent counsel ("Independent Counsel" is counsel that is not an Associate of the lender), satisfactory to SBA that addresses whether the proposed SBLC:

a. Is duly formed, organized, and validly existing in good standing under the laws of the State of its organization, and is in full compliance with all Federal, State, and local laws in connection with the formation and organization of the proposed SBLC; and

b. Has the power, legal right, and authority to enter into the sale transaction.

V. Evaluation Process

SBA reserves the right to deny any entity applying for or proposing to acquire an SBLC's SBA lending authority, in its sole discretion. In addition to SBA's evaluation of the elements required in the SBLC Application, SBA may consider risk factors in its evaluation. These factors include, but are not limited to:

- The lending policies of the proposed SBLC, including those for non-SBA loans, and their alignment with SBA's mission;
- Historical performance measures (such as default, purchase and loss rate);
- Whether the applicant is subject to any legal proceedings, enforcement action, order or agreement with a regulator or the presence of other related concerns;
- Other performance data associated with the acquiring concern or its senior management team, along with other relevant information (such as SBA-observed gaps in small business lending not served by the existing 7(a) Lender population, including small-dollar lending and loans to underserved populations); and
- Affiliation with lenders or lender service providers previously sanctioned by SBA.

In the review process, SBA will *not* consider the following factors in its review:

- Timing of application submission, so long as the application is submitted within an open application period.

Once received, the Director, Office of Financial Program Operations (D/OFPO), in consultation with the Director, Office of Credit Risk Management (D/OCRM), Director, Office of Financial Assistance (D/OFA), Director, Office of Performance and System Management (D/OPSM), and the Deputy Associate Administrator of the Office of Capital Access or designee, makes the final determination on the application.

SBA will notify all applicants whether they have been approved. If approved, written notification will be provided to the applicant. Included with this letter will be SBA Form 750 for execution and return to SBA.

VI. Timeline

The SBLC application period is open as of Thursday, June 1, 2023, and SBA will continue accepting applications through 11:59 p.m. Eastern time on Monday, July 31, 2023. After such period, SBA will close the application period, review and process all applications in accordance with the instructions provided above, and award up to three SBLC licenses. SBA anticipates issuing the new SBLC licenses in fall of 2023.

Isabella Casillas Guzman,
Administrator.

[FR Doc. 2023-10310 Filed 5-19-23; 8:45 am]

BILLING CODE 8026-09-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2023-0167; Project Identifier MCAI-2022-00762-T; Amendment 39-22425; AD 2023-09-02]

RIN 2120-AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all MHI RJ Aviation ULC Model CL-600-2B19 (Regional Jet Series 100 & 440); CL-600-2C10 (Regional Jet Series 700, 701, &

702); CL-600-2C11 (Regional Jet Series 550); CL-600-2D15 (Regional Jet Series 705); CL-600-2D24 (Regional Jet Series 900); and CL-600-2E25 (Regional Jet Series 1000) airplanes. This AD was prompted by a determination that aircraft maintenance manual (AMM) tasks and certification maintenance requirement (CMR) tasks are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive AMM and CMR tasks. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 26, 2023.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 26, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2023-0167; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information identified in this final rule, contact MHI RJ Aviation Group, Customer Response Center, 3655 Ave. des Grandes-Tourelles, Suite 110, Boisbriand, Québec J7H 0E2 Canada; North America toll-free telephone 833-990-7272 or direct-dial telephone 450-990-7272; fax 514-855-8501; email thd.crj@mhij.com; website mhij.com.

- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at regulations.gov under Docket No. FAA-2023-0167.

FOR FURTHER INFORMATION CONTACT:

Gabriel Kim, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; email 9-avs-nyaco-cos@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all MHI RJ Aviation ULC Model CL-600-2B19 (Regional Jet Series 100 & 440); CL-600-2C10 (Regional Jet Series 700, 701, & 702); CL-600-2C11 (Regional Jet Series 550); CL-600-2D15 (Regional Jet Series 705); CL-600-2D24 (Regional Jet Series 900); and CL-600-2E25 (Regional Jet Series 1000) airplanes. The NPRM published in the **Federal Register** on February 16, 2023 (88 FR 10060). The NPRM was prompted by AD CF-2022-32, dated June 13, 2022, issued by Transport Canada, which is the aviation authority for Canada (referred to after this as the MCAI). The MCAI states that it was discovered that the 10-year (120-month) periodic hydrostatic tests of the engine and auxiliary power unit (APU) fire extinguishing bottles on Model CL-600-2B19 airplanes and of the engine, APU, and cargo compartment fire extinguishing bottles for Model CL-600-2C10, CL-600-2C11, CL-600-2D15, CL-600-2D24, and CL-600-2E25 airplanes were not performed. This could mean that the functional test of the pressure switch, which should be performed as part of the hydrostatic tests, may have been omitted on several airplanes in service. Failure to perform the pressure switch test and the 10-year overhaul or restoration of the FIREX bottles could result in a dormant loss of fire extinguishing capability.

In the NPRM, the FAA proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive AMM and CMR tasks. The FAA is issuing this AD to address undetected loss of fire extinguishing capability for the engine, APU, or cargo compartment. The unsafe condition, if not addressed, could result in an inability to put out a fire in the engine, APU, or cargo compartment area.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA-2023-0167.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's

bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment 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 this product. Except for minor editorial changes, 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 Bombardier Temporary Revisions 2A-73 and 2A-74, both dated June 5, 2020. This service information specifies new or more restrictive CMR tasks.

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

Costs of Compliance

The FAA estimates that this AD affects 1,114 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

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

Authority for This Rulemaking

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

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

that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2023–09–02 MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–22425; Docket No. FAA–2023–0167; Project Identifier MCAI–2022–00762–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 26, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all MHI RJ Aviation ULC (Type Certificate previously held by Bombardier, Inc.) airplanes identified in paragraphs (c)(1) through (6) of this AD, certificated in any category.

- (1) Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes.
- (2) Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes.
- (3) Model CL–600–2C11 (Regional Jet Series 550) airplanes.
- (4) Model CL–600–2D15 (Regional Jet Series 705) airplanes.
- (5) Model CL–600–2D24 (Regional Jet Series 900) airplanes.
- (6) Model CL–600–2E25 (Regional Jet Series 1000) airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire Protection.

(e) Reason

This AD was prompted by a determination that new or more restrictive aircraft maintenance manual (AMM) tasks and certification maintenance requirement (CMR) tasks are necessary. The FAA is issuing this AD to address undetected loss of fire extinguishing capability for the engine, APU, or cargo compartment. The unsafe condition, if not addressed, could result in an inability

to put out a fire in the engine, APU, or cargo compartment area.

(f) Compliance

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

(g) Existing Maintenance or Inspection Program Revision for Model CL–600–2B19 Airplanes

For Model CL–600–2B19 airplanes: Within 60 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Bombardier Temporary Revisions 2A–73 and 2A–74, both dated June 5, 2020. The initial compliance time for doing the tasks is at the applicable times specified in Bombardier Temporary Revisions 2A–73 and 2A–74, both dated June 5, 2020, or within 60 days after the effective date of this AD, whichever occurs later.

(h) Existing Maintenance or Inspection Program Revision for Other Model Airplanes

- For airplanes identified in paragraphs (c)(2) through (6) of this AD:
 - (1) Within 60 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Figure 1 to paragraph (h)(1) of this AD. The initial compliance time for doing the task is at the applicable time specified in paragraph (h)(1)(i) or (ii) of this AD.
 - (i) If a restoration (previously called a hydrostatic test) of any cargo compartment fire extinguisher bottle was accomplished on or before June 5, 2014, do the applicable maintenance task on that bottle within 48 months after the effective date of this AD.
 - (ii) If a restoration (previously called a hydrostatic test) of any cargo compartment fire extinguisher bottle was accomplished after June 5, 2014, do the applicable maintenance task on that bottle within 10 years after the most recent restoration was accomplished.
- Figure 1 to paragraph (h)(1)—*AMM task for the cargo fire extinguisher bottle*

Effectivity	Interval Limitation	AMM Task Numbers
All	10 years	26-25-01-610-801-A01 26-25-01-610-801-A02

(2) Within 60 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Figure 2 to paragraph (h)(2) of this AD. The initial compliance time for doing the task is at the applicable time specified in paragraph (h)(2)(i) or (ii) of this AD.

(i) If a restoration (previously called a hydrostatic test) of any engine or auxiliary power unit (APU) fire extinguisher bottle was accomplished on or before June 5, 2014, do the applicable maintenance task on that bottle within 48 months after the effective date of this AD.

(ii) If a restoration (previously called a hydrostatic test) of any engine or APU fire extinguisher bottle was accomplished after June 5, 2014, do the applicable maintenance task on that bottle within 10 years after the most recent restoration was accomplished.

Figure 2 to paragraph (h)(2)—*AMM tasks for the engine and APU fire extinguisher bottles*

Effectivity	Interval Limitation	AMM Task Numbers
All	10 years	26-21-07-610-801-A01 26-21-07-610-801-A02 26-22-07-610-801-A01 26-22-07-610-801-A02

(i) No Alternative Actions or Intervals

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

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(k) Additional Information

(1) Refer to Transport Canada AD CF-2022-32, dated June 13, 2022, for related information. This Transport Canada AD may be found in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2023-0167.

(2) For more information about this AD, contact Gabriel Kim, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; email 9-avs-nyaco-cos@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) Bombardier Temporary Revision 2A-73, dated June 5, 2020.

(ii) Bombardier Temporary Revision 2A-74, dated June 5, 2020.

(3) For service information identified in this AD, contact MHI RJ Aviation Group, Customer Response Center, 3655 Ave. des Grandes-Tourrelles, Suite 110, Boisbriand, Québec J7H 0E2 Canada; North America toll-free telephone 833-990-7272 or direct-dial telephone 450-990-7272; fax 514-855-8501; email thd.crj@mhirj.com; website mhirj.com.

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

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

Issued on April 28, 2023.

Gaetano A. Sciortino,

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

[FR Doc. 2023-10787 Filed 5-19-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2022-1491; Project Identifier MCAI-2022-00924-T; Amendment 39-22424; AD 2023-09-01]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A318 series airplanes; Model A319 series airplanes; Model A320-211, -212, -214, -216, -231, -232, -233, -251N, -252N, -253N, -271N, -272N, and -273N airplanes; and Model A321 series airplanes. This AD was prompted by a report that certain overheat detection system (OHDS) sensing elements installed at certain positions might not properly detect thermal bleed leak events due to a quality escape during the manufacturing process. This AD requires a one-time detailed inspection of each affected part installed at an affected position and replacement if necessary, and prohibits the installation of affected parts at affected positions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 26, 2023.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 26, 2023.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2022-1491; or in person at Docket Operations between 9 a.m. and

5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For EASA material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. It is also available in the AD docket at regulations.gov by searching for and locating Docket No. FAA-2022-1491.

- For Kidde Aerospace & Defense service information incorporated by reference in this AD, contact Kidde Aerospace & Defense, 4200 Airport Drive NW, Wilson, NC 27896; phone: 252-246-7134; fax: 252-246-7181; email: avionicssupport@collins.com; website kiddeaerospace.com.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket at regulations.gov under Docket No. FAA-2022-1491.

FOR FURTHER INFORMATION CONTACT:

Timothy Dowling, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th Street, Des Moines, WA 98198; telephone 206-231-3667; email timothy.p.dowling@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A318 series airplanes; Model A319 series airplanes; Model A320-211, -212, -214, -216, -231, -232, -233, -251N, -252N, -253N, -271N, -272N, and -273N airplanes; and Model A321 series airplanes. The NPRM published in the **Federal Register** on December 6, 2022 (87 FR 74519). The NPRM was prompted by AD 2022-0147, dated July 14, 2022; corrected August 17, 2022, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2022-0147) (also referred to as the MCAI). The

MCAI states that the affected part manufacturer, Kidde Aerospace & Defense, reported that certain OHDS sensing elements, produced before January 31, 2021, may not properly detect thermal bleed leak events due to a quality escape during the manufacturing process.

In the NPRM, the FAA proposed to require a one-time detailed inspection of each affected part installed at an affected position (*i.e.*, a position identified as functional item number (FIN) 34HF, FIN 35HF, FIN 61HF or FIN 62HF) and replacement as applicable, and would prohibit the installation of affected parts at affected positions, as specified in EASA AD 2022-0147. The FAA is issuing this AD to address OHDS sensing elements that do not properly detect thermal bleed leak events, which could result in an air leak remaining undetected by the OHDS at an affected position and not being isolated during flight, possibly resulting in localized areas of the main landing gear bay and keel beam being exposed to high temperatures, and consequent reduced structural integrity of the airplane.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA-2022-1491.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Air Line Pilots Association, International (ALPA), who supported the NPRM without change.

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

Request To Revise Exception Language

United Airlines requested that the FAA clarify the exception to EASA AD 2022-0147 specified in paragraph (h)(1) of the proposed AD. Section 1.A. of Kidde Aerospace & Defense Service Bulletin CFD-26-3, dated January 13, 2022; or Revision 1, dated March 29, 2022; states that the date code is A2105, or January 31, 2021. Section 1.C under Reason of the Kidde Aerospace & Defense Service Bulletin CFD-26-3 states, "CFD sensing elements produced between November 24, 2004, and January 31, 2021, may not properly detect thermal bleed leak events." Kidde Aerospace & Defense Service Bulletin CFD-26-3 states two different time constraints. The commenter asked the FAA to identify the correct time constraint including the serial number equivalent of the date code restriction "A2105."

The FAA agrees that parts produced prior to November 24, 2004, and after January 31, 2021, do not have the problem identified in this AD. In order to provide additional clarity, paragraph (h)(1) of this AD has been updated accordingly.

Request To Provide Serial Number to Date Code A2105

United Airlines requested that the FAA provide the corresponding serial numbers to Date Code A2105.

The FAA disagrees. Kidde Aerospace & Defense Service Bulletin CFD-26-3, dated January 13, 2022; and Revision 1, dated March 29, 2022; specify the affected part numbers and date code, which is sufficient to identify parts subject to the requirements of this AD. Any listed part number that was manufactured between November 24, 2004, and the 5th week of January 2021, regardless of serial number, is an affected part, as defined by the MCAI and this AD.

Request for Method To Mark Passing Units

United Airlines requested that the FAA specify what is being used to mark units that pass test requirements.

Part of the required actions of the Kidde Aerospace & Defense Service Bulletin CFD-26-3 is to mark one of the connector hex nuts. The marking method has been intentionally left at a high level to allow for local and regional customers to utilize their best marking practice. This can be achieved with a permanent marker and clear coat, paint, or a ceramic dye. Typically, a continuous fire detection (CFD) sensor may be removed 2-3 times in a 20- to 25-year life span of an airplane life to gain access to adjacent equipment that requires maintenance. Based on some open-end wrench trials at a Kidde lab, the marking was legible after many additional attempts at installing and removing the CFD sensors. It is standard practice to call out a part marking specification for that part of the process. For example MIL-STD 130 is one such common industry specification that is often used. The FAA considers this marking method as reasonable to achieve the necessary level of robustness over the service life of the aircraft, but operators may use other methods that result in legible and permanent markings.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of

Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the 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 this product. 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

EASA AD 2022–0147 specifies procedures for a one-time special detailed inspection (SDI) of each OHDS sensing element installed at an affected position to detect discrepancies (an incorrect electronic centralized aircraft monitor (ECAM) alert (one not related to AIR L WING LEAK) being displayed following the inspection of any OHDS sensing element) and, depending on findings, replacement of any affected part with a serviceable part. EASA AD 2022–0147 also prohibits the installation of affected parts at affected positions.

Kidde Aerospace & Defense Service Bulletin CFD–26–3, dated January 13, 2022; and Revision 1, dated March 29, 2022; specify the part numbers and corresponding date codes of the affected OHDS sensing elements.

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

Costs of Compliance

The FAA estimates that this AD affects 1,836 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × \$85 per hour = \$510	\$0	\$510	\$936,360

The FAA estimates the following costs to do any necessary on-condition action that would be required based on

the results of any required actions. The FAA has no way of determining the

number of aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
1 work-hour × \$85 per hour = \$85	\$1,645	\$1,730 (per OHDS sensing element).

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (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:

2023–09–01 Airbus SAS: Amendment 39–22424; Docket No. FAA–2022–1491; Project Identifier MCAI–2022–00924–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 26, 2023.

(b) Affected ADs
None.

(c) Applicability

This AD applies to all Airbus SAS airplanes, certificated in any category, as identified in paragraphs (c)(1) through (4) of this AD.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes.

(4) Model A321-111, -112, -131, -211, -212, -213, -231, -232, -251N, -252N, -253N, -271N, -272N, -251NX, -252NX, -253NX, -271NX, and -272NX airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 36, Pneumatic.

(e) Unsafe Condition

This AD was prompted by a report that certain overheat detection system (OHDS) sensing elements installed at certain positions might not properly detect thermal bleed leak events due to a quality escape during the manufacturing process. The FAA is issuing this AD to address OHDS sensing elements that do not properly detect thermal bleed leak events. The unsafe condition, if not addressed, could result in an air leak remaining undetected by the OHDS at an affected position and not being isolated during flight, possibly resulting in localized areas of the main landing gear bay and keel beam being exposed to high temperatures, and consequent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022-0147, dated July 14, 2022; corrected August 17, 2022 (EASA AD 2022-0147).

(h) Exceptions to EASA AD 2022-0147

(1) Where EASA AD 2022-0147 defines "Affected part" and identifies part numbers and corresponding date codes as those "listed in Section 1.A of the VSB," for this AD, those part numbers and corresponding date codes are listed in Section 1.A. of Kidde Aerospace & Defense Service Bulletin CFD-26-3, dated January 13, 2022; or Revision 1, dated March 29, 2022. The date codes listed in Section 1.A. of Kidde Aerospace & Defense Service Bulletin CFD-26-3, dated January 13, 2022; and Revision 1, dated March 29, 2022; do not apply to parts produced prior to November 24, 2004, or after January 31, 2021.

(2) Where EASA AD 2022-0147 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where paragraph (2) of EASA AD 2022-0147 refers to "any discrepancy as defined in the SB," for this AD, a discrepancy is an incorrect electronic centralized aircraft monitor (ECAM) alert (one not related to AIR L WING LEAK) being displayed following the inspection of any OHDS sensing element.

(4) Where the service information referenced in EASA AD 2022-0147 specifies to send an affected part to the manufacturer, this AD does not include that requirement.

(5) This AD does not adopt the "Remarks" section of EASA AD 2022-0147.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2022-0147 specifies

to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC)*: Except as required by paragraph (j)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Additional Information

For more information about this AD, contact Timothy Dowling, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th Street, Des Moines, WA 98198; telephone 206-231-3667; email timothy.p.dowling@faa.gov.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2022-0147, dated July 14, 2022; corrected August 17, 2022.

(ii) Kidde Aerospace & Defense Service Bulletin CFD-26-3, dated January 13, 2022.

(iii) Kidde Aerospace & Defense Service Bulletin CFD-26-3, Revision 1, dated March 29, 2022.

(3) For EASA AD 2022-0147, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this EASA AD on the EASA website at ad.easa.europa.eu.

(4) For Kidde Aerospace & Defense service information identified in this AD, contact Kidde Aerospace & Defense, 4200 Airport Drive NW, Wilson, NC 27896; phone: 252-246-7134; fax: 252-246-7181; email: avionicssupport@collins.com; website kiddeaerospace.com.

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

(6) 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 28, 2023.

Gaetano A. Sciortino,

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

[FR Doc. 2023-10786 Filed 5-19-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2023-0936; Project Identifier MCAI-2023-00135-T; Amendment 39-22426; AD 2023-09-03]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A310 series airplanes. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 6, 2023.

The Director of the Federal Register approved the incorporation by reference

of a certain publication listed in this AD as of June 6, 2023.

The FAA must receive comments on this AD by July 6, 2023.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

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

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA-2023-0936; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email: *ADs@easa.europa.eu*; website: *easa.europa.eu*. You may find this material on the EASA website: *ad.easa.europa.eu*.

- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at *regulations.gov* under Docket No. FAA-2023-0936.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Validation Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (206) 231-3225; email *dan.rodina@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2023-0936; Project Identifier MCAI-2023-00135-T" at the beginning of your comments. The most helpful comments reference a

specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Dan Rodina, Aerospace Engineer, International Validation Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (206) 231-3225; email *dan.rodina@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2023-0018, dated January 23, 2023 (EASA AD 2023-0018) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A310-203, -203C, -204, -221, -222, -304, -308, -322, -324 and -325 airplanes. Model A310-203C and -308 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The MCAI states that new or more restrictive airworthiness limitations and tasks are necessary. EASA AD 2023-

0018 specifies that it requires a limitations and tasks already in Airbus A310 Airworthiness Limitations Section (ALS), Part 4, System Equipment Maintenance Requirements (SEMR), Revision 03, dated August 28, 2017, that is required by EASA AD 2017-0202, dated October 12, 2017 (which corresponds to FAA AD 2018-18-21, Amendment 39-19400 (83 FR 47054, September 18, 2018) (AD 2018-18-21)), and that incorporation of EASA AD 2023-0018 invalidates (terminates) prior instructions for that task. This AD, therefore, for the tasks identified in the service information referenced in EASA AD 2023-0018, terminates the limitations for the corresponding tasks required by paragraph (g) of AD 2018-18-21, for Model A310 series airplanes only.

The FAA is issuing this AD to address the effects of aging on airplane systems. Such effects could change system characteristics, leading to an increased potential for failure of certain life-limited parts. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA-2023-0936.

Related Service Information Under 1 CFR Part 51

EASA AD 2023-0018 specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

AD Requirements

This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, which are specified in EASA AD 2023-0018 described previously, as incorporated by reference. Any differences with EASA AD 2023-0018 are identified as exceptions in the regulatory text of this AD.

This AD requires revisions to certain operator maintenance documents to include new actions (e.g., inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (k)(1) of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2023–0018 is incorporated by reference in this AD. This AD requires compliance with EASA AD 2023–0018 through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in EASA AD 2023–0018 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2023–0018. Service information required by EASA AD 2023–0018 for compliance will be available at *regulations.gov* under Docket No. FAA–2023–0936 after this AD is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes

airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (e.g., inspections) or intervals may be used unless the actions and intervals are approved as an AMOC in accordance with the procedures specified in the AMOCs paragraph under “Additional FAA Provisions.” This new format includes a “New Provisions for Alternative Actions and Intervals” paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action or interval.

Justification for Immediate Adoption and Determination of the Effective Date

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

There are currently no domestic operators of these products. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the forgoing reason(s), the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Regulatory Flexibility Act (RFA)

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

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, the FAA

provides the following cost estimates to comply with this AD:

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2023–09–03 Airbus SAS: Amendment 39–22426; Docket No. FAA–2023–0936; Project Identifier MCAI–2023–00135–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 6, 2023.

(b) Affected ADs

This AD affects AD 2018–18–21, Amendment 39–19400 (83 FR 47054, September 18, 2018) (AD 2018–18–21).

(c) Applicability

This AD applies to all Airbus SAS Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the risks associated with the effects of aging on airplane systems. The unsafe condition, if not addressed, could change system characteristics, leading to an increased potential for failure of certain life-limited parts, and reduced structural integrity or controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2023–0018, dated January 23, 2023 (EASA AD 2023–0018).

(h) Exceptions to EASA AD 2023–0018

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2023–0018.

(2) Paragraph (3) of EASA AD 2023–0018 specifies revising “the approved AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA

2023–0018 is on or before the applicable “limitations” as incorporated by the requirements of paragraph (3) of EASA AD 2023–0018, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) of EASA AD 2023–0018.

(5) This AD does not adopt the “Remarks” section of EASA AD 2023–0018.

(i) Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2023–0018.

(j) Terminating Action for AD 2018–18–21

For Model A310 series airplanes only: Accomplishing the actions required by this AD terminates the corresponding requirements of AD 2018–18–21, for the tasks identified in the service information referenced in EASA AD 2023–0018 only.

(k) Additional AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Additional Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Validation Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (206) 231–3225; email dan.rodina@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 this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2023–0018, dated January 23, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0018, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email: ADS@easa.europa.eu; website: easa.europa.eu. You may find this EASA AD on the EASA website: ad.easa.europa.eu.

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

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

Issued on April 28, 2023.

Gaetano A. Sciortino,

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

[FR Doc. 2023–10785 Filed 5–19–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0939; Airspace Docket No. 21–AEA–25]

RIN 2120–AA66

Amendment of VOR Federal Airways; Northeast United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Very High Frequency (VHF) Omnidirectional Range (VOR) Federal airway V–260 in support of the FAA’s VOR Minimum Operational Network (MON) program.

DATES: Effective date 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 JO Order 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the Notice of Proposed Rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are

available on the website. It is available 24 hours each day, 365 days each year.

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: Paul Gallant, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

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 the 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 modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a NPRM for Docket No. FAA-2022-0939 in the **Federal Register** (87 FR 50018; August 15, 2022), proposing to amend VOR Federal airways V-35 and V-260. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Difference From the NPRM

Subsequent to publishing the NPRM, the FAA decided to postpone the airway V-35 amendment. This rule only amends airway V-260.

Incorporation by Reference

VOR Federal airways are published in paragraph 6010(a) of FAA Order JO 7400.11, *Airspace Designations and Reporting Points*, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022.

FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. 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 service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by amending VOR Federal airway V-260. The route changes are described below.

V-260: V-260 extends from Charleston, WV, to Cofield, NC. This action removes Charleston, WV; Rainelle, WV; Roanoke, VA; Lynchburg, VA; Franklin, VA; and Cofield, NC from the route. As amended, V-260 extends from Flat Rock, VA, to Hopewell, VA.

The full description of V-260 is listed the amendments to part 71 set forth below. The FAA makes these changes in support of the FAA's VOR MON program.

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 so 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 airspace action of amending VOR Federal airway V-260 qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures*, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, *Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and*

Reporting Points); and paragraph 5-6.5b, which categorically excludes from further environmental impact review "Actions regarding establishment of jet routes and Federal airways (see 14 CFR 71.15, *Designation of jet routes and VOR Federal airways*). . .". As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding *Extraordinary Circumstances*, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List 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 part 71 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 6010(a) Domestic VOR Federal Airways

* * * * *

V-260 [Amended]

From Flat Rock, VA; Richmond, VA; to Hopewell, VA.

* * * * *

Issued in Washington, DC, on May 16, 2023.

Brian Konie,

Acting Manager, Airspace Rules and Regulations.

[FR Doc. 2023-10796 Filed 5-19-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2022-0902; Airspace
Docket No. 21-ANE-6]

RIN 2120-AA66

**Amendment and Revocation of VOR
Federal Airways; Northeast United
States**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Very High Frequency (VHF) Omnidirectional Range (VOR) Federal airway V-308 in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 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 JO Order 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the Notice of Proposed Rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year.

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: Paul Gallant, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

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 the 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 modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a NPRM for Docket No. FAA-2022-0902 in the **Federal Register** (87 FR 43757; July 22, 2022), proposing to amend VOR Federal airways V-44, V-139, and V-268; and removing airways V-34, and V-167, and V-308. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Difference From the NPRM

Subsequent to publishing the NPRM, the FAA decided to postpone amending VOR Federal airways V-44, V-139, and V-268, and removing V-34 and V-167. This rule only removes VOR Federal airway V-308.

Incorporation by Reference

VOR Federal airways are published in paragraph 6010(a) of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. 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 service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by removing VOR Federal airway V-308. The FAA makes this change in support of the FAA's VOR MON program.

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 so 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 of removing VOR Federal airway V-308 in Northeastern United States, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points); and paragraph 5-6.5b, which categorically excludes from further environmental impact review "Actions regarding establishment of jet routes and Federal airways (see 14 CFR 71.15, *Designation of jet routes and VOR Federal airways*). . .". As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List 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 part 71 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 6010(a) Domestic VOR Federal Airways

* * * * *

V-308 [Removed]

* * * * *

Issued in Washington, DC, on May 16, 2023.

Brian Konie,

Acting Manager, Airspace Rules and Regulations.

[FR Doc. 2023–10798 Filed 5–19–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1672; Airspace Docket No. 22–ACE–22]

RIN 2120–AA66

Establishment of Class E Airspace; Marion, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Marion, IA. This action supports new public instrument procedures.

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: A copy of the Notice of Proposed Rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year.

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: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace extending upward from 700 feet above the surface at Marion Airport, Marion, IA, to support instrument flight rule (IFR) operations at this airport.

History

The FAA published an NPRM for Docket No. FAA–2022–1672 in the **Federal Register** (87 FR 78614; December 22, 2022) establishing Class E airspace at Marion, IA. 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, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. FAA Order Jo 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. 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 service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Marion Airport, Marion, IA.

This action is necessary to support new public instrument procedures, and will support IFR operations at this airport.

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 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 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 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR 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 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 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

* * * * *

ACE IA E5 Marion, IA [Establish]

Marion Airport, IA
(Lat 42°01'47" N, long 91°31'54" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Marion Airport.

Issued in Fort Worth, Texas, on May 16, 2023.

Martin A. Skinner,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2023-10788 Filed 5-19-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2022-0901; Airspace
Docket No. 21-ANE-5]

RIN 2120-AA66

Amendment and Revocation of VOR Federal Airways; Northeast United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Very High Frequency (VHF) Omnidirectional Range (VOR) Federal airways V-16 and V-290 and removes Federal airways V-93 and V-229. This action is necessary to support the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 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 JO Order 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the Notice of Proposed Rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year.

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: Paul Gallant, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

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 the 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 modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a NPRM for Docket No. FAA-2022-0901 in the **Federal Register** (87 FR 43755; July 22, 2022), proposing to amend VOR Federal airways V-1, V-16, and V-290, and remove airways V-93, and V-229. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Differences From the NPRM

Since publishing the NPRM, the FAA decided to postpone some of the proposed airway changes.

V-1: The NPRM proposed to remove the V-1 airway segments from Cofield, NC, to Boston, MA. After publication, the FAA decided to postpone these changes. Therefore, V-1 remains in effect as currently published in FAA Order JO 7400.11G.

V-16: The NPRM proposed to amend V-16 by removing the airway segments from the intersection of the Richmond, VA, 039° and the Patuxent, MD, 228° radials, to Boston, MA. After publication, the FAA decided to retain

some of these segments. Accordingly, the FAA removes the segments between Richmond, VA, and Smyrna, DE; and the segments between the CREAM, NY, Fix, and Boston, MA. The segment from Smyrna to CREAM is being retained to support the VOR MON plan.

V-93: The NPRM proposed to remove V-93 entirely. After publication, the FAA decided to retain some of the route. V-93 is amended by removing only the segments between Patuxent River, MD, and Baltimore, MD.

V-229: The NPRM proposed to remove V-229 entirely. After publication, the FAA decided to retain some of the route. The FAA removes the following two segments of V-229: the segment between Patuxent River, MD, and the DONIL, DE, Fix; and the segment between the PANZE, NJ, Fix, and Hartford, CT. The airway segment between DONIL and PANZE is retained.

V-290: The NPRM proposed to amend V-290 by removing the segments from Rainelle, WV, to Flat Rock, VA, due to the planned decommissioning of the Rainelle, WV (RNL), VOR. Subsequently, the FAA established the SHANE, WV, navigation Fix to replace the VOR so that the segment to Flat Rock can be retained and remain available for navigation. The SHANE Fix is defined by the intersection of the Bluefield, WV (BLF), VOR/Distance Measuring Equipment (DME) 025°(T)/028°(M) and the Montebello, VA (MOL), VOR/DME 274°(T)/279°(M) radials.

These differences are reflected in the airway descriptions in the Rule section.

Incorporation by Reference

VOR Federal airways are published in paragraph 6010(a) of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. 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 service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by modifying the following VOR Federal airways, as described.

V-16: V-16 consists of two parts: from Los Angeles, CA, to Holly Springs, MS; and from Shelbyville, TN, to Boston, MA. This action amends the second part of the route by removing the segments

between Richmond, VA, and Smyrna, DE; and by removing the segments between the CREAM, NY, Fix and Boston, MA. The CREAM Fix is defined by the intersection of the Calverton, NY 044°, and the Madison, CT 142° radials. Therefore, the second part of V-16 extends from Shelbyville, TN, to Richmond, VA; and from Smyrna, DE, to the intersection of the Calverton, NY, 044°, and the Madison, CT 142° radials (*i.e.*, the CREAM Fix). The first part of the route, from Los Angeles, CA, to Holly Springs, MS, remains unchanged as currently published in FAA Order JO 7400.11G. The words “The airspace within Restricted Areas R-4005 and R-4006 is excluded,” is removed from the route description because the amended route no longer passes by those areas.

As amended, V-16 consists of three parts: from Los Angeles, CA, to Holly Springs, MS; from Shelbyville, TN, to Richmond, VA; and from Smyrna, DE, to the intersection of the Calverton, NY, 044°, and the Madison, CT 142° radials.

Area Navigation (RNAV) route T-224 has been extended as an overlay of V-16.

V-93: V-93 extends, in two parts, from Patuxent River, MD, to the intersection of the Wilkes-Barre, PA 037° and Sparta, NJ 300° radials; and from the intersection of the Sparta 018° and the Kingston, NY 270° radials, to Chester, MA. This action removes the segments from Patuxent River, MD to Baltimore, MD, due to the planned decommissioning of the Patuxent, MD, and Nottingham, MD, VOR/Tactical Air Navigation (VORTAC). As amended, V-93 extends from Baltimore, MD, to the intersection of the Wilkes-Barre, PA 037° and Sparta, NJ 300° radials; and from the intersection of the Sparta 018° and the Kingston, NY 270° radials to Chester, MA.

V-229: V-229 extends from Patuxent, MD, to Hartford, CT. This action removes the segments from Patuxent, MD to the DONIL, DE, Fix; and the segment from the PANZE, NJ, Fix to Hartford, CT. The segment from DONIL to PANZE is being retained at the request of the Department of Defense. As amended, V-229 extends from the intersection of the Atlantic City, NJ 236° and the Smyrna, DE 133° radials (the DONIL Fix) to the intersection of the Atlantic City 055° and the Coyle, NJ 125° radials (the PANZE Fix). The words “The airspace below 2,000 feet MSL outside the United States is excluded” are removed from the route description because they no longer apply.

RNAV route T-315 overlies the segments of VOR Federal airway V-229 north of the DONIL Fix.

V-290: V-290 consists of two parts: from Rainelle, WV to Flat Rock, VA; and from Tar River, NC to the intersection of the Tar River 109° and the New Bern, NC 042° radials. This action replaces the Rainelle, WV (RNL), VOR in the route description with the SHANE, WV, Fix. As amended, V-290 extends from the intersection of the Bluefield, WV 025°(T)/028°(M) and the Montebello, VA 274°(T)/279°(M) radials (the SHANE Fix) to Flat Rock; and from Tar River to the intersection of the Tar River 109° and the New Bern 042° radials.

The full route descriptions of these airways are listed in the amendments to part 71 set forth below. These actions are necessary to support the FAA's VOR MON program.

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 so 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 of amending VOR Federal airways V-16, V-290 and removing Federal airways V-93, V-290 in Northeastern United States, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points); and paragraph 5-6.5b, which categorically excludes from further environmental impact review “Actions regarding establishment of jet

routes and Federal airways (see 14 CFR 71.15, *Designation of jet routes and VOR Federal airways*). . . . As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List 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 part 71 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 6010(a) Domestic VOR Federal Airways

* * * * *

V-16 [Amended]

From Los Angeles, CA; Paradise, CA; Palm Springs, CA; Blythe, CA; Buckeye, AZ; Phoenix, AZ; INT Phoenix 155° and Stanfield, AZ, 105° radials; Tucson, AZ; San Simon, AZ; INT San Simon 119° and Columbus, NM, 277° radials; Columbus; El Paso, TX; Salt Flat, TX; Wink, TX; INT Wink 066° and Big Spring, TX, 260° radials; Big Spring; Abilene, TX; Bowie, TX; Bonham, TX; Paris, TX; Texarkana, AR; Pine Bluff, AR; Marvell, AR; to Holly Springs, MS. From Shelbyville, TN; Hinch Mountain, TN; Volunteer, TN; Holston Mountain, TN; Pulaski, VA; Roanoke, VA; Lynchburg, VA; Flat Rock, VA; to Richmond, VA. From Smyrna, DE, to INT Calverton, NY 044° and Madison, CT 142° radials. The airspace within Mexico, and the airspace below 2,000 feet MSL outside the United States is excluded. The airspace within restricted

areas R-5002A, R-5002C, and R-5002D is excluded during their times of use.

* * * * *

V-93 [Amended]

From Baltimore, MD; 122° radials; Baltimore; INT Baltimore 004° and Lancaster, PA, 214° radials; Lancaster; Wilkes-Barre, PA; to INT Wilkes-Barre 037° and Sparta, NJ 300° radials. From INT Sparta 018° and Kingston, NY 270° radials; Kingston; Pawling, NY; to Chester, MA.

* * * * *

V-229 [Amended]

From INT Atlantic City, NJ 236° and Smyrna, DE 133° radials; Atlantic City; to INT Atlantic City 055° and Coyle, NJ, 125° radials. The airspace within R-5002B is excluded during times of use.

* * * * *

V-290 [Amended]

From INT Bluefield, WV 025° and Montebello, VA 274° radials; Montebello; to Flat Rock, VA. From Tar River, NC; to INT Tar River 109° and New Bern, NC, 042° radials.

* * * * *

Issued in Washington, DC, on May 16, 2023.

Brian Konie,

Acting Manager, Airspace Rules and Regulations.

[FR Doc. 2023-10795 Filed 5-19-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 230512-0130]

RIN 0694-AJ22

Addition of Entities to the Entity List

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

ACTION: Final rule.

SUMMARY: The Department of Commerce is amending the Export Administration Regulations (EAR) by adding seventy-one entities to the Entity List. These entities have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States and will be listed on the Entity List under the destinations of Armenia, Kyrgyzstan, and Russia.

DATES: This rule is effective May 19, 2023.

FOR FURTHER INFORMATION CONTACT: Chair, End-User Review Committee, Office of the Assistant Secretary for Export Administration, Bureau of

Industry and Security, Department of Commerce, Phone: (202) 482-5991, Email: ERC@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Entity List (supplement no. 4 to part 744 of the EAR (15 CFR parts 730-774)) identifies entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entities have been involved, are involved, or pose a significant risk of being or becoming involved in activities contrary to the national security or foreign policy interests of the United States, pursuant to § 744.11(b). The EAR impose additional license requirements on, and limit the availability of, most license exceptions for exports, reexports, and transfers (in-country) when a listed entity is a party to the transaction. The license review policy for each listed entity is identified in the “License Review Policy” column on the Entity List, and the impact on the availability of license exceptions is described in the relevant **Federal Register** document that added the entity to the Entity List. The Bureau of Industry and Security (BIS) places entities on the Entity List pursuant to part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and makes all decisions to remove or modify an entry by unanimous vote.

Additions to the Entity List

The ERC determined to add sixty-nine entities to the Entity List under the destination of Russia for providing support to Russia’s military and defense sector. This activity is contrary to U.S. national security and foreign policy interests under § 744.11(b) and these entities qualify as military end users under § 744.21 (g) of the EAR. The sixty-nine Russian entities added to the Entity List are receiving a footnote 3 designation because the ERC has determined that they are Russian or Belarusian ‘military end users’ pursuant to § 744.21. A footnote 3 designation subjects these entities to the Russia/Belarus-Military End User Foreign Direct Product (FDP) rule, detailed in § 734.9(g). The entities are added with a

license requirement for all items subject to the EAR and a license review policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis.

The ERC determined to add Medisar, LLC, under the destination of Armenia, to the Entity List pursuant to § 744.11(b) of the EAR for engaging in conduct that prevented the successful accomplishment of an end-use check. In addition, the ERC determined to add Tro.Ya, LLC, under the destination of Kyrgyzstan, to the Entity List pursuant to § 744.11(b) for both preventing the successful accomplishment of an end-use check and posing a risk of diversion of items subject to the EAR to Russia. These two entities are added with a license requirement for all items subject to the EAR and a license review policy of presumption of denial.

For the reasons described above, this final rule adds the following seventy-one entities to the Entity List and includes, where appropriate, aliases:

Armenia

- Medisar, LLC.

Kyrgyzstan

- Tro.Ya, LLC.

Russia

- Closed Joint Stock Company Special Design Bureau;
- Federal State Enterprise Kazan State Gunpowder Plant;
- Federal State Unitary Enterprise Central Scientific Research Institute of Chemistry and Mechanics;
- Federal State Unitary Enterprise Rostov-On-Don Research Institute of Radio Communications;
- Informtest Firm Limited Liability Company;
- Joint Stock Company 150 Aircraft Repair Plant;
- Joint Stock Company 810 Aircraft Repair Plant;
- Joint Stock Company Arzamas Instrument-Making Plant named after P.I. Plandin;
- Joint Stock Company Bryansk Automobile Plant;
- Joint Stock Company Central Research Institute Burevestnik;
- Joint Stock Company Central Research Institute of Automation and Hydraulics;
- Joint Stock Company Concern Avrora Scientific and Production Association;
- Joint Stock Company Concern Central Institute for Scientific Research Elektropribor;
- Joint Stock Company Concern Morinformsystem Agat;

- Joint Stock Company Concern Okeanpribor;
 - Joint Stock Company Dux;
 - Joint Stock Company Eastern Shipyard;
 - Joint Stock Company ENICS;
 - Joint Stock Company Information Satellite Systems Named After Academician M.F. Reshetnev;
 - Joint Stock Company Izhevsk Electromechanical Plant Kupol;
 - Joint Stock Company Kazan Optical-Mechanical Plant;
 - Joint Stock Company Khabarovsk Shipbuilding Yard;
 - Joint Stock Company Machine Building Company Vityaz;
 - Joint Stock Company Management Company Radiostandard;
 - Joint Stock Company Marine Instrument Engineering Corporation;
 - Joint Stock Company Nevskoe Design Bureau;
 - Joint Stock Company NII Gidrosvyazi Shtil;
 - Joint Stock Company Nizhny Novgorod Plant of the 70th Anniversary of Victory;
 - Joint Stock Company Northern Production Association Arktika;
 - Joint Stock Company Perm Machine Building Plant;
 - Joint Stock Company Precision Engineering Design Bureau named after A.E. Nudelman;
 - Joint Stock Company Production Complex Akhtuba;
 - Joint Stock Company Project Design Bureau RIO;
 - Joint Stock Company Ratep;
 - Joint Stock Company Scientific Production Association Impulse;
 - Joint Stock Company Scientific Production Association Orion;
 - Joint Stock Company Scientific Production Association Russian Basic Information Technologies;
 - Joint Stock Company Scientific Production Association Volna Plant;
 - Joint Stock Company Scientific Production Center of Automatics and Instrument Building Named After Academician N.A. Pilyugin;
 - Joint Stock Company Scientific Production Concern Tekhmash;
 - Joint Stock Company Scientific Research Engineering Institute;
 - Joint Stock Company Scientific Research Institute of Computing Complexes Named After M.A. Kartsev;
 - Joint Stock Company Scientific Technical Institute Radiosvyaz;
 - Joint Stock Company Taganrog Plant Priboy;
 - Joint Stock Company Tula Cartridge Works;
 - Joint Stock Company Tula Machine-Building Plant;
 - Joint Stock Company Ulan-Ude Aviation Plant;
 - Joint Stock Company Ulyanovsk Cartridge Works;
 - Joint Stock Company Ulyanovsk Mechanical Plant;
 - Joint Stock Company Ural Automotive Plant;
 - Joint Stock Company Ural Works of Civil Aviation;
 - Joint Stock Company Vodtranspribor;
 - Joint Stock Company Zavod Elecon;
 - Joint Stock Company Zavolzhskiy Plant of Caterpillar Tractors;
 - Joint Stock Company Zelenodolsk Plant Named After A.M. Gorky;
 - Machine Building Group Limited Liability Company;
 - Military Industrial Company Limited Liability Company;
 - Open Joint Stock Company Degtyaryov Plant;
 - Promtekhlogiya Limited Liability Company;
 - Public Joint Stock Company Kurganmashzavod;
 - Public Joint Stock Company Motovilikha Plants;
 - Public Joint Stock Company Proletarsky Plant;
 - Public Joint Stock Company Rostvertol;
 - Public Joint Stock Company Scientific Production Association Strela;
 - Scientific Production Association Izhevsk Unmanned Systems Limited Liability Company;
 - Scientific Production Enterprise Prima Limited Liability Company;
 - United Machine Building Group Limited Liability Company;
 - Volgograd Machine Building Company Limited Liability Company;
- and*
- VXi-Systems Limited Liability Company

Savings Clause

For the changes being made in this final rule, shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country), on May 19, 2023, pursuant to actual orders for export, reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) before June 20, 2023. Any such items not actually exported, reexported, or transferred (in-country) before midnight, on June 20, 2023, require a license in accordance with this final rule.

Export Control Reform Act of 2018

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

Rulemaking Requirements

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

2. Notwithstanding any other provision of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and commodity classifications, and carries a burden estimate of 29.4 minutes for a manual or electronic submission for a total burden estimate of 33,133 hours. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule.

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

4. Pursuant to section 1762 of the Export Control Reform Act of 2018, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

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

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

■ 1. The authority citation for 15 CFR part 744 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 19, 2022, 87 FR 57569 (September 21, 2022); Notice of November 8, 2022, 87 FR 68015 (November 10, 2022).

■ 2. Supplement No. 4 to part 744 is amended:

■ a. Under ARMENIA, by adding in alphabetical order, an entity for “Medisar, LLC;”

■ b. By adding in alphabetical order a heading for Kyrgyzstan and one Kyrgyz entity, “Tro.Ya, LLC;” *and*

■ c. Under RUSSIA by adding in alphabetical order, entries for “Closed Joint Stock Company Special Design Bureau;” “Federal State Enterprise Kazan State Gunpowder Plant;” “Federal State Unitary Enterprise Central Scientific Research Institute of Chemistry and Mechanics;” “Federal State Unitary Enterprise Rostov-On-Don Research Institute of Radio Communications;” “Informtest Firm Limited Liability Company;” “Joint Stock Company 150 Aircraft Repair Plant;” “Joint Stock Company 810 Aircraft Repair Plant;” “Joint Stock Company Arzamas Instrument-Making Plant named after P.I. Plandin;” “Joint Stock Company Bryansk Automobile Plant;” “Joint Stock Company Central Research Institute Burevestnik;” “Joint

Stock Company Central Research Institute of Automation and Hydraulics;” “Joint Stock Company Concern Avrora Scientific and Production Association;” “Joint Stock Company Concern Central Institute for Scientific Research Elektropribor;” “Joint Stock Company Concern Morinformsystem Agat;” “Joint Stock Company Concern Okeanpribor;” “Joint Stock Company Dux;” “Joint Stock Company Eastern Shipyard;” “Joint Stock Company ENICS;” “Joint Stock Company Information Satellite Systems Named After Academician M.F. Reshetnev;” “Joint Stock Company Izhevsk Electromechanical Plant Kupol;” “Joint Stock Company Kazan Optical-Mechanical Plant;” “Joint Stock Company Khabarovsk Shipbuilding Yard;” “Joint Stock Company Machine Building Company Vityaz;” “Joint Stock Company Management Company Radiostandard;” “Joint Stock Company Marine Instrument Engineering Corporation;” “Joint Stock Company Nevskoe Design Bureau;” “Joint Stock Company NII Gidrosvyazi Shtil;” “Joint Stock Company Nizhny Novgorod Plant of the 70th Anniversary of Victory;” “Joint Stock Company Northern Production Association Arktika;” “Joint Stock Company Perm Machine Building Plant;” “Joint Stock Company Precision Engineering Design Bureau named after A.E. Nudelman;” “Joint Stock Company Production Complex Akhtuba;” “Joint Stock Company Project Design Bureau RIO;” “Joint Stock Company Ratep;” “Joint Stock Company Scientific Production Association Impulse;” “Joint Stock Company Scientific Production Association Orion;” “Joint Stock Company Scientific Production Association Russian Basic Information Technologies;” “Joint Stock Company Scientific Production Association Volna Plant;” “Joint Stock Company Scientific Production Center of Automatics and Instrument Building Named After Academician N.A. Pilyugin;” “Joint Stock Company Scientific Production

Concern Tekhmarsh;” “Joint Stock Company Scientific Research Engineering Institute;” “Joint Stock Company Scientific Research Institute of Computing Complexes Named After M.A. Kartsev;” “Joint Stock Company Scientific Technical Institute Radiosvyaz;” “Joint Stock Company Taganrog Plant Priboy;” “Joint Stock Company Tula Cartridge Works;” “Joint Stock Company Tula Machine-Building Plant;” “Joint Stock Company Ulan-Ude Aviation Plant;” “Joint Stock Company Ulyanovsk Cartridge Works;” “Joint Stock Company Ulyanovsk Mechanical Plant;” “Joint Stock Company Ural Automotive Plant;” “Joint Stock Company Ural Works of Civil Aviation;” “Joint Stock Company Vodtranspribor;” “Joint Stock Company Zavod Elecon;” “Joint Stock Company Zavolzhskiy Plant of Caterpillar Tractors;” “Joint Stock Company Zelenodolsk Plant Named After A.M. Gorky;” “Machine Building Group Limited Liability Company;” “Military Industrial Company Limited Liability Company;” “Open Joint Stock Company Degtyaryov Plant;” “Promtekhlogiya Limited Liability Company;” “Public Joint Stock Company Kurganmashzavod;” “Public Joint Stock Company Motovilikha Plants;” “Public Joint Stock Company Proletarsky Plant;” “Public Joint Stock Company Rostvertol;” “Public Joint Stock Company Scientific Production Association Strela;” “Scientific Production Association Izhevsk Unmanned Systems Limited Liability Company;” “Scientific Production Enterprise Prima Limited Liability Company;” “United Machine Building Group Limited Liability Company;” “Volgograd Machine Building Company Limited Liability Company;” and “VXI-Systems Limited Liability Company.”

The additions read as follows:

Supplement No. 4 to Part 744—Entity List

* * * * *

Country	Entity	License requirement	License review policy	Federal Register citation
ARMENIA	Medisar, LLC, a.k.a., the following one alias: —“Medisar” LLC. 4/9 Getari St., 0023 Yerevan, Armenia.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].

Country	Entity	License requirement	License review policy	Federal Register citation
*	*	*	*	*
KYRGYZSTAN	Tro.Ya, LLC, a.k.a., the following one alias: —Tro-Ya. Lower Lugovaya St. 217 Tokmok, Chui Region, 724201, Kyrgyzstan; and Jumabeka St. 105/1 Bishkek 720011, Kyrgyzstan.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
*	*	*	*	*
RUSSIA	Closed Joint Stock Company Special Design Bureau, a.k.a., the following three aliases: —CJSC Special Design Bureau; —ZAO SKB; <i>and</i> —ZAO Spetsialnoe Konstruktorskoe Byuro. 35 1905 Goda Street, Building 2404, Office 318, Perm, Perm Territory, 614014, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
*	*	*	*	*
	Federal State Enterprise Kazan State Gunpowder Plant, a.k.a., the following six aliases: —Federalnoe Kazennoe Predpriyatie Kazanski Gosudarstvenny Kazenny Porokhovoi Zavod; —FKP Kazanski Gosudarstvenny Kazenny Porokhovoi Zavod; —FKP KGKPKZ; —Kazan Gunpowder Plant; —FSE Kazan State Powder Plant; <i>and</i> —Kazan Powder Plant. 14 Pervogo Maya Street, Kazan, Republic of Tatarstan, 420032, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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	Federal State Unitary Enterprise Central Scientific Research Institute of Chemistry and Mechanics, a.k.a., the following ten aliases: —CNIHIM; —Federalnoe Gosudarstvennoe Unitarnoe Predpriyatie Tsentralny Nauchno-Issledovatel'skiy Institut Khimii i Mekhaniki; —FGUP CNIIXM; —FGUP TSNIKHIM; —FSUE CNIHIM; —FSUE TSNIKHIM; —GNTS RF FGUP TSNIKHIM; —State Research Center of the Russian Federation FGUP Central Scientific Research Institute of Chemistry and Mechanics; —Tsentralny Nauchno-Issledovatel'skiy Institut Khimii i Mekhaniki, FGUP; <i>and</i> —TSNIKHIM. 16A, Nagatinskaya Street, Moscow, 115487, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].

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	<p>Federal State Unitary Enterprise Rostov-On-Don Research Institute of Radio Communications, a.k.a., the following five aliases:</p> <ul style="list-style-type: none"> —FGUP RNIIRS; —FGUP Rostovski-Na-Donu Nauchno-Issledovatel'ski Institut Radiosvyazi; —FSUE Rostov-On-Don Scientific Research Institute of Radio Communications; —Nansena FGUP RNIIRS; <i>and</i> —RNIIRS. <p>130 Nansena Street, Rostov-on-Don, Rostov Oblast, 344038, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Informtest Firm Limited Liability Company, a.k.a., the following seven aliases:</p> <ul style="list-style-type: none"> —OOO Firma Informtest; —Firm Informtest; —Firma Informtest; —Holding Informtest; —Informtest Firm LLC; —InformTest Holdings; <i>and</i> —InformTest Ltd. <p>4 Savelkinsky Way, Zelenograd, Moscow, 124482, Russia; <i>and</i></p> <p>4 Savelkinsky Passage, 6th Floor, Premises XIV, Room 8, Zelenograd, Moscow, 124482, Russia; <i>and</i></p> <p>Passage 4806, Building 6, Room 70, Zelenograd, Moscow, 124460, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Joint Stock Company 150 Aircraft Repair Plant, a.k.a., the following four aliases:</p> <ul style="list-style-type: none"> —150 ARZ; —150 ARP; —AO 150 Aviatsonny Remontny Zavod; <i>and</i> —AO 150 ARZ. <p>4 Garnizonnaya Street, Lyublino, Svetly, Kaliningrad Oblast, 238347, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Joint Stock Company 810 Aircraft Repair Plant, a.k.a., the following four aliases:</p> <ul style="list-style-type: none"> —810 ARZ; —810 ARP; —AO 810 Aviatsonny Remontny Zavod; <i>and</i> —JSC 810 ARZ. <p>1 Vertoletnaya Street, Chita, Transbaikal Territory, 672003, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>

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	<p>Joint Stock Company Arzamas Instrument-Making Plant named after P.I. Plandin, a.k.a., the following six aliases:</p> <ul style="list-style-type: none"> —AO Arzamassky Priborostroitelny Zavod Imeni Plandina; —AO APZ; —Arzamas Instrument-Building Plant; —JSC Arzamas Instrument Plant; —JSC Arzamassky Priborostroitelny Zavod Imeni Plandina; <i>and</i> —JSC Arzamassky Priborostroitelny Factory Named After P.I. Plandin. <p>8A 50 Let VLKSM Street, Nizhny Novgorod Oblast, 607220, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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	<p>Joint Stock Company Bryansk Automobile Plant, a.k.a., the following four aliases:</p> <ul style="list-style-type: none"> —AO BAZ; —AO Bryanski Avtomobilny Zavod; —Bryansk Automobile Factory; <i>and</i> —JSC Bryansk Automobile Plant. <p>1 Staliteynaya Street, Bryansk, Bryansk Oblast, 241035, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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	<p>Joint Stock Company Central Research Institute Burevestnik, a.k.a., the following five aliases:</p> <ul style="list-style-type: none"> —AO Tsentralny Nauchno-Issledovatel'skiy Institut Burevestnik; —AO TSNII Burevestnik; —Burevestnik; —Central Scientific Research Institute Burevestnik; <i>and</i> —JSC CRI Burevestnik. <p>1a Sormovskoe Highway, Nizhny Novgorod, Nizhny Novgorod Oblast, 603950, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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	<p>Joint Stock Company Central Research Institute of Automation and Hydraulics, a.k.a., the following seven aliases:</p> <ul style="list-style-type: none"> —AO TSNIAG; —AO Tsentralny Nauchno-Issledovatel'skiy Institut Avtomatiki i Gidravliki; —Central Scientific Research Institute of Automation and Hydraulics; —Federal Research and Production Center Central Research Institute of Automation and Hydraulics; —CNIAG; —JSC Central Scientific Research Institute of Automation and Hydraulics; <i>and</i> —TSNIAG. <p>5 Sovetskoy Armii Street, Moscow, 127018, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].

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	<p>Joint Stock Company Concern Avrora Scientific and Production Association, a.k.a., the following eight aliases:</p> <ul style="list-style-type: none"> —AO Kontsern Nauchno-Proizvodstvennoe Obединenie Avrora; —AO Kontsern NPO Avrora; —Avrora Systems; —Avrora JSC; —Concern Avrora Scientific Production Association; —Concern Research and Production Association Avrora; —NPO Avrora; <i>and</i> —OJSC Concern NPO Avrora. <p>10 Nikolskaya Street, Office 406, Moscow, Russia; <i>and</i></p> <p>15 Karbysheva Street, Saint Petersburg, 194021, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Joint Stock Company Concern Central Institute for Scientific Research Elektropribor, a.k.a., the following seven aliases:</p> <ul style="list-style-type: none"> —AO Kontsern Tsentralny Nauchno-Issledovatel'skiy Institut Elektropribor; —AO Kontsern TsNII Elektropribor; —CNII Elektropribor; —Concern CSRI Elektropribor JSC; —Elektropribor SBP; —JSC Central Research Institute Concern Elektropribor; <i>and</i> —SOPSERP CSRI Elektropribor JSC. <p>30 Malaya Posadskaya Street, Saint Petersburg, 197046, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Joint Stock Company Concern Morinformssystem Agat, a.k.a., the following six aliases:</p> <ul style="list-style-type: none"> —AO Kontsern Morinformssystema-Agat; —AO Kontsern Morinsis-Agat; —Concern Agat; —Concern Morinformssystem Agat JSC; —Kontsern Agat; <i>and</i> —JSC Kontsern Morinformssystema Agat. <p>29 Entuziastov Highway, Moscow, 105275, Russia; <i>and</i></p> <p>174 Grabtsevskoe Highway, Kaluga, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Joint Stock Company Concern Okeanpribor, a.k.a., the following six aliases:</p> <ul style="list-style-type: none"> —AO Kontsern Okeanpribor; —JSC Concern Okeanpribor; —Kontsern Okeanpribor, PAO; —JSC Concern Ocean Instruments; —Concern Oceanpribor OAO; <i>and</i> —Oceanpribor. <p>46 Chkalovski Avenue, Saint Petersburg, 197376, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>

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	Joint Stock Company Dux, a.k.a., the following two aliases: —AO DUKS; <i>and</i> —Dux, JSC. 8 Pravdy Street, Moscow, 125040, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
	Joint Stock Company Eastern Shipyard, a.k.a., the following five aliases: —AO Vostochnaya Verf; —AO V-VERF; —JSC Eastern Wharf; —JSC Vladivostok Shipyard; <i>and</i> —Vladivostok Shipbuilding Plant. 1 Geroyev Tikhookeantsev Street, Vladivostok, Primorsky Territory, 690017, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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	Joint Stock Company ENICS, a.k.a., the following seven aliases: —AO ENIKS; —ENICS; —ENICS Research Centre; —JSC ENICS; —Production Cooperative Research Center ENIKS; —Proizvodstvenny Kooperativ Nauchno-Issledovatel'ski Tsentr Eniks; <i>and</i> —Scientific Research Center ENIKS. 120 Korolenko Street, Kazan, Republic of Tatarstan, 420094, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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	Joint Stock Company Information Satellite Systems Named After Academician M.F. Reshetnev, a.k.a., the following eight aliases: —AO Informatsionnye Sputnikovye Systemy imeni Akademika M.F. Reshetnyova; —AO ISS; —AO ISS im. M.F. Reshetnyova; —JSC Academician M.F. Reshetnev Information Satellite Systems; —JSC ISS Reshetnev; —ISS Reshetnev; —ISS-Reshetnev Company; <i>and</i> —Reshetnev Company. 52 Lenina Street, Zheleznogorsk, Krasnoyarsk Territory, 662972, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].

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	<p>Joint Stock Company Izhevsk Electromechanical Plant Kupol, a.k.a., the following four aliases:</p> <ul style="list-style-type: none"> —AO IEMZ Kupol; —AO Izhevskiy Elektromekhanicheskiy Zavod Kupol; —IEMZ Kupol; <i>and</i> —JSC Izhevsk Electromechanical Plant Kupol. <p>3 Pesochnaya Street, Izhevsk, Udmurt Republic, 426033, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Joint Stock Company Kazan Optical-Mechanical Plant, a.k.a., the following five aliases:</p> <ul style="list-style-type: none"> —AO Kazanskiy Optiko-Mekhanicheskiy Zavod; —AO KOMZ; —JSC Kazan Optical-Mechanical Factory; —KOMZ; <i>and</i> —KOMZ RT. <p>37 Lipatova Street, Kazan, Republic of Tatarstan, 420075, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Joint Stock Company Khabarovsk Shipbuilding Yard, a.k.a., the following ten aliases:</p> <ul style="list-style-type: none"> —AO Khabarovskiy Sudostroitelny Zavod; —AO KHSZ; —AO HSZ; —JSC Khabarovsk Shipbuilding Plant; —JSC Khabarovskiy Shipyard; —JSC Khabarovskiy Sudostroitelny Zavod; —JSC Khabarovsk Shipyard; —JSC KHSZ; —Khabarovskiy Shipbuilding Plant; <i>and</i> —Khabarovsk Shipbuilding Plant. <p>1 Suvorova Street, Khabarovsk, Khabarovsk Territory, 680003, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Joint Stock Company Machine Building Company Vityaz, a.k.a., the following seven aliases:</p> <ul style="list-style-type: none"> —AO Mashinostroitel'naya Kompaniya Vityaz; —AO MK Vityaz; —JSC Machine Building Company Vityaz; —MK Vityaz; —MBC Vityaz; —UVZ Vityaz; <i>and</i> —Vityaz. <p>2 Industrialnoye Highway, Ishimbay, Republic of Bashkortostan, 453203, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>

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	<p>Joint Stock Company Management Company Radiostandard, a.k.a., the following four aliases: —AO Upravlyayushchaya Kompaniya Radiostandard; —AO UK Radiostandard; —JSC MC Radiostandard; <i>and</i> —Radio Standard. Kirovsky Plant, 29—N Marshal Govorov Street, Saint Petersburg, 198097, Russia.</p> <p>Joint Stock Company Marine Instrument Engineering Corporation, a.k.a., the following four aliases: —AO Korporatsiya Morskogo Priobstroeniya; —AO KMP; —JSC KMP; <i>and</i> —JSC Marine Instrumentation Corporation. 30 Malaya Posadskaya Street, Saint Petersburg, 197046, Russia; <i>and</i> 4 Shvernika Street, Building 4, Moscow, 117292, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p> <p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p> <p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p> <p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Joint Stock Company Nevskoe Design Bureau, a.k.a, the following ten aliases: —AO Nevskoe PKB; —AO Nevskoye Proyechno-Konstruktorskoye Byuro; —Joint Public Stock Company Nevskoe Design Bureau; —JSC Nevskoe PKB; —JSC Nevskoye Project and Design Bureau; —Nevskoe Design and Construction Office; —Nevskoe Design Bureau; —Nevskoe Design Bureau JPSC; —NPKB; <i>and</i> —Neva Design Bureau. 3 Galerny Way, Saint Petersburg, 199106, Russia.</p> <p>Joint Stock Company NII Gidrosvyazi Shtil, a.k.a, the following two aliases: —JSC NII Shtil; <i>and</i> —Nauchno-Issledovatel'skiy Institut Gidrosvyazi "Shtil". 17, A Angarskaya Street, Volgograd, Volgogradskaya Oblast, 400081.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p> <p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p> <p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p> <p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>

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	<p>Joint Stock Company Nizhny Novgorod Plant of the 70th Anniversary of Victory, a.k.a., the following four aliases: —AO Nizhegorodskiy Zavod 70-Letiya Pobedy; —AO NZ 70-Letiya Pobedy; —NZSLP; <i>and</i> —Zavod 70-Letiya Pobedy. 21 Sormovskoe Highway, Nizhny Novgorod, Nizhny Novgorod Oblast, 603052, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Joint Stock Company Northern Production Association Arktika, a.k.a., the following six aliases: —AO Severnoye Proizvodstvennoye Obedineniye Arktika; —AO SPO Arktika; —JSC Northern Production Association Arktika; —JSC SPO Arktika; —Production Association Arktika; <i>and</i> —SPO Arktika. 34 Arkhangelskoye Highway, Severodvinsk, Arkhangelsk Oblast, 164500, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Joint Stock Company Perm Machine Building Plant, a.k.a., the following six aliases: —AO Permskiy Zavod Mashinostroitel; —AO PZ Mash; —JSC Perm Plant Mashinostroitel; —JSC Permskiy Zavod Mashinostroitel; —JSC PP Mash; <i>and</i> —Mashinostroitel Perm Factory JSC. 57 Novozvyaginskaya Street, Perm, Perm Territory, 614014, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Joint Stock Company Precision Engineering Design Bureau named after A.E. Nudelman, a.k.a., the following six aliases: —AO Konstruktorskoe Byuro Tochnogo Mashinostroeniya imeni A.E. Nudelmana; —AO KB Tochmash im. A.E. Nudelmana; —JSC Precision Machine Building Design Bureau Nudelman; —KB Tochmash; —Nudelman Precision Engineering Design Bureau; <i>and</i> —Tochmash. 8 Vvedenskogo Street, Moscow, 117342, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>

Country	Entity	License requirement	License review policy	Federal Register citation
	Joint Stock Company Production Complex Akhtuba, a.k.a., the following two aliases: —JSC PK Akhtuba; <i>and</i> —OAO PK Akhtuba. 17 Angarskaya Street, Volgograd, Volgogradskaya Oblast, 400081.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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	Joint Stock Company Project Design Bureau RIO, a.k.a., the following four aliases: —AO PKB RIO; —JSC PKB RIO; —PKB RIO; <i>and</i> —RIO Design Bureau. 19 Uralskaya Street, Building 9, Letter Zh, Saint Petersburg, 199155, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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	Joint Stock Company Ratep, a.k.a., the following four aliases: —AO RATEP; —JSC RATEP; —OAO RATEP; <i>and</i> —RATEP. 11 Dzerzhinskogo Street, Serpukhov, Moscow Oblast, 142205, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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	Joint Stock Company Scientific Production Association Impulse, a.k.a., the following four aliases: —AO Nauchno-Proizvodstvennoe Obedinenie Impuls; —AO NPO Impuls; —JSC SPA Impulse; <i>and</i> —NPO Impuls. 2 Kirishskaya Street, Letter A, Saint Petersburg, 195220, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
	Joint Stock Company Scientific Production Association Orion, a.k.a., the following five aliases: —AO Nauchno-Proizvodstvennoe Obedinenie Orion; —JSC SPA Orion; —NPO Orion; —Orion Research and Production Association; <i>and</i> —SPA Orion. 9 Kosinskaya Street, Moscow, 111538, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].

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	<p>Joint Stock Company Scientific Production Association Russian Basic Information Technologies, a.k.a., the following six aliases: —AO Nauchno—Proizvodstvennoye Obedinenie Russkie Bazoviye Informatsionniye Tekhnologii; —AO NPO Rusbitekh; —JSC Research Production Association RusBITech; —RPA RusBITech; —RusBITech; <i>and</i> —RusBITekh. 26 Varshavskoye Highway, Building 11, Moscow, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Joint Stock Company Scientific Production Association Volna Plant, a.k.a., the following seven aliases: —AO Nauchno—Proizvodstvennoe Obedinenie Zavod Volna; —AO NPO Zavod Volna; —JSC SPA Volna Plant; —NPO Zavod Volna; —NPO Volna Plant; —Research and Production Association Volna Plant; <i>and</i> —Volna SPB. Kirovsky Plant, 29–N Marshal Govorov Street, St. Petersburg, 198095, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Joint Stock Company Scientific Production Center of Automatics and Instrument Building Named After Academician N.A. Pilyugin, a.k.a., the following five aliases: —AO Nauchno-Proizvodstvenniy Tsentr Avtomatiki I Priborostroeniya imeni Akademika N.A. Pilyugina; —AO NPTSAP; —JSC NPTSAP; —NPCAP; <i>and</i> —NPCAP FGUP. 1 Vvedenskogo Street, Moscow, 117342, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Joint Stock Company Scientific Production Concern Tekhmash, a.k.a., the following ten aliases: —AO Nauchno-Proizvodstvenny Kontsern Tekhmash; —AO Nauchno-Proizvodstvenny Kontsern Tekhnologii Mashinostroeniya; —JSC Scientific Industrial Concern Manufacturing Engineering; —JSC SPC Techmash; —JSC Techmash; —NPK Tekhmash; —NPK Tekhmash OAO; —OJSC Machine Engineering Technologies; —Scientific Industrial Concern Manufacturing Engineering OJSC; <i>and</i> —SPC Techmash. 58 Leningradskoe Highway, Building 4, Moscow, 125212, Russia; <i>and</i> 35 Bolshaya Tatarskaya Street, Building 5, Moscow, 115184, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>

Country	Entity	License requirement	License review policy	Federal Register citation
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	<p>Joint Stock Company Scientific Research Engineering Institute, a.k.a., the following three aliases: —AO Nauchno—Issledovatel'skiy Inzhenernyi Institut; —AO NIII; <i>and</i> —JSC SREI. 6 Entuziastov Highway, Zapadnaya Promzona, Balashikha, Moscow Oblast, 143912, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Joint Stock Company Scientific Research Institute of Computing Complexes Named After M.A. Kartsev, a.k.a., the following six aliases: —AO Nauchno—Issledovatel'skiy Institut Vychislitel'nykh Kompleksov Imeni M.A. Kartseva; —AO NIIVK im. M.A. Kartsev; —JSC Institute for Scientific Research Vychislitel'nykh Kompleksov Named After M.A. Kartseva; —JSC NII Vychislitel'nykh Kompleksov IM. M.A. Kartseva; —JSC NIIVK IM. M.A. Kartseva; <i>and</i> —NIIVK Named After M.A. Kartsev. 108 Profsoyuznaya Street, Moscow, 117437, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Joint Stock Company Scientific Technical Institute Radiosvyaz, a.k.a., the following five aliases: —AO NTI Radiosvyaz; —JSC Scientific Technical Institute Radiosvyaz; —NTI Radio; —NTI Radiosvyaz; <i>and</i> —Scientific Technical Institute Radiosviav. Kirovsky Plant, 29–N Marshal Govorov Street, St. Petersburg, 198095, Russia, <i>and</i> Kirovsky Plant, 29–N Marshal Govorov Street, St. Petersburg, 198097, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Joint Stock Company Taganrog Plant Priboy, 13, Bolshaya Bulvarnaya Street, Taganrog, Rostovskaya Oblast, 347913.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>

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	<p>Joint Stock Company Tula Cartridge Works a.k.a., the following four aliases: —AO TPZ; —AO Tulski Patronny Zavod; —Tulammo; <i>and</i> —Tula Cartridge Plant. 47B Marata Street, Tula, Tula Oblast, 300004, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Joint Stock Company Tula Machine-Building Plant, a.k.a., the following nine aliases: —AO Tulskiy Mashinostroitelny Zavod; —AO Aktsionernaya Kompaniya Tulamashzavod; —OAO AK Tulamashzavod; —JSC Production Association Tulamashzavod; —PO Tulamashzavod; —Proizvodstvennoe Obединenie Tulamashzavod; —Tulmash; —Tulamashzavod; <i>and</i> —Tulamashzavod Production Association. 2 Mosina Street, Tula, Tula Oblast, 300002, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Joint Stock Company Ulan-Ude Aviation Plant, a.k.a., the following six aliases: —AO Ulan-Udinski Aviatsonny Zavod; —AO UUAZ; —Ulan-Ude Aircraft Aviation Plant; —Ulan-Ude Aviation Factory; —JSC UUAZ; <i>and</i> —UUAZ. 1 Khorinskaya Street, Ulan-Ude, Republic of Buryatia, 690009, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Joint Stock Company Ulyanovsk Cartridge Works, a.k.a., the following six aliases: —AO Ulyanovskiy Patronny Zavod; —AO UPZ; —JSC UCW; —The Ulyanovsk Cartridge Works; —ULN Ammo; <i>and</i> —Ulyanovsk Cartridge Plant. 1 Shofyorov Street, Ulyanovsk, Ulyanovsk Oblast, 432007, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Joint Stock Company Ulyanovsk Mechanical Plant, a.k.a., the following four aliases: —AO Ulyanovsk Mekhanicheskii Zavod; —AO UMZ; —JSC UMP; <i>and</i> —UMP. 94 Moskovskoye Highway, Ulyanovsk, Ulyanovsk Oblast, 432008, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Joint Stock Company Ural Automotive Plant, a.k.a., the following five aliases: —AO Avtomobilniy Zavod Ural; —AO AZ Ural; —Automobile Plant Ural JSC; —JSC UAP; <i>and</i> —Ural AZ. 1 Avtozavodtsev Avenue, Miass, Chelyabinsk Oblast, 456304, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>

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	<p>Joint Stock Company Ural Works of Civil Aviation, a.k.a., the following five aliases: —AO Uralskiy Zavod Grazhdanskoi Aviatsii; —AO UZGA; —Ural Civil Aviation Plant; —JSC Ural Works of Civil Aviation; and —UWCA.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>2G Bakhchivandzhi Street, Yekaterinburg, Sverdlovsk Oblast, 620025, Russia; and 262M Belinskogo Street, Yekaterinburg, Sverdlovsk Oblast, 620089, Russia.</p>			
	<p>Joint Stock Company Vodtranspribor, 64 Serdobolskaya Street, Saint Petersburg, 197342.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Joint Stock Company Zavod Elecon, a.k.a., the following five aliases: —AO Zavod Elekon; —Elecon Plant; —Elecon; —JSC Zavod Elecon; and —OAO Zavod Elecon.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>58 Korolenko Street, Kazan, Republic of Tatarstan, 420094, Russia.</p>			
	<p>Joint Stock Company Zavolzhskiy Plant of Caterpillar Tractors, a.k.a., the following seven aliases: —AO Zavolzhskiy Zavod Gusenichnikh Tyagachey; —AO ZZGT; —JSC ZCVP; —JSC Zavolzhsky Plant of Caterpillar Tractors; —Zavolzhsk Plant of Caterpillar Tractors; —Zavolzhsky Crawler Vehicle Plant; and —ZZGT.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>1 Zheleznodorozhnaya Street, Zavolzhe, Nizhny Novgorod Oblast, 606522, Russia.</p>			
	<p>Joint Stock Company Zelenodolsk Plant Named After A.M. Gorky, a.k.a., the following six aliases: —AO Zelenodolskiy Zavod Imeni A.M. Gorkogo; —JSC Zelenodolsk Plant Named After Gorky; —OAO Zelenodolskiy Zavod Imeni A.M. Gorky; —Zelenodolsk Factory; —Zelenodolsk Plant Named After A.M. Gorky, JSC; and —Zelenodolsk Shipyard.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>5 Zavodskaya Street, Zelenodolsk, Republic of Tatarstan, 422540, Russia.</p>			

Country	Entity	License requirement	License review policy	Federal Register citation
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	Machine Building Group Limited Liability Company, a.k.a., the following four aliases: —Machine Building Group; —OOO Mashinostroitel'naya Gruppa; —OOO MG; <i>and</i> —MG LLC. 15 Rochdelskaya Street, Building 8, Floor 2, Premises II, Room 45, Moscow, 123022, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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	Military Industrial Company Limited Liability Company, a.k.a., the following three aliases: —OOO Voenno-Promyshlennaya Kompaniya; —OOO VPK; <i>and</i> —VPK LLC. 15 Rochdelskaya Street, Building 8, Floor 3, Unit I, Rooms 10–14, Moscow, 123376, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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	Open Joint Stock Company Degtyaryov Plant, a.k.a., the following five aliases: —OAO Zavod imeni V.A. Degtyareva; —OAO ZiD; —Degtyaryov Factory; —OJSC ZiD; <i>and</i> —V.A. Degtyarev Plant. 4 Truda Street, Kovrov, Vladimir Oblast, 601900, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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	Promtekhlogiya Limited Liability Company, a.k.a., the following four aliases: —OOO Promtekhlogiya; —ORSIS; —Orsis Shop; <i>and</i> —Promtekhlogiya LLC. 29 Krzhizhanovskogo Street, Building 2, Moscow, 117218, Russia; and 14 Podyomnaya St, Housing 8, Moscow, 109052, Russia; and 19 Smirnovskaya St, Moscow, Russia; and Ul. Krzhizhanovskogo, D. 29, K.2, Antresol 1, Moscow, 117218, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].

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	<p>Public Joint Stock Company Kurganmashzavod, a.k.a., the following five aliases: —Kurganmashzavod; —OAO Kurganmashzavod; —PJSC Kurgan Machine Building Factory; —PJSC Kurgansky Mashinostroitelnyy Zavod; <i>and</i> —PJSC Kurgansky Mashinostroitelnyy Zavod. 17 Mashinostroitelnyy Avenue, Letter 1J, Kurgan, Kurgan Oblast, 640021, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Public Joint Stock Company Motovilikha Plants, a.k.a., the following five aliases: —Motovilikha Factories; —Motovilikha Plants; —MZ Perm; —PAO Motovilikhinskiye Zavody; <i>and</i> —PAO Spetsialnogo Mashinostoeniya I Metallurgii Motovilikhinskiye Zavody. 35 1905 Goda Street, Perm, Perm Territory, 614014, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Public Joint Stock Company Proletarsky Zavod, a.k.a., the following five aliases: —PAO Proletarsky Zavod; —PJSC Proletarsky Zavod; —PJSC Proletarsky Zavod; —Proletarskiy Zavod; <i>and</i> —Proletarsky Zavod. 3 Dudko Street, Saint Petersburg, 192029, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Public Joint Stock Company Rostvertol, a.k.a., the following six aliases: —PAO Rostvertol; —PAO Rostvertol imeni B.N. Slyusarya; —PJSC Rostvertol; —Rosvertol; —Rostovskiy Vertoletnyy Proizvodstvennyy Kompleks; <i>and</i> —Rostov Helicopter Production Complex. 5 Novatorov Street, Rostov-on-Don, Rostov Oblast, 344038, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
	<p>Public Joint Stock Company Scientific Production Association Strela, a.k.a., the following six aliases: —NPO Strela; —PAO Nauchno-Proizvodstvennoye Obiedineniye Strela; —PAO NPO Strela; —PJSC Research and Production Association Strela; —PJSC SPA Strela; <i>and</i> —SPA Strela. 6 Maxim Gorky Street, Tula, Tula Oblast, 300002, Russia; <i>and</i> 2 Arsenalnaya Street, Tula, Tula Oblast, 300002, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>

Country	Entity	License requirement	License review policy	Federal Register citation
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	<p>Scientific Production Association Izhevsk Unmanned Systems Limited Liability Company, a.k.a., the following seven aliases: —Izmash-Bespilotnye Sistemy, OOO; —Izhmash-Unmanned Systems Company; —LLC Research and Production Association Izhbs; —OOO Nauchno-Proizvodstvennoe Obedinenie Izhevskie Bespilotnye Sistemy; —OOO NPO IZHBS; —NPO IZHBS; <i>and</i> —Research and Production Association Izhevsk Unmanned Systems LLC.</p> <p>2 Ordzhonikidze Street, Izhevsk, Udmurt Republic, 426063, Russia; <i>and</i> 2A Trofimova Street, Room 221, Danilovski Municipal Okrug, Moscow, 115432, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>Scientific Production Enterprise Prima Limited Liability Company, a.k.a., the following seven aliases: —OOO Nauchno-Proizvodstvennoe Predpriyatie Prima; —NPP Prima; —NPP Prima OOO; —Prima Research and Production Enterprise; —Prima Systems; —SPE Prima; <i>and</i> —SPE Prima LLC.</p> <p>63 Svobody Street, Nizhniy Novgorod, Nizhniy Novgorod Oblast, 603003, Russia; <i>and</i> 1Zh Sormovskoe Highway, Nizhniy Novgorod, Nizhniy Novgorod Oblast, 603950, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>
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	<p>United Machine Building Group Limited Liability Company, a.k.a., the following six aliases: —OOO Obedinennaya Mashinostroitel'naya Gruppy; —OOO OMG; —UMG; —UMG LLC; —United Machinery Group LLC; <i>and</i> —United Machine Building Group LLC.</p> <p>15 Rochdelskaya Street, Building 8, Floor 2, Premises II, Room 45 Moscow, 123022, Russia.</p>	<p>For all items subject to the EAR. (See §§ 734.9(g),³ 746.8(a)(3), and 744.21(b) of the EAR)</p>	<p>Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).</p>	<p>88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].</p>

Country	Entity	License requirement	License review policy	Federal Register citation
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	Volgograd Machine Building Company Limited Liability Company, a.k.a., the following four aliases: —OOO VMK VGTZ; —VGTZ; —Volgogradskaya Mashinostroitel'naya Kompaniya; and —LLC Volgograd Machine Building Company VGTZ. 1 Dzerzhinskogo Square, Volgograd, Volgograd Oblast, 400006, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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	VXI-Systems Limited Liability Company, a.k.a., the following five aliases: —InformTest Holdings; —VXI-Systems; —VXI-Systems LLC; —VXI-Systemy; and —VXI-Systemy OOO. 4 Savelkinsky Way, Zelenograd, Moscow, 124482, Russia; and 4 Savelkinsky Way, 6th Floor, Premises XIV, Room 8, Zelenograd, Moscow, 124482, Russia.	For all items subject to the EAR. (See §§ 734.9(g), ³ 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial for all items subject to the EAR apart from food and medicine designated as EAR99, which will be reviewed on a case-by-case basis. See §§ 746.8(b) and 744.21(e).	88 FR [INSERT FR PAGE NUMBER AND 5/22/2023].
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³For this entity, "items subject to the EAR" includes foreign-produced items that are subject to the EAR under § 734.9(g) of the EAR. See §§ 746.8 and 744.21 of the EAR for related license requirements, license review policy, and restrictions on license exceptions.

Thea D. Rozman Kendler,
Assistant Secretary for Export Administration.

[FR Doc. 2023-10684 Filed 5-19-23; 8:45 am]
BILLING CODE 3510-JT-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2023-0333]

Special Local Regulations; Seattle Seafair Unlimited Hydroplane Race, Lake Washington, WA

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulations for the Seattle Seafair Unlimited Hydroplane Race from 8 a.m. to 5 p.m. on Friday, August 4, 2023, and from 8 a.m. to 6 p.m. on August 5, 2023, and August 6, 2023. This action is necessary to prevent

injury and to protect life and property of the maritime public from the hazards associated with the aerial displays. The regulation prohibits persons and vessels from being in the regulated areas unless authorized by the Captain of the Port Puget Sound or a designated representative.

DATES: The regulations in 33 CFR 100.1301 will be enforced from 8 a.m. to 5 p.m. on Friday, August 4, 2023, and from 8 a.m. to 6 p.m. on August 5, 2023, and August 6, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Peter J. McAndrew, Sector Puget Sound Waterways Management Division, Coast Guard; telephone 206-217-6045, email SectorPugetSoundWWM@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce special local regulations in 33 CFR 100.1301 for the Seattle Seafair Unlimited Hydroplane Race from 8 a.m. to 5 p.m. on Friday, August 4, 2023, and from 8 a.m. to 6 p.m. on August 5, 2023, and August 6, 2023. This action is being taken to

provide for the safety of life on navigable waterways during this three-day event. Our regulation for marine events within the Thirteenth Coast Guard District, § 100.1301(b), specifies the location of the regulated area for the Seattle Seafair Unlimited Hydroplane Race which encompasses portions of Lake Washington. During the enforcement periods, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

The regulated area has been divided into two zones. The zones are separated by a line perpendicular from the I-90 Bridge to the northwest corner of the East log boom and a line extending from the southeast corner of the East log boom to the southeast corner of the hydroplane racecourse and then to the northerly tip of Ohlers Island in Andrews Bay. The western zone is designated Zone I, and the eastern zone is designated Zone II. (Refer to National Oceanic and Atmospheric Administration (NOAA) Chart 18447)

The Coast Guard will maintain a patrol consisting of Coast Guard vessels,

assisted by Coast Guard Auxiliary vessels, in Zone II. The Coast Guard patrol of this area is under the direction of the Coast Guard Patrol Commander (the "Patrol Commander"). The Patrol Commander is empowered to control the movement of vessels on the race course and in the adjoining waters during the periods this regulation is subject to enforcement. The Patrol Commander may be assisted by other Federal, state, and local law enforcement agencies.

Only vessels authorized by the Patrol Commander may be allowed to enter Zone I during the hours this regulation is subject to enforcement. Vessels in the vicinity of Zone I shall maneuver and anchor as directed by Coast Guard Officers or Petty Officers.

During the times in which the regulation is enforced, the following rules listed in the regulation will apply:

(1) Swimming, wading, or otherwise entering the water in Zone I by any person is prohibited while hydroplane boats are on the racecourse. At other times in Zone I, any person entering the water from the shoreline shall remain west of the swim line, denoted by buoys, and any person entering the water from the log boom shall remain within 10 feet of the log boom.

(2) Any person swimming or otherwise entering the water in Zone II shall remain within 10 feet of a vessel.

(3) Rafting to a log boom will be limited to groups of three vessels.

(4) Up to six vessels may raft together in Zone II if none of the vessels are secured to a log boom.

(5) Only vessels authorized by the Patrol Commander, other law enforcement agencies or event sponsors shall be permitted to tow other watercraft or inflatable devices.

(6) Vessels proceeding in either Zone I or Zone II during the hours this regulation is subject to enforcement shall do so only at speeds which will create minimum wake, seven miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(7) Upon completion of the daily racing activities, all vessels leaving either Zone I or Zone II shall proceed at speeds of seven miles per hour or less. The maximum speed may be reduced at the discretion of the Patrol Commander.

(8) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the Patrol Commander shall serve as signal to stop. Vessels signaled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

The Captain of the Port may be assisted by other Federal, state, and local law enforcement agencies in enforcing this regulation.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notification, he may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area. In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts.

Dated: May 16, 2023.

P.M. Hilbert,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2023-10793 Filed 5-19-23; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2023-0332]

Safety Zone; Seafair Air Show Performance, 2023, Seattle, WA

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the annual Seafair Air Show Performance safety zone on Lake Washington, Seattle, WA, from 10 a.m. until 4 p.m. on August 3, 2023, and from 8 a.m. until 5 p.m. each day from August 4, 2023, through August 6, 2023. This action is necessary to prevent injury and to protect life and property of the maritime public from the hazards associated with the aerial displays. The regulation prohibits persons and vessels from being in the regulated areas unless authorized by the Captain of the Port Puget Sound or a designated representative.

DATES: The regulations in 33 CFR 165.1319 will be enforced from 10 a.m. until 4 p.m. on August 3, 2023, and from 8 a.m. until 5 p.m. each day from August 4, 2023, through August 6, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Peter J. McAndrew, Sector Puget Sound Waterways Management Division, Coast Guard;

telephone (206) 217-6045, email SectorPugetSoundWWM@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Seafair Air Show Performance safety zone in 33 CFR 165.1319 from 10 a.m. until 4 p.m. on August 3, 2023, and from 8 a.m. until 5 p.m. each day from August 4, 2023, through August 6, 2023, unless canceled sooner by the Captain of the Port. This action is being taken to provide for the safety of life on navigable waterways during this 4-day event. Our regulation for marine events within the Thirteenth Coast Guard District, § 165.1319(b), specifies the location of the regulated area for the Seafair Air Show performance which encompasses portions of Lake Washington.

During the enforcement periods, as reflected in § 165.1319, no person or vessel may enter or remain in the zone except for support vessels and support personnel, vessels registered with the event organizer, or other vessels authorized by the Captain of the Port or designated representatives. Vessels and persons granted authorization to enter the safety zone must obey all lawful orders or directions made by the Captain of the Port or his designated representative.

The Captain of the Port (COTP) may be assisted by other Federal, state, and local law enforcement agencies in enforcing this regulation.

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

If the COTP determines that the safety zone need not be enforced for the full duration stated in this notification of enforcement, he may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 16, 2023.

P.M. Hilbert,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 2023-10794 Filed 5-19-23; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF DEFENSE**Department of the Army, U.S. Army Corps of Engineers****33 CFR Part 386****[Docket Number: COE–2022–0004]****RIN 0710–AB31****Credit Assistance and Related Fees for Water Resources Infrastructure Projects****AGENCY:** U.S. Army Corps of Engineers, Department of Defense (DoD).**ACTION:** Final rule.

SUMMARY: This final rule implements a new credit assistance program administered by the U.S. Army Corps of Engineers (Corps). Consistent with the funding provided under Subtitle C of Title V of the Water Resources Reform and Development Act of 2014 (WRRDA), often referred to as the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA), credit assistance is available for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of state, local government, public utility, or private. This final rule establishes the process by which the Corps will administer such credit assistance, including the assessment of fees, and also sets forth the policies and procedures that the Corps will use for receiving, evaluating, approving applications, and servicing and monitoring direct loans and loan guarantees.

DATES: This rule is effective on June 21, 2023.**FOR FURTHER INFORMATION CONTACT:**

Aaron Snyder, Corps Water Infrastructure Financing Team, 441 G Street NW, CECW–I Attn: Aaron Snyder 3K87, Washington, DC 20314; telephone number: (612) 518–0355; email address: CWIFP@usace.army.mil. The phone number above may also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Relay Service's teletype service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Water Resources Infrastructure Needs
- III. Summary of Comments
- IV. Program Information
 - A. Funding
 - B. Borrower Eligibility
 - C. Project Eligibility
 - D. Project Cost Eligibility
 - E. Statutory Requirements
 - F. Application Process
 - G. Creditworthiness

- H. Fees
- I. Credit Assistance
- J. Rating Requirement
- K. Federal Requirements
- L. American Iron and Steel Requirements
- M. Labor Standards (Davis-Bacon Act of 1931)
- N. Reporting Requirements
- O. Selection Criteria
- V. Statutory and Executive Order Reviews

I. Background

The U.S. Army Corps of Engineers (Corps) is publishing this final rule to implement a program authorized under Subtitle C of Title V of the Water Resources Reform and Development Act of 2014 (WRRDA), often referred to as the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA). The program was provided funding and further statutory direction in Division D, Title 1 of the Consolidated Appropriations Act of 2021 and Division J, Title III of the Infrastructure Investment and Jobs Act. WIFIA authorizes the Corps to provide secured (direct) loans and guaranteed loans to eligible water resources infrastructure projects. The only eligible project type—under Division D, Title 1 of the Consolidated Appropriations Act of 2021 and Division J, Title III of the Infrastructure Investment and Jobs Act are: “. . . safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of state, local government, public utility, or private. . .”. The appropriations language also specifies that any project “for a dam that is identified as jointly owned in the National Inventory of Dams and where one of those joint owners is the Federal Government” is ineligible to receive the funding provided by these appropriations. This rule limits implementation to only those project types listed in the Acts. WIFIA authorizes the Corps to charge fees to recover all or a portion of the Corps' cost of providing credit assistance and all costs of conducting engineering reviews and retaining expert firms, including financial and legal services, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments. WIFIA also authorizes the borrower to pay part or all of the cost of direct loans and guaranteed loans (“credit subsidy cost”) and this authority would be implemented under this rule. Projects will be evaluated and selected by the Secretary of the Army (the Secretary) based on the requirements and the criteria described in this rule. Following the selection of projects, individual credit agreements will be developed

through negotiations between the borrowers and the Corps.

Congress enacted the WIFIA as part of WRRDA, as amended by section 1445 of Public Law 114–94, section 5008 of Public Law 114–322, and section 4201 of Public Law 115–270 (see 33 U.S.C. 3901–3914). These amendments were minor changes primarily focused on the Administrator of the Environmental Protection Agency (EPA) and other changes regarding State Infrastructure Financing Authorities, removing limitations on use of tax exempt funding sources, changes to project eligibility for the EPA, and allowance of fees as an eligible cost which is included elsewhere in this final rule. Title I, Division D of the Consolidated Appropriations Act, 2021 provided \$12 million in budget authority for the credit subsidy cost for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of State, local government, public utility, or private. Title 1, Division D also provided that the \$12 million credit subsidy appropriation, is available to subsidize gross obligations for the principal amount of direct loans, including capitalized interest, and total loan principal, including capitalized interest, any part of which is to be guaranteed not to exceed \$950,000,000. Division J, Title III of the Infrastructure Investment and Jobs Act provided an additional \$64,000,000 in budget authority for the cost of direct loans and guaranteed loans, for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of State, local government, public utility, or private.¹ Division J, Title III also provided the \$64 million credit subsidy appropriation cannot be used to fund a project for a dam that is identified as jointly owned in the National Inventory of Dams and where one of those joint owners is the Federal Government. As described in the proposed rule “Credit Assistance and Related Fees for Water Resources Infrastructure Projects” (87 FR 35473), the Corps is establishing its new WIFIA program limited to safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary

¹ Until 2021, Tribally owned dams have been listed in the National Inventory of Dams under the primary ownership title of either “Private” or “Federal”. In 2021, the National Inventory of Dams added a “Tribal Government” primary ownership type, however not all Tribally owned dams have been transitioned to the correct primary ownership type at the date of this Rule. Regardless of National Inventory of Dams primary ownership classification, all Tribally owned dams are eligible for this program.

owner type of State, local government, public utility, or private.

A primary objective for Federal credit programs is to help correct a capital market imperfection. Municipal, regional, state-level and other infrastructure project sponsors generally do not market debt sales used to fund infrastructure projects beyond 30-year terms through public bond markets due to existing market conventions. Proceeds from bond sales are available immediately, not according to cash flow needs during project construction. In addition, debt sold through multiple issuances during an infrastructure project's construction period exposes project sponsors to debt interest rate risk. Congress provided the Corps WIFIA program the legal authority to help address these factors that otherwise may impede affordable infrastructure investment through the prospective terms of WIFIA credit assistance.

WIFIA, authorized the Corps to provide both loans and loan guarantees to eligible entities: corporations; partnerships; joint ventures; trusts; State or local governmental entities, agencies, or instrumentalities; Tribal governments or consortiums of Tribal governments; or State infrastructure finance authorities.

While WIFIA authorizes the Corps to provide for a wide variety of eligible projects this final rule is limited to implementing a credit assistance program for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of State, local government, public utility, or private (referred to here after as "non-Federal dams"). As applied to credit assistance for non-Federal dam projects under Title 1, Division D or the Consolidated Appropriations Act, 2021, Division J, Title III of the Infrastructure Investment and Jobs Act, Sections 3902, 3905, and 3907 of Title 33 of the U.S.C., describe the conditions that govern a project's eligibility. Projects must have eligible costs of not less than \$20 million. 33 U.S.C. 3907(a)(2)(A). Eligible borrowers, eligible projects, and other statutory requirements are further described in detail in the sections below and summarized in this document and 85 FR 39189. As used throughout this **SUPPLEMENTARY INFORMATION** section and part 386 of the rule, "borrower" is synonymous with "obligor". WIFIA defines an "obligor" as "an eligible entity that is primarily liable for payment of the principal of, or interest on, a Federal credit instrument." 33 U.S.C. 3901(7). "Obligor" is used in place of "borrower" whenever "obligor"

appears in a corresponding section of WIFIA.

II. Water Resources Infrastructure Needs

The American Jobs Plan estimates that in 2020, weather and climate disasters cost the United States \$95 billion in damages to homes, businesses, and public infrastructure.² The Administration has made investment in U.S. infrastructure a priority to increase resiliency in the face of such threats.

Non-Federal dams account for roughly 87,000 of the 90,580 dams as reported in the National Inventory of Dams. Over 14,000 non-Federal dams are now classified as "high hazard potential," meaning that they would likely result in loss of life if they were to fail.³ According to a 2019 cost estimate conducted by the Association of State Dam Safety Officials (ASDSO), the cost to rehabilitate (repair, replace or remove) all non-Federal dams is estimated at over \$66 billion with high hazard potential dams accounting for over \$20 billion.⁴ Funding requirements are only projected to increase as infrastructure continues to age, risk awareness progresses, and design standards evolve.⁵

While almost half of the States have created a state-funded grant or low-interest revolving loan program to assist dam owners with repairs, the ASDSO indicates that these programs vary significantly in the financial assistance available.⁶ Another Federal infrastructure financing program, WIFIA, administered by the EPA provides credit financing for non-Federal water and wastewater infrastructure project. Similar to the Corps WIFIA program, the maximum portion of eligible project costs are 49% or 80% for small communities. The EPA WIFIA program can finance dam projects, however those projects compete against a wide range of water and wastewater type projects. In FY 2021 the EPA WIFIA program had an appropriation of \$55 million, allowing WIFIA to lend approximately \$5.5 billion. In 2021, the EPA made it

possible for dam projects to receive funding under the Federal Drinking Water State Revolving Fund (DWSRF), administered by the EPA, provided that the dam's primary purpose is for drinking water supply and that the dam must be owned by the public water system. Through the DWSRF program, the EPA will make available \$1.8 billion in capitalization grants for drinking water infrastructure needs, a portion of which could go towards drinking water supply dam projects, depending on the priorities of the States. The Federal Watershed Rehabilitation Program administered by the Natural Resources Conservation Service (NRCS) helps project sponsors rehabilitate aging dams that are reaching the end of their design lives. This rehabilitation addresses critical public health and safety concerns. Division J, Title I of the Infrastructure Investment and Jobs Act provides \$118M for projects under the Watershed Rehabilitation Program. The Federal Rehabilitation of High Hazard Potential Dam (HHPD) Program, administered by Federal Emergency Management Agency (FEMA), provides grants for repair, removal, or rehabilitation of eligible non-Federal, high hazard potential dams. Projects can receive a maximum grant of the lesser of \$7.5 million or 12.5% of the total appropriated amount. The program was appropriated \$10 million in both FY 2019 and FY 2020, \$12 million in FY 2021, and \$585 million in Division J, Title V of the Infrastructure Investment and Jobs Act (\$75 million of which must go to dam removal projects). In addition, Section 40333 of the Infrastructure and Jobs Act of 2021 appropriated \$553,600,000 until expended for EPAct 2005 Section 247: Maintaining and Enhancing Hydroelectricity Incentives to the US Department of Energy (DOE) for making incentive payments to owners and authorized operators of qualified hydroelectric facilities for capital improvements directly related to improving grid resilience, improving dam safety, and related to environmental improvements. Such incentive payments are limited to 30% of the costs of the applicable capital improvement(s) and not more than one incentive payment can be made to a single qualified hydroelectric facility in any fiscal year, the amount of which shall not exceed \$5,000,000. For details refer to the draft application guidance for the Maintaining & Enhancing Hydroelectricity Incentives Program (EPAct 2005 Section 247) released by the DOE's Grid Deployment Office on February 8, 2023 for public comment to inform the implementation. In addition,

² The White House Briefing Room. "FACT SHEET: The American Jobs Plan" at <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan>. March 13, 2021.

³ U.S. Army Corps of Engineers, "National Inventory of Dams," at <https://nid.usace.army.mil>. 2020 partial update.

⁴ Association of State Dam Safety Officials (ASDSO), "The Cost of Rehabilitating Our Nation's Dams: A Methodology, Estimate, and Proposed Funding Mechanisms." revised 2019.

⁵ Congressional Research Service, "Dam Safety Overview and the Federal Role," October 24, 2019.

⁶ ASDSO, "The Cost of Rehabilitating".

USDA's Rural Development Water and Waste Disposal programs provide over \$2 billion in grants and low-interest loans for water and waste infrastructure. These funds help provide rural Americans access to drinking water and sanitation, promoting economic development in rural areas. Dam construction and repair projects are eligible for these funds. Despite these programs and their funding capacity, the available funding for dam safety infrastructure falls short of the \$66 billion need cited by ASDSO. The Corps' WIFIA program helps to bridge that gap by providing non-Federal entities with an additional means to invest in dam safety infrastructure, which will help communities withstand future weather and climate events. As communities become more resilient, all else being equal, this is expected to assist in limiting Federal disaster spending associated with such events.

III. Summary of Comments

In response to the proposed rule, the Corps received 12 letters submitted to the docket. Combined, these letters provided approximately 45 individual comments on the proposed rule. The Corps received comments from prospective applicants, trade associations, and individual private citizens. The Corps has considered all of these comments in the development of the final rule. Docket comments and summaries of the Corps' analyses and determinations are discussed as follows.

A. Discussion of General Comments

This section provides a discussion of each of the four major categories raised by commenters in response to the rulemaking, along with Corps' analysis and resolution.

1. Project Eligibility

Several commenters expressed support for expanding the scope of the program to allow credit assistance for additional eligible projects authorized for assistance under 33 U.S.C. 3905. Upon review and consideration of the comments, the Corps believes that it is important to note that Congress narrowed the scope of projects eligible for credit assistance by appropriating funds solely for non-federal dam safety projects, despite broad authority under WIFIA to fund water infrastructure projects. As a result, the Corps will not be expanding the scope of project eligibility under this rulemaking.

One commenter suggested that the Corps should clarify eligibility and application process and include a list of ineligible projects along with clarifying the differences between the Corps and

the Environmental Protection Agency (EPA) WIFIA. Another commenter suggested that fragmented federal financing and unclear guidelines risk deterring applicants and delaying critical upgrades to high-risk infrastructure. Separately, the commenter recommended that the Corps should clarify eligibility and application steps for prospective applicants by (a) delineating between the Corps and the EPA WIFIA programs and (b) including a clear list of eligibility requirements. As evidence for this recommendation, the commenter stated that Corps anticipated the difficulty that applicants will have with (a) understanding eligibility requirements and (b) understanding which financing program best suits a project's scope, purpose, and needs.

The Corps and EPA intend to partner closely during the project selection process for eligible projects to ensure that funding allocated either by EPA or Corps WIFIA programs will use the most appropriate program relative to the project's scope, purpose, and benefits. It is important to note that both programs share the same authorizing legislation, and Congress provided a list of projects eligible for assistance under EPA's WIFIA program which also may be eligible as non-Federal dam safety projects. As a matter of efficiency of government resources, projects that include non-Federal dam safety work in addition to infrastructure outside of the scope of dam safety work, but eligible under EPA WIFIA, are ineligible for Corps WIFIA financing assistance. Any project whose application has been rejected for credit assistance by EPA will not be considered for assistance under the Corps program.

The application form has been submitted to the Office of Management and Budget (OMB) for approval under OMB Control Number 0710-0026, titled "Corps Water Infrastructure Financing Program (CWIFP) Preliminary Application."

The Corps sought public comments on whether additional clarification is needed on project cost eligibility, such as whether a list of what costs are expressly ineligible would be helpful or whether that may result in additional confusion, as opposed to limiting the list to include only those which are eligible, as proposed. Although two commenters suggested they preferred a list of what costs are expressly ineligible, the commenters did not provide justification as to why such a list would not result in additional confusion among prospective applicants. Eligibility is dependent on several factors such as whether the costs

were incurred through federally compliant contracts and whether costs are allocable and reasonable. As such, the Corps does not plan to include a list of expressly ineligible costs in this final rule. For information on specific costs, a prospective borrower can contact the Corps by emailing CWIFP@usace.army.mil.

One commenter provided comments that all dam safety projects are potential flood risk projects and should be considered eligible. The Corps agrees; however, each individual project is different and will require appropriate considerations based on the project conditions and verification of potential flood risks. To receive clarification on any unique project conditions, a prospective borrower can contact the Corps by emailing CWIFP@usace.army.mil.

2. Credit Assistance for Economically Disadvantaged Communities

Several commenters provided comments about the approach to defining economically disadvantaged communities and allocation of credit assistance to such communities. The Corps is utilizing the term "economically disadvantaged" to be generally consistent with the direction provided in Section 160 of the Water Resources Development Act of 2020 (Pub. L. 116-260) for the term as well as the Biden Administration's policies for identifying disadvantaged communities. This definition may be modified in the future as appropriate in response to updated guidance, tools and resources. A number of commenters wrote to expressly support inclusion of a selection criterion and prioritization for economically disadvantaged communities, and no commenters expressly opposed such a criterion. As stated in this rule, to be considered economically disadvantaged, a community only needs to meet one of the following criteria: (a) low-income, (b) unemployment rate above national average, (c) Indian country as defined in 18 U.S.C. 1151 or in the proximity of an Alaska Native Village, (d) U.S. Territories, or (e) identified as disadvantaged by the Climate and Economic Justice Screening Tool.

One commenter requested that the rule establish static metrics for how the selection criterion related to economically disadvantaged communities is considered relative to other criteria. Weights will not be included in the rule, as they may change with each funding availability opportunity. The weights used for each selection criterion will be provided to the public upon the solicitation to

announce the availability of credit assistance. The priorities as indicated are as follows: Projects serving small, rural communities and economically disadvantaged communities and projects serving Tribal communities.

One commenter recommended that the Corps align the content of the rule with Executive Order (E.O.) 14008 (Justice40 Initiative) and then report on its progress toward achieving a 40% distribution of funds to disadvantaged communities. Although the WIFIA program is not a covered program under the Justice40 Initiative, the program will support priorities consistent with the Justice40 Initiative, including projects serving small, rural communities and economically disadvantaged communities and projects serving Tribal communities. Via its publicly accessible website, the Corps intends to report on its lending activities, including those lending activities which support priorities consistent with the Justice40 Initiative.

3. Procedures for Determining Eligibility Under 85 **Federal Register** 39189 (June 30, 2020)

Two commenters expressed concerns about the transparency, accuracy, and fairness of the eligibility screening procedures for WIFIA projects under 85 FR 39189 and suggested that the Corps consider either eliminating the requirement that projects receiving WIFIA credit assistance should be subject to such procedures or revising the procedures and concepts contained within it.

The Environmental Protection Agency's (EPA) fiscal year 2020 appropriation for the WIFIA program required EPA, OMB, and the Department of the Treasury (Treasury) to jointly develop and publish criteria in the **Federal Register** for limiting federal participation in projects receiving WIFIA loans and loan guarantees, including for WIFIA loans issued by the Corps. The appropriation did not provide the Corps a role in developing such criteria. The criteria required by the appropriation were published on June 30, 2020, in 85 **Federal Register** 39189.

The Corps notes that funds made available by Congress for the Corps' WIFIA program have required that WIFIA credit assistance must be in accord with the criteria in 85 FR 39189. As such, the Corps cannot alter the applicability or requirements of the criteria nor procedures and content prescribed in 85 FR 39189.

4. Fees and Loan Administration

Two commenters requested that the Corps provide applicants and borrowers estimates for transaction processing and servicing fees as early as practicable. The Corps will provide an estimate for transaction fees to applicants as part of initial coordination once the Corps has adequate data points to reference the transaction's relative complexity but expects the ranges for transaction processing fees provided in the rule to accurately reflect the expected costs for applicants. The Corps will update servicing fees due under the credit agreement annually adjusted in proportion to the percentage change in Consumer Price Index for All Urban Consumers (or its successors) calculated by the Bureau of Labor Statistics for the calendar year immediately preceding the calendar year during which such fee is due.

One commenter recommended that the Corps provide more detail on the optional credit subsidy fee, including how this fee will be calculated. As mentioned in the rule, utilization of this fee will only be in rare instances where budget authority is insufficient to fund the credit instrument and with the agreement of Corps and the borrower. Calculation of this figure is based on a number of dynamic factors including but not limited to the loan's relative risk, default and recovery assumptions, and interest rates. However, it is reasonable for applicants to assume loans with higher credit risk would result in a higher credit subsidy fee.

One commenter recommended that the Corps establish a reserve fund to pay for extraordinary expenses related to loan administration. However, the Corps does not have authority to establish such a fund.

One commenter asked for clarification of the treatment of changes in project scope and budget after credit agreement execution. Although the approach for changes to project scope and budget will be dependent on the relative risk and structure of the transaction's financing arrangements, the Corps intends to ensure that the project remains fully funded and in compliance with all Federal requirements at all times.

B. Discussion of Other Comments

1. Determination of the WIFIA Interest Rate

One commenter noted that the proposed rule stated that "as required by section 3908(b)(4) of Title 33 of the U.S.C., the interest rate on a secured loan would be equal to or greater than the yield on U.S. Treasury securities of comparable maturity on the date of

execution of the credit agreement. The base interest rate can be identified through use of the daily rate tables published by the Bureau of the Fiscal Service for the State and Local Government Series (SLGS) investments." The commenter proposes removing the ability to charge interest rates greater than the yield on U.S. Treasury securities of comparable maturity on the date of execution of the credit agreement to ensure access to the lowest borrowing cost possible for applicants.

The Corps does not concur with this proposal because it would limit the ability of applicants to pay the optional credit subsidy fee through an interest rate premium in the rare instance budget authority is unavailable in a sufficient amount to extend credit assistance to an applicant. For other applicants, the Corps will set the interest rate based on the yield on U.S. Treasury securities of comparable maturity on the date of execution of the credit agreement, which per 31 CFR part 344 is the SLGS rate plus one basis point.

2. Blanket Payment and Performance Bond Requirements

One commenter suggested that the Corps impose blanket payment and performance bond requirements for all projects receiving WIFIA credit assistance irrespective of the borrower or project type, suggesting that such a requirement provides important protections in the event of contractor non-performance. After consideration, the Corps has determined that the proposal could introduce uncertainty and confusion among prospective applicants, as well as delay closings and financial assistance to these regionally and nationally significant water infrastructure projects.

The Corps expects that the bulk of WIFIA applicants will be comprised of non-Federal governmental entities, which in nearly all instances are subject to well-established State and local payment and performance bond requirements that provide appropriate protections for contractor non-performance. As a result, the proposal as it applies to non-Federal governmental entities may conflict or be redundant.

For other prospective WIFIA applicants which are not already subject to State and local payment and performance bond requirements, the Corps will carefully evaluate an applicant's proposed procurement methodology, and negotiate appropriate payment and performance bond requirements as necessary to ensure

project completion and/or mitigate credit risk, while also meeting the program's mission to stimulate investment in important regionally and nationally significant non-Federal dam safety projects.

3. Build America, Buy America Requirements

The Corps received two comments regarding the applicability of the Build America, Buy America Act (BABAA) to WIFIA credit assistance. The first comment expressed concerns about the fairness of applying BABAA requirements to WIFIA credit assistance. The second comment encouraged Corps to issue a waiver for projects that have initiated design planning prior to May 14, 2022, consistent with a waiver issued by the EPA under its WIFIA program. The commenter suggested that such a waiver would help minimize adverse cost and schedule impacts from implementing BABAA requirements for water infrastructure projects already in design. As part of President Biden's Infrastructure Investment and Jobs Act (IIJA), beginning with awards received on or after May 14, 2022, any infrastructure project receiving federal funding, including any credit assistance provided under the WIFIA program, must source their iron, steel, manufactured products and construction materials from the United States. The Corps is committed to successful implementation of BABAA to build a resilient supply chain and manufacturing base for critical infrastructure products. As a result, the Corps will administer the BABAA requirements for WIFIA credit assistance consistent with existing law. The Corps will consider the need and public interest for waivers of the BABAA requirements following the procedures outlined in the IIJA.

4. Disbursement Requirements and Procedures

Several commenters requested clarification regarding the program's disbursement requirements and procedures. Two commenters also expressed concern that disbursements would not be available until a project entered civil construction and requested a detailed description of expressly ineligible costs. Prior to any disbursement, all conditions precedent to funding specified in the credit agreement must be satisfied. The borrower may begin submitting eligible project costs for reimbursement following closing. To receive a disbursement, borrowers must submit a requisition form that will require borrowers to verify continued

compliance with the loan agreement. The requisition form includes certification that the disbursements are being made against incurred eligible project costs and in accordance with the terms of the credit agreement.

It may also include confirmation that there have been no changes to the construction plan or any material events and that the representations and warranties included in the loan agreement are still true and correct, among other items. Each request for disbursement must include supporting documentation to ensure that the Corps can evaluate the costs for program eligibility, project allocability, and reasonableness. The Corps cannot provide a complete description of expressly ineligible costs because eligibility is dependent on a number of factors such as whether the costs were incurred through federally compliant contracts.

Costs incurred prior to civil construction (such as for project planning and design) are eligible for disbursement regardless of the project's current stage of development at the time of the disbursement request consistent with the construction plan identified in the credit agreement. Borrowers may request WIFIA funds disbursements as frequently as once per month. The Corps' goal is to have disbursement available in the borrower's account 15 calendar days after receiving a disbursement request.

5. Emergency Action Plan

One commenter suggested that the Corps should require all credit assistance applicants to have an Emergency Action Plan (EAP) to be eligible for credit assistance and submit an updated EAP every 10 years. As evidence for the recommendation, the commenter noted that the Federal Emergency Management Agency (FEMA) requires all applicants for the Rehabilitation of High Hazard Potential Dam Grant Program (RHHPDGP) to have an EAP.

In Title IV, Section 5006 of Public Law 114-322, the Water Infrastructure Improvements for the Nation Act (WIIN) which authorized the Rehabilitation of High Hazard Potential Dam Grant Program, Congress made an EAP approved by the relevant state dam safety agency a condition for receipt of grant assistance. Consequently, the requirement for an EAP to be eligible for HHPDGP is due to legislation and not regulation or policy alone. Conversely, in legislation authorizing the WIFIA program and the appropriations acts funding the WIFIA program to date, Congress has not included this

requirement as a condition for eligibility for WIFIA credit assistance. As a result, the Corps will rely on any applicable State requirements and will not adopt the proposed change.

6. Borrower Eligibility

One commenter requested that the Corps explore ways to provide access to WIFIA credit assistance to private individuals who may own non-Federal dams that may pose a hazard to downstream communities. While Corps acknowledges the importance of mitigating the risks posed by dams owned by private individuals, Section 3904 of Title 33 of the U.S. Code defines entities that are eligible for WIFIA assistance and does not include private individuals as an eligible borrower. However, privately held corporations remain eligible for WIFIA credit assistance.

7. Reporting Requirements and Reviews

Two commenters expressed concerns about the need for the Corps to mitigate the burden of project level reviews to an appropriate level. The Corps notes that technical documents will not be provided to any Corps Divisions or Districts for review and approval; all reviews necessary to complete the loan underwriting and construction oversight process will be completed by the WIFIA program. Each WIFIA project will be required to meet applicable construction and regulatory standards of the State in which the project is located.

The Corps does not anticipate requiring additional reporting beyond annual project performance report (public benefits report), audited financial statements, and construction reports identified in this rule. For loans and/or projects which represent unusual risk, the Corps will retain the ability to augment its standard reporting requirements while recognizing the need to mitigate unnecessary burden on borrowers.

An additional commenter asked the Corps to clarify how it intends to determine the project is economically justified, such as through a benefit/cost ratio calculation. Under the rule, "economically justified" means that the anticipated benefits will exceed the costs. Although OMB Circular A-94 does not apply to non-Federal recipients of loans and, to be accordance with the criteria outlined in 85 FR 39189, all projects funded under this rule are not Federal activities, A-94 provides useful guidance on measuring benefits and costs. Consistent with that guidance, Corps will determine whether collateral provided for the CWIFP credit assistance, which functions as a proxy

for the value beneficiaries receive from the project, exceed applicable project costs.

IV. Program Information

A. Funding

The Federal Credit Reform Act of 1990 (FCRA), Title V of Public Law 101–508, codified at 2 U.S.C. 661–661f, requires that agencies estimate the long-term cost of providing direct loans and loan guarantees on a net present value basis and requires that agencies have the necessary budget authority appropriated before entering into an obligation for a loan. To date, \$76 million in appropriations have been provided to the Corps for the cost of credit assistance for non-Federal dams under WIFIA.

B. Borrower Eligibility

Section 3904 of Title 33 of the U.S.C., defines entities that are eligible for WIFIA assistance. To be eligible under this program, a borrower must be one of the following:

1. A corporation;
2. A partnership;
3. A joint venture;
4. A trust;
5. A State, or local governmental entity, agency, or instrumentality;
6. A Tribal government or consortium of Tribal governments; or
7. A State infrastructure financing authority.

While Section 3904(5) includes “Federal” entities in the list of entities that are eligible to receive assistance, this program will not issue credit assistance to “Federal” entities or activities because recording credit assistance to a Federal entity or activity on a net present value basis would be inconsistent with 31 U.S.C. 1501, existing Government-wide guidance, and a cash budget. As required by Title 1, Division D of the Consolidated Appropriations Act of 2021 and Division J, Title III of the Infrastructure Investment and Jobs Act, the credit assistance program covered by this final rule must be administered in accordance with the WIFIA criteria published on June 30, 2020 (85 FR 39189). Please review the criteria published at 85 FR 39189 for additional background and information regarding project eligibility.

C. Project Eligibility

Section 3905 of Title 33 of the U.S.C. defines projects eligible for assistance. To be eligible under this program, a project must fall under one of the following four categories:

1. Safety projects to maintain, upgrade, and repair dams identified in

the National Inventory of Dams with a primary owner type of State, local government, public utility, or private; and which meet the statutory requirements of Title 1, Division D of the Consolidated Appropriations Act 2021 and be in accordance with the criteria outlined in 85 FR 39189.

2. Any project that meets the criteria under C.1. above must also be a project for flood damage reduction, hurricane and storm damage reduction, environmental restoration, coastal or inland harbor navigation improvement, or inland and intracoastal waterways navigation improvement that the Secretary determines is technically sound, economically justified, and environmentally acceptable,⁷ including—

- a. A project to reduce flood damage;
- b. A project to restore aquatic ecosystems;
- c. A project to improve the inland and intracoastal waterways navigation system of the United States; and
- d. A project to improve navigation of a coastal inland harbor of the United States, including channel deepening and construction of associated general navigation features.

3. Acquisition of real property or an interest in real property for a project that meets the criteria under C.1. above—

- a. If the acquisition is integral to a project eligible for WIFIA credit assistance; or
- b. Pursuant to an existing plan that, in the judgment of the Secretary, would mitigate the environmental impacts of water resources infrastructure projects that are otherwise eligible for WIFIA credit assistance.

4. A combination of projects, each of which is eligible for WIFIA credit assistance, for which a single application is submitted and which is secured by a common security pledge.

Title I, Division D of the Consolidated Appropriations Act, 2021 and Division J, Title III of the Infrastructure Investment and Jobs Act limited use of the appropriated funding to safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of state, local government, public utility, or private. Dam removal is an eligible project under this authorization.

In addition, as noted above, Title I, Division D of the Consolidated

⁷ The Corps’ new definition (provided below at Sec. 386.2(j)), in conjunction with the timing provisions of Sec. 386.3(g), clarifies that when making a final determination regarding whether a project is environmentally acceptable, the Corps will consider the project’s environmental impacts in their entirety, as required by NEPA.

Appropriations Act, 2021 stipulates that “none of the direct loans or loan guarantee authority made available under this heading shall be available for any project unless the Secretary and the Director of the Office of Management and Budget have certified in advance in writing that the direct loan or loan guarantee, as applicable, and the project comply with the criteria . . .” published in the **Federal Register** on June 30, 2020 (85 FR 39189).

D. Project Cost Eligibility

Section 3906 of Title 33 of the U.S.C. defines eligible activities with respect to eligible projects as the following four types of project costs:

1. The cost of development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other pre-construction activities.

2. The cost of construction, reconstruction, rehabilitation, and replacement activities.

3. The cost of the acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

4. The cost of capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

In addition to the statutory project cost eligibility requirements listed above, the Corps program allows for fees associated with obtaining WIFIA funds to be considered as part of eligible project costs, as authorized by 33 U.S.C. 3908(b)(7), limited to the Application, Transaction Processing, and Servicing fees as described below in Section IV.H (Fees). Proceeds from the WIFIA credit assistance shall not be utilized to provide cash contributions to the Corps for project-related costs, except for such fees as allowed by 33 U.S.C. 3908(b)(7). The “Optional Credit Subsidy Fee” is not an eligible cost.

E. Statutory Requirements

WIFIA contains the following requirements, as paraphrased below, which are restated in the final rule:

- Public or private applicants for credit assistance would be required to submit applications to the Corps in order to be considered for approval (33 U.S.C. 3903).

- Project financing would be required to be repayable, in whole or in part, from State or local taxes, user fees, or other dedicated revenue sources that also secure the senior project obligations of the project; to include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and may have a lien on revenues subject to any lien securing project obligations (33 U.S.C. 3908(b)(3)).

- In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, or a Tribal government or consortium of Tribal governments, the project that the entity is undertaking would be required to be publicly sponsored. Public sponsorship means that the obligor can demonstrate, to the satisfaction of the Secretary, that it has consulted with the affected State, local, or Tribal government in which the project is located, or is otherwise affected by the project, and that such government supports the proposed project. Support could be shown by a certified letter signed by the approving municipal department or similar agency, mayor or other similar designated authority, local ordinance, or any other means by which local government approval can be evidenced (33 U.S.C. 3907(a)(4)).

- To be eligible for financing, a prospective borrower would be required to have developed an operations and maintenance plan that identifies adequate revenues to operate, maintain, and repair the project during its useful life (33 U.S.C. 3907(a)(6)).

Additionally, projects receiving WIFIA credit assistance would not be able to use that assistance for operations and maintenance activities.

F. Application Process

For each fiscal year that Congress appropriates funds for credit assistance under this program, the Corps will provide detailed instructions for submitting preliminary applications and applications, as well as the due dates for submissions. It will advise prospective borrowers of the estimated amount of funding available to support Federal credit instruments and information required in a preliminary application and application not detailed in this rule.

The application process has two steps. The first step requires the submission of a preliminary application document, which has been submitted to OMB for approval under OMB Control Number 0710-0026, titled "Corps Water Infrastructure Financing Program (CWIFP) Preliminary Application." No

fees are established for this preliminary application step. The Corps will review these preliminary applications and determine which applicants will be invited to continue in the application process and submit applications. An invitation to submit an application does not imply an obligation by the Corps to enter into a Loan Agreement or Loan Guarantee Agreement. Those applicants that choose to submit an application will be required to include an application fee, if applicable. Consequently, the Corps anticipates that the fees established in this rule will only apply to those projects. See Paragraph III.H. below for more information on fees.

The purpose of the preliminary application is to provide the Corps with the information necessary to determine whether a given project is eligible under the WIFIA statute, appropriations, and regulations. This serves to provide the Corps with sufficient information to evaluate preliminary applications and to invite prospective borrowers to submit applications.

The purpose of the application is to provide the Corps with materials necessary to underwrite the proposed WIFIA assistance. The application will require similar information to the preliminary application, but with a greater level of detail and more fully developed information in support of the applicant's proposal.

The application must include sufficient information to allow the Secretary to make the determination required by 33 U.S.C. 3905(1) that the project is technically sound, economically justified, and environmentally acceptable. The information required to support this determination will depend on various factors, including but not limited to the purpose and scope of the activity proposed for WIFIA assistance.

Applicants for WIFIA assistance should refer to any prior analysis that could assist the Corps in confirming the determination required by 33 U.S.C. 3905(1). The Corps does not expect the application to provide the level of analysis required for traditional Corps feasibility studies. Applicants should provide information to enable the Corps to determine that the project will meet all applicable engineering, safety, and other technical standards; that it is economically justified; and that it will satisfy all necessary environmental requirements to include requirements associated with the Corps Programmatic Environmental Assessment prepared for this rule under the National Environmental Policy Act (NEPA). In addition, the application must include a

description of the extent to which the project financing plan includes any other form of Federal assistance (including grants), in addition to WIFIA credit assistance. This information directly relates to the total Federal risk exposure across all Federal programs and will require information on all possible sources of Federal support. The Corps will also be coordinating with other Federal agencies, such as the Federal Emergency Management Agency (FEMA), on other Federal programs that may be used to fund or finance projects under this rule. Additional information regarding the requirements for an applicant's submittal would be described in the application materials.

The application also should address any connection between the proposed WIFIA assistance and other Federal activities. In order for non-Federal flood risk management projects to be eligible for future Federal repair or rehabilitation assistance following storm events under 33 U.S.C. 701n, applicants would need to satisfy requirements from that program. Applicants can consult with the Corps WIFIA office to assist in understanding whether activities proposed for WIFIA assistance might implicate other Federal authorities and funding.

G. Creditworthiness

As provided in WIFIA, the Secretary must determine that every funded project is creditworthy. 33 U.S.C. 3907(a)(1). An overarching goal of the creditworthiness determination process is to ensure that each project that is ultimately offered credit assistance advances the WIFIA program's mission while providing a level of risk exposure that is acceptable to the Corps. Therefore, the WIFIA program will evaluate applications for financial assistance based on credit risks over the repayment period of the WIFIA credit assistance. As required by 33 U.S.C. 3907(a)(1), the creditworthiness determination will be based on a review of the following:

- Terms, conditions, financial structure, and security features of the proposed financing;
- Dedicated revenue source(s) securing the financing;
- Financial assumptions upon which the project is based; and
- Financial soundness and credit history and outlook of the borrower.

H. Fees

Sections 3908(b)(7), 3909(b), and 3909(c)(3) of 33 U.S.C. allow the Corps to collect user fees from applicants to cover some or all of the costs associated with administering the program. The

Corps is establishing fees associated with the provision of Federal credit assistance under the WIFIA program. As specified under 33 U.S.C. 3908(b)(7), 3909(b), and 3909(c)(3), Congress authorizes the Corps to charge fees to recover all or a portion of the Corps' cost of providing credit assistance and the costs of conducting engineering reviews and retaining expert firms, including financial and legal services in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments. The Corps is establishing an application fee, transaction processing fee, annual servicing fee, optional credit subsidy fee, and enhanced monitoring fee to cover these costs to the extent not covered by Congressional appropriations. As described in greater detail below, the types of fees the Corps will charge are consistent with other Federal credit programs.

The rationale for establishing fees associated with the provision of credit assistance is to cover the Corps' cost of administering the program to the extent these costs are not covered by appropriations. To effectively administer the program, the Corps will incur both internal administrative costs (staffing, program support contracts, and other costs) as well as costs associated with conducting engineering reviews and retaining expert firms, including financial and legal services in the field of municipal and project finance, to assist in the underwriting of the Federal credit instrument.

The Water Infrastructure Improvements for the Nation Act of 2016, Public Law 114-332, in section 5008(c), amended WIFIA to allow, at the request of an applicant, the financing of some fees as eligible costs as defined below. Borrowers are permitted to finance eligible fees as part of the WIFIA credit assistance.

1. Application Fee

The Corps will require a non-refundable application fee for each project that is invited to submit an application (second step following submission of a preliminary application) for credit assistance under WIFIA, if applicable. The application fee will be due upon submission of the application. This application fee supports the Corps' planning efforts by helping to ensure that the program invites only the appropriate number of applicants that it has the capacity to fund. In the event that the prospective borrower has not completed and submitted a full application within one-year of the Corps' invitation to apply for credit assistance, the prospective

borrower must submit to the Corps a request for extension prior to the expiration year that sets forth the prospective borrower's rationale for an extension, summarizes the prospective borrower's progress achieved on the project to date, and provides an updated schedule of project development activities, including submission of the WIFIA application. The Corps may grant this extension after evaluating the progress of the prospective borrower's application and its readiness to apply.

The application fee will be waived for applications from public entities for projects serving small communities or economically disadvantaged communities. See Paragraph III.I. in the regulatory text for the definitions of small communities and economically disadvantaged communities for the purpose of this credit assistance program. For all other project applications, the application fee is \$25,000. This \$25,000 application fee represents an amount equal to 0.125 percent of the minimum threshold project cost (\$20 million, 33 U.S.C. 3907(a)(2)(A)), which the Corps considers to be sufficient to begin the financial, engineering, and legal analysis of the project while providing assurance that the applicant intends to proceed to closing. The Corps will undertake significant costs to evaluate applications and hire expert firms for underwriting and considers an application fee essential for applicants to show good faith in applying for credit assistance, to help cover the agency's administrative costs in processing applications, and to ensure effective administration of the program. The application will not be reviewed without fee payment. The Corps will only invite projects to submit an application and application fee if the Corps believes there is a reasonable expectation that the project could receive financing. However, an invitation to submit an application does not guarantee that a project will proceed to financial close.

2. Transaction Processing Fees

For projects invited to submit an application, the Corps will require payment of transaction processing fees at the time of closing, or at the time the application is withdrawn or denied (in the event the project does not proceed to closing). The proceeds of any such fees will be used to pay the remaining portion of the Corps' cost of processing the application for credit assistance, including the costs of conducting engineering reviews and retaining expert firms to assist in underwriting, drafting and negotiating the terms of the

Federal credit instrument. In procuring the services of third-party firms, the Corps may issue task orders with \$0 funding (*i.e.*, no Federal funds). In such situations, at the direction of the Corps, payments to the contractor for services will be paid (i) by or on behalf of the Corps or (ii) directly by the applicant for services rendered in accordance with the terms of a sponsor payment letter/agreement executed by the applicant (or its affiliate) and the contractor. In all instances, when a contractor is engaged to represent the Corps or its representative on a WIFIA matter and is paid by the applicant (or its affiliate), the Corps or its representative, as applicable, will remain the client of the contractor.

The Corps estimates these costs would generally be in the range of approximately \$125,000 to \$300,000 per project, with the expectation that more complex projects could exceed this range. However, prior to the transaction processing fees being incurred, the Corps will develop a more precise estimate based on its understanding of the project and associated financial and legal structure. The application fee described above will be credited to the transaction processing fee. For example, if the total transaction processing fees are \$300,000 and the applicant pays \$25,000 with the application, \$275,000 will be due at closing, or earlier if the project does not proceed to closing, *e.g.*, if the application is withdrawn or denied. The total transaction processing fee for each project will be set based on the costs incurred by the Corps for that specific project. Due to the nature of the transaction processing, the amount is expected to vary among applicants. This variation reflects the amount of time taken to process a loan, which may not directly correlate with the size of the loan. More complex transactions with lengthy negotiations will have higher costs.

The Corps may waive a portion of the fee for public applicants if appropriations are available to pay for the Corps' cost of administering the WIFIA program and to pay for loan processing. Funds appropriated to the program may pay for the administration of the program, including internal administrative costs of staffing, program support contracts (separate from the expert services described previously), and other internal administrative needs.

To the extent appropriations are available in excess of those needed for the Corps' internal administrative costs, the Corps may use the remaining available administrative allowance (less any amount needed for future years' administration) to reduce fees. The

Corps may allocate additional administrative funds by reducing fees by an equal amount per loan for those projects serving economically disadvantaged communities, with public applicants. If additional administrative funds remain, the Corps may reduce fees by an equal amount for each remaining loan, with public applicants.

3. Servicing Fee

The Corps will charge an annual servicing fee after closing of the loan. The fee will be dependent upon the costs of servicing the credit instrument (e.g., collecting and processing loan principal and interest payments) as determined by the Secretary. Such fees will be set at a level to enable the Corps to recover all or a portion of the costs to the Federal Government of servicing WIFIA credit instruments and will be determined at the time of closing. The Corps expects such fees to range from \$10,000 to \$50,000 annually per loan and to be adjusted for inflation.

4. Optional Credit Subsidy Fee

The Corps may charge a fee, with agreement of the applicant, to reduce the budget authority required to fund the credit instrument. The Corps anticipates scenarios where assessing such a fee will provide flexibility to allow an applicant to “buy down” the budget authority required for the credit instrument. This could allow an applicant to proceed to approval if sufficient budget authority would not otherwise be available. Such a fee will only be charged upon agreement by an applicant and shall not be considered an eligible project cost. Utilization of this fee will only be in rare instances.

5. Enhanced Monitoring Fee

The Corps may charge a fee to cover extraordinary expenses if a borrower experiences difficulty relating to technical, financial, or legal matters or other events (e.g., engineering failures or financial workouts) that require the Corps to incur time or expenses beyond standard monitoring. The Corps will be entitled to payment in full from the borrower of additional fees in an amount determined by the Corps and of related fees and expenses of its independent consultants and outside counsel that are incurred directly by the Corps and not paid directly by the borrower. Such fees shall not be considered an eligible project cost.

I. Credit Assistance

Two types of credit instruments are permitted under WIFIA secured (direct) loans and loan guarantees. The second

credit instrument under 33 U.S.C. 3908 (e), referred to as loan guarantees are defined under the Federal Credit Reform Act of 1991 as a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreements.

Statutory requirements applicable to this credit instrument appear at 33 U.S.C. 3908 and 3909. Additional Terms and conditions for loans and loan guarantees will be negotiated between the Corps and successful applicants. While the extent of the loan guarantee will vary based on the financing requirements and risk characteristics of a transaction, loan guarantees are not expected to cover more than 80% of any third-party debt obligation. Any 100% guaranteed obligation(s) must be financed by the Federal Financing Bank (FFB) unless a waiver is granted by Treasury.

In general, WIFIA limits the amount of credit assistance that may be provided to a project to 49% or less of reasonably-anticipated eligible project costs. However, the statute authorizes the Corps to use up to 25% of its budget authority to provide credit assistance to one or more projects of up to 80% (statutory cap on Federal participation) of the total costs of any given project. The 80% statutory cap on Federal participation would be determined by adding the total loan proceeds, direct appropriations, grants, or other applicable Federal funding. Following credit assistance issuance, future direct appropriations, grants, or other applicable Federal funding may be modified to maintain compliance with the 80% statutory cap. Note, however, that projects receiving direct Federal appropriations or other Federal funding may not be eligible to receive WIFIA credit assistance based on the eligibility criteria outlined in this rule as well as at 85 FR 39189, as they may be determined to be Federal in nature. The Corps would limit its budget authority to extending credit assistance to eligible entities for those entities' use in directly carrying out activities eligible for assistance under 33 U.S.C. 3906. The Corps would not extend credit assistance or allow loan proceeds to be used by any entity to provide cash contributions to the Corps for project related costs, except for such fees as allowed by 33 U.S.C. 3908(b)(7). The Corps would generally use its budget authority to provide credit assistance for greater than 49% of eligible project costs to projects serving economically disadvantaged communities that would otherwise not be able to obtain WIFIA

credit assistance. For the purposes of this program, the Corps is defining economically disadvantaged communities as those that meet one of the following criteria: (a) low-income, (b) unemployment rate above national average, (c) Indian country as defined in 18 U.S.C. 1151 or in the proximity of an Alaska Native Village, (d) U.S. Territories, or (e) identified as disadvantaged by the Climate and Economic Justice Screening Tool (developed by the Council on Environmental Quality).⁸ The implementation of this definition may be modified as appropriate in response to updated tools and resources as they become available.

Additionally, the Corps may use its budget authority to provide credit assistance for greater than 49% of eligible project costs when a project would be unable to proceed to closing without such additional assistance due to unforeseen events. 33 U.S.C. 3912. Unforeseen events that could prevent a project from going to closure may include: unexpected loss of other sources of financing, increased cost of capital, or acts of nature. In such an event, the Corps would reexamine the creditworthiness of the project and only provide funding if the project can still meet all requirements of the program.

Costs incurred, and the value of any integral in-kind contributions made before receipt of credit assistance may be considered in calculating eligible project costs upon approval of the Secretary. Such costs and integral in-kind contributions must be directly related to the development or execution of the project and must be eligible project costs per 33 U.S.C. 3907(a)(2). In addition, such costs, excluding the value of any integral in-kind contributions, are payable from the proceeds of the Federal credit instrument and would be considered incurred costs. Capitalized interest on the Federal credit instrument would not be eligible for calculating eligible project costs.

The Corps would not obligate funds in the form of a loan or loan guarantee for a project prior to (1) to issuance of a determination that the Federal action is eligible for a Categorical Exclusion, (2) issuance of a Finding of No Significant Impact, or (3) issuance of a Record of Decision.

The credit agreement would include the anticipated schedule for loan disbursements. However, actual disbursements would be based on costs incurred in accordance with the

⁸ Currently available at <https://screeningtool.geoplatform.gov>.

approved construction plan. This requirement would protect the Corps in the event of non-performance.

As required by section 3908(b)(4) of Title 33 of the U.S.C., the interest rate on a secured loan would be equal to or greater than the yield on U.S. Treasury securities of comparable maturity on the date of execution of the credit agreement. The base interest rate can be identified through use of the daily rate tables published by the Bureau of the Fiscal Service for the State and Local Government Series (SLGS) investments. The WIFIA program would estimate the yield on comparable Treasury securities by adding one basis point to the SLGS daily rate with a maturity that is closest to the weighted average loan life of the WIFIA credit assistance.

As allowed by statute at 33 U.S.C. 3908(c)(2), scheduled loan repayments of principal and interest on a secured loan or loan guarantee shall commence not later than 5 years after the projected date of substantial completion of the project at the time of execution of the Loan Agreement or Loan Guarantee Agreement, as determined by the Secretary. However, scheduled loan repayments of principal and interest on a secured loan or loan guarantee to a State infrastructure financing authority would commence not later than 5 years after the date on which amounts are first disbursed. The final maturity of the credit agreement shall be in no instance later than 35 years after the projected date of substantial completion of the project at the time of execution of the Loan Agreement or Loan Guarantee Agreement.

As required by section 3908(b)(5) of Title 33 of the U.S.C., the final maturity date of a secured loan would be the earlier of the date that is (1) 35 years after the date of substantial completion of the project, as determined by the Secretary, or (2) the useful life of the project, as determined by the Secretary. However, the final maturity date of a secured loan to a State infrastructure financing authority would be not later than 35 years after the date on which amounts are first disbursed. In determining the useful life of the project, for the purposes of establishing the final maturity date of the Federal credit instrument, the Secretary would consider the useful economic life of the asset(s) being financed, as required under OMB Circular A-129.⁹

As required by statute, the Corps' Federal credit instrument may have a

junior claim to other debt issued by the obligor in terms of its priority interest in the project's pledged security. However, the Corps' claim on pledged security would not be subordinated to the claims of any holder of the project obligations in the event of a bankruptcy, insolvency, or liquidation of the obligor of the project. The Corps' interest may include collateral other than pledged revenues.

J. Rating Requirement

The Corps, as required by 33 U.S.C. 3907(a)(1)(D)(i), would require each applicant to furnish a preliminary rating opinion letter as part of the application process. The applicant would be responsible for identifying and approaching one or more Nationally Recognized Statistical Rating Organizations (NRSROs) to obtain such a letter. This letter must indicate that the applicant project's senior obligations (which may be the Federal credit instrument), have the potential of attaining an investment-grade rating. As required by Section 3907 (a)(1)(D)(ii) of the WIFIA, 33 U.S.C. 3901 *et seq.*, the Corps would require each applicant to provide, prior to final acceptance and financing of the project, final rating opinion letters from at least two rating agencies indicating that the senior obligations of the project have an investment-grade rating. If the Federal credit instrument is the project's senior obligation, these ratings must apply to all project obligations with claims at parity to that of the Federal credit instrument on the security pledged to the Federal credit instrument, including the Federal credit instrument. The Corps would also require as a matter of policy, prior to final execution of the loan agreement or loan guarantee agreement, that the applicant provide at least one final rating opinion letter which provides a credit rating on the final negotiated direct loan or loan guarantee that does not include consideration of the full faith and credit of the United States of America.

K. Federal Requirements

Recipients of WIFIA credit assistance would be required to comply with Federal requirements applicable to all federally-financed projects. The final rule provides a non-exhaustive list of these requirements in Section V (Statutory and Executive Order Reviews).

L. American Iron and Steel Requirements

Recipients of WIFIA credit assistance would be required to comply, per 33 U.S.C. 3914(a), with American Iron and

Steel (AIS) requirements, which requires that if any WIFIA assistance is provided for construction, alteration, maintenance, or repair of a project, all of the iron and steel products used in the project must be produced in the United States. These products include lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. 33 U.S.C. 3914(b). This requirement applies to all iron and steel products used in the project, not only those paid for with proceeds from the WIFIA credit assistance.

M. Labor Standards (Davis-Bacon Act of 1931)

The WIFIA requires recipients of WIFIA credit assistance to pay all laborers and mechanics employed by contractors or subcontractors' wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor. 33 U.S.C. 3909(h) (cross-referencing Title VI of the Federal Water Pollution Control Act); 33 U.S.C. 1372. This is commonly referred to as Davis-Bacon wage requirements. This requirement applies to all laborers and mechanics working on a project, not only those paid from proceeds of the WIFIA credit assistance.

N. Reporting Requirements

The Corps will require, at a minimum, that any recipient of WIFIA credit assistance must make available to the Corps an annual project performance report and audited financial statements to the Corps within the time period stated in the credit agreement following the recipient's fiscal year-end for each year during which the recipient's obligation to the Federal Government remains in effect. The Corps may conduct periodic financial and compliance audits of the recipient, as determined necessary by the Corps. The specific credit agreement between the recipient of credit assistance and the Corps may contain additional reporting requirements. This would be a necessary and important requirement in order to allow the Corps to provide proper and sufficient oversight of federally-financed projects.

O. Selection Criteria

Congress enacted WIFIA with the goal of accelerating investment in our nation's water infrastructure by providing credit assistance to creditworthy projects of major

⁹ At the time of publication of this rule, the OMB circular may be accessed electronically at <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A129/a-129.pdf>.

importance to the water sector. Only eligible projects will be selected. The project priorities established under this rule are as follows: Projects serving small, rural communities and economically disadvantaged communities and projects serving Tribal communities.

The program's goal is to enable local investment in projects that enhance community resilience to flooding, while supporting the Corps' policy initiatives by prioritizing the projects listed above.

Section 3907(b)(2) of Title 33 of the U.S. Code establishes 11 criteria, at a minimum, for selecting among eligible projects to receive credit assistance, but does not prohibit the Corps from identifying additional selection criteria and requirements. As such, the Corps will utilize the following 12 selection criteria.

1. The extent to which the project is nationally or regionally significant, with respect to the generation of public benefits, such as—

- a. The reduction of flood risk;
- b. The improvement of water quality and quantity, including aquifer recharge;
- c. The protection of drinking water, including source water protection;
- d. The support of domestic and international commerce; and
- e. The restoration of degraded aquatic ecosystem structures.

2. The extent to which the project financing plan includes public or private financing, in addition to WIFIA credit assistance.

3. The likelihood that WIFIA credit assistance would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

4. The extent to which the project uses new or innovative approaches.

5. The amount of budget authority required to fund the WIFIA Federal credit instrument.

6. The extent to which the project—

- a. Protects against extreme weather event, such as floods or hurricanes; or
- b. Helps maintain or protect the environment.

7. The extent to which a project serves regions with significant clean energy exploration, development, or production areas.

8. The extent to which a project serves regions with significant water resource challenges, including the need to address—

- a. Water quality concerns in areas of regional, national, or international significance;
- b. Water quantity concerns related to groundwater, surface water, or other water sources;

- c. Significant flood risk;
- d. Water resource challenges identified in existing regional, State, or multistate agreements; or
- e. Water resources with exceptional recreational value or ecological assistance.

9. The extent to which the project addresses identified municipal, State, or regional priorities.

10. The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the contracting process for construction of the project can commence not later than 90 days after the date on which a Federal credit instrument is obligated for the project under WIFIA.

11. The extent to which WIFIA credit assistance reduces overall Federal contributions to the project.

12. The extent to which the project serves economically disadvantaged communities and spurs economic opportunity for, and minimally adversely impacts, disadvantaged communities and their populations.

Criterion (5) is directly related to a project's creditworthiness, financial viability, and the Corps' capacity to make a loan. This criterion would be used to assess projects separate from the assessment under the other selection criteria. In particular, it would inform the Corps' ability to provide funding in an equitable manner to prospective borrowers seeking financing. The amount of budget authority used by a project would be an important consideration when selecting projects. The greater the budget authority used by a project, which is a function of both project size and creditworthiness, the less budget authority is available to finance other projects. Selecting projects would be at the discretion of the Secretary who may decide that a project that uses a disproportionately high level of budget authority provides essential public safety benefits and deserves greater consideration.

The Corps added criterion (12) to reflect the Corps' intention to address the needs of economically disadvantaged communities where obtaining financing for critical water resources infrastructure presents additional difficulties and to further current Administration priorities as expressed in E.O. 13985, E.O. 13990, and E.O. 14008.¹⁰ While the

¹⁰ Executive Order 13985 of January 20, 2021. Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

Executive Order 13990 of Jan 20, 2021. Protecting Health and the Environment and Restoring Science to Tackle the Climate Crisis.

creditworthiness requirement, as well as the requirement to obtain an investment-grade rating on senior obligations, may be a challenge for economically disadvantaged communities, the flexibility and low interest rates of the Federal credit instrument may improve overall financial feasibility and burden to the community.

V. Statutory and Executive Order Reviews

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

E.O. 12866, "Regulatory Planning and Review," and E.O. 13563, "Improving Regulation and Regulatory Review," require that significant regulatory actions be submitted for review to the Office of Information and Regulatory Affairs (OIRA) in OMB. These orders also direct agencies to assess the costs and benefits of available regulatory alternatives and, if the regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has been determined significant under E.O. 12866. In accordance with E.O. 12866 and E.O. 13563, this significant regulatory action was submitted to OMB for review. The costs to the public of implementing the Corps WIFIA program, are demonstrated in Section D. Regulatory Flexibility Act below. The costs to large and small entities will be the same and include: the fees charged to applicants and loan recipients, as well as any remaining costs of administering the program that are not fully covered by the user fees and instead require support by Federal appropriations. The total estimated costs are anticipated to be between approximately \$175,000 and \$500,000, plus an annual cost between \$20,000 and \$60,000. The benefits of implementing the Corps WIFIA program include: (1) the value of the benefits provided by non-Federal dam safety projects enabled by future the Corps WIFIA credit assistance (for example, flood damages prevented by dam safety improvement projects), and (2) the savings realized by the borrowers from the lower lending rates of the Corps WIFIA credit assistance. The transfer effects of this rule are the credit subsidy costs for loans or loan guarantees issued to support safety projects to maintain, upgrade, and repair non-federal dams. To date, Congress has appropriated \$81

Executive Order 14008 of January 27, 2021. Tackling the Climate Crisis at Home and Abroad.

million in credit subsidy funding for the Corps WIFIA program.

B. Executive Order 11988: Floodplain Management

Projects funded under this rule will meet or exceed applicable State, local, Tribal, and territorial standards for flood risk and floodplain management, as well as E.O. 11988, as amended by E.O. 13690, which directs Federal agencies to avoid, to the extent possible, long- and short-term adverse impacts associated with the occupancy and modification of the floodplain as well as to avoid direct and indirect support of floodplain development wherever there is a practicable alternative.

All projects under this rule are considered Federal actions under E.O. 11988 and thus, project applicants shall determine whether the proposed project will occur in the floodplain. If the project is located within the floodplain, the applicant must determine whether the action is critical or not and what floodplain standard to follow. The Corps will implement the Federal Flood Risk Management Standard (FFRMS), where appropriate, which is a flood standard established by E.O. 13690, that aims to build a more resilient future through the encouragement of consideration of current and future risk when Federal investments are used to build or rebuild near floodplains. The Corps will ensure unwise uses are avoided, where possible, including the increase or transfer of flood risks, resulting in adverse impacts to human health, safety, welfare, property, natural resources, or functions of floodplains. Further guidance on implementation of E.O. 11988 can be found in the Corps Engineer Regulation 1165–2–26 (30 March 1984). Further information on FFRMS can be found at <https://www.iwr.usace.army.mil/Missions/Flood-Risk-Management/Flood-Risk-Management-Program/About-the-Program/Policy-and-Guidance/Federal-Flood-Risk-Management-Standard/>.

C. Paperwork Reduction Act (PRA)

It has been determined that 33 CFR part 386 does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. These reporting requirements have been submitted to OMB for approval under OMB Control Number 0710–0026, titled “Corps Water Infrastructure Financing Program (CWIFP) Preliminary Application.”

D. Regulatory Flexibility Act (RFA)

The RFA (5 U.S.C. 601) requires Federal agencies to consider the impact of regulations on small entities (small businesses, small organizations, or small government jurisdictions) in developing the proposed and final regulations. The RFA applies to the Corps WIFIA program rule since notice and comment are required as part of this rulemaking process.

Congress has provided authority and funding required for the Corps to make direct loans and loan guarantees for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of State, local government, public utility, or private. The Corps is establishing its new WIFIA program within the limitations set by Congress. This rule sets forth the policies and procedures that the Corps will use for receiving, evaluating, approving applications, and servicing and monitoring direct loans and loan guarantees.

Small entities that would be impacted by this rule will be non-Federal dam owners who own dams that require loans in excess of \$20,000,000. This includes small government jurisdictions and organizations who voluntarily submit a preliminary application and are subsequently invited to submit a full application. The Corps will only invite potential borrowers to submit an application and application fee if the Corps believes there is a reasonable

expectation that the project could receive financing. The application fee will be waived for communities governed by small governmental jurisdictions (small communities) and economically disadvantaged communities. The Corps anticipates receiving approximately 50 preliminary applications each year from eligible entities per year, five of which are expected to be considered small entities. This estimate is derived from EPA’s WIFIA program, which has received 118 applications in total, of which 4 were from small communities, since the program’s implementation 2017.

There are approximately 87,000 non-federally owned dams in the US (some of which are owned by the same entity). Of the NAICS classifications, the most applicable industry classification for these entities is the “Water Supply and Irrigation Systems” (NAICS code 221310) and the “Administration of Air and Water Resource and Solid Waste Management Programs” (NAICS code 924110). Information on these industries is provided in the tables below. Based on the U.S. Small Business Administration’s (SBA) Size Standard/ Small Entity Threshold and the average annual receipts, the Water Supply and Irrigation Systems industry has 3,283 firms that qualify as small entities. Small business size standards are not established for the Public Administration sector. According to the SBA, “concerns performing operational services for the administration of a government program are classified under the NAICS private sector industry based on the activities performed.” The closest private sector industry fulfilling the functions of potential the Corps WIFIA borrowers within the Public Administration sector is the “Water Supply and Irrigation Systems” subsector, therefore the small business estimates for that subsector are used in this analysis.

NAICS code	Industry subsector description	SBA size standard/small entity threshold (average annual receipts)	Total small businesses
221310	Water Supply and Irrigation Systems	\$36.0 M	3,283
924110	Administration of Air and Water Resource and Solid Waste Management Programs.	Small business size standards are not established for this Sector.	n/a

WATER SUPPLY AND IRRIGATION SYSTEMS
[NAICS code 221310]

Enterprise size (\$1,000)	Firms	Establishments	Employment	Annual payroll (\$1,000)	Receipts (\$1,000)
01: Total	3,334	4,131	36,836	2,346,769	11,712,605
02: <100	684	684	1,088	9,494	35,768
03: 100–499	1,300	1,300	3,420	87,118	336,983
04: 500–999	569	570	2,676	106,172	402,485
05: 1,000–2,499	448	455	3,492	165,793	694,133
06: 2,500–4,999	143	151	1,968	104,614	482,800
07: 5,000–7,499	54	67	1,208	67,701	322,787
08: 7,500–9,999	29	38	705	40,656	219,741
09: 10,000–14,999	25	40	1,035	58,494	277,199
10: 15,000–19,999	12	17	416	29,630	166,138
11: 20,000–24,999	9	19	501	25,101	99,781
12: 25,000–29,999	5	14	424	27,005	84,788
13: 30,000–34,999	5	9	282	15,409	117,611
14: 35,000–39,999	5	30	701	36,112	123,970
15: 40,000–49,999	6	11	678	60,553	179,170
16: 50,000–74,999	8	68	1,605	96,580	392,037
17: 75,000–99,999	5	24	904	76,175	303,054
18: 100,000+	27	634	15,733	1,340,162	7,474,160

Source: U.S. Census Bureau 2017 SUSB Data Table “Number of Firms and Establishments, Employment, Annual Payroll, and Receipts by Industry and Enterprise Receipts Size: 2017”.

Eligible small entities that qualify for WIFIA credit assistance and plan to utilize debt financing such as bank loans, bonds, or a WIFIA credit assistance to fund an eligible project, will incur compliance costs associated with any such debt instrument. As such, the compliance costs to obtain a WIFIA credit assistance noted below in most instances represents a meaningful savings compared to alternative capital market debt financing options. WIFIA compliance costs likely include the following:

- **Fees:** The WIFIA application fee of \$25,000 will be waived for small and/or disadvantaged communities. All WIFIA credit assistance recipients will be charged a transaction processing fee, likely between \$125,000 and \$300,000, at the time of loan closing to cover the costs incurred by the Corps for the processing each loan. The cost of the fee will depend on the complexity of the transaction (more complex transactions will have higher transaction processing fees). Fees would first be reduced by an equal amount per loan for those projects serving economically disadvantaged communities, with public applicants. If additional administrative funds remain, the Corps may reduce fees by an equal amount for each remaining loan, with public applicants. Additionally, all WIFIA credit assistance recipients will be charged an annual servicing fee, likely between \$10,000 and \$50,000. This cost of this fee will depend on the costs of servicing the credit instrument. The transaction processing fee and the annual servicing fee will be determined

at the time of loan closing. To facilitate access to the funding, all applicants have the option to use loan proceeds to pay for all consulting reports and application fees. This amount is less than the underwriting fees incurred for alternative debt financings, which are usually 1.0% of the borrowed amount.

- **Rating letters:** The Corps WIFIA program will require borrowers to provide credit rating letters before closing on the WIFIA credit assistance. Credit ratings typically cost approximately \$50,000 to obtain. Credit ratings are a standard practice for alternative debt financings and as such, the cost to obtain one for Corps financing does not materially change the costs for small entities.

- **Reading the regulation:** The regulation and other related documents are not expected to take more than a typical 8-hour workday to read and comprehend. Assuming an average hourly rate of \$76.43/hour (the average hourly rate for architectural and engineering managers according to the Bureau of Labor Statistics' Occupational Employment and Wages data from May 2021), reading the regulation would cost approximately \$1,300 for 2 employees to read the regulation.

- **Consulting fees:** Consultants are not required to participate in the WIFIA program. However, eligible entities may opt to utilize support from consultants to prepare financial, legal, and technical documents required to support an application. Based on the eligible costs submitted by communities with executed EPA WIFIA loans to date, the

Corps estimates that should an entity opt to utilize such support, the cost is anticipated to be less than \$75,000. This amount is less than the consulting fees incurred for alternative debt financings, which are usually in excess of \$100,000.

- **Reporting:** WIFIA requires that borrowers submit financial audit or financial condition reports, so that the program can monitor the status of the project and identify any changes to the credit risk posed to the Federal Government. These reports are already produced regularly by borrowers, so the added cost to borrowers is anticipated to be less than \$5,000 per year.

- **Completing applications and corresponding with the Corps:** Based on EPA figures from communities with executed EPA WIFIA loans, it is estimated that borrowers will spend approximately 50 hours per year completing required paperwork and correspondence with the Corps. Assuming an hourly wage of \$76.43/hour (the average hourly rate for architectural and engineering managers according to the Bureau of Labor Statistics' Occupational Employment and Wages data from May 2021), this is estimated to cost applicants and borrowers approximately \$4,000 per year.

- **Record-keeping:** It is anticipated that record-keeping costs for WIFIA credit assistance will not exceed \$5,000 per year.

The estimated costs to small business associated with the program are summarized in the table below.

Fees	\$125,000–\$350,000 plus \$10,000–\$50,000 annually
Rating letters	\$50,000.
Loan interest	Based on loan amount and duration.
Reading the regulation	\$700–\$1,300.
Consulting fees	\$0–\$75,000.
Reporting	\$0–\$5,000.
Completing applications and corresponding with the Corps	\$4,000 annually.
Record-keeping	\$5,000 annually.
Total	\$175,700–\$481,300 Plus \$19,000–\$59,000 annually.

These costs do not represent a significant economic impact. The only reason entities would proceed with the program is if there is a benefit compared to other alternative debt financings. The total estimated costs are anticipated to be between approximately \$175,000 and \$500,000, plus an annual cost between \$20,000 and \$60,000. For the affected industries, these costs range from 20% to 50% of average annual receipts (note: most costs included here are one-time costs; annually recurring costs range from 2% to 6% of average annual receipts for affected industries). Participation in the WIFIA program is voluntary and the Corps anticipates inviting approximately 5 small, non-Federal entities to apply for Federal credit assistance through the program.

Because (1) participating in the program is voluntary and undertaken by small entities to affordably finance eligible projects, and (2) the cost of obtaining a WIFIA credit assistance is likely lower than the alternative forms of debt financing necessary to undertake a project, very few of the potentially affected small entities will experience a significant impact. Further, the WIFIA program eligibility will apply to 3,283 small entities, but the Corps expects only five to experience full impacts described above. The remainder will experience little to no impact from the rule. Therefore, the percentage of affected entities experiencing a significant impact is approximately 0.15%. Based on this result, the Corps certifies that this rule will not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act (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. The action imposes no enforceable duty on any State, local, or Tribal governments or the private sector.

F. 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.

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

This action does not have Tribal implications as specified in E.O. 13175. While a Tribal government, or a consortium of Tribal governments, may apply for WIFIA credit assistance as a voluntary action, this action does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

The Corps invited 18 Tribal Governments identified in the NID with any primary owner type, except those identified as Federal, that owned dams of sufficient size to likely be interested in the program to two information sessions in 2023. The Corps will hold additional specific sessions for Tribes after issuance of this final rule to expand program awareness.

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

This action is not subject to E.O. 13045 because it does not address environmental health or safety risks that would disproportionately affect children. This rulemaking provides the procedure to apply for credit assistance and establishes the fees related to the provision of Federal credit assistance under the WIFIA. The selection criteria used for evaluating and selecting among eligible projects to receive credit assistance contained in Section IV.O (Selection Criteria) of the SUPPLEMENTARY INFORMATION section of the preamble includes the extent to which the project generates public safety benefits.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a “significant energy action” because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy and has not been designated by the OIRA Administrator as a significant energy action. This rulemaking simply provides the procedure to apply for credit assistance and establishes the fees related to the provision of Federal credit assistance under the Corps WIFIA program.

J. National Technology Transfer and Advancement Act of 1995 (NTTAA)

This action is not subject to the NTTAA, Public Law 104–113, because it does not establish an environmental health or safety standard.

K. National Environmental Policy Act (NEPA)

This action of promulgating this rule will not have a significant effect on the human environment. Each project obtaining assistance under this program is required to adhere to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*). These requirements apply at the time of application for assistance. The Corps has completed a Programmatic Environmental Assessment and associated Finding of No Significant Impact in support of this rule. These documents are available at <https://www.usace.army.mil/Missions/Civil-Works/Infrastructure/revolutionize/CWIFP/>.

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

E.O. 12898 directs Federal agencies to identify and address the disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations. This action does not cause disproportionately high and adverse human health and

environmental effects on minority or low-income populations. The Corps anticipates that most of the adverse effects associated with projects would occur during construction and would be temporary, such as construction noise, air emissions from construction vehicles, erosion from disturbed surfaces and construction vehicle traffic or traffic detours. Impacts to communities from construction are not expected to be disproportionate to any identified environmental justice populations with the implementation of identified BMPs and as required by E.O. 12898. The Corps will address environmental justice for all projects receiving credit assistance consistent with the requirements of the NEPA review further described in Sec. 386.5(a) and CEQ guidance.

M. Congressional Review Act (CRA)

This action is subject to the CRA, and the Corps will submit a rule report to each House of the Congress and to the Comptroller General of the United States. Pursuant to the CRA (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a “major rule”, as defined by 5 U.S.C. 804(2).

List of Subjects in 33 CFR Part 386

Administrative practice and procedure, Intergovernmental relations, Waterways.

Approved by:

Michael L. Connor,

Assistant Secretary of the Army, (Civil Works).

■ For the reasons stated in the preamble, the Corps is amending 33 CFR chapter II by adding part 386 to read as follows:

PART 386—CREDIT ASSISTANCE FOR WATER RESOURCES INFRASTRUCTURE PROJECTS

Sec.

- 386.1 Purpose and scope.
- 386.2 Definitions.
- 386.3 Limitations on assistance.
- 386.4 Application process.
- 386.5 Federal requirements.
- 386.6 Floodplain management.
- 386.7 American iron and steel.
- 386.8 Labor standards.
- 386.9 Investment-grade ratings.
- 386.10 Threshold criteria.
- 386.11 Selection criteria.
- 386.12 Term sheets and approvals.
- 386.13 Closing on the Loan Agreement or Loan Guarantee Agreement.
- 386.14 Reporting requirements.
- 386.15 Fees.

Authority: 33 U.S.C. 3901 *et seq.*

§ 386.1 Purpose and scope.

The Water Infrastructure Finance and Innovation Act of 2014 (WIFIA)

authorized a new Federal credit program for water resources infrastructure projects to be administered by the U.S. Army Corps of Engineers (Corps). Title 1, Division D of the Consolidated Appropriations Act, 2021, and Division J, Title III of the Infrastructure Investment and Jobs Act limits the program to safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of State, local government, public utility or private. The purpose of this rule is to establish the process by which the Corps will administer such credit assistance, including the assessment of fees, and to set forth the policies and procedures that the Corps will use for receiving, evaluating, approving applications, and servicing and monitoring direct loans and loan guarantees.

§ 386.2 Definitions.

The following definitions apply to this part:

(a) *Application* means the form and attachments submitted by prospective borrowers that have been selected to apply for credit assistance after the review of letters of interest.

(b) *Borrower* means any entity that enters into a direct loan or Loan Guarantee Agreement with the Corps that is primarily liable for payment of the principal or interest on a Federal credit instrument. “Borrower” is synonymous with “obligor.” “Obligor” is used in place of borrower in this part whenever “obligor” appears in a corresponding section of WIFIA.

(c) *Clean energy* means systems, processes, and best practices for producing, converting, storing, transmitting, distributing, and consuming energy that avoid, reduce, or sequester the amount of greenhouse gas (GHG) emitted to, or concentrated in, the atmosphere.

(d) *Community* means a collection of people in a geographic area having one or more characteristic in common. The geographic area may be contained within or cross political subdivisions of States.

(e) *Credit agreement* means a contractual agreement (or agreements) between the Corps and a borrower (and the lender, if applicable) establishing the terms and conditions, rules, and requirements of a secured loan or loan guarantee.

(f) *Credit assistance* means a secured loan or loan guarantee under 33 U.S.C. 3908.

(g) *Credit subsidy* shall have the same meaning as “cost” under section 502(5) of the Federal Credit Reform Act of 1990

(2 U.S.C. 661a(5)), which is the net present value at the time the Loan Agreement or Loan Guarantee Agreement is executed. The credit subsidy cost for a given project is the net present value, at the time the Loan Agreement or Loan Guarantee Agreement is executed of the following estimated cash flows, discounted to the point of disbursement:

(1) Payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments; less

(2) Payments to the Government including origination and other fees, penalties, and recoveries including the effects of changes in loan or debt terms resulting from the exercise by the borrower, eligible lender, or other holder of an option included in a Loan Agreement or Loan Guarantee Agreement.

(h) *Economically disadvantaged community* refers to a community that meets one of the following criteria:

- (1) Low-income;
- (2) Unemployment rate above national average;
- (3) Indian country as defined in 18 U.S.C. 1151 or in the proximity of an Alaska Native Village;
- (4) U.S. Territories; or
- (5) Identified as disadvantaged by the Climate and Economic Justice Screening Tool (developed by the Council on Environmental Quality).¹

(i) *Economically justified* means that the anticipated benefits will exceed the costs.

(j) *Eligible entity* means one of the following:

- (1) A corporation;
- (2) A partnership;
- (3) A joint venture;
- (4) A trust;
- (5) A State, or local government entity, agency, or instrumentality;
- (6) A Tribal government or consortium of Tribal governments; or
- (7) A State infrastructure financing authority.

(k) *Eligible project costs* means the amounts, which are paid by, or for the account of, a borrower in connection with a project, including the cost of:

- (1) Development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other pre-construction activities.

¹ Currently available at <https://screeningtool.geoplatform.gov>.

(2) Construction, reconstruction, rehabilitation, and replacement activities.

(3) Acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(4) Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction. Capitalized interest on the Federal credit instrument is not an eligible project cost.

(l) *Environmentally acceptable* means the project will satisfy all applicable and necessary environmental requirements to include those identified in Sec. 386.5(a), such as the National Environmental Policy Act (NEPA).

(m) *Federal credit instrument* means a secured loan or loan guarantee authorized to be made available under 33 U.S.C. 3901–3914 with respect to a project.

(n) *Investment-grade rating* means a rating category of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a nationally recognized statistical rating organization (NRSRO) to project obligations offered into the capital markets.

(o) *Iron and steel products* means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(p) *Lender* means any non-Federal qualified institutional buyer (as defined in 17 CFR 230.144A(a), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*)), including:

(1) A qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986, 26 U.S.C. 4974(c)) that is a qualified institutional buyer;

(2) A governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986, 26 U.S.C. 414(d)) that is a qualified institutional buyer; and

(3) The Federal Financing Bank.

(q) *Loan guarantee* means any guarantee or other pledge by the Secretary of the Army (Secretary) to pay all or part of the principal of and interest on a loan or other debt obligation issued by a borrower and funded by a lender.

(r) *Low income* means the area has a per capita income of 80 percent or less of the national average.

(s) *Nationally recognized statistical rating organization (NRSRO)* means a credit rating agency identified and registered by the Office of Credit Ratings in the Securities and Exchange Commission under 15 U.S.C. 78c.

(t) *Non-Federal* means an organization that is not an agency or instrumentality of the Federal Government, including State, interstate, Indian Tribal, or local government, as well as private organizations.

(u) *Preliminary application* means the form and attachments prospective borrowers submit to the Corps to be considered for credit assistance following the announcement of available funding.

(v) *Project* means:

(1) Safety projects to maintain, upgrade, and repair dams (including dam removal) identified in the National Inventory of Dams with a primary owner type of State, local government, public utility, or private; and which meets the statutory requirements of Title 1, Division D of the Consolidated Appropriations Act 2021, meet the criteria outlined in 85 FR 39189 (see division D of the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94)).

(2) Any project that meets the criteria in paragraph (v)(1) of this section must also be a project for flood damage reduction, hurricane and storm damage reduction, aquatic environmental restoration, coastal or inland harbor navigation improvement, or inland and intracoastal waterways navigation improvement that the Secretary determines is technically sound, economically justified, and environmentally acceptable, including—

(i) A project to reduce flood damage;

(ii) A project to restore aquatic ecosystems;

(iii) A project to improve the inland and intracoastal waterways navigation system of the United States; and

(iv) A project to improve navigation of a coastal inland harbor of the United States, including channel deepening and construction of associated general navigation features.

(3) Acquisition of real property or an interest in real property for a project that meets the criteria under paragraph (v)(1) of this section—

(i) If the acquisition is integral to a project eligible for WIFIA credit assistance; or

(ii) Pursuant to an existing plan that, in the judgment of the Secretary, would mitigate the environmental impacts of

water resources infrastructure projects otherwise eligible for WIFIA credit assistance.

(4) A combination of projects secured by a common security pledge, each of which is eligible for WIFIA credit assistance, for which an eligible entity, or a combination of eligible entities, submits a single application.

(w) *Project obligation* means any note, bond, debenture, or other debt obligation issued by a borrower in connection with the financing of a project, other than a Federal credit instrument.

(x) *Projected substantial completion date* means the expected date as determined by the Secretary, at which the stage in the progress of the project when the project or designated portion thereof is sufficiently complete in accordance with the contract documents so that the project or designated portion thereof can be used for its intended use.

(y) *Prospective borrower* means an eligible entity seeking credit assistance.

(z) *Publicly sponsored* means the obligor can demonstrate, to the satisfaction of the Secretary, that it has consulted with the affected State, local, or Tribal government in which the project is located, or is otherwise affected by the project, and that such government supports the proposed project. Support can be shown by a certified letter signed by the approving municipal department or similar agency, mayor or other similar designated authority, local ordinance, or any other means by which local government approval can be evidenced.

(aa) *Secured loan* means a direct loan or other debt obligation (including a note, bond, debenture, and sale or lease financing arrangement) issued by a borrower funded by the Secretary in connection with the financing of a project under 33 U.S.C. 3908.

(bb) *Small community* means a community of not more than 25,000 individuals.

(cc) *State* means any of the fifty States, the District of Columbia, Puerto Rico, or any other territory or possession of the United States.

(dd) *State infrastructure financing authority* means the State entity established or designated by the Governor of a State to receive a capitalization grant provided by, or otherwise carry out the requirements of, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 *et seq.*) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12).

(ee) *Subsidy amount* means the dollar amount of budget authority that is sufficient to cover the estimated long-term cost to the Federal Government of

a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on the governmental receipts or outlays in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 *et seq.*).

(ff) *Substantial completion* means the stage in the progress of the project when the project or designated portion thereof is sufficiently complete in accordance with the contract documents so that the project or designated portion thereof can be used for its intended use.

(gg) *Technically sound* means the project will meet all applicable engineering, safety, and other technical standards.

(hh) *Term sheet* means a contractual agreement between the Corps and the borrower (and the lender, if applicable) that sets forth the key business terms and conditions of a Federal credit instrument.

(ii) *Territory* means each of the commonwealths, territories, and possessions of the United States established in Title 48 of the U.S.C.

(jj) *Treatment works* has the meaning given the term in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292).

(kk) *Unemployment rate above national average* means the area has an unemployment rate that is, for the most recent 24-month period for which data are available, at least 1 percent greater than the national average unemployment rate.

(ll) *WIFIA* means the Water Infrastructure Finance and Innovation Act of 2014 (Pub. L. 113–121), as amended.

§ 386.3 Limitations on assistance.

(a) The total amount of credit assistance offered to any project under this part shall not exceed 49% of the reasonably anticipated eligible project costs, or, if the secured loan does not receive an investment grade rating, the total amount of credit assistance shall not exceed the amount of the senior project obligations of the project (33 U.S.C. 3908(b)(2)(B)).

(b) Notwithstanding paragraph (a) of this section, the Secretary may offer credit assistance in excess of 49% of the reasonably anticipated eligible project costs as long as such excess assistance combined for all projects does not require greater than 25% of the subsidy amount made available for the fiscal year, per 33 U.S.C. 3912(d).

(1) Use of the authority to offer credit assistance in excess of 49% of the anticipated eligible project costs shall be considered on a case by case basis.

(2) In the event this authority is used, all other criteria and requirements described in this part must be met and adhered to.

(c) For each project receiving credit assistance, total Federal assistance may not exceed 80% of the total project costs, except for certain rural water projects authorized to be carried out by the Secretary of the Interior that includes among its beneficiaries a federally recognized Indian Tribe and for which the authorized Federal share of the total project costs is greater than 80%, and in accordance with 85 FR 39189 (*see* division D of the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94)).

(d) Proceeds from the credit assistance shall not be utilized to provide cash contributions to the Corps for project related costs, except for such fees as allowed by 33 U.S.C. 3908(b)(7), limited to the application, transaction processing, and servicing fees as described in § 386.15.

(e) Costs incurred, and the value of any integral in-kind contributions made, before receipt of credit assistance may be considered in calculating eligible project costs only upon approval of the Secretary. Such costs and integral in-kind contributions must be directly related to the development or execution of the project and must be eligible project costs as defined in § 386.2. In addition, such costs, excluding the value of any integral in-kind contributions, are payable from the proceeds of the Federal credit instrument and shall be considered incurred costs for purposes of paragraph (h) of this section. Capitalized interest on the Federal credit instrument is not eligible for calculating eligible project costs.

(f) No costs financed internally or with interim funding may be refinanced under this part later than a year following substantial completion of the project.

(g) The Secretary shall not obligate funds in the form of a loan or loan guarantee for a project prior to:

(1) To issuance of a determination that the Federal action is eligible for a Categorical Exclusion;

(2) Issuance of a Finding of No Significant Impact; or

(3) Issuance of a Record of Decision under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*

(h) The Secretary shall fund a secured loan based on the project's financing needs. The credit agreement shall include the anticipated schedule for such loan disbursements. Actual disbursements will be based on incurred

costs, and in accordance with the approved construction plan, as evidenced by invoices or other documentation acceptable to the Secretary.

(i) The interest rate on a secured loan will be equal to or greater than the yield on U.S. Treasury securities of comparable maturity on the date of execution of the credit agreement as identified through use of the daily rate tables published by the Bureau of the Fiscal Service for the State and Local Government Series (SLGS) investments. The yield on comparable Treasury securities will be estimated by adding one basis point to the SLGS daily rate with a maturity that is closest to the weighted average loan life of the Federal credit instrument, per 33 U.S.C. 3908(b)(4).

(j) The final maturity date of a secured loan will be the earlier of the date that is 35 years after the date of substantial completion of the project, as determined by the Secretary and identified in the credit agreement, or if the useful life of the project, as determined by the Secretary, is less than 35 years, the useful life of the project; however, the final maturity date of a secured loan to a State infrastructure financing authority will be not later than 35 years after the date on which amounts are first disbursed. In determining the useful life of the project, for the purposes of establishing the final maturity date of the Federal credit instrument, the Secretary will consider the useful economic life of the asset(s) being financed.

(k) A secured loan will not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the borrower of the project (33 U.S.C. 3908(b)(6)).

(l) The Corps will establish a repayment schedule for a secured loan or loan guarantee based on the projected cash flow from project revenues and other repayment sources. Scheduled loan or loan guarantee repayments of principal and interest on a secured loan or loan guarantee will commence not later than 5 years after the projected date of substantial completion of the project at the time of execution of the Loan Agreement or Loan Guarantee Agreement, as determined by the Secretary (33 U.S.C. 3908(c)(A)); however, scheduled loan or loan guarantee repayments of principal and interest on a secured loan to a State infrastructure financing authority will commence not later than 5 years after the date on which amounts are first disbursed. The final maturity of the credit agreement shall be in no instance

later than 35 years after the projected date of substantial completion of the project at the time of execution of the Loan Agreement or Loan Guarantee Agreement.

§ 386.4 Application process.

(a) Each fiscal year for which budget authority is made available by Congress, the Corps shall publish a solicitation to announce the availability of credit assistance. It will specify how to electronically submit a preliminary application, the estimated amount of funding available to support Federal credit instruments, contact name(s), and other details for submissions and funding approvals.

(b) Prospective borrowers seeking credit assistance under this part will be required to follow an application process requiring submission of the preliminary application as designated in the solicitation to announce the availability of credit assistance. In addition, the extent to which the project financing plan includes any other form of Federal assistance (including grants), in addition to WIFIA credit assistance, will be required to be provided in the application.

(c) Following approval of the term sheet, and/or negotiation of satisfactory terms and conditions of the Federal credit instrument, the prospective borrower will proceed to closing, as described in § 386.13.

§ 386.5 Federal requirements.

All projects receiving credit assistance under this part shall comply, where applicable, with:

(1) *Environmental authorities.* (1) The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*;

(2) Archeological and Historic Preservation Act, 16 U.S.C. 469–469c;

(3) Clean Air Act, 42 U.S.C. 7401 *et seq.*;

(4) Clean Water Act, 33 U.S.C. 1251 *et seq.*;

(5) Coastal Barrier Resources Act, 16 U.S.C. 3501 *et seq.*;

(6) Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.*;

(7) Endangered Species Act, 16 U.S.C. 1531 *et seq.*;

(8) Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12898, 3 CFR, 1994 Comp., p. 859;

(9) Floodplain Management, Executive Order 11988, as amended by Executive Order 13690;

(10) Protection of Wetlands, Executive Order 11990, 3 CFR, 1977 Comp., p. 121, as amended by Executive Order 12608, 3 CFR, 1987 Comp., p. 245;

(11) Farmland Protection Policy Act, 7 U.S.C. 4201 *et seq.*;

(12) Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c, as amended;

(13) Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*;

(14) National Historic Preservation Act, 54 U.S.C. 300101 *et seq.*;

(15) Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; and

(16) Wild and Scenic Rivers Act, 16 U.S.C. 1271 *et seq.*

(b) *Economic and miscellaneous authorities.* (1) Debarment and Suspension, Executive Order 12549, 3 CFR, 1986 Comp., p. 189;

(2) New Restrictions on Lobbying, 31 U.S.C. 1352;

(3) Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to Federal contracts, grants, or loans under 42 U.S.C. 7606 and 33 U.S.C. 1368, and Executive Order 11738, 3 CFR, 1971–1975 Comp., p. 799; and

(4) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq.*

(c) *Civil rights, nondiscrimination, equal employment opportunity authorities.* (1) Age Discrimination Act, 42 U.S.C. 6101 *et seq.*;

(2) Equal Employment Opportunity, Executive Order 11246, 3 CFR, 1964–1965 Comp., p. 339;

(3) Section 504 of the Rehabilitation Act, 29 U.S.C. 794, supplemented by Executive Orders 11914, 3 CFR, 1976 Comp., p. 117, and 11250, 3 CFR, 1964–1965 Comp., p. 351; and

(4) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*

(d) *Others authorities.* Other Federal and compliance requirements as may be applicable.

§ 386.6 Floodplain management.

(a) In making WIFIA funding decisions under this part, the Corps will follow the requirements of Executive Order (E.O.) 11988, as amended by E.O. 13690, and Engineering Regulation (ER) 1165–2–26, “Implementation of E.O. 11988 on Floodplain Management”. Applicants shall submit information regarding the project that is sufficient for the Corps to determine that the project is in compliance with the requirements of E.O. 11988 and ER 1165–2–26.

(b) Projects funded under this part will meet or exceed applicable State, local, Tribal, and territorial standards for flood risk and floodplain management, as well as E.O. 11988.

(c) All projects under this part are considered Federal actions under E.O.

11988 and thus, project applicants shall determine whether the proposed project will occur in the floodplain. If the project is located within the floodplain, the applicant must determine whether the action is critical or not and what floodplain standard to follow. The Corps will implement the Federal Flood Risk Management Standard (FFRMS), where appropriate, which is a flood standard established by E.O. 13690, that aims to build a more resilient future through the encouragement of consideration of current and future risk when Federal investments are used to build or rebuild near floodplains. The Corps will ensure unwise uses are avoided, where possible, including the increase or transfer of flood risks, resulting in adverse impacts to human health, safety, welfare, property, natural resources, or functions of floodplains. Further guidance on implementation of E.O. 11988 can be found in the Corps ER 1165–2–26 (30 March 1984). Further information on FFRMS can be found at <https://www.iwr.usace.army.mil/Missions/Flood-Risk-Management/Flood-Risk-Management-Program/About-the-Program/Policy-and-Guidance/Federal-Flood-Risk-Management-Standard/>.

§ 386.7 American iron and steel.

(a) All projects receiving credit assistance under this part for construction, alteration, maintenance, or repair of a project shall use only iron and steel products produced in the United States, unless waiver of the requirement in this paragraph (a) is granted by an official authorized to do so.

(b) Consistent with 33 U.S.C. 3914(b), “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete and construction materials. Equipment employed in construction that does not become part of the project is not an “iron and steel product” for the purpose of this section.

§ 386.8 Labor standards.

All laborers and mechanics employed by contractors or subcontractors on projects receiving credit assistance under this part shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor.

§ 386.9 Investment-grade ratings.

(a) At the time a prospective borrower submits an application, the Corps shall require a preliminary rating opinion letter. The letter is a conditional credit assessment from a NRSRO that provides a preliminary indication of the project's overall creditworthiness and that specifically addresses the potential of the project's senior debt obligations, which may include, or be limited to, the Federal credit instrument to achieve an investment-grade rating, and address the rating of obligations similar to those proposed for the Federal credit instrument when the Federal credit instrument is not a senior debt obligation. The requirement of this paragraph (a) may be met, on a case-by-case basis, by accepting a recent credit rating of obligations that have a lien on the revenues pledged for repayment. This rating should be based on an unenhanced analysis of the underlying pledged source of repayment and not give any credit to any prospective loan guarantee provided by the U.S. Government.

(b) Consistent with 33 U.S.C. 3907(a)(D)(ii), the full funding of a Federal credit instrument shall be contingent on:

(1) The assignment of investment-grade ratings by NRSROs to all project obligations that have a lien on the pledged security senior to that of the Federal credit instrument on the pledged security; or

(2)(i) In the event that the Federal credit instrument is:

(A) A senior debt obligation;

(B) *Pari passu* with the senior project obligations; or

(C) A general obligation of the prospective borrower, to the Federal credit instrument.

(ii) The applicant must provide at least one final rating opinion letter which provides a credit rating on the direct loan or the unenhanced Federal credit instrument. This rating should be based on an unenhanced analysis of the underlying pledged source of repayment and not give any credit to the loan or loan guarantee provided by the U.S. Government.

(c) Neither the preliminary rating opinion letter nor the final ratings should reflect the effect of bond insurance, unless that insurance provides credit enhancement that secures WIFIA obligation.

§ 386.10 Threshold criteria.

(a) To be eligible to receive Federal credit assistance under this part, a project shall meet the following threshold criteria:

(1) The project and prospective borrower shall be creditworthy.

(2) A project shall have eligible project costs that are reasonably anticipated to equal or exceed \$20 million.

(3) A Federal credit instrument:

(i) Shall be repayable, in whole or in part, from State or local taxes, user fees, or other dedicated revenue sources that also secure the senior project obligations of the project;

(ii) Shall include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

(iii) May have a lien on revenues subject to any lien securing project obligations.

(4) In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, or a Tribal government or consortium of Tribal governments, the project that the entity is undertaking shall be publicly sponsored.

(5) The prospective borrower shall have developed an operations and maintenance plan that identifies adequate revenues to operate, maintain, and repair the project during its useful life. If the borrower is a State infrastructure financing authority, it shall have ensured and will ensure that its borrowers have a plan for the eligible projects they are undertaking that identifies adequate revenues to operate, maintain and repair such projects during the useful life of such projects. The requirement in this paragraph (a)(5) may be met through the development of a written plan or a financial model.

(b) With respect to paragraph (a)(3) of this section, the Secretary may accept general obligation pledges or general corporate promissory pledges and will determine the acceptability of other pledges and forms of collateral as dedicated revenue sources on a case-by-case basis. The Secretary shall not accept a pledge of Federal funds, regardless of source, as security for the Federal credit instrument.

(c) The provision at 33 U.S.C. 3907(c) provides that nothing in section 3907(c) (which includes eligibility requirements and selection criteria for projects and entities receiving WIFIA assistance) is intended to supersede the applicability of other requirements of Federal law, including regulations.

§ 386.11 Selection criteria.

The selection criteria in paragraphs (a) through (l) of this section will be used for evaluating and selecting among eligible projects to receive credit assistance:

(a) The extent to which the project is nationally or regionally significant, with respect to the generation of economic and public benefits, such as—

(1) The reduction of flood risk;

(2) The improvement of water quality and quantity, including aquifer recharge;

(3) The protection of drinking water, including source water protection;

(4) The support of domestic and international commerce; and

(5) The restoration of degraded aquatic ecosystem structures.

(b) The extent to which the project financing plan includes public or private financing, in addition to WIFIA credit assistance.

(c) The likelihood that WIFIA credit assistance would enable the project to proceed at an earlier date than the project would otherwise be able or likely to proceed.

(d) The extent to which the project uses new or innovative approaches.

(e) The amount of budget authority required to fund the WIFIA Federal credit instrument.

(f) The extent to which the project—

(1) Protects against an extreme weather event, such as a flood or hurricane; or

(2) Helps maintain or protect the environment.

(g) The extent to which a project serves regions with significant clean energy exploration development, or production areas.

(h) The extent to which a project serves regions with significant water resource challenges, including the need to address—

(1) Water quality concerns in areas of regional, national, or international significance;

(2) Water quantity concerns related to groundwater, surface water, or other water sources;

(3) Significant flood risk;

(4) Water resource challenges identified in existing regional, State, or multistate agreements; or

(5) Water resources with exceptional recreational value or ecological assistance.

(i) The extent to which the project addresses identified municipal, State, or regional priorities.

(j) The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the contracting process for construction of the project can commence not later than 90 days after the date on which a Federal credit instrument is obligated for the project under WIFIA.

(k) The extent to which WIFIA credit assistance reduces the overall Federal contributions to the project.

(l) The extent to which the project serves economically disadvantaged communities and spurs economic opportunity for, and minimally adversely impacts, economically disadvantaged communities and their populations.

§ 386.12 Term sheets and approvals.

(a) The Corps, after review and evaluation of an application, and all other required documents submitted by a prospective borrower, may offer to such prospective borrower a written term sheet and/or a credit agreement, including detailed terms and conditions that must be met.

(b) The issuance of a term sheet, upon execution by the Secretary, does not constitute a commitment by the Secretary to enter into the Loan Agreement or Loan Guarantee Agreement. Execution of the Loan Agreement or Loan Guarantee Agreement represents obligation by the Secretary.

§ 386.13 Closing on the Loan Agreement or Loan Guarantee Agreement.

(a) Only a Loan Agreement or Loan Guarantee Agreement executed by the Secretary can obligate the Corps to issue a loan or loan guarantee. The Corps is not bound by oral representations. Each Loan Agreement or Loan Guarantee Agreement shall contain the following requirements and conditions, and shall not be executed until the Corps determines that the following requirements and conditions are satisfied:

(1) Except if explicitly authorized by an Act of Congress, no Federal funds, proceeds of Federal loans, or proceeds of loans guaranteed by the Federal Government may be used by a borrower to pay for credit subsidy costs, administrative fees, or other fees charged by or paid to the Corps relating to the WIFIA program; however, proceeds of the Federal credit instrument may be used to pay for such administrative or other fees but may not be used to pay an "Optional Credit Subsidy Fee".

(2) At closing, the Corps will ensure that the following requirements and conditions are or will be satisfied pursuant to the credit agreement or otherwise:

(i) The project qualifies as an eligible project under WIFIA;

(ii) The face value of the credit agreement is limited to no more than 49 percent of reasonably anticipated eligible project costs, or if credit assistance in excess of 49 percent has been approved, no more than the percentage of eligible project costs

agreed upon, not to exceed 80 percent of total project costs;

(iii) If the credit instrument is a loan guarantee, the loan guarantee does not finance, either directly or indirectly, tax exempt debt obligations, consistent with the requirements of section 149(b) of the Internal Revenue Code;

(iv) The amount of the credit agreement, when combined with other funds, will be sufficient to carry out the project, including adequate contingency funds;

(v) The borrower is pledging collateral and/or providing a general obligation pledge, determined by the Corps to be necessary to secure the repayment of the credit agreement;

(vi) The credit agreement and related documents include detailed terms and conditions necessary and appropriate to protect the interest of the United States in the case of default;

(vii) There is satisfactory evidence that the applicant is willing, competent, and capable of performing the terms and conditions of the credit agreement, and will diligently pursue the project;

(viii) The applicant has taken and is obligated to continue to take those actions necessary to perfect and maintain liens on assets which are pledged as security for the credit agreement, as allowed under State or local law;

(ix) The Corps or its representatives have access to the project site at all reasonable times in order to monitor the performance of the project;

(x) The Corps and the applicant agree as to the information that will be made available to the Corps and the information that will be made publicly available;

(xi) The applicant will file or has filed applications for or obtained any required regulatory approvals for the project and is in compliance, or promptly will be in compliance, where appropriate, with all Federal, State, and local regulatory requirements;

(xii) The applicant has no delinquent Federal debt, including tax liabilities, unless the delinquency has been resolved with the appropriate Federal agency in accordance with the standards of the Debt Collection Improvement Act of 1996;

(xiii) Loan proceeds provided under the agreement shall not be utilized by the applicant to provide cash contributions to the Corps for project related costs, except for such fees as allowed by 33 U.S.C. 3908(b)(7), limited to the application, transaction processing, and servicing fees as described in § 386.15;

(xiv) Costs incurred with loan proceeds under the agreement shall not

be eligible for reimbursement or for the transfer of credit toward the non-Federal cost share of another federally authorized project;

(xv) The credit agreement and related agreements contain such other terms and conditions as the Corps deems reasonable and necessary to protect the interests of the United States, including without limitation provisions for:

(A) Such collateral and other credit support for the credit agreement; and

(B) Such collateral sharing, priorities and voting rights among creditors and other intercreditor arrangements as, in each case, the Corps deems reasonable and necessary to protect the interests of the United States; and

(3) The credit agreement must contain audit provisions which provide, in substance, as follows:

(i) The applicant must keep such records concerning the project as are necessary to facilitate an effective and accurate audit and performance evaluation of the project; and

(ii) The Corps and the Inspector General, or their duly authorized representatives, must have access, for the purpose of audit and examination, to any pertinent books, documents, papers, and records of the applicant. Examination of records may be made during the regular business hours of the applicant, or at any other time mutually convenient.

(4) OMB has reviewed and approved the Corps calculation of the Credit Subsidy Cost of the Loan or Loan Guarantee.

(b) The Corps will set a closing date. By the closing date, the prospective borrower must have satisfied all of the detailed terms and conditions required by the Corps and all other contractual, statutory, and regulatory requirements. In addition, the prospective borrower must have provided at least one final rating opinion letter which provides a credit rating on the final negotiated direct loan or Loan Guarantee Agreement that does not take into account the full faith and credit of the United States of America. The prospective borrower must submit this final credit rating letter to the Corps prior to closing. If the prospective borrower has not satisfied all such terms and conditions by the closing date, the Secretary may set a new closing date or reject the application.

(c) The execution of a Loan Agreement or Loan Guarantee shall represent approval of the application for credit assistance and shall represent the legal obligation of budget authority.

§ 386.14 Reporting requirements.

The borrower will provide annual audited financial statements, a public benefits report, and other reports to the Corps in the form and manner agreed upon in the credit agreement. These other reports may include, but are not limited to, an updated financial model and construction reports. The Corps may conduct periodic financial and compliance reviews or audits of the borrower and its project, as determined necessary by the Corps.

§ 386.15 Fees.

(a) *Application fee.* The Corps will require a non-refundable application fee for each project applying for credit assistance under the WIFIA program. The application fee will be due upon submission of the application. For public applicants with projects serving small communities or economically disadvantaged communities, the total application fee will be \$0. For all other applications, the total application fee will be \$25,000. The total application fee will be credited to the transaction processing fee required under paragraph (b) of this section.

(b) *Transaction processing fee.* Except as otherwise provided in paragraph (f) of this section, the Corps will require an additional transaction processing fee for projects selected to receive WIFIA assistance upon closing, or if the project does not proceed to closing, e.g., if the application is withdrawn or denied. The proceeds of any such fees will be used to pay the remaining portion of the Corps' cost of providing credit assistance and the costs of conducting engineering reviews and retaining expert firms, including financial and legal services, to assist in the underwriting of the Federal Credit instrument.

(c) *Servicing fee.* The Corps will require borrowers to pay a servicing fee for each credit instrument approved for funding. Separate fees may apply for each type of credit instrument (e.g., a secured loan with a single disbursement, or a secured loan with

multiple disbursements), depending upon the costs of servicing the credit instrument as determined by the Secretary. Such fees will be set at a level sufficient to enable the Corps to recover all or a portion of the costs to the Federal Government of servicing WIFIA credit instruments.

(d) *Optional credit subsidy fee.* If, in any given year, there is insufficient budget authority to fund the credit instrument for a qualified project that has been selected to receive assistance under WIFIA, the Corps and the approved applicant may agree upon a supplemental fee to be paid by or on behalf of the approved applicant at the time of execution of the term sheet to reduce the subsidy cost of that project. No such fee may be included among eligible project costs.

(e) *Reduced fees.* To the extent that Congress appropriates funds in any given year beyond those needed to cover internal administrative costs, the Corps may utilize such appropriated funds to reduce fees for a State or local governmental entity, agency, or instrumentality, a Tribal government or consortium of Tribal governments that would otherwise be charged under paragraph (c) of this section.

(f) *Enhanced monitoring fee.* The Corps may require payment in full by the borrower of additional fees, in an amount determined by the Corps, and of related fees and expenses of its independent consultants and outside counsel, to the extent that such fees and expenses are incurred by or on behalf of the Corps and to the extent such third parties are not paid directly by the borrower, in the event the borrower experiences difficulty relating to technical, financial, or legal matters or other events (e.g., engineering failure or financial workouts) which require the Corps to incur time or expenses beyond standard monitoring. No such fee may be included among eligible project costs.

[FR Doc. 2023-10520 Filed 5-19-23; 8:45 am]

BILLING CODE 3720-58-P

POSTAL SERVICE

39 CFR Part 20

International Competitive Services: Price Changes

AGENCY: Postal Service™.

ACTION: Final action.

SUMMARY: The Postal Service is revising Notice 123, *Price List*, to reflect the price changes to Competitive Services as established by the Governors of the United States Postal Service®.

DATES: Effective July 9, 2023.

FOR FURTHER INFORMATION CONTACT: Dale Kennedy at 202-268-6592 or Kathy Frigo at 202-268-4178.

SUPPLEMENTARY INFORMATION: This final rule describes new prices established by the Governors of the United States Postal Service and submitted for review by the Postal Regulatory Commission in Docket Number CP2023-151 (see <https://prc.gov>).

This final rule describes the international price changes for the following competitive international extra services and fees:

- International Certificate of Mailing.
- International Registered Mail.
- International Return Receipt.
- Customs Clearance and Delivery Fee.

New prices are or will be located on the Postal Explorer® website at <https://pe.usps.com>.

International Extra Services and Fees

Depending on country destination and mail type, customers may add a variety of extra services to their outbound shipments and pay a variety of fees.

The Postal Service is increasing fees for certain competitive international extra services as follows:

- *International Certificate of Mailing service:* Prices for competitive international certificate of mailing service will be as follows:

CERTIFICATE OF MAILING

	Fee
Individual pieces:	
Individual article (PS Form 3817)	\$1.95
Duplicate copy of PS Form 3817 or PS Form 3665 (per page)	1.95
Firm mailing sheet (PS Form 3665), per piece (minimum 3) First-Class Mail International only	0.57
Bulk quantities:	
For first 1,000 pieces (or fraction thereof)	10.90
Each additional 1,000 pieces (or fraction thereof)	1.40
Duplicate copy of PS Form 3606	1.95

- *International Registered Mail service*: The fee for competitive international registered mail will increase to \$20.25.

- *International return receipt service*: The fee for competitive international return receipt service will increase to \$5.65.

- *Customs clearance and delivery fee*: The competitive customs clearance and delivery fee per dutiable item will increase to \$8.30.

Sarah Sullivan,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2023–10527 Filed 5–19–23; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15

[ET Docket Nos. 20–36 and 14–165; FCC 23–24; FRS 139311]

Unlicensed White Space Device Operations in the Television Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

In this document, the Federal Communications Commission (Commission) continues taking steps to sustain and spur growth within the white space ecosystem and adopts three orders addressing pending issues associated with white space devices. These actions will provide additional certainty to white space device users and manufacturers to enable unlicensed white space devices to operate efficiently while protecting other spectrum users. In the Report and Order the Commission adopts rules specifying the database re-check interval for the new categories of mobile and narrowband white space devices established in 2020. In the Order on Reconsideration, the Commission dismisses in part and, on alternative and independent grounds, denies a petition for reconsideration of two rule changes for white space devices operating in the broadcast television (TV) bands. In the Memorandum Opinion and Order, the Commission declines to modify the rules to permit white space databases to use more complex terrain-based models to determine the available frequencies for white space devices and will instead continue to rely on the simpler established model that has worked reliably to prevent interference to TV and other protected services.

DATES: Effective June 21, 2023.

FOR FURTHER INFORMATION CONTACT: Hugh Van Tuyl, Office of Engineering and Technology, (202) 418–7506 or Hugh.VanTuyl@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, *Order on Reconsideration, Report and Order and Memorandum Opinion and Order*, ET Docket Nos. 20–36 and 14–165; FCC 23–24, adopted April 11, 2023 and released April 12, 2023. The full text of this document is available for public inspection and can be downloaded at: <https://www.fcc.gov/document/fcc-adopts-white-spaces-order>. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to FCC504@fcc.gov or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Procedural Matters

Final Regulatory Flexibility Analyses. The Regulatory Flexibility Act of 1980 (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this Order on Reconsideration, Report and Order and Memorandum Opinion and Order on small entities. As required by the RFA, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (NPRM) (86 FR 38969, July 23, 2021). The Commission sought written public comment on the proposals in the NPRM, including comments on the IRFA. No comments were filed addressing the IRFA. Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in the document on small entities. The present FRFA conforms to the RFA and can be viewed under Appendix E of the item at: <https://www.fcc.gov/document/fcc-adopts-white-spaces-order>.

Paperwork Reduction Act. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25

employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506 (c)(4).

Congressional Review Act. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Order on Reconsideration, Report and Order and Memorandum Opinion and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Additional Information. For additional information on this proceeding, contact Hugh L. Van Tuyl, Hugh.VanTuyl@fcc.gov, (202) 418–7506 or Syed Hasan, Syed.Hasan@fcc.gov, (202) 418–2454.

Synopsis

Background

Unlicensed white space devices, which operate in the TV broadcast bands and portions of the 600 MHz band at locations where frequencies are not in use by licensed services or other protected entities, provide a variety of wireless services to the public. For example, Wireless internet Service Providers (WISPs) use fixed white space devices to provide internet connectivity in rural and underserved areas, including broadband data for schools and libraries, and on tribal lands. These devices obtain a list of available channels and data on power levels that may be used at their particular locations from databases administered by private entities approved by the Commission. Fixed and mobile white space devices must incorporate a geo-location capability and a means to access a database. Personal/Portable white space devices can either acquire a list of available channels via another white space device (Mode I), or themselves include geo-location and database access capabilities (Mode II). Once the white space device acquires channel and power information for its location, it selects an appropriate frequency from that list for transmitting.

Since 2008 when the Commission first authorized unlicensed white space

device operations in the VHF and UHF TV bands, it has taken a number of further actions to make the white space rules more flexible while protecting incumbent services to facilitate improved broadband services to all Americans, particularly those in rural, Tribal and other underserved areas. Operating in the TV and 600 MHz Service bands allows these devices to operate over long distances at moderate power levels making them ideal for connecting these areas. The Commission continues to examine and modify, as needed, the white space device rules to maximize their efficiency and ensure that the American public continues to reap their benefits.

In its *2015 White Spaces Order*, the Commission modified the technical rules for white space device operations in the spectrum that continues to be TV band spectrum following the incentive auction. It maintained the requirement for fixed and Mode II personal/portable devices to re-check the white space database at least once per day, but it also adopted additional requirements intended to better protect licensed wireless microphone operations registered in the white space database. Specifically, the Commission required the white space databases to “push” changes in channel availability information to fixed and Mode II personal/portable devices when a licensed wireless microphone is registered on a previously vacant TV channel (“push notifications”). In response to petitions for reconsideration arguing that the push notification requirement was overly burdensome and would need modifications to be effective, the Commission waived this requirement pending final action on the petitions for reconsideration. The Commission, acting on these petitions in 2022, removed the push notification requirement.

In the *2020 White Spaces Order and FNPRM*, the Commission made targeted changes to the rules for white space devices in the TV bands to provide improved broadband coverage for American consumers in rural and underserved areas and improved access to narrowband Internet of Things (IoT) applications in all areas. Specifically, the Commission permitted higher equivalent isotropically radiated power (EIRP) and higher antenna height above average terrain (HAAT) for fixed white space devices in “less congested” geographic areas, *i.e.*, those areas where at least half the TV channels in a device’s band of operation are vacant. In addition, the Commission permitted higher power mobile device operation within defined geo-fenced areas in “less

congested” areas and adopted rule changes designed to facilitate the development of new and innovative narrowband IoT services. Mobile devices, which operate within a bounded area at power levels comparable to fixed devices, were implemented as a new class of white space device. Narrowband devices are a subset of fixed or personal/portable devices, and are subject to technical rules which permit narrower channel bandwidths than other fixed and personal/portable devices. The Commission, consistent with existing rules, required narrowband and mobile devices to comply with a once daily database check.

Shure Incorporated filed a petition for reconsideration of two Commission decisions in the *2020 White Spaces Order and FNPRM*, expressing concern about possible interference to wireless microphones. Shure believes that the 16-watt EIRP limit that the Commission permitted for geo-fenced mobile devices is too high and requests that this limit be reduced. Shure also objects to narrowband IoT devices being permitted to operate anywhere rather than limited to “less congested” areas, and wants the Commission to consider imposing additional requirements on narrowband IoT devices, such as requiring device operators to register the times, locations and technical operating parameters in the white space database.

The Commission sought comment in the *2020 White Spaces Order and FNPRM* on whether it should allow the use of a terrain-based propagation model such as the Longley-Rice Irregular Terrain Model for determining white space channel availability. It sought to develop a record on whether or not to implement such a model, the effect use of such a model would have on white space device channel availability, how a terrain-based model could be implemented within the current white space device framework, the technical parameters necessary to use such a model for identifying available spectrum while protecting incumbents from harmful interference, and various database and device implementation issues.

Unlicensed proponents support permitting the use of terrain-based models by white space database administrators as an optional alternative to the current model that requires white space devices to comply with minimum separation distances outside the protected service contours of co-channel and adjacent channel TV stations. These parties generally argue that the current protection model can be overly conservative and that permitting terrain-

based models would make more spectrum available for white space devices. However, TV broadcast interests oppose allowing the use of terrain-based models for determining white space channel availability due to concerns about interference to TV reception.

In its *2022 White Spaces Order and FNPRM*, the Commission addressed the 2015 petitions for reconsideration of the push notification requirement. It replaced this requirement with a simpler requirement that all fixed and Mode II personal/portable devices, with the exception of narrowband devices, must comply with a more frequent database re-check interval (once per hour instead of once per day). The Commission did not apply the more frequent re-check requirement to the newer classes of mobile and narrowband white space devices established in 2020 but instead sought comment on what database re-check interval should apply to mobile and narrowband devices, *e.g.*, once per hour, once per day, or some other interval. Commenters support an hourly database re-check interval for mobile devices, but are divided on the appropriate re-check interval for narrowband devices. Unlicensed interests support a once daily re-check interval for narrowband devices, while broadcasters and wireless microphone interests support an hourly re-check interval.

Order on Reconsideration

In this Order on Reconsideration, the Commission dismisses in part and, on alternative and independent grounds, denies Shure’s petition for reconsideration and upholds the Commission’s decisions allowing mobile devices to operate at 16 watts EIRP and permitting narrowband white space devices to operate in all areas rather than limiting them to “less congested” areas.

Mobile Device Power Limits

Background. In the *2020 White Spaces Order and FNPRM*, the Commission established a new class of mobile white space device which is permitted to operate within defined geo-fenced areas in “less congested” areas. It permitted these mobile devices to operate with up to 16 watts EIRP, which is the same power level permitted for fixed devices in “less congested” areas. The white space database must determine channel availability in the geo-fenced area using the same separation distances applicable to 16 watt fixed devices, and the database may indicate a channel as being available for a mobile device only if it

is available at the same power level throughout the entire geo-fenced area. A mobile device must incorporate a geo-location capability and check its location at least once every 60 seconds to determine whether it is still within the geo-fenced area where its operating channel is available. It must cease operation if it moves to within 1.9 kilometers of the boundary of the geo-fenced area or is outside of the area.

Shure filed a petition for reconsideration of this decision, expressing concern about possible interference to unlicensed wireless microphones. Shure believes that the 16-watt EIRP limit that the Commission permitted for geo-fenced mobile devices is too high and recommends that the power limit be reduced to 100 milliwatts, but in no case greater than 4 watts. It argues that the Commission's decision to authorize high power mobile white space devices is irreconcilable with a 2010 decision denying a request for higher power mobile operation and is not in the public interest. Shure also argues that the *2020 White Spaces Order and FNPRM* misguidedly conflates the interference profiles of fixed and mobile white space devices, fails to consider substantial risks of harm to the many users of unlicensed wireless microphones in less congested areas, and indefensibly deviates from the Commission's consistent policy of exercising caution when introducing new white space services. Microsoft opposes Shure's petition, arguing that the Commission's decision to adopt a 16-watt EIRP limit for mobile devices operating within geo-fenced areas was well-reasoned, cautious, and consistent with precedent.

The Commission upholds its decision to allow the new class of mobile white space devices to operate at up to 16 watts EIRP. It disagrees with Shure's contention that this decision is irreconcilable with past Commission actions. The Commission made the 2010 decision that Shure cites in response to a Motorola petition for reconsideration of the 100 milliwatt power limit for personal/portable devices that the Commission established in 2008. Motorola had requested on reconsideration that the Commission establish a new class of vehicle mounted portable devices that could operate at up to four watts EIRP either under the control of a fixed device or by contacting a white space database to obtain a list of available channels, *i.e.*, analogous to the operation of Mode I and Mode II personal/portable devices, but at a higher power level. The Commission denied Motorola's request, stating that personal/portable devices

generally pose a greater risk of harmful interference to authorized operations than fixed devices because these devices will change locations, making identification of both unused TV frequencies and the devices themselves, if interference occurs, more complex and difficult. The Commission also noted the significant distances at which interference could occur from a personal/portable device operating at greater than 100 milliwatts would make it very difficult to identify a device that is the source of interference. However, the rules the Commission adopted in the *2020 White Spaces Order and FNPRM* to allow higher power mobile devices are different from what Motorola previously suggested in that they contain requirements to minimize the likelihood of interference that were not considered in 2010.

Specifically, mobile devices must operate within a pre-defined (geo-fenced) area in which the white space database has determined in advance that at least one TV channel is available at all locations within the area. A channel is considered available for a mobile device if it meets the minimum required separation distances applicable to 16-watt fixed devices from all protected services in the TV bands, including TV broadcast services (full power, Class A and low power), licensed wireless microphones, land mobile radio services, and registered TV and broadcast auxiliary service receive sites. In addition to the geo-fencing requirement, mobile devices are limited to operation in "less congested" areas, which are defined as those areas where at least half the channels within the band of operation are vacant. For example, for devices operating in the UHF TV band (channels 14 through 36), a location is considered "less congested" if at least 12 of the 23 UHF TV channels are vacant. These two requirements, limiting the new class of higher power mobile device to areas with more available spectrum, substantially reduces the likelihood of harmful interference to authorized services in the TV bands, and enables all unlicensed devices, including other white space devices and unlicensed wireless microphones, to have an opportunity to access spectrum in the TV bands. Limiting operation of mobile devices to geo-fenced areas also addresses the concern the Commission previously noted about difficulties mobile devices may have in identifying vacant spectrum because the database will determine in advance which channels are available over an entire geo-fenced area. Thus, mobile devices

will have flexibility to move freely within the area without causing harmful interference. The requirement for mobile devices to comply with the same separation distances as fixed devices, which have the same power limits as mobile devices, will ensure that mobile devices have no greater interference potential than fixed devices, and that services in the TV bands are adequately protected, even at the larger separation distances required from higher power mobile devices. The potential for mobile devices to interfere with unlicensed wireless microphones could in some cases be lower than fixed devices because mobile devices will generally operate with an antenna height above ground of no more than 4 meters due to the necessity for vehicle clearance under bridges, power lines, trees, etc., so a mobile device signal could be attenuated by clutter such as buildings, trees and hills between a mobile device and a wireless microphone. In addition, because a mobile device may operate at the maximum 16 watts EIRP only if it uses a highly directional antenna with a gain of at least 12 dBi, which would require use of an electrical antenna beam steering system, mobile device operators may choose the less costly option of operating with an omnidirectional antenna which would have a lower gain, resulting in an EIRP of less than 16 watts.

The Commission disagrees with Shure's contention that the technical limits for mobile devices (maximum in-band power, antenna gain, power spectral density, adjacent channel and out-of-band emissions) require additional study by the Commission. Shure's petition focuses on the EIRP limit for mobile devices, which is a function of the in-band conducted power and antenna gain. While it requests a lower EIRP limit for mobile devices which the Commission declines to adopt, it does not request specific changes to the in-band conducted power and antenna gain limits and does not raise specific concerns about the suitability of any other technical limits, *e.g.*, power spectral density, adjacent channel and out-of-band emissions, nor does it suggest any modifications to them. The Commission therefore makes no changes to the technical limits for mobile devices adopted in the *2020 White Spaces Order and FNPRM*.

The Commission recognizes that the white space database does not have the capability to track the exact location of a mobile device, making it more difficult to identify an interfering mobile device than a registered fixed device. However, the database will contain information on the devices

operating within the boundaries of each geo-fenced area, and can determine the TV channel(s) that are available within that area. This information could be used to help identify potentially interfering devices if the need arises. Because mobile devices will operate primarily within rural areas where it is likely that there will be only a single or very limited number of white space devices operating within a geo-fenced area, the Commission expects that it should not be difficult to find out which device is causing interference. Also, the rules require the white space database administrator to cease providing lists of available channels to specific white space devices upon request by the Commission. The Commission could request that the database administrator stop providing lists of available channels to all mobile devices operating within a specific geo-fenced area where interference has occurred. As discussed in the Report and Order below, the Commission is requiring mobile white space devices to re-check the database at least once per hour, which will ensure a device ceases operation quickly if the database ceases providing lists of available channels to it.

The Commission also recognizes Shure's concern about potential interference from high power mobile devices to unlicensed wireless microphones operating in "less congested" areas. The Commission does not believe it is appropriate to lower the mobile device power limit to a level (e.g., 100 milliwatts EIRP) intended to allow coexistence with co-channel wireless microphones at short distances since that would severely limit the utility of mobile devices. The Commission disagrees that Shure's example of a white space device made by Redline Communications, which purportedly has a range of 50 kilometers, supports a lower power limit for mobile devices. The web page Shure referenced for Redline is no longer active, but the power levels Shure cites for these devices (100 milliwatts for the CPE and 1 watt for the base unit) are conducted power levels, whereas the white space device power limits for both fixed and mobile devices are specified in terms of EIRP, *i.e.*, a maximum of one watt conducted power plus antenna gain. Thus, the Redline devices could operate with high gain antennas to achieve an EIRP much higher than 100 milliwatts or 1 watt. Additionally, fixed devices can be mounted with both the transmit and receive antennas high above ground to clear terrain and other obstacles to achieve long range, whereas mobile

device antennas are limited to approximately four meters above ground. The Commission expects that a device operating with 100 milliwatts or 1 watt of conducted power would require both high gain transmit and receive antennas and high antenna heights to achieve a range of 50 kilometers.

The Commission decided to limit operation of mobile devices to less congested areas to enable all unlicensed devices, including other white space devices and unlicensed wireless microphones, to have an opportunity to access spectrum in the TV bands. Because mobile devices operate only in "less congested" areas, there will, by definition, be multiple vacant TV channels available where unlicensed wireless microphones can operate, *e.g.*, at least 12 in the UHF band. Thus, if mobile devices operate on one or even several TV channels in an area, there will still be multiple vacant channels available for use by unlicensed wireless microphones where mobile white space devices do not operate. As noted above, the white space database will contain information on geo-fenced areas used for mobile devices, and this information could be used by unlicensed wireless microphone users to determine whether any mobile devices could operate in their area. The Commission also points out that unlicensed wireless microphones operate on an equal basis with white space devices in the TV bands and that neither one has priority over the other. As with all unlicensed devices operating under the Commission's part 15 rules, unlicensed wireless microphones are subject to the condition that they may receive interference—including interference from other unlicensed devices. As such, while the presence of multiple vacant channels in "less congested" areas indicates that there will likely be spectrum available for both white space devices and unlicensed wireless microphones, the unlicensed wireless microphones operate under the same spectrum access provisions as all part 15 unlicensed devices where all such devices have equal access to the spectrum and must accept interference that may be caused by the operation of an authorized radio station, by another intentional or unintentional radiator, by industrial, scientific and medical (ISM) equipment, or by an incidental radiator.

Narrowband Devices

Background. The Commission established a new class of "narrowband white space device" that can be used in IoT applications, which it defined as a type of fixed or personal/portable white

space device operating in a bandwidth of no greater than 100 kilohertz. The Commission's rules require narrowband devices to comply with the same power spectral density (PSD), antenna gain and adjacent channel emission limits as four watt EIRP fixed devices, and limit them to a one percent duty cycle (36 seconds per hour). It also requires narrowband devices to comply with a channelization plan (55 narrowband carriers within the center 5.5 megahertz of a TV channel) which ensures that the maximum instantaneous power within a TV channel can never be greater than four watts EIRP. The Commission noted that because the transmission time is limited to no more than thirty-six seconds per hour, the interference potential of narrowband white space devices will actually be significantly less than that of four-watt EIRP fixed devices, since it is extremely unlikely that devices would transmit at maximum power on all 55 narrowband channels simultaneously, and even if they did, that would occur for no more than 36 seconds per hour. The Commission decided not to limit narrowband device operation to "less congested" areas as suggested by wireless microphone interests, noting that the white space database will ensure that narrowband devices do not operate on channels at locations where registered licensed wireless microphones operate. It also noted that unlicensed wireless microphones must already share spectrum with four watt EIRP white space devices, and that narrowband devices will generally have a significantly lower interference potential in the vast majority of cases.

Shure believes that the Commission erred in authorizing narrowband IoT white space device operations on a nationwide basis. It argues that the Commission failed to justify authorizing a new nationwide class of IoT services within a rural access proceeding and that it did not consider the negative public interest impact nationwide narrowband white space devices will have on coequal unlicensed users scanning for available spectrum. Shure further argues that the Commission failed to consider mitigation measures that would ease the feasibility of coexistence with other spectrum users, such as disclosing the times, locations, and technical operating parameters to the white space database, or requiring IoT devices to incorporate a transmission signal that would enable wireless microphone users to better identify clear and occupied channels. Microsoft responds that the Commission appropriately authorized nationwide IoT mobile device operations and is not

required to restrict these devices to rural areas, and that the rules adopted in the *2020 White Spaces Order and FNPRM* consider and mitigate the impact on coequal unlicensed users.

Discussion. The Commission affirms its decision to allow narrowband devices to operate in all areas and decline to adopt additional requirements for narrowband devices suggested by Shure that are intended to facilitate their detection or that would require additional information to be submitted to the white space database. As an initial matter, the Commission previously noted that narrowband devices have no greater interference potential than four watt EIRP devices, and that as a practical matter their interference potential will be significantly lower because a device is unlikely to transmit on all possible 55 narrowband channels simultaneously, and if it did the transmissions are limited to a one percent maximum duty cycle. Unlicensed wireless microphones are already required to share spectrum with white space devices operating at up to four watts EIRP (outside of “less congested” areas) on an equal basis, and the *2020 White Spaces Order and FNPRM* made no changes to this sharing regime. Unlicensed wireless microphones must accept interference from white space devices, and conversely, white space devices must accept interference from both licensed and unlicensed wireless microphones. However, as discussed below, the Commission expects that there will generally be spectrum available for unlicensed wireless microphones in areas where narrowband white space devices are used, and there are steps that wireless microphone users can take under the current rules to help identify where narrowband devices may be in use.

The Commission disagrees with Shure’s contention that the Commission should not have permitted nationwide deployment of narrowband devices in this proceeding. The fact that this proceeding focuses primarily on rural areas does not preclude the Commission from adopting rules that benefit persons in all areas. While Microsoft noted that several major narrowband IoT use cases and applications are predominately in rural areas, it did not suggest, and the Commission did not propose or even seek comment on whether to limit narrowband white space device operation to only less congested areas. Thus, Shure had notice that the Commission was considering allowing narrowband devices to operate in all areas. In adopting rules to permit the new class of narrowband devices, the

Commission already considered and rejected requests by wireless microphone interests to limit narrowband devices to “less congested” areas, noting that these devices have no greater interference potential than four watt EIRP white space devices that were already permitted to operate in any area.

The Commission expects that there will generally be spectrum available for unlicensed wireless microphones at locations where narrowband devices are used outside of “less congested” areas for several reasons. First, narrowband white space devices must comply with the same separation distances from TV contours and other protected services as four watt EIRP fixed devices. These rules require that a four watt EIRP device operate outside the protected contours of both co-channel and adjacent channel TV stations, which means that a narrowband device can operate only at a location where there are at least three contiguous vacant TV channels, with the white space device operating in the center 6 megahertz channel and both adjacent channels vacant. Thus, at a location where a narrowband white space device is being used outside of a “less congested” area, there will be a minimum of 12 megahertz of spectrum available for wireless microphones that cannot be used by a narrowband white space device. Further, a narrowband white space device would not preclude operation of unlicensed wireless microphones over large distances. Licensed wireless microphones are protected to a one kilometer distance from co-channel white space devices operating with up to ten watts EIRP. Since a narrowband device will generally have a much lower interference potential than a four watt EIRP device, and therefore even less than a ten watt EIRP device, the distance at which it could potentially interfere with wireless microphones will be significantly less than one kilometer.

Because narrowband devices have a lower interference potential than other fixed white space devices with which unlicensed wireless microphones must already share spectrum, and because there will continue to be spectrum available for unlicensed wireless microphones at locations where narrowband devices operate, the Commission declines to adopt additional requirements for narrowband devices as suggested by Shure. The Commission recognizes Shure’s concern about the difficulty in scanning spectrum for the presence of white space devices that transmit for short periods of time, but there is no clear

solution to this concern. The white space rules have never specified any requirements on the time interval over which devices may transmit, and establishing a minimum transmission time to facilitate detection by wireless microphone users could require devices to transmit unnecessarily, potentially affecting battery life in battery-powered devices or impacting the use of spectrum by other white space devices and unlicensed wireless microphones. Similarly, requiring white space devices to transmit a beacon signal could also affect the battery life of battery powered devices, and depending on the nature of the signal transmitted could also impact spectrum use by other white space devices or wireless microphones.

The Commission will not require operators of narrowband devices to register additional information in the white space database. The Commission previously rejected requests to require white space devices to provide additional information to the white space database, including their specific operating channel, in the interest of keeping the rules simple and avoiding the imposition of unnecessary requirements that could hamper innovation. These same considerations lead us to decline to require operators of narrowband devices to register additional information in the white space database. However, unlicensed wireless microphone operators can use the white space database to identify locations where fixed devices, including narrowband devices, are in use. This information is publicly available and can allow unlicensed wireless microphone users to determine whether any fixed devices are in their vicinity, *e.g.*, less than 1 kilometer. In addition, the white space database can provide a list of available channels at an unlicensed wireless microphone’s location, which can indicate where narrowband devices could potentially operate (*i.e.*, groups of three vacant channels) and thus, where they could not.

Report and Order

In this Report and Order, the Commission requires mobile white space devices, which operate on TV channels 2 through 35, to comply with the same hourly database re-check interval that the Commission recently required for most fixed and Mode II personal/portable white space devices. The Commission continues to require narrowband white space devices, which also operate on TV channels 2 through 35, to re-check the white space database once per day rather than once per hour due to their lower potential for causing

harmful interference to protected services in the TV bands, including licensed wireless microphones.

Mobile Devices

Background. Because of the technical similarities between fixed and mobile devices, the Commission proposed in the *2022 White Spaces Order and FNPRM* to require mobile devices to comply with the same hourly database re-check interval as fixed devices (excluding narrowband) that operate in the TV bands to more effectively protect licensed wireless microphones. The Commission also proposed to require mobile devices to comply with the other database re-check requirements for fixed devices (excluding narrowband) in the TV bands, specifically, the requirement to cease operation no more than 120 minutes after the last successful database contact in the event a device is no longer able to successfully contact the database, and the requirement to adjust their use of TV channels in accordance with wireless microphone scheduling information provided by the white space database for the two hour period beginning when the device last contacted the database. The Commission further proposed that any modified rules would become effective six months after publication in the **Federal Register**. NAB, Shure, and Sennheiser support an hourly re-check interval for mobile white space devices, and Shure also suggests decreasing the amount of time that a mobile device can continue to operate from 60 minutes to 10 minutes in the event it is unable to make its hourly contact with the database. Microsoft states that it has no objection to an hourly database re-check requirement for mobile devices.

The Commission will require mobile devices to re-check the white space databases at least once per hour; the same re-check interval required for fixed devices (excluding narrowband). The Commission believes this is an appropriate re-check interval due to the technical similarities between mobile and fixed devices, *e.g.*, maximum transmitter power, power spectral density, antenna gain, requirement to connect to a database to obtain a list of available channels, and protection criteria for other services in the TV bands. The Commission will also require mobile devices to comply with the other database re-check requirements applicable to fixed devices, specifically, the requirement to cease operation no later than 120 minutes after the last successful database contact and the requirement to adjust their use of TV channels in accordance with wireless microphone

scheduling information provided by the white space database for the two hour period beginning when the device last contacted the database. The Commission is implementing this change by removing the mobile device database re-check requirements from § 15.711(k)(9) and replacing them with a cross-reference to § 15.711(h), which will specify the database re-check requirements applicable to fixed, mobile, and Mode II personal/portable devices.

The Commission disagrees with Shure that it is necessary to shorten the time period that a mobile device can continue to operate if it is unable to make its hourly contact with the database. There is 12 megahertz of spectrum available for wireless microphones nationwide in the 600 MHz duplex gap and guard band where they can be immediately operated without advance registration. Further, as discussed above, since mobile white space devices may operate only in “less congested” areas where at least half the TV channels in the band of operation are vacant, there will by definition be at least 12 unused TV channels out of the 23 in the UHF TV band, so there will be multiple TV channels available for wireless microphones in addition to the 12 megahertz of spectrum available nationwide in the 600 MHz duplex gap and guard band. Therefore, a potentially slightly longer time interval for operation after a failed database re-check (60 minutes as opposed to Shure’s suggestion of 10 minutes) should not be problematic for licensed wireless microphone operators as it will not substantially increase the potential of harmful interference because other spectrum is available where licensed wireless microphones can operate until a TV channel occupied by a white space device is cleared. In the case of large events held in “less congested” areas where a licensed wireless microphone operator registers TV channels in advance, this slightly longer time interval is even less likely to be problematic because operators will have the information necessary to register wireless microphones (*e.g.*, location, times, dates, channels required) well in advance of an event, so a small amount of extra time needed to release a channel after registration is insignificant. Finally, the Commission notes that the extra time that a device is permitted to operate beyond a failed database re-check is expected to be an infrequent occurrence limited to those instances when a device is unable to contact the database; it is not a device’s normal mode of operation.

While the Commission proposed a 6-month transition period for parties to comply with a changed database re-check interval for mobile devices, upon further consideration it does not believe that a transition period is necessary since the white space database is not yet capable of supporting mobile devices and there are as of yet no certified mobile white space devices. No party indicated a need for a transition period. Accordingly, the Commission makes the rules changing the database re-check interval for mobile white space devices effective 30 days after publication in the **Federal Register**.

Narrowband Devices

Background. The rules currently require narrowband white space devices to re-check the database at least once daily and permit them to operate until 11:59 p.m. the following day if they are unable to contact the database on a given day. Microsoft previously argued that requiring narrowband fixed white space devices used for IoT applications to comply with an hourly database re-check would negatively impact battery life, limit potential form factors, and increase the cost of those devices. It requests that the Commission maintain its existing requirement that narrowband fixed devices check the white space database once per day to ensure capturing wireless microphone reservations rather than hourly.

The Commission sought comment in the *2022 White Spaces Order and FNPRM* on the database re-check interval that should be required for narrowband white space devices. It sought comment on whether to retain the current requirement for a once daily database check and allow continued operation until 11:59 p.m. the following day if a device is temporarily unable to contact the database, or whether narrowband devices should comply with the same hourly re-check interval as other fixed and Mode II personal/portable devices. The Commission further sought comment on the types of devices to which a different re-check interval should apply, *e.g.*, both fixed and Mode II personal/portable narrowband devices, battery-powered devices only or to AC powered devices as well. It also sought comment on the impact of the database re-check interval on the protection of licensed wireless microphones.

Microsoft, CTA, and OTI/PK support a once daily database re-check requirement for narrowband devices, generally arguing that a more frequent re-check interval (*e.g.*, once per hour) would be overly burdensome, have a negative impact on device design,

including battery life, and is not necessary to prevent harmful interference to licensed wireless microphones. Microsoft and OTI/PK argue that because narrowband devices can only be used in areas where there are at least three contiguous vacant channels, operation will be precluded in urban and most suburban locations, and this three-channel requirement means channels adjacent to one used by a narrowband device will remain available for wireless microphone use. They also argue that the low duty cycle of narrowband devices (36 seconds per hour) further reduces the likelihood of harmful interference to wireless microphones. However, NAB, Shure and Sennheiser support an hourly recheck interval for narrowband devices. NAB does not believe that an hourly recheck is burdensome, while Shure and Sennheiser express concern about the potential for interference to licensed wireless microphones from a longer recheck interval.

The Commission declines to require narrowband white space devices to recheck the database on an hourly basis instead of once daily. However, the Commission believes that modifying the rule to eliminate the grace period that permits narrowband white space devices to operate until 11:59 p.m. the following day if they are unable to successfully contact a database will provide a better balance among competing interests for spectrum access in this band. Instead, the Commission will require narrowband white space devices to successfully contact the database at least once within each 24-hour period it will be operating. Microsoft urges the Commission to retain the current rules specifying a once per day recheck interval along with a grace period permitting continued operation until 11:59 p.m. the following day absent a successful contact with the database. OTI/PK also urges the Commission to retain the current recheck rules for narrowband white space devices. In contrast, Shure notes that operation under the existing rules could result in a white space device operating for a nearly 48-hour period where there is no communication with the database and in addition to modifying the recheck time to once per hour, recommends changing the grace period to 10 minutes. By modifying the rules to eliminate the grace period that could extend narrowband white space device usage up to almost an entire day without contacting the database, the Commission believes it can provide more certainty to wireless microphone

operators regarding their ability to access spectrum to cover late breaking news events without detrimental impact to narrowband white space device operation.

First, with respect to narrowband white space devices, the rules require frequency selection based on accessing a white space database. Inherent in that requirement is the expectation that the device has established a good, stable, long lasting connection with the database. In addition, the Commission is not aware that the database has experienced any significant downtime to date. Thus, the Commission does not foresee many, if any, situations where a narrowband white space device will be impacted by a lack of connectivity to a white space database. Even if a device was unable to contact a database, the Commission notes that it still may transmit for 24-hours since its last successful connection which should provide ample time to transmit any data the device has collected. Moreover, the Commission expects that most IoT information that will be transmitted on these data links is not time critical information and can tolerate some delay in the event that the database cannot be contacted. And in such situations, the Commission does not expect any outages or loss of connection to a database to persist over a significant amount of time. Finally, the Commission notes that as an unlicensed device, narrowband white space devices already operate under a best effort framework with no guarantee regarding quality of service. For these reasons, the Commission does not believe that eliminating the grace period will negatively impact narrowband white space device operation nor does the Commission believe it will alter users' expectations.

The Commission does believe that changing the recheck time to one hour from the current once per day requirement will have significant impact on narrowband white space devices that could render them impractical and deprive their utility to users. As noted by Microsoft, requiring narrowband devices to re-check the database once daily rather than once hourly will provide longer battery life and a smaller form factor for battery-powered devices. Although the transmission time and amount of data sent by a narrowband device when re-checking the database may be small as suggested by NAB, requiring hourly checks will require 24 times the battery power of once daily checks, which could have a negative impact on battery life of very small battery-powered devices. While the Commission has no

specific data regarding the impact on battery size or cost, the Commission notes that many IoT devices (e.g., optical sensors for streetlights or internal sensors embedded in machinery) are designed to be very small due to environmental constraints (e.g., size of the structure or machine they are attached to) and correspondingly necessitate small batteries that must last for long periods of time as the IoT device's location may make replacement difficult and costly. Thus, size and form factor are essential characteristics that may drive device design and in turn limit maximum battery size. Given that a battery's capacity is at maximum levels at installation, decreases over time with use, and that more use intuitively causes the battery to drain faster and necessitate replacement sooner, the Commission agrees with Microsoft that the Commission's rules should accommodate such applications. The alternative would be either larger devices that cannot be installed where needed or devices that have inadequate battery life and must be serviced more frequently which could be costly and may be impractical for many locations.

The Commission believes that by making this change, it will provide a more predictable spectrum environment for wireless microphones and continue to maintain a low potential for harmful interference. As an initial matter, the Commission notes that licensed wireless microphones have access to a registration system in which users can preregister locations to ensure that white space devices do not operate on certain television channels during specific times. In contrast, unlicensed wireless microphones operate on an equal basis with white space devices and neither device type has any spectral rights over the other. The Commission also notes that wireless microphones are generally used for two types of events—preplanned events known well in advance (such as sporting events, concerts, shows and conventions) and late breaking events (such as on-site news reporting). For the former case, the Commission expects licensed wireless microphone users to use the tools available to them and register their usage well in advance of these events to ensure that the television channels they intend to use are clear when they need them. With respect to the latter case, wireless microphone users have always operated in an environment where many microphone users converge on an area and on-the-scene frequency coordination and management must be accomplished in real time; users often

have flexibility to choose among several television channels on which to tune their microphones. In such situations, the Commission's rules ensure that ample spectrum should be available even if a narrowband white space device is operating nearby.

Because narrowband white space devices must comply with the same separation distances from co-channel and adjacent channel TV station contours as four-watt fixed white space devices, they may only operate when there are at least three contiguous television channels available and may not operate on the lowest or highest channel. Thus, for late breaking events where licensed microphone users may not have ample time to register their usage, there will still be spectrum available. Wireless microphones could operate on the available television channels adjacent to the channel being used by the narrowband white space device, or on any other vacant TV channels where narrowband devices cannot operate, *i.e.*, channels on which one or both of the adjacent channels are occupied. In addition, as noted above other spectrum will also be available for wireless microphone usage, including 12 megahertz in the 600 MHz guard band and duplex gap. In all cases, fixed white space devices, including narrowband devices, must be registered in the white space database and those registrations are publicly available, thus allowing prospective wireless microphone users to determine the precise locations where fixed narrowband devices are in use. The white space database can also show which channels cannot be used by narrowband devices, *i.e.*, those where four-watt fixed devices cannot operate due to occupied adjacent channels and thus, are available for microphone use.

For late breaking events where licensed microphone users are unable to preregister their usage, it is not apparent that changing the database recheck requirement from once per day to once per hour would result in any difference regarding the channels on which narrowband white space devices operate as in many cases, microphone users may not be able to register their usage at all as they are focused on getting to the scene, not on registering their usage. However, even in instances where a wireless microphone may operate in the vicinity of a narrowband white space device, the potential for harmful interference is low. As discussed above, the interference potential of a narrowband device is significantly less than that of a four watt EIRP device due to the fact that it operates intermittently with narrowband carriers with a duty

cycle of less than one percent. These rules working in tandem will provide a spectrum environment where wireless microphones users, that for whatever reason cannot operate on one of the available channels or chooses not to, will be able to operate in close proximity to a narrowband white space device without experiencing any detrimental effect. In this regard, the Commission's rules require fixed white space devices operating at up to 40 dBm (10 watts) EIRP to maintain a 1 kilometer buffer from registered wireless microphone locations. Narrowband white space devices operate with maximum 18.6 dBm/100 kHz EIRP. In the unlikely situation that all narrowband channels are in use at any given time, the total equivalent energy is no worse than a 36 dBm (4 watts) white space device and the duration of any such situation will be extremely short due to the one percent duty cycle limit. Also, because the rule requiring geographic separation is based on devices operating at maximum antenna height (250 meters generally and 500 meters in less congested areas) and devices operating at lower antenna heights have shorter line-of-sight distance and experience more clutter losses, coupled with the extremely low potential of all narrowband white space devices operating at the same time, the Commission expects that wireless microphones will be able to operate without experiencing harmful interference at much closer distances. Due to this low interference potential, the Commission does not see a need to require a more frequent database re-check interval than once daily. Sennheiser does not clearly state why it believes narrowband devices have a higher potential for causing interference than other white space devices. Also, the primary use case of narrowband devices is in rural and other less populated areas where there is less likelihood that one will be used in close proximity to a licensed wireless microphone. The fact that narrowband devices can operate only at locations where there are three contiguous channels will help ensure that they are used only in areas where there are fewer TV stations in operation and thus more spectrum available for wireless microphones.

In sum, the Commission finds that a once daily database check will facilitate a wide variety of IoT devices, will not affect the potential for narrowband white space devices to cause harmful interference and will continue to allow widespread wireless microphone use. The Commission is therefore

maintaining the current daily re-check interval for all types of narrowband devices (*e.g.*, AC and battery-powered). No party indicated a need for different requirements for different types of devices. The Commission finds that an hourly re-check interval is not necessary for narrowband devices due to the very low likelihood of them to cause harmful interference to licensed wireless microphones and because other protected services in the TV bands such as broadcast TV change operating parameters on a less frequent basis. In the rare event of a conflict between narrowband white space devices and licensed wireless microphones used in applications that require immediate spectrum access, there will typically be other spectrum available where the microphones can operate until a newly registered TV channel is cleared of white space devices. In cases where a channel is reserved more than a day in advance for large planned events, a daily re-check interval will be sufficient to ensure that licensed wireless microphones have access to that TV band spectrum. However, to better accommodate licensed microphone usage when such usage is registered a day in advance, the Commission is eliminating the grace period that would otherwise permit narrowband white space devices to operate until 11:59 p.m. the following day if it does not successfully contact a database. The Commission finds that due to the expected use cases for narrowband white space devices, such a change will not adversely impact their ability to deliver their intended services. Accordingly, the Commission is modifying the rules to require narrowband white space devices to successfully contact a database at least once every 24-hours or cease operating until such time at it does communicate with a database and obtains an up-to-date available channel list.

Memorandum Opinion and Order

In this Memorandum Opinion and Order, the Commission declines to allow the white space database to use terrain-based models, such as the Longley-Rice Irregular Terrain Model (Longley-Rice) to determine which TV channels are available for white space device operation at a particular location. The Commission instead requires that white space databases continue to use only the current model for determining TV channel availability.

Background

Under current rules, white space devices must generally operate outside the defined protected contours of co-

channel and adjacent channel TV stations. The rules provide a table of separation distances beyond the protected contour that white space devices must meet that is based on the white space device's EIRP and HAAT. These distances are based on a desired-to-undesired (D/U) signal ratio of 23 dB at the edge of the protected contour for co-channel operation, and -33 dB at the edge of the protected contour for adjacent channel operation, with a 14 dB allowance for TV receive antenna front-to-back ratio.

The Longley-Rice propagation model is used to make predictions of radio signal field strength using the median attenuation calculated as a function of distance and the signal variability in time and space. The model can be run in point-to-point mode where it examines a specific radio signal path between a transmitter and a receiver, or in area mode in which it predicts field strength at many geographic points within a specified area. Each operational mode uses a terrain elevation profile in making predictions; in the point-to-point mode path-specific parameters can be determined from the terrain profile between the transmitter and receiver, and in area mode the elevation profile between the transmitter and each specific reception point is examined. The model may require a large number of reception points to be individually examined. It also requires a large set of input parameters encompassing system parameters (e.g., frequency, polarization, antenna heights), environmental parameters (e.g., terrain irregularity, electrical ground constants, surface refractivity, climate information), deployment parameters, and statistical parameters (e.g., reliability and confidence level). Based on the predicted radio signal attenuation and using additional factors such as transmitter power and antenna directivity, the D/U signal ratio can be estimated and compared against the 23 dB co-channel and -33 dB adjacent channel standards used as the basis when developing the white space device rules to predict whether harmful interference is likely to occur to television reception.

In the *2020 White Spaces Order and FNPRM*, the Commission sought comment on whether the use a terrain-based model such as Longley-Rice for determining white space channel availability would better serve the white space device community as well as television broadcasters and other protected entities in the television bands. In particular, it sought comment on how the Longley-Rice propagation

model could be used to determine available white space channels and whether it could be used to protect other services in the TV bands (e.g., licensed wireless microphones, translator receive sites, land mobile stations) in addition to TV. The Commission also sought comment on whether the use of a terrain-based model should be mandatory or an optional alternative to the current protection model and on the technical parameters that would be necessary to use such a model for identifying available spectrum while protecting incumbents from harmful interference. In addition, the Commission sought comment on various white space database and device implementation issues that would need to be addressed if the Commission were to allow or require use of a terrain-based model.

Unlicensed proponents support permitting the use of terrain-based models by white space database administrators as an optional alternative to the current model. These parties generally argue that the current protection model can be overly conservative and that permitting terrain-based models would make more spectrum available for white space devices. They also state that the increased computer resources to make the calculations are not an issue with current technology. Microsoft suggests limiting use of terrain-based models to locations outside of a TV station's protected contour, while WISPA and DSA suggest also allowing use within an adjacent channel station's protected contour. RED Technologies, the only currently active white space database administrator, suggests using a terrain-based model only for the purpose of calculating TV station protected contours and leaving the current separation distances beyond the contour unchanged.

TV broadcast interests oppose allowing the use of terrain-based models by the white space database due to concerns about interference to TV reception. Commenters argue that a terrain-based model does not work well for protecting individual TV receivers. Commenters also argue that now is not a good time to change the white space protection requirements due to TV broadcasters transitioning to ATSC 3.0 and recent rule changes regarding distributed transmission systems and white space devices.

Discussion. The Commission declines at this time to permit use of terrain-based models in place of, or as an alternative to, the current method of protecting TV and other services using minimum distance separations from

defined protected service contours or defined geographic points. The Commission finds that it lacks a sufficient record to adopt rules on issues such as whether a terrain-based model is an appropriate method for protecting TV services from white space devices, and if so, the exact technical parameters that would need to be specified to implement the model, whether a terrain-based model should be used only outside of a TV station's protected contour or whether it could also be used within a protected contour, whether it should be used only for protecting TV services or for protecting other services as well (e.g., land mobile stations, licensed wireless microphones).

The record does not show whether allowing use of a more complex terrain-based model for determining channel availability would yield any significant increase in spectrum for white space devices. While unlicensed interests state that this could be the case in some instances, no party provided analysis to substantiate this claim. TV spectrum available for white space devices became more limited after the broadcast incentive auction due to the reduction in size of the UHF TV band and the repacking of UHF TV stations into the remaining portion of the band (channels 14 through 36). The need to protect adjacent channel TV stations means that a fixed white space device may operate at higher power levels (up to four watts EIRP generally, 16 watts EIRP in "less congested" areas) only at locations where there are at least three contiguous vacant channels, with the white space device operating on the center channel and both adjacent channels vacant. After the incentive auction, there are fewer groups of three vacant TV channels in most areas, particularly in urban and suburban areas, as well as fewer single or pairs of vacant TV channels where white space devices could operate at lower power levels. There is no evidence in the record that allowing the use of terrain-based models to determine white space channel availability could address these spectrum limitations.

The record does not adequately address broadcaster concerns that terrain-based models are not an appropriate method of determining white space channel availability and that their use could result in harmful interference to TV. While the Commission does not conclude that terrain-based models are necessarily inappropriate for determining white space channel availability, it notes that there are differences between how these models are currently used as compared to their potential use in determining

white space channel availability. For example, the Longley-Rice methodology is used by the Commission for evaluating TV service coverage and interference within a TV station's protected contour. The area within a protected contour is divided into a grid with 1 kilometer by 1 kilometer cells and the station's coverage and any interference received from other TV stations are calculated at a single point within each grid cell. While the Commission has successfully used this method for determining TV station coverage, it is not clear from the record that it is sufficiently precise to be used in determining white space channel availability since TV receivers are spread over a wide area where their locations are not known, which increases the possibility of interference if a terrain-based model cannot accurately predict TV signal levels at all potentially affected receiver locations. There are also differences in the interference environment for TV reception compared to other applications where the Commission allows calculation of potential interference using terrain-based models, such as for unlicensed devices in the 6 GHz bands and devices in the Citizens Broadband Radio Service. The record lacks sufficient information on these differences and how broadcasters' interference concerns could be addressed.

The Commission also believes that implementing terrain-based models could create burdens on the white space database administrator, the Commission and other parties. The white space database administrator would have to develop and test new, more complex computer code to determine channel availability and also to upgrade its computer system. Even after updated code is developed, the Commission or another party, *e.g.*, a test laboratory, would have to test and validate that the code provides accurate channel availability information. Because there is currently only one active white space database administrator and fewer than 300 registered fixed devices, the implementation costs, including any third party testing, would have to be spread over a relatively small user base or borne by the white space database administrator. In comparison, there are five spectrum access system (SAS) administrators in the Citizens Broadband Radio Service with hundreds of thousands of devices in use, and the Commission recently conditionally approved thirteen 6 GHz automated frequency coordination system (AFC) operators and the Commission expects

that 6 GHz device deployment will substantially exceed white space device deployment due to the greater amount of spectrum available. The Commission notes that the white space database administrator suggests only a very limited implementation of a terrain-based model, specifically, to calculate TV station protected contours while making no other changes to the current protection model.

In sum, while the Commission believes the use of a terrain-based propagation model for calculating whether the potential for causing harmful interference exists is appropriate in some instances, it is not clear that it would be beneficial to allow use of a terrain-based model in determining white space channel availability. As noted above, there are unresolved interference concerns as well as implementation costs that may outweigh any potential benefits of the changes. Further, there is already a simple, well-defined model for determining white space channel availability which no party argues is inadequate for protecting services in the TV bands. For these reasons, the Commission declines at this time to permit the use of terrain-based models in determining white space channel availability.

Rule correction. The Commission is making a ministerial correction to § 15.713(e)(6) of the rules, which contains a requirement that white space databases not provide a list of available channels to fixed white space devices that exceed specific antenna height limits.

Prior to 2019, fixed white space devices were generally limited to a maximum antenna height above ground of 30 meters and a maximum HAAT of 250 meters. In the 2019 *White Spaces Order on Reconsideration*, the Commission raised the antenna height above ground limit to 100 meters in "less congested" areas while retaining the 30 meter height above ground and 250 meter HAAT limits in all other areas. In the 2020 *White Spaces Order and FNPRM*, the Commission increased the HAAT limit to 500 meters in "less congested" areas, retained the 250 meter HAAT limit in all other areas, and removed the antenna height above ground limit for most fixed white space devices. The Commission revised §§ 15.709(g)(1) and 15.713(e)(6) to reflect these decisions, but in doing so it inadvertently continued to include an outdated reference to the former 30 meter antenna height above ground limit in § 15.713(e)(6). Accordingly, the Commission modifies § 15.713(e)(6) to remove this reference and conform the

text of the rule to the Commission's decision.

Ordering Clauses

Accordingly, *it is ordered* that, pursuant to the authority contained in sections 4(i), 302, 303(b), (c), (e), (f), (r), and 307 of the Communications Act of 1934, as amended, and sections 6403 and 6407 of the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 126 Stat. 156, 47 U.S.C. 154(i), 302, 303(b), (c), (e), (f), (r), 307, 1452, 1454, this Order on Reconsideration, Report and Order, and Memorandum Opinion and Order *is hereby adopted*.

It is further ordered that the petition for reconsideration filed by Shure Incorporated on February 11, 2021 in ET Docket No. 20–36 *is dismissed in part* on procedural grounds and, as an independent and alternative basis, *denied*.

It is further ordered that the amendments of the Commission's rules as set forth in Appendix A *are adopted*, effective thirty days from the date of publication in the **Federal Register**.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Order on Reconsideration, Report and Order, and Memorandum Opinion and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Order on Reconsideration, Report and Order, and Memorandum Opinion and Order, including the Final Regulatory Flexibility Analysis, to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 15

Communications equipment.

Federal Communications Commission.

Marlene Dortch,
Secretary.

Final Rules

For the reasons set forth in the preamble, the Federal Communications Commission amends 47 CFR part 15 as follows:

PART 15—RADIO FREQUENCY DEVICES

■ 1. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a, and 549.

■ 2. Amend § 15.711 by revising paragraph (h)(1) introductory text and paragraph (h)(2) introductory text, adding paragraph (h)(3) and revising paragraph (k)(9) to read as follows:

§ 15.711 Interference avoidance methods.

* * * * *

(h) * * *

(1) Mobile devices and fixed and Mode II personal/portable devices, excluding narrowband devices, operating in the television bands.

* * * * *

(2) Fixed and Mode II personal/portable devices operating outside of the television bands.

* * * * *

(3) Narrowband devices operating in the television bands.

(i) A device that has been in a powered-on state shall access the database at least once each 24-hour period to verify that the operating channel(s) and associated maximum power levels continue to be available at its location.

(ii) A device must cease operating if it fails to successfully access the database once 24 hours from its last successful contact elapses until it re-establishes contact with the white space database and re-verifies its list of available channels and corresponding power levels.

* * * * *

(k) * * *

(9) A mobile white space device shall access the database at least as frequently as specified in paragraph (h) of this section to verify that the operating

channel(s) and corresponding power levels continue to remain available.

* * * * *

■ 3. Amend § 15.713 by revising paragraph (e)(6) to read as follows:

§ 15.713 White space database.

* * * * *

(e) * * *

(6) A fixed device with an antenna height above average terrain (HAAT) that exceeds 250 meters generally, or 500 meters in less congested areas, shall not be provided a list of available channels. The HAAT is to be calculated using computational software employing the methodology in § 73.684(d) of this chapter.

* * * * *

[FR Doc. 2023-10166 Filed 5-19-23; 8:45 am]

BILLING CODE 6712-01-P

Proposed Rules

Federal Register

Vol. 88, No. 98

Monday, May 22, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 52

[NRC-2023-0088]

Draft Regulatory Guide: Qualification of Safety-Related Actuators in Production and Utilization Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft regulatory guide (DG), DG-1386, "Qualification of Safety-Related Actuators in Production and Utilization Facilities." This DG is the proposed Revision 2 of Regulatory Guide (RG) 1.73 "Qualification Tests for Safety-Related Actuators in Nuclear Power Plants." This DG describes an approach that is acceptable to the staff of the NRC to meet regulatory requirements for the environmental qualification of safety related actuators in production and utilization facilities. It endorses, with exceptions, additions, and clarifications, the Institute of Electrical and Electronics Engineers (IEEE) Standard (Std.) 382-2019, "IEEE Standard for Qualification of Safety-Related Actuators for Nuclear Power Generating Stations and Other Nuclear Facilities."

DATES: Submit comments by June 21, 2023. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2023-0088. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann;

telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Kayleh Hartage, Office of Nuclear Reactor Regulation, telephone: 301-415-3563; email: Kayleh.Hartage@nrc.gov and Amir Mobasheran, Office of Nuclear Regulatory Research, telephone: 301-415-8112; email: Amir.Mobasheran@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2023-0088 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2023-0088.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to PDR.Resource@nrc.gov. The DG-1386, titled "Qualification of Safety-Related Actuators in Production and Utilization Facilities" is available in ADAMS under Accession No. ML23055B024.

- *NRC's PDR:* You may examine and purchase copies of public documents,

by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2023-0088 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's "Regulatory Guide" series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

The DG, entitled "Qualification of Safety-Related Actuators in Production and Utilization Facilities," is temporarily identified by its task number, DG-1386.

DG-1386 is proposed Revision 2 of RG 1.73. The proposed revision

endorses, with exceptions, additions, and clarifications the methods described in IEEE Std. 382–2019, as an acceptable process for demonstrating compliance with the applicable NRC regulations for the environmental qualification of safety-related power operated valve actuators in production and utilization facilities.

The staff is also issuing for public comment a draft regulatory analysis available in ADAMS under Accession No. ML23055B028. The staff developed a regulatory analysis to assess the value of issuing or revising a regulatory guide as well as alternative courses of action.

As noted in the **Federal Register** on December 9, 2022 (87 FR 75671), this document is being published in the “Proposed Rules” section of the **Federal Register** to comply with publication requirements under chapter I of title 1 of the *Code Federal Regulations* (CFR).

III. Backfitting, Forward Fitting, and Issue Finality

Issuance of DG–1386, if finalized, would not constitute backfitting as defined in 10 CFR 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests”; affect issue finality of any approval issued under 10 CFR part 52, “Licenses, Certificates, and Approvals for Nuclear Power Plants”; or constitute forward fitting as defined in MD 8.4, because, as explained in this DG, licensees would not be required to comply with the positions set forth in this DG.

IV. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC’s public website at <https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html>. Suggestions will be considered in future updates and enhancements to the “Regulatory Guide” series.

Dated: May 17, 2023.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

Chief, Regulatory Guide and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2023–10834 Filed 5–19–23; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AF93

Special Assessments Pursuant to Systemic Risk Determination

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is seeking comment on a proposed rule that would impose special assessments to recover the loss to the Deposit Insurance Fund (DIF or Fund) arising from the protection of uninsured depositors in connection with the systemic risk determination announced on March 12, 2023, following the closures of Silicon Valley Bank, Santa Clara, CA, and Signature Bank, New York, NY, as required by the Federal Deposit Insurance Act (FDI Act). The assessment base for the special assessments would be equal to an insured depository institution’s (IDI) estimated uninsured deposits, reported as of December 31, 2022, adjusted to exclude the first \$5 billion in estimated uninsured deposits from the IDI, or for IDIs that are part of a holding company with one or more subsidiary IDIs, at the banking organization level. The FDIC is proposing to collect special assessments at an annual rate of approximately 12.5 basis points, over eight quarterly assessment periods, which it estimates will result in total revenue of \$15.8 billion. Because the estimated loss pursuant to the systemic risk determination will be periodically adjusted, the FDIC would retain the ability to cease collection early, extend the special assessment collection period one or more quarters beyond the initial eight-quarter collection period to collect the difference between actual or estimated losses and the amounts collected, and impose a final shortfall special assessment on a one-time basis after the receiverships for Silicon Valley Bank and Signature Bank terminate. The FDIC is proposing an effective date of January 1, 2024, with special assessments collected beginning with the first quarterly assessment period of 2024 (*i.e.*, January 1 through March 31, 2024, with an invoice payment date of June 28, 2024).

DATES: Comments must be received on or before July 21, 2023.

ADDRESSES: Interested parties are invited to submit written comments, identified by RIN 3064–AF93, by any of the following methods:

- *Agency Website:* <https://www.fdic.gov/resources/regulations/>

federal-register-publications/. Follow the instructions for submitting comments on the agency website.

- *Email:* comments@fdic.gov. Include RIN 3064–AF93 in the subject line of the message.

- *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Comments–RIN 3064–AF93, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7 a.m. and 5 p.m.

- *Public Inspection:* Comments received, including any personal information provided, may be posted without change to <https://www.fdic.gov/resources/regulations/federal-register-publications/>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this document will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Division of Insurance and Research: Michael Spencer, Associate Director, Financial Risk Management Branch, 202–898–7041, michspencer@fdic.gov; Kayla Shoemaker, Acting Chief, Banking and Regulatory Policy, 202–898–6962, kashoemaker@fdic.gov; Legal Division: Sheikha Kapoor, Senior Counsel, 202–898–3960, skapoor@fdic.gov; Ryan McCarthy, Counsel, 202–898–7301, rymccarthy@fdic.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 10, 2023, Silicon Valley Bank was closed by the California Department of Financial Protection and Innovation, followed by the closure of Signature Bank by the New York State Department of Financial Services. The

FDIC was appointed as the receiver for both institutions.^{1 2}

Section 13(c)(4)(G) of the FDI Act permits the FDIC to take action or provide assistance to an IDI for which the FDIC has been appointed receiver as necessary to avoid or mitigate adverse effects on economic conditions or financial stability, following a recommendation by the FDIC Board of Directors (Board), with the written concurrence of the Board of Governors of the Federal Reserve System (Board of Governors), and a determination of systemic risk by the Secretary of the U.S. Department of Treasury (Treasury) (in consultation with the President).³

On March 12, 2023, the Secretary of the Treasury, acting on the recommendation of the FDIC Board and Board of Governors and after consultation with the President, invoked the statutory systemic risk exception to allow the FDIC to complete its resolution of both Silicon Valley Bank and Signature Bank in a manner that fully protects all depositors.⁴ The full protection of all depositors, rather than imposing losses on uninsured depositors, was intended to strengthen public confidence in the nation's banking system.

On March 12 and 13, 2023, the FDIC transferred all deposits—both insured and uninsured—and substantially all assets of these banks to newly created, full-service FDIC-operated bridge banks, Silicon Valley Bridge Bank, N.A. (Silicon Valley Bridge Bank) and Signature Bridge Bank, N.A. (Signature Bridge Bank), in an action designed to protect all depositors of these banks.⁵

¹ FDIC PR–16–2023. “FDIC Creates a Deposit Insurance National Bank of Santa Clara to Protect Insured Depositors of Silicon Valley Bank, Santa Clara, California.” March 10, 2023. <https://www.fdic.gov/news/press-releases/2023/pr23016.html>.

² FDIC PR–18–2023. “FDIC Establishes Signature Bridge Bank, N.A., as Successor to Signature Bank, New York, NY.” March 12, 2023. <https://www.fdic.gov/news/press-releases/2023/pr23018.html>.

³ 12 U.S.C. 1823(c)(4)(G). As used in this proposed rule, the term “bank” is synonymous with the term “insured depository institution” as it is used in section 3(c)(2) of the FDI Act, 12 U.S.C. 1813(c)(2).

⁴ 12 U.S.C. 1823(c)(4)(G). See also: FDIC PR–17–2023. “Joint Statement by the Department of the Treasury, Federal Reserve, and FDIC.” March 12, 2023. <https://www.fdic.gov/news/press-releases/2023/pr23017.html>. See also: “Remarks by Chairman Martin J. Gruenberg on Recent Bank Failures and the Federal Regulatory Response before the Committee on Banking, Housing, and Urban Affairs, United States Senate.” March 27, 2023. <https://www.fdic.gov/news/speeches/2023/spmar2723.html>.

⁵ A bridge bank is a chartered national bank that operates under a board appointed by the FDIC. It assumes the deposits and certain other liabilities and purchases certain assets of a failed bank. The

The transfer of all deposits was completed under the systemic risk exception declared on March 12, 2023.

On March 19, 2023, the FDIC announced it entered into a purchase and assumption agreement for substantially all deposits and certain loan portfolios of Signature Bridge Bank.⁶ On March 27, 2023, the FDIC entered into a purchase and assumption agreement for all deposits and loans of Silicon Valley Bridge Bank. This announcement also disclosed that the FDIC and First-Citizens Bank & Trust Company (First Citizens) entered into a loss-share transaction on the commercial loans it purchased from Silicon Valley Bridge Bank.⁷

II. Legal Authority and Policy Objectives

Under section 13(c)(4)(G) of the FDI Act, the loss to the DIF arising from the use of a systemic risk exception must be recovered from one or more special assessments on IDIs, depository institution holding companies (with the concurrence of the Secretary of the Treasury with respect to holding companies), or both, as the FDIC determines to be appropriate.⁸ As required by the FDI Act, the proposed special assessment, detailed below, is intended and designed to recover the losses to the DIF incurred as the result of the actions taken by the FDIC to protect the uninsured depositors of Silicon Valley Bank and Signature Bank following a determination of systemic risk.⁹

Section 13(c)(4)(G) of the FDI Act provides the FDIC with discretion in the design and timeframe for any special assessments to recover the losses to the DIF as a result of the systemic risk determination. As detailed in the sections that follow, in implementing special assessments under section 13(c)(4)(G) of the FDI Act, the FDIC

bridge bank structure is designed to “bridge” the gap between the failure of a bank and the time when the FDIC can stabilize the institution and implement an orderly resolution.

⁶ FDIC PR–21–2023. “Subsidiary of New York Community Bancorp, Inc. to Assume Deposits of Signature Bridge Bank, N.A., From the FDIC.” March 19, 2023. <https://www.fdic.gov/news/press-releases/2023/pr23021.html>. The purchase and assumption agreement did not include approximately \$4 billion of deposits related to the former Signature Bank's digital-asset banking business. The FDIC announced that it would provide these deposits directly to customers whose accounts are associated with the digital-asset banking business.

⁷ FDIC PR–23–2023. “First-Citizens Bank & Trust Company, Raleigh, NC, to Assume All Deposits and Loans of Silicon Valley Bridge Bank, N.A., From the FDIC.” March 26, 2023. <https://www.fdic.gov/news/press-releases/2023/pr23023.html>.

⁸ 12 U.S.C. 1823(c)(4)(G)(i)(I).

⁹ 12 U.S.C. 1823(c)(4)(G)(ii)(III).

considered the types of entities that benefit from any action taken or assistance provided under the determination of systemic risk, economic conditions, the effects on the industry, and such other factors as the FDIC deemed appropriate and relevant to the action taken or assistance provided.¹⁰

III. Description of the Proposed Rule

A. Summary

The FDIC is seeking comment on a proposed rule that would impose special assessments to recover the loss to the DIF arising from the protection of uninsured depositors in connection with the systemic risk determination announced on March 12, 2023, following the closures of Silicon Valley Bank and Signature Bank, as required by the FDI Act. The total amount collected for the special assessments would be approximately equal to the losses attributable to the protection of uninsured depositors at these two failed banks, which are currently estimated to total \$15.8 billion.

The FDIC proposes an annual special assessment rate of approximately 12.5 basis points. The assessment base for the special assessments would be equal to an IDI's estimated uninsured deposits as reported in the Consolidated Reports of Condition and Income (Call Report) or Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) as of December 31, 2022, with certain adjustments. The special assessments would be collected over an eight-quarter collection period, at a quarterly special assessment rate of 3.13 basis points. Over such collection period, the FDIC estimates that it would collect an amount sufficient to recover estimated losses attributable to the protection of uninsured depositors of Silicon Valley Bank and Signature Bank, which are currently estimated to total \$15.8 billion, totaling approximately \$2.0 billion per quarter.

The assessment base for the special assessments would be adjusted to exclude the first \$5 billion from estimated uninsured deposits reported as of December 31, 2022, applicable either to the IDI, if an IDI is not a subsidiary of a holding company, or at the banking organization level, to the extent that an IDI is part of a holding company with one or more subsidiary IDIs.¹¹

¹⁰ 12 U.S.C. 1823(c)(4)(G)(ii)(III).

¹¹ As used in this proposal, the term “banking organization” includes IDIs that are not subsidiaries of a holding company as well as holding companies with one or more subsidiary IDIs.

If an IDI is part of a holding company with one or more subsidiary IDIs, the \$5 billion deduction would be apportioned based on its estimated uninsured deposits as a percentage of total estimated uninsured deposits held by all IDI affiliates in the banking organization.^{12 13}

The estimated loss attributable to the protection of uninsured depositors pursuant to the systemic risk determination is currently estimated to total \$15.8 billion. However, as with all failed bank receiverships, this estimate will be periodically adjusted as assets are sold, liabilities are satisfied, and receivership expenses are incurred. The exact amount of losses incurred will be determined when the FDIC terminates the receiverships.

If, prior to the end of the eight-quarter collection period, the FDIC expects the loss to be lower than the amount it expects to collect from the special assessments, the FDIC would cease collection in the quarter after it has collected enough to recover actual or estimated losses. Alternatively, if at the end of the eight-quarter collection period, the estimated or actual loss exceeds the amount collected, the FDIC would extend the collection period over one or more quarters, as needed, to recover the difference between the amount collected and the estimated or actual loss, at a rate that would not exceed the 3.13 basis point quarterly special assessment rate applied during the initial eight-quarter collection period.

Receiverships are terminated once the FDIC has completed the disposition of the receivership's assets and has resolved all obligations, claims, and other impediments. The termination of the receiverships to which the March 12, 2023, systemic risk determination applied may occur years after the initial eight-quarter collection period and any extended collection period. In the likely event that the final loss amount at the termination of the receiverships is not determined until after the special assessments have been collected, and if the actual losses calculated as of the

¹² As used in this proposal, the term "affiliate" has the same meaning as defined in section 3 of the FDIC Act, 12 U.S.C. 1813(w)(6), which references the Bank Holding Company Act ("any company that controls, is controlled by, or is under common control with another company"). See 12 U.S.C. 1841(k).

¹³ IDIs with less than \$1 billion in total assets as of June 30, 2021, were not required to report the estimated amount of uninsured deposits on the Call Report for December 31, 2022. Therefore, for IDIs that had less than \$1 billion in total assets as of June 30, 2021, the amount and share of estimated uninsured deposits as of December 31, 2022, would be zero.

termination of the receiverships exceed the amount collected through such special assessments, the FDIC would impose a one-time final shortfall special assessment to collect the amount of actual losses in excess of the amount of special assessments collected, if any.

B. Estimated Special Assessment Amount

By statute, the FDIC is required to recover through special assessments any losses to the DIF incurred as a result of the actions of the FDIC pursuant to the determination of systemic risk, which, in the case of the determination pursuant to the closures of Silicon Valley Bank and Signature Bank, was to protect uninsured depositors.¹⁴ To determine the amount of the cost of the failures attributable to the cost of covering uninsured deposits, the FDIC determined the percentage of deposits that were uninsured at the time of failure and applied that percentage to the total cost of the failure for each bank. At Signature Bank, for which 67 percent of deposits were uninsured at the point of failure, the portion of the total estimated loss of \$2.4 billion that is attributable to the protection of uninsured depositors is \$1.6 billion.

At Silicon Valley Bank, for which 88 percent of deposits were uninsured at the point of failure, the portion of the total estimated loss of \$16.1 billion that is attributable to the protection of uninsured depositors is \$14.2 billion. The cost estimate for the sale of the Silicon Valley Bridge Bank to First Citizens has been revised from the original estimate of \$20.0 billion to approximately \$16.1 billion due to a decrease in the amount of liabilities assumed by First Citizens relative to the initial estimate, higher anticipated recoveries from certain other assets in receivership, and an increase in the market value of receivership securities. This revised cost estimate forms the basis for the Silicon Valley Bank portion of the current special assessment calculation, and, as with all failed bank receiverships, will be periodically adjusted as assets are sold, liabilities are satisfied, and receivership expenses are incurred. As noted below, the amount of the special assessment will be adjusted as the loss estimate changes.

In total, of the \$18.5 billion in estimated losses at the two banks and incurred by the DIF in the first quarter of 2023, the estimated loss attributable to the protection of uninsured depositors was \$15.8 billion.

¹⁴ 12 U.S.C. 1823(c)(4)(G)(ii).

C. Rate for the Special Assessments

Under the proposal, the FDIC would impose a special assessment equal to approximately 12.5 basis points annually. The special assessment rate was derived by dividing the current loss estimate attributable to the protection of uninsured depositors of \$15.8 billion by the proposed assessment base calculated for all IDIs subject to special assessments as of December 31, 2022, totaling \$6.3 trillion. As described in detail below, the proposed assessment base is equal to estimated uninsured deposits reported as of December 31, 2022, after applying the \$5 billion deduction. The resulting rate is then divided by two to reflect the two year (eight-quarter) collection period, as described below, resulting in an annual rate of approximately 12.5 basis points, or a quarterly rate of 3.13 basis points. The special assessment rate is subject to change prior to any final rule depending on any adjustments to the loss estimate, mergers or failures, or amendments to reported estimates of uninsured deposits.¹⁵ Over the eight-quarter collection period, the FDIC estimates that it would collect an amount sufficient to recover estimated losses attributable to the protection of uninsured depositors of Silicon Valley Bank and Signature Bank, which are currently estimated to total \$15.8 billion, totaling approximately \$2.0 billion per quarter.

D. Assessment Base for the Special Assessments

Under the proposal, each IDI's assessment base for the special assessments would be equal to estimated uninsured deposits as reported in the Call Report or FFIEC 002 as of December 31, 2022, with certain adjustments.¹⁶ The assessment base for the special assessments would be adjusted to exclude the first \$5 billion from estimated uninsured deposits reported as of December 31, 2022, applicable either to the IDI, if an IDI is not a subsidiary of a holding company,

¹⁵ Estimates of the special assessment rate and expected effects in this proposed rule generally reflect any amendments to data reported through February 21, 2023, for the reporting period ending December 31, 2022. Given the closure of First Republic Bank, San Francisco, CA announced on May 1, 2023, estimates in this proposed rule exclude First Republic Bank in addition to Silicon Valley Bank and Signature Bank. See FDIC: PR-34-2023. "JPMorgan Chase Bank, National Association, Columbus, Ohio Assumes All the Deposits of First Republic Bank, San Francisco, California." May 1, 2023. <https://www.fdic.gov/news/press-releases/2023/pr23034.html>.

¹⁶ Estimated uninsured deposits are reported in Memoranda Item 2 on Schedule RC-O, Other Data for Deposit Insurance Assessments of both the Call Report and FFIEC 002.

or at the banking organization level, to the extent that an IDI is part of a holding company with one or more subsidiary IDIs. Estimated uninsured deposits as of December 31, 2022, are the most recently available data reflecting the amount of uninsured deposits in each institution near or at the time the determination of systemic risk was made and the uninsured depositors of the failed institutions were protected. Using estimated uninsured deposits as of December 31, 2022, in calculating special assessments would result in institutions that had the largest amounts of uninsured deposits at the time of the determination of systemic risk paying a larger share of the special assessments.

Defining the assessment base for the special assessment as estimated uninsured deposits reported as of December 31, 2022, and deducting \$5 billion from an IDI or banking organization's assessment base, would have the result that any banking organization that reported less than \$5 billion in uninsured deposits would not be subject to the special assessment.

In general, large banks and regional banks, and particularly those with large amounts of uninsured deposits, were the banks most exposed to and likely would have been the most affected by uninsured deposit runs. Indeed, shortly after Silicon Valley Bank was closed, a number of institutions with large amounts of uninsured deposits reported that depositors had begun to withdraw their funds. The failure of Silicon Valley Bank and the impending failure of Signature Bank raised concerns that, absent immediate assistance for uninsured depositors, there could be negative knock-on consequences for similarly situated institutions, depositors and the financial system more broadly. Generally speaking, larger banks benefited the most from the stability provided to the banking industry under the systemic risk determination.

With the rapid collapse of Silicon Valley Bank and Signature Bank in the space of 48 hours, concerns arose that risk could spread more widely to other institutions and that the financial

system as a whole could be placed at risk. Shortly after Silicon Valley Bank was closed on March 10, 2023, a number of institutions with large amounts of uninsured deposits reported that depositors had begun to withdraw their funds. The extent to which IDIs rely on uninsured deposits for funding varies significantly. Uninsured deposits were used to fund nearly three-quarters of assets at Silicon Valley Bank and Signature Bank.

On average, the largest banking organizations by asset size fund a larger share of assets with uninsured deposits, as depicted in Table 1 below, based on data as of December 31, 2022. Among banking organizations that report uninsured deposits, those with total assets between \$1 billion and \$5 billion are generally the least reliant on uninsured deposits for funding, with uninsured deposits averaging 28.1 percent of assets, compared with the largest banking organizations with total assets greater than \$250 billion, which had uninsured deposits that averaged 35.8 percent of assets.

TABLE 1—AVERAGE SHARE OF ASSETS FUNDED BY UNINSURED DEPOSITS, BY BANKING ORGANIZATION ASSET SIZE
[Percent]

Asset size of banking organization	Average share of assets funded by uninsured deposits (percent)
\$1 to \$5 Billion	28.1
\$5 to \$10 Billion	28.9
\$10 to \$50 Billion	32.1
\$50 to \$250 Billion	34.2
Greater than \$250 Billion	35.8

Deposits are the most common funding source for many institutions; however, other liability sources such as borrowings can also provide funding. Deposits and other liability sources are often differentiated by their stability and customer profile characteristics. While some uninsured deposit relationships remain stable when a bank is in good condition, such relationships might become less stable due to their uninsured status if a bank experiences

financial problems or if the banking industry experiences stress events.

Uninsured deposit concentrations of IDIs, meaning the percentage of domestic deposits that are uninsured, also vary significantly. At Silicon Valley Bank, 88 percent of deposits were uninsured at the point of failure compared to 67 percent at Signature Bank. On average, the largest banking organizations by asset size reported significantly greater uninsured deposit concentrations relative to smaller

banking organizations, as illustrated in Table 2 below, based on data as of December 31, 2022. Banking organizations with total assets between \$1 billion and \$5 billion generally reported the lowest percentage of uninsured deposits to total domestic deposits, averaging 33.2 percent, compared with the largest banking organizations with total assets greater than \$250 billion, which averaged 51.8 percent.

TABLE 2—UNINSURED DEPOSITS AS A PERCENTAGE OF TOTAL DOMESTIC DEPOSITS, BY BANKING ORGANIZATION ASSET SIZE
[Percent]

Asset size of banking organization	Ratio of uninsured deposits to total domestic deposits (percent)
\$1 to \$5 Billion	33.2
\$5 to \$10 Billion	35.0
\$10 to \$50 Billion	39.9

TABLE 2—UNINSURED DEPOSITS AS A PERCENTAGE OF TOTAL DOMESTIC DEPOSITS, BY BANKING ORGANIZATION ASSET SIZE—Continued
[Percent]

Asset size of banking organization	Ratio of uninsured deposits to total domestic deposits (percent)
\$50 to \$250 Billion	44.2
Greater than \$250 Billion	51.8

Based on Federal Reserve data reported by a sample of domestically chartered banks, domestic deposits declined by over 2 percent during the first two months of 2023, predominately among the top 25 commercial banks by asset size. This followed similar declines in domestic deposits over the prior three quarters, likely driven by the shift of certain types of deposits into higher-yielding alternatives. Following the March 2023 bank failures and the determination of systemic risk, deposits of the top 25 commercial banks grew slightly while deposit outflows rapidly accelerated, with banks outside of the top 25 experiencing a four percent decline in two weeks. Since late March, Federal Reserve data indicates that deposit flows have stabilized, with some

reversal of prior outflows.¹⁷ First quarter earnings releases of select regional banks confirmed sizeable outflows of deposits, while other large and regional banks reported more modest declines or inflows.

Following the announcement of the systemic risk determination, the FDIC observed a significant slowdown in uninsured deposits leaving certain institutions, evidence that the systemic risk determination helped stem the outflow of these deposits while providing stability to the banking industry.

Under the proposal, the banks that benefited most from the assistance provided under the systemic risk determination would be charged special assessments to recover losses to the DIF

resulting from the protection of uninsured depositors, with banks of larger asset sizes and that hold greater amounts of uninsured deposits paying higher special assessments.

For banking organizations that have more than one subsidiary IDI, the assessment base for the special assessments would be equal to its total estimated uninsured deposits reported as of December 31, 2022, less its share of the \$5 billion deduction, which would be based on its share of total estimated uninsured deposits held by all IDI affiliates in the banking organization.^{18 19} Table 3 provides an example of the calculation of special assessments for a banking organization with three subsidiary IDIs.

TABLE 3—CALCULATION OF SPECIAL ASSESSMENTS WITHIN A BANKING ORGANIZATION WITH MORE THAN ONE INSURED DEPOSITORY INSTITUTION SUBSIDIARY
[Dollar amounts in millions]

	Column A	Column B	Column C	Column D	Column E
	Estimated uninsured deposits as reported as of December 31, 2022	IDI share of banking organization estimated uninsured deposits (percent)	IDI share of \$5 billion deduction (Column B * \$5 billion)	Assessment base for special assessment (Column A – Column C)	IDI Share of special assessments (Column D * 25 basis points)/current loss estimate (percent)
IDI A	\$50,000	50	\$2,500	\$47,500	0.75
IDI B	40,000	40	2,000	38,000	0.60
IDI C	10,000	10	500	9,500	0.15

The adjustments to the assessment base for the special assessments would serve several purposes. First, IDIs without affiliates and banking organizations, that reported \$5 billion or less in estimated uninsured deposits as of December 31, 2022, would not contribute to the special assessments. IDIs and banking organizations that reported more than \$5 billion in

estimated uninsured deposits would pay based on the marginal amounts of uninsured deposits they reported, helping to mitigate a “cliff effect” that might otherwise apply if a different method, such as an asset size threshold, were used to determine applicability, and thereby ensuring more equitable treatment. Otherwise, a banking organization just over a particular size

threshold would pay special assessments, while a banking organization just below such size threshold would pay none. In general, large banks and regional banks, and particularly those with large amounts of uninsured deposits, were the banks most exposed to and likely would have been the most affected by uninsured deposit runs. Indeed, shortly after

¹⁷ Board of Governors of the Federal Reserve System. Assets and Liabilities of Commercial Banks in the United States—H.8. Available at: <https://www.federalreserve.gov/releases/h8/default.htm>.

¹⁸ As used in this NPR, the term “affiliate” has the same meaning as defined in section 3 of the FDIC Act, 12 U.S.C. 1813(w)(6), which references

the Bank Holding Company Act (“any company that controls, is controlled by, or is under common control with another company”). See 12 U.S.C. 1841(k).

¹⁹ IDIs with less than \$1 billion in total assets as of June 30, 2021, were not required to report the estimated amount of uninsured deposits on the Call

Report for December 31, 2022. Therefore, for IDIs that had less than \$1 billion in total assets as of June 30, 2021, and that are part of a banking organization with more than one IDI subsidiary, the amount and share of estimated uninsured deposits as of December 31, 2022, would be zero.

Silicon Valley Bank was closed, a number of institutions with large amounts of uninsured deposits reported that depositors had begun to withdraw their funds. The failure of Silicon Valley Bank and the impending failure of Signature Bank raised concerns that, absent immediate assistance for uninsured depositors, there could be negative knock-on consequences for similarly situated institutions, depositors and the financial system more broadly. Generally speaking, larger banks benefited the most from the stability provided to the banking industry under the systemic risk determination. With the adjustments to the assessment base, the banks that benefited the most—banks of larger

asset sizes and that hold greater amounts of uninsured deposits—would be responsible for paying special assessments.

Second, the proposed methodology also would result in most small IDIs and IDIs that are part of a small banking organization not paying anything towards the special assessments. As proposed, the FDIC estimates that the special assessments would not be applicable to any banking organizations with total assets under \$5 billion.

Based on data reported as of December 31, 2022, and as illustrated in Table 4 below, the FDIC estimates that 113 banking organizations, which include IDIs that are not subsidiaries of a holding company and holding

companies with one or more subsidiary IDIs and which comprise 83.0 percent of industry assets, would be subject to special assessments, including 48 banking organizations with total assets over \$50 billion and 65 banking organizations with total assets between \$5 and \$50 billion. No banking organizations with total assets under \$5 billion would pay special assessments, based on data as of December 31, 2022. The number of banking organizations subject to special assessments may change prior to any final rule depending on any adjustments to the loss estimate, mergers or failures, or amendments to reported estimates of uninsured deposits.

TABLE 4—BANKING ORGANIZATIONS REQUIRED TO PAY SPECIAL ASSESSMENTS, BASED ON DATA REPORTED AS OF DECEMBER 31, 2022

Asset size of banking organization	Number of banking organizations required to pay special assessments	Percentage of banking organizations required to pay special assessments (percent)	Share of special assessments (percent)	Share of industry assets (percent)
Greater than \$50 billion	48	1.1	95.2	76.0
Between \$5 and \$50 billion	65	1.5	4.8	7.0
Under \$5 billion	0	0.0	0.0	0.0
Total	113	2.6	100.0	83.0

Finally, deducting \$5 billion from the assessment base of estimated uninsured deposits at the banking organization level for those with more than one IDI would ensure that banking organizations with similar amounts of estimated uninsured deposits pay a similar special assessment. For example, a banking organization with multiple IDIs with large amounts of estimated uninsured deposits would not have an advantage over other similarly-positioned IDIs that are not subsidiaries of a holding company because instead of excluding \$5 billion of estimated uninsured deposits for each IDI in one banking organization, the \$5 billion deduction would be distributed across multiple affiliated IDIs.

The proposed methodology ensures that the banks that benefited most from the assistance provided under the systemic risk determination would be charged special assessments to recover losses to the DIF resulting from the protection of uninsured depositors, with banks of larger asset sizes and that hold greater amounts of uninsured deposits paying higher special assessments.

E. Collection Period for Special Assessments

Under the proposal, the special assessments would be collected beginning with the first quarterly assessment period of 2024 (*i.e.*, January 1 through March 31, 2024, with an invoice payment date of June 28, 2024). In order to preserve liquidity at IDIs, and in the interest of consistent and predictable assessments, the special assessments would be collected over eight quarters.

The estimated loss attributable to the protection of uninsured depositors pursuant to the systemic risk determination is currently estimated to total \$15.8 billion. However, loss estimates for failed banks are periodically adjusted as assets are sold, liabilities are satisfied, and receivership expenses are incurred.

The FDIC would review and consider any revisions to loss estimates each quarter of the collection period. If, prior to the end of the eight-quarter collection period, the FDIC expects the loss to be lower than the amount it expects to collect from the special assessments, the FDIC would cease collection of special assessments before the end of the initial eight-quarter collection period, in the

quarter after it has collected enough to recover actual or estimated losses. The FDIC would provide notice of the cessation of collections at least 30 days before the next payment is due.

The FDIC is required by statute to place the excess funds collected through special assessments in the DIF.²⁰ By spreading out the collection period over eight quarters, a length of time that would enable the FDIC to develop a more precise estimate of loss, and allowing for early cessation after the FDIC has collected enough to recover actual or estimated losses, the FDIC mitigates the risk of over collecting.

F. Extended Special Assessment Period

If, at the end of the eight-quarter collection period, the estimated or actual loss exceeds the amount collected, the FDIC would extend the collection period over one or more quarters as needed in order to collect the difference between the amount collected and the estimated or actual loss at the end of the eight-quarter collection period, (the shortfall amount), after providing notice of at least 30 days

²⁰ 12 U.S.C. 1823(c)(4)(G)(ii)(III).

before the first payment of any extended special assessment is due.

In the event that extended special assessments are needed, the FDIC would collect the shortfall amount on a quarterly basis. In the interest of consistency and predictability, the quarterly rate would not exceed the 3.13 basis point quarterly special assessment rate applied during the initial eight-quarter collection period, and such extended special assessments would be collected for the minimum number of quarters needed to recover the shortfall amount at such quarterly rates.

The assessment base for such extended special assessment would be as described above, based on estimated uninsured deposits reported as of December 31, 2022, with a \$5 billion deduction for each banking organization. However, each banking organization's assessment base for such extended special assessments may differ from its assessment base for special assessments over the initial eight-quarter collection period, due to mergers or failures that occurred during the eight-quarter collection period.

G. One-Time Final Shortfall Special Assessment

The FDIC is required by statute to recover the loss to the DIF attributable to protecting uninsured depositors of Silicon Valley Bank and Signature Bank.²¹ The exact amount of losses will be determined when the FDIC terminates the receiverships. Receiverships are terminated once the FDIC has completed the disposition of the receivership's assets and has resolved all obligations, claims, and other impediments. The termination of the receiverships to which the March 12, 2023, systemic risk determination applied may occur years after the initial eight-quarter collection period and any extended collection period.

In the likely event that a final loss amount at the termination of the receiverships is not determined until after the initial special assessments and any extended special assessments have been collected, and if losses at the termination of the receiverships exceed the amount collected through such special assessments (the final shortfall amount), the FDIC would impose a one-time final shortfall special assessment.

The assessment base for such one-time final shortfall special assessment would be as described above, based on estimated uninsured deposits reported as of December 31, 2022, with a \$5 billion deduction for each banking organization. However, each banking

organization's assessment base for the one-time final shortfall special assessment may differ from its assessment base for previous special assessments collections, due to mergers or failures that occurred up to the determination of the shortfall amount. The FDIC would determine the assessment rate for the one-time final shortfall special assessment based on the amount needed to recover the final shortfall amount and the total amount of estimated uninsured deposits reported as of December 31, 2022, after applying the \$5 billion deduction to banking organizations as of the date that the final shortfall is calculated.

The entire final shortfall amount would be collected in one quarter so that there are no missed amounts due to mergers or other arrangements, and to streamline the operational impact on banking organizations. The FDIC would provide banking organizations notice of at least 45 days before payment of the one-time shortfall special assessment is due and would consider the statutory factors, including economic conditions and the effects on the industry, in deciding on the timing of such payments.

The FDIC would notify each IDI subject to a one-time shortfall special assessment of the final shortfall special assessment rate and its share of the final shortfall assessment no later than 15 days before payment is due. The notice would be included in the IDI's invoice for its regular quarterly deposit insurance assessment.

H. No Prior Period Amendments

Each IDI's assessment base for the special assessments would be based on its estimated uninsured deposits reported on its Call Report for December 31, 2022. Amendments to an IDI's Call Report for the December 31, 2022, reporting period made after the date of adoption of any final rule would not affect an institution's rate or base for the special assessments. While the rule would not change existing reporting policies and procedures around prior period amendments, the FDIC would use data on estimated uninsured deposits for the quarter ending December 31, 2022, reported as of the date of adoption of any final rule to calculate special assessments for the duration of the collection period.

I. Collection of Special Assessments and Any Shortfall Special Assessment

The special assessments and any shortfall special assessment would be collected at the same time and in the same manner as an IDI's regular quarterly deposit insurance assessment.

Invoices for an IDI's regular quarterly deposit insurance assessment would disclose the amount of any special assessments or shortfall special assessments due.

J. Payment Mechanism for the Special Assessments and Shortfall Special Assessment

Each IDI would be required to take any actions necessary to allow the FDIC to debit its special assessment and shortfall special assessment from the bank's designated deposit account used for payment of its regular assessment. Before the dates that payments are due, each IDI would have to ensure that sufficient funds to pay its obligations are available in the designated account for direct debit by the FDIC. Failure to take any such action or to fund the account would constitute nonpayment of the special assessment. Penalties for nonpayment would be as provided for nonpayment of an IDI's regular assessment.²²

K. Mergers, Consolidations and Terminations of Deposit Insurance

First, under existing regulations, an IDI that is not the resulting or surviving IDI in a merger or consolidation must file a quarterly Call Report for every assessment period prior to the assessment period in which the merger or consolidation occurs. The surviving or resulting IDI is responsible for ensuring that these Call Reports are filed. The surviving or resulting IDI is also responsible and liable for any unpaid assessments on the part of the IDI that is not the resulting or surviving IDI.²³ The FDIC proposes that unpaid assessments would also include any unpaid special assessments and any shortfall special assessments.

Second, if an IDI acquires—through merger or consolidation—another IDI during the collection period of the special assessments, the acquiring IDI would be required to pay the acquired IDI's special assessments, if any, in addition to its own special assessments from the quarter of the acquisition through the remainder of the collection period. The FDIC would not adjust the acquiring institution's special assessments. The FDIC also would not adjust the calculation of the acquired institution's special assessments. Any shortfall special assessments following the eight-quarter collection period would be calculated as described above, based on estimated uninsured deposits reported as of December 31, 2022. However, to ensure full recovery of the

²² See 12 CFR 327.3(c).

²³ 12 CFR 327.6(a).

²¹ 12 U.S.C. 1823(c)(4)(G)(ii).

difference between amounts collected and losses related to the systemic risk determination, each organization's extended special assessments or final shortfall special assessments would reflect mergers, consolidations, failures, or other terminations of deposit insurance that occurred between December 31, 2022, and the date in which such extended special assessments or final shortfall special assessments are determined.

Third, existing regulations provide that, when the insured status of an IDI is terminated and the deposit liabilities of the IDI are not assumed by another IDI, the IDI whose insured status is terminating must, among other things, continue to pay assessments for the assessment periods that its deposits are insured, but not thereafter.²⁴ The FDIC proposes that these provisions would also apply to the special assessments and any shortfall special assessments.

Finally, in the case of one or more transactions in which one IDI voluntarily terminates its deposit insurance under the FDI Act and sells certain assets and liabilities to one or more other IDIs, each IDI must report the increase or decrease in assets and liabilities on the Call Report due after the transaction date and be assessed accordingly under existing FDIC assessment regulations. The IDI whose insured status is terminating must, among other things, continue to pay assessments for the assessment periods that its deposits are insured.²⁵ The FDIC proposes that the same process would also apply to the special assessments and any shortfall special assessments.

L. Accounting Treatment

Each institution should account for the special assessment in accordance with U.S. generally accepted accounting principles (GAAP). In accordance with Financial Accounting Standards Board Accounting Standards Codification Topic 450, *Contingencies* (FASB ASC Topic 450), an estimated loss from a loss contingency shall be accrued by a charge to income if information indicates that it is probable that a liability has been incurred and the amount of loss is reasonably estimable.²⁶ Therefore, an institution would recognize in the Call Report and other financial statements the accrual of a liability and estimated loss (*i.e.*, expense) from a loss contingency for the special assessment when the institution

determines that the conditions for accrual under GAAP have been met.

Similarly, each institution should account for any shortfall special assessment in accordance with FASB ASC Topic 450 when the conditions for accrual under GAAP have been met.

M. Request for Revisions

An IDI may submit a written request for revision of the computation of any special assessment or shortfall special assessment pursuant to existing regulation 12 U.S.C. 327.3(f).²⁷

IV. Analysis and Expected Effects

A. Analysis of the Statutory Factors

Section 13(c)(4)(G) of the FDI Act provides the FDIC with discretion in the design and timeframe for any special assessments to recover the losses from the systemic risk determination. As detailed in the sections that follow, and as required by the FDI Act, the FDIC has considered the types of entities that benefit from any action taken or assistance provided under the determination of systemic risk, effects on the industry, economic conditions, and any such other factors as the Corporation deems appropriate and relevant to the action taken or the assistance provided.²⁸

The Types of Entities That Benefit

In implementing special assessments under section 13(c)(4)(G) of the FDI Act, the FDIC is required to consider the types of entities that benefit from any action taken or assistance provided pursuant to determination of systemic risk.²⁹

With the rapid collapse of Silicon Valley Bank and Signature Bank in the space of 48 hours, concerns arose that risk could spread more widely to other institutions and that the financial system as a whole could be placed at risk. Shortly after Silicon Valley Bank was closed on March 10, 2023, a number of institutions with large amounts of uninsured deposits reported that depositors had begun to withdraw their funds. The extent to which IDIs rely on uninsured deposits for funding

varies significantly. Uninsured deposits were used to fund nearly three-quarters of the assets at Silicon Valley Bank and Signature Bank. On March 12, 2023, the FDIC Board and the Board of Governors voted unanimously to recommend, and the Treasury Secretary, in consultation with the President, determined that the FDIC could use emergency systemic risk authorities under the FDI Act to complete its resolution of both Silicon Valley Bank and Signature Bank in a manner that fully protects all depositors.³⁰ The full protection of all depositors, rather than imposing losses on uninsured depositors, was intended to strengthen public confidence in the nation's banking system.

In the weeks that followed the determination of systemic risk, efforts to stabilize the banking system and stem potential contagion from the failures of Silicon Valley Bank and Signature Bank ensured that depositors would continue to have access to their savings, that small businesses and other employers could continue to make payrolls, and that other banks could continue to extend credit to borrowers and serve as a source of support.

In general, large banks and regional banks, and particularly those with large amounts of uninsured deposits, were the banks most exposed to and likely would have been the most affected by uninsured deposit runs. Indeed, shortly after Silicon Valley Bank was closed, a number of institutions with large amounts of uninsured deposits reported that depositors had begun to withdraw their funds. The failure of Silicon Valley Bank and the impending failure of Signature Bank raised concerns that, absent immediate assistance for uninsured depositors, there could be negative knock-on consequences for similarly situated institutions, depositors and the financial system more broadly. Generally speaking, larger banks benefited the most from the stability provided to the banking industry under the systemic risk determination. Under the proposal, the banks that benefited most from the assistance provided under the systemic risk determination would be charged special assessments to recover losses to the DIF resulting from the protection of uninsured depositors, with banks of larger asset sizes and that hold greater amounts of uninsured deposits paying higher special assessments.

²⁷ Consistent with Section M above, amendments filed by an IDI to its Call Report or FFIEC 002 after the date of adoption of the final rule by the Board, would not be eligible as a basis for a request for revision under 12 U.S.C. 327.3(f). Existing regulation 12 U.S.C. 327.4(c) allows an IDI to submit a request for review of the IDI's risk assignment. Because the amount of an IDI's special assessment or shortfall special assessment is not determined based on the IDI's risk assignment as proposed, the request for review provision under 12 U.S.C. 327.4(c) would not be applicable to an IDI's special assessment or shortfall special assessment.

²⁸ 12 U.S.C. 1823(c)(4)(G)(ii)(III).

²⁹ 12 U.S.C. 1823(c)(4)(G)(ii)(III).

³⁰ 12 U.S.C. 1823(c)(4)(G). See also: FDIC PR–17–2023. “Joint Statement by the Department of the Treasury, Federal Reserve, and FDIC.” March 12, 2023. <https://www.fdic.gov/news/press-releases/2023/pr23017.html>.

²⁴ 12 CFR 327.6(c).

²⁵ 12 CFR 327.6(c).

²⁶ FASB ASC paragraph 450–20–25–2.

Effects on the Industry

In calculating the assessment base for the special assessments, the FDIC would deduct \$5 billion from each IDI or banking organization's aggregate estimated uninsured deposits reported as of December 31, 2022. As a result, any institution that did not report any uninsured deposits as of December 31, 2022, would not be subject to the special assessment. Additionally, most small IDIs and IDIs that are part of a small banking organization would not pay anything towards the special assessment. Some small and mid-size IDIs would be subject to the special assessment if they were subsidiaries of a banking organization with more than \$5 billion in uninsured deposits and such IDIs reported positive amounts of uninsured deposits after application of the deduction, or if they directly held more than \$5 billion in estimated uninsured deposits as of December 31, 2022, which for smaller institutions would constitute heavy reliance on uninsured deposits.

Based on data reported as of December 31, 2022, and as captured in Table 4 above, the FDIC estimates that 113 banking organizations would be subject to special assessments, including 48 banking organizations with total assets over \$50 billion and 65 banking organizations with total assets between \$5 and \$50 billion. No banking organizations with total assets under \$5 billion would pay special assessments, based on data reported as of December 31, 2022.³¹ It is anticipated that the same banking organizations subject to special assessments would also be subject to any extended special assessments or final shortfall special assessment, absent the effects of any mergers, consolidations, failures, or other terminations of deposit insurance that occur through the determination of such extended special assessments or final shortfall special assessment.

Capital and Earnings Analysis

The FDIC has analyzed the effect of the special assessments on the capital and earnings of banking organizations, including IDIs that are not subsidiaries of a holding company. This analysis incorporates data on estimated uninsured deposits reported by banking organizations as of December 31, 2022, and assumes that pre-tax income for the quarter in which a banking organization

would recognize the accrual of a liability and an estimated loss (*i.e.*, expense) from a loss contingency for the special assessments, will equal the average of their pre-tax income from January 1, 2022, through December 31, 2022.³²

To avoid the possibility of underestimating effects on bank earnings or capital, the analysis also assumes that the effects of the special assessments are not transferred to customers in the form of changes in borrowing rates, deposit rates, or service fees. Because special assessments are a tax-deductible operating expense for all institutions, increases in the assessment expense can lower taxable income.³³ The analysis considers the effective pre-tax cost of special assessments in calculating the effect on capital.³⁴

A banking organization's earnings retention and dividend policies influence the extent to which special assessments affect equity levels. If a banking organization maintains the same dollar amount of dividends when it recognizes the accrual of a liability and an estimated loss (*i.e.*, expense) from a loss contingency for the special assessments or shortfall special assessment as proposed, equity (retained earnings) will be reduced by the full amount of the pre-tax cost of the special assessments or shortfall special assessment. This analysis instead assumes that a banking organization will maintain its dividend rate (that is, dividends as a percentage of net income) unchanged from the weighted average rate reported over the four quarters ending December 31, 2022. In the event that the ratio of Tier 1 capital to assets falls below four percent, however, this assumption is modified such that a banking organization retains the amount necessary to reach a four percent minimum and distributes any

remaining funds according to the dividend payout rate.³⁵

As proposed, the FDIC estimates that it would collect the estimated loss from protecting uninsured depositors at Silicon Valley Bank and Signature Bank of approximately \$15.8 billion, over the eight-quarter collection period. Banking organizations would recognize the accrual of a liability and an estimated loss (*i.e.*, expense) from a loss contingency for the special assessment when the institution determines that the conditions for accrual under GAAP have been met. This analysis assumes that the effects on capital and income of the entire amount of the special assessments to be collected over eight quarters would occur in one quarter only.

Given this estimate and the assumptions in the analysis, the FDIC estimates that, on average, the proposed special assessments would decrease the dollar amount of Tier 1 capital of banking organizations that would be required to pay special assessments by an estimated 61 basis points.³⁶ No banking organizations are estimated to fall below the minimum capital requirement (a four percent Tier 1 capital-to-assets ratio) as a result of the proposed special assessments.

The banking industry reported full-year 2022 net income lower than full-

³⁵ The analysis uses four percent as the threshold because IDIs generally need to maintain a Tier 1 leverage ratio of 4.0 percent or greater to be considered "adequately capitalized" under Prompt Corrective Action Standards, in addition to the following requirements: (i) total risk-based capital ratio of 8.0 percent or greater; (ii) Tier 1 risk-based capital ratio of 6.0 percent or greater; (iii) common equity tier 1 capital ratio of 4.5 percent or greater; and (iv) does not meet the definition of "well capitalized." Beginning January 1, 2018, an advanced approaches or Category III FDIC-supervised institution will be deemed to be "adequately capitalized" if it satisfies the above criteria and has a supplementary leverage ratio of 3.0 percent or greater, as calculated in accordance with 12 CFR 324.10. See 12 CFR 324.403(b)(2). Additionally, Federal Reserve Board-regulated institutions must generally maintain a Tier 1 leverage ratio of 4.0 percent or greater to meet the minimum capital requirements, in addition to the following requirements: (i) total capital ratio of 8.0 percent; (ii) Tier 1 capital ratio of 6.0; (iii) common equity tier 1 capital ratio of 4.5; and (iv) for advanced approaches Federal Reserve Board-regulated institutions, or for Category III Federal Reserve Board-regulated institutions, a supplementary leverage ratio of 3 percent. See 12 CFR 217.10(a)(1). For purposes of this analysis, Tier 1 capital to assets is used as the measure of capital adequacy.

³⁶ Estimated effects on capital are calculated based on data reported as of December 31, 2022, on the Call Report and the Consolidated Financial Statements for Holding Companies (FR Y-9C), respectively, for IDIs that are not subsidiaries of a holding company or that are part of a banking organization with only one subsidiary IDI required to pay special assessments, and for banking organizations, to the extent that an IDI is part of a holding company with more than one subsidiary IDI required to pay special assessments.

³¹ The number of banking organizations subject to special assessments may change prior to any final rule depending on any adjustments to the loss estimate, mergers or failures, or similar activities, or amendments to reported estimates of uninsured deposits.

³² All income statement items used in this analysis were adjusted for the effect of mergers. Institutions for which four quarters of non-zero earnings data were unavailable, including insured branches of foreign banks, were excluded from this analysis.

³³ The Tax Cuts and Jobs Act of 2017 placed a limitation on tax deductions for FDIC premiums for banks with total consolidated assets between \$10 and \$50 billion and disallowed the deduction entirely for banks with total assets of \$50 billion or more. However, the definition of FDIC premiums under the Act is limited to any assessment imposed under section 7(b) of the FDI Act (12 U.S.C. 1817(b)), and therefore does not include special assessments required under section 13(c)(4)(G) of the FDI Act. See the Tax Cuts and Jobs Act, Public Law 115-97 (Dec. 22, 2017).

³⁴ The analysis does not incorporate any tax effects from an operating loss carry forward or carry back.

year 2021 net income, but still above the pre-pandemic average. The effect of the proposed special assessments on a banking organization's income is measured by calculating the amount of the special assessments as a percent of pre-tax income (hereafter referred to as "income"). This income measure is used in order to eliminate the potentially transitory effects of taxes on profitability.

While special assessments are allocated based on estimated uninsured deposits reported at the banking organization level, IDIs will be responsible for payment of the special assessments. The FDIC analyzed the effect of the special assessments on income reported at the IDI-level for IDIs subject to special assessments that are

not subsidiaries of a holding company or that are subsidiaries of a holding company with only one IDI subsidiary. For IDIs that are subsidiaries of a holding company with more than one IDI subsidiary, the FDIC analyzed the effect of the special assessments by aggregating the income reported by all IDIs subject to special assessments within each banking organization since the IDIs will be responsible for payment. The FDIC analyzed the impact of the special assessments on banking organizations that were profitable based on their average quarterly income from January 1, 2022, to December 31, 2022.³⁷

The effects on income of the entire amount of special assessments to be collected over eight quarters are

assumed to occur in one quarter only. Given the assumptions and the estimated loss amount, the FDIC estimates that the proposed special assessments would result in an average one-quarter reduction in income of 17.5 percent for banking organizations subject to special assessments.³⁸

Table 5 shows that approximately 66 percent of profitable banking organizations subject to the proposal are projected to have special assessments of less than 20 percent of income, including 23 percent with special assessments of less than 5 percent of income. Another 34 percent of profitable banking organizations subject to the proposal are projected to have special assessments equal to or exceeding 20 percent of income.

TABLE 5—ESTIMATED ONE-QUARTER EFFECT OF ENTIRE AMOUNT OF SPECIAL ASSESSMENTS ON INCOME FOR PROFITABLE BANKING ORGANIZATIONS SUBJECT TO SPECIAL ASSESSMENTS ¹

Special assessments as percent of income	Number of banking organizations	Percent of banking organizations	Assets of banking organizations (\$ billions)	Percent of assets
Over 30%	13	12	4,455	23
20% to 30%	25	22	10,713	56
10% to 20%	34	30	2,577	13
5% to 10%	14	13	307	2
Less than 5%	26	23	1,117	6
Total	112	100	19,170	100

¹ Income is defined as quarterly pre-tax income. Quarterly income is assumed to equal the average of income from January 1, 2022, through December 31, 2022. For purposes of this analysis, the effects on income of the entire amount of special assessments to be collected over eight quarters are assumed to occur in one quarter only. Special assessments as a percent of income is an estimate of the one-time accrual of a full eight quarters of special assessments as a percent of a single quarter's income. Profitable banking organizations are defined as those having positive average income for the 12 months ending December 31, 2022. Excludes two insured U.S. branches of one foreign banking organization subject to special assessments. Some columns do not add to total due to rounding.

In order to preserve liquidity at IDIs, and in the interest of consistent and predictable assessments, the special assessments would be collected over eight quarters. The proposed special assessments would be applicable no earlier than the first quarterly assessment period of 2024, providing time for institutions to prepare and plan for the special assessments.

Economic Conditions

On February 28, 2023, the FDIC released the results of the Quarterly Banking Profile, which provided a comprehensive summary of financial results for all FDIC-insured institutions for the fourth quarter of 2022. Overall, key banking industry metrics remained favorable in the quarter.³⁹

Loan growth continued, net interest income grew, and asset quality

measures remained favorable. Further, the industry remained well capitalized and highly liquid, but the report also highlighted a key weakness in elevated levels of unrealized losses on investment securities due to rapid increases in market interest rates. Unrealized losses on available-for-sale and held-to-maturity securities totaled \$620 billion as of December 31, 2022, and unrealized losses on available-for-sale securities have meaningfully reduced the reported equity capital of the banking industry. The combination of a high level of longer-term asset maturities and a moderate decline in total deposits underscored the risk that unrealized losses could become actual losses should banks need to sell securities to meet liquidity needs.

The financial system continues to face significant downside risks from the

effects of inflation, rising market interest rates, and a weak economic outlook. Credit quality and profitability may weaken due to these risks, potentially resulting in tighter loan underwriting, slower loan growth, higher provision expenses, and liquidity constraints. Additional short-term interest rate increases, combined with longer asset maturities may continue to increase unrealized losses on securities and affect bank balance sheets in coming quarters.

Despite these downside risks, in the weeks that followed the failure of Silicon Valley Bank and Signature Bank, the state of the U.S. financial system remained sound and institutions are

³⁷ There were no banking organizations that would be required to pay special assessments that were unprofitable based on average quarterly income from January 1, 2022, to December 31, 2022.

³⁸ Earnings or income are quarterly income before assessments and taxes. Quarterly income is assumed to equal average income from January 1, 2022, through December 31, 2022.

³⁹ FDIC Quarterly Banking Profile, Fourth Quarter 2022. <https://www.fdic.gov/analysis/quarterly-banking-profile/qbp/2022dec/>.

well positioned to absorb a special assessment.⁴⁰

B. Alternatives Considered

While the FDIC is required by statute to recover the loss to the DIF arising from the use of a systemic risk determination through one or more special assessments, the FDI Act in Section 13(c)(4)(G) provides the FDIC with discretion in the design and timeframe for any special assessments to recover the losses from the systemic risk determination.⁴¹ The FDIC has considered alternatives to this proposal to collect special assessments to recover the loss to the DIF arising from the protection of all uninsured depositors in connection with the systemic risk determination announced on March 12, 2023, as required by the FDI Act. The FDIC identified six potentially effective and reasonably feasible alternatives to the proposed rule. These alternatives are discussed in detail below.

Alternative 1: One-Time Special Assessment

As an alternative to the proposal, the FDIC considered imposing a one-time special assessment at the end of the quarter following the effective date. The FDIC would impose the one-time special assessment in the quarter ending March 31, 2024, and collect payment for such special assessment on June 28, 2024, at the same time and in the same manner as an IDI's regular quarterly deposit insurance assessment. The aggregate amount of a one-time special assessment would equal the entire initial loss estimate. Calculation of the special assessments, including the special assessment rate, would be the same as proposed, but instead of collecting the amount over eight quarters, the FDIC would collect the entire amount in one quarter.

Once actual losses are determined as of the termination of the receiverships, and if the actual losses exceeded the amount collected under the one-time special assessment, the FDIC would impose a shortfall special assessment to collect the amount of losses in excess of

the amount collected. Collection of the entire shortfall special assessment would also occur in one quarter.

Conversely, if the amount collected under the one-time special assessment exceeded actual losses, the FDIC is required by statute to place the excess funds collected in the DIF.⁴²

While under both the proposal and this alternative, the estimated amount of the special assessment would be recognized with the accrual of a liability and an estimated loss (*i.e.*, expense) from a loss contingency when the institution determines that the conditions for accrual under GAAP have been met, which impacts capital and earnings, this alternative would additionally require payment of the entire amount in the second quarter of 2024, and would impact liquidity significantly in one quarter. The FDIC rejected this alternative in the interest of liquidity preservation in a period of uncertainty and to mitigate the risk of over collecting.

Alternative 2: Asset Size Applicability Threshold

As an alternative to deducting the first \$5 billion in estimated uninsured deposits in calculating an IDI or banking organization's assessment base for the special assessment, the FDIC considered basing applicability on an asset size threshold.

As described previously, in implementing special assessments, the FDI Act requires the FDIC to consider the types of entities that benefit from any action taken or assistance provided pursuant to determination of systemic risk.⁴³ Large banks and regional banks, and particularly those with large amounts of uninsured deposits, were the banks most exposed to and likely would have been the most affected by uninsured deposit runs had those occurred as a result of the bank failures. Larger banks also benefited the most from the stability provided to the banking industry under the systemic risk determination.

While both the proposal, including the \$5 billion deduction from estimated uninsured deposits, and an asset-size-based applicability threshold would effectively remove the smallest institutions from eligibility, the proposed deduction of \$5 billion from each banking organization's estimated uninsured deposits in calculating the special assessment would help to mitigate a "cliff effect" relative to applying a different threshold for applicability, such as applying an asset

size threshold, thereby ensuring more equitable treatment. With an asset size threshold, an IDI just above such threshold would pay a significant amount in special assessments, while an IDI just below such threshold would pay none. The FDIC rejected this alternative for these reasons.

Alternative 3: Assessment Base Equal to All Uninsured Deposits, Without \$5 Billion Deduction

A third alternative would be to eliminate the proposed \$5 billion deduction from the assessment base for the special assessment, and therefore allocate the special assessments among IDIs based on each IDI or banking organization's estimated uninsured deposits as of December 31, 2022. This alternative would result in special assessments imposed on every IDI that reported a non-zero amount of estimated uninsured deposits as of December 31, 2022, or nearly 100 percent of all IDIs with total assets of \$1 billion or more.⁴⁴ Relative to the proposal, more IDIs would pay special assessments under this alternative, and IDIs with greater amounts of uninsured deposits would generally pay lower special assessments relative to the proposal since the special assessments would be allocated across a significantly larger number of institutions.

However, given the FDIC's statutory requirement to consider the types of entities that benefit from any action taken or assistance provided under the determination of systemic risk in implementing special assessments, the FDIC rejected this alternative in favor of allocating the special assessments to larger institutions with the largest amounts of uninsured deposits, with the result that smaller institutions would not have to contribute to the special assessments. In general, large banks and regional banks, and particularly those with large amounts of uninsured deposits, were the banks most exposed to and likely would have been the most affected by uninsured deposit runs. Generally speaking, larger banks benefited the most from the stability provided to the banking industry under the systemic risk determination.

⁴⁴ IDIs with less than \$1 billion in total assets as of June 30, 2021, were not required to report the estimated amount of uninsured deposits on the Call Report for December 31, 2022. Therefore, for IDIs that had less than \$1 billion in total assets as of June 30, 2021, the amount and share of estimated uninsured deposits as of December 31, 2022, would be zero.

⁴⁰ Statement of Martin J. Gruenberg, Chairman of the FDIC on "Recent Bank Failures and the Federal Regulatory Response," before the United States Senate Committee on Banking, Housing, and Urban Affairs. March 28, 2023. <https://www.banking.senate.gov/imo/media/doc/Gruenberg%20Testimony%203-28-23.pdf>.

⁴¹ 12 U.S.C. 1823(c)(4)(G)(ii)(I). In implementing special assessments, the FDIC is required to consider the types of entities that benefit from any action taken or assistance provided under the determination of systemic risk, effects on the industry, economic conditions, and any such other factors as the FDIC deems appropriate and relevant to the action taken or the assistance provided. *See* 12 U.S.C. 1823(c)(4)(G)(ii)(III).

⁴² 12 U.S.C. 1823(c)(4)(G)(ii)(III).

⁴³ 12 U.S.C. 1823(c)(4)(G)(ii)(III).

Alternative 4: Special Assessments Based on Each Institution's Percentage of Uninsured Deposits to Total Deposits

A fourth alternative would be to allocate the special assessments among IDIs based on each IDI's estimated uninsured deposits as a percentage of their total domestic deposits reported as of December 31, 2022, as a proxy for reliance on uninsured deposits at the time the determination of systemic risk was made and uninsured depositors of the failed institutions were protected. Similar to the third alternative, this would result in a special assessment imposed on every IDI that reported a non-zero amount of estimated uninsured deposits as of December 31, 2022, or nearly 100 percent of IDIs with total assets of \$1 billion or more.⁴⁵

Under this alternative, IDIs with a greater reliance on uninsured deposits would generally pay the greatest amount of special assessments; however, the special assessments would be allocated across a large number of institutions. This alternative would result in institutions of vastly different asset sizes paying a similar dollar amount of special assessments. It also would result in some smaller IDIs and banking organizations, paying potentially significant amounts of special assessments, and the larger banks that have high amounts of uninsured deposits and benefited the most from the stability provided to the banking industry under the systemic risk determination, but that do not have high uninsured deposit concentrations, paying a smaller share of special assessments.

In general, large banks and regional banks, and particularly those with large amounts of uninsured deposits, were the banks most exposed to and likely would have been the most affected by uninsured deposit runs. Generally speaking, larger banks benefited the most from the stability provided to the banking industry under the systemic risk determination. The FDIC rejected this alternative for these reasons and because the proposed methodology results in larger special assessments for similarly sized banking organizations reporting greater concentrations of uninsured deposits.

⁴⁵ IDIs with less than \$1 billion in total assets as of June 30, 2021, were not required to report the estimated amount of uninsured deposits on the Call Report for December 31, 2022. Therefore, for IDIs that had less than \$1 billion in total assets as of June 30, 2021, the amount and share of estimated uninsured deposits as of December 31, 2022, would be zero.

Alternative 5: Charge IDIs for 50 Percent of Special Assessment in Year One Based on Uninsured Deposits as of December 31, 2022; Charge for the Remainder in Year Two Based on Uninsured Deposits Reported as of December 31, 2023

Under the proposal and all alternatives described, the special assessments would initially be calculated based on an estimated amount of losses, as the exact amount of losses will not be known until the FDIC terminates the two receiverships. A final alternative would be to collect 50 percent of the special assessments during the initial four-quarter collection period based on estimated uninsured deposits reported by all IDIs as of December 31, 2022, and collect the remaining special assessments for an additional four quarter collection period based on an updated estimate of losses pursuant to the systemic risk determination and estimated uninsured deposits reported by all IDIs as of December 31, 2023.

Under this alternative, for the initial four-quarter collection period the special assessment would be allocated to all IDIs based on each IDI or banking organization's estimated uninsured deposits as a share of estimated uninsured deposits reported by all IDIs as of December 31, 2022, as a proxy for the amount of uninsured deposits in each institution at the time the determination of systemic risk was made and uninsured depositors of the failed institutions were protected. Such methodology would allocate the special assessments to the institutions that had the largest amounts of uninsured deposits at the time of the determination of systemic risk.

The remaining special assessments would be based on an updated estimate of losses as of December 31, 2023, and would be allocated to IDIs with total assets of \$1 billion or more, based on each IDI or banking organization's estimated uninsured deposits as a share of estimated uninsured deposits reported by all IDIs as of December 31, 2023, in order to reflect amounts of uninsured deposits that did not run off following the determination of systemic risk.

The FDIC rejected this alternative given the potential incentives for IDIs to reduce their amount of uninsured deposits ahead of the December 31, 2023, reporting date, which may result in unintended market dislocations and reduced liquidity in the banking sector. This alternative may also change the timing of accrual of the contingent liability by banks. The proposal's

allocation methodology based on amounts of uninsured deposits as of December 31, 2022, would result in transparent and consistent payments, and a more simplified framework for calculating special assessments.

Alternative 6: Apply Special Assessment Rate to Regular Assessment Base, With or Without Application of a \$5 Billion Deduction

A sixth alternative would be to apply a special assessment rate to an institution's regular quarterly deposit insurance assessment base (regular assessment base) for that quarter, with or without applying a \$5 billion deduction. Generally, an IDI's assessment base equals its average consolidated total assets minus its average tangible equity.⁴⁶ Under this alternative, the FDIC estimates that it would need to charge an annual assessment rate of 3.76 basis points over two years to recover estimated losses without the \$5 billion deduction, or 4.57 basis points with the \$5 billion deduction; however, a significantly larger number of banking organizations would be subject to the special assessments relative to the proposal.

Under this alternative, the IDIs with the largest assessment base would pay the greatest amount of special assessments. IDIs for which certain assets are excluded in the calculation of the regular assessment base would pay lower special assessments due to their smaller assessment base.

This alternative would result in smaller IDIs and banking organizations, regardless of reliance on uninsured deposits for funding, paying potentially significant amounts of special assessments. Further, IDIs engaged in trust activities, or with fiduciary and custody and safekeeping assets, and for which certain assets are excluded from their regular assessment base, would pay lower amounts of special assessments due to these exclusions, despite holding significant amounts of uninsured deposits. The FDIC rejected this alternative for these reasons.

The FDIC requests comments on the proposal and the alternative approaches considered. The FDIC has carefully weighed the available options in fulfilling the statutory requirement to recover the loss to the DIF arising from the use of a systemic risk determination through one or more special assessments.

In the FDIC's view, the proposal reflects an appropriate balancing of the goal of applying special assessments to the types of entities that benefited the

⁴⁶ See 12 CFR 327.5.

most from the protection of uninsured depositors provided under the determination of systemic risk while ensuring equitable, transparent, and consistent treatment based on amounts of uninsured deposits at the time of the determination of systemic risk. The proposal also allows for payments to be collected over an extended period of time in order to mitigate the liquidity effects of the special assessments by requiring smaller, consistent quarterly payments. On balance, in the FDIC's view, the proposal best promotes maintenance of liquidity, which will allow institutions to absorb any potential unexpected setbacks while continuing to meet the credit needs of the U.S. economy.

C. Comment Period, Effective Date, and Application Date

The FDIC is issuing this proposal with an opportunity for public comment through July 21, 2023. Following the comment period, the FDIC expects to issue a final rule with an effective date of January 1, 2024. The special assessment would be collected beginning with the first quarterly assessment period of 2024 (*i.e.*, January 1 through March 31, 2024, with an invoice payment date of June 28, 2024), and would continue to be collected for an anticipated total of eight quarterly assessment periods. Because the estimated loss pursuant to the systemic risk determination will be periodically adjusted, the FDIC would retain the ability to cease collection early, impose an extended special assessment collection period after the eight-quarter collection period to collect the difference between losses and the amounts collected, and impose a final shortfall special assessment after both receiverships terminate.

V. Request for Comment

The FDIC is requesting comment on all aspects of the notice of proposed rulemaking, in addition to the specific requests below.

Question 1: Should the special assessments be calculated as proposed?

Question 2: Are there alternative methodologies for calculating the special assessments the FDIC should consider that would result in financial reporting in accordance with U.S. GAAP and could result in different timing for the impact to earnings and capital? Please describe.

Question 3: Should the assessment base for the special assessments be equal to estimated uninsured deposits reported as of December 31, 2022, or reported as of some other date, and why?

Question 4: Should the assessment base for the special assessments be equal to estimated uninsured deposits or some other measure?

Question 5: Is the deduction of \$5 billion of aggregate estimated uninsured deposits from the assessment base for the special assessments for each IDI or banking organization appropriate? Why?

Question 6: Should the FDIC collect special assessments over an eight-quarter collection period, as proposed? Should the collection period be longer to spread out the effects of the payment of special assessments, or shorter?

Question 7: Should the FDIC consider an exemption for specific types of deposits from the base for special assessments? On what basis?

Question 8: Should any shortfall special assessments be calculated as proposed?

VI. Administrative Law Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.⁴⁷ However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined "small entities" to include banking organizations with total assets of less than or equal to \$850 million.⁴⁸ Certain types of rules, such as rules of particular applicability relating to rates, corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of "rule" for purposes of the RFA.⁴⁹ Because the proposed rule relates directly to the rates imposed on FDIC-insured institutions, the proposed rule is not subject to the RFA.

⁴⁷ 5 U.S.C. 601 *et seq.*

⁴⁸ The SBA defines a small banking organization as having \$850 million or less in assets, where an organization's "assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." See 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). In its determination, the "SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates." See 13 CFR 121.103. Following these regulations, the FDIC uses an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured depository institution is "small" for the purposes of RFA.

⁴⁹ 5 U.S.C. 601(2).

Nonetheless, the FDIC is voluntarily presenting information in this RFA section.

The FDIC insures 4,715 institutions as of December 31, 2022, of which 3,433 are small entities.⁵⁰ As discussed previously, the proposed rule would impose a special assessment on IDIs that are part of banking organizations that reported \$5 billion or more in uninsured deposits, as of December 31, 2022. Given that no small entity has reported \$5 billion or more in uninsured deposits, the FDIC does not believe the proposed rule will have a direct effect on any small entity.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would this proposed rule have any significant effects on small entities that the FDIC has not identified?

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995⁵¹ (PRA) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC's OMB control numbers for its assessment regulations are 3064-0057, 3064-0151, and 3064-0179. The proposed rule does not revise any of these existing assessment information collections pursuant to the PRA; consequently, no submissions in connection with these OMB control numbers will be made to the OMB for review.

C. Riegle Community Development and Regulatory Improvement Act

Section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA)⁵² requires that the Federal banking agencies, including the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on IDIs, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. Subject to certain exceptions, new regulations and amendments to regulations prescribed by a Federal banking agency which

⁵⁰ December 31, 2022 Call Report data.

⁵¹ 44 U.S.C. 3501-3521.

⁵² 12 U.S.C. 4802(a).

impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form.⁵³

The proposed rule would not impose additional reporting, disclosure, or other new requirements on insured depository institutions, including small depository institutions, or on the customers of depository institutions. Accordingly, section 302 of RCDRIA does not apply. Nevertheless, the requirements of RCDRIA will be considered as part of the overall rulemaking process, and the FDIC invites comments that will further inform its consideration of RCDRIA.

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act⁵⁴ requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The FDIC invites your comments on how to make this proposed rule easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could the material be better organized?
- Are the requirements in the proposed regulation clearly stated? If not, how could the regulation be stated more clearly?
- Does the proposed regulation contain language or jargon that is unclear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand?

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, banking, Savings associations.

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 327 as follows:

PART 327—ASSESSMENTS

- 1. The authority citation for part 327 is revised to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817–19, 1821, 1823.

- 2. Add § 327.13 to read as follows:

§ 327.13 Special Assessment Pursuant to March 12, 2023, Systemic Risk Determination.

(a) *Special assessment.* A special assessment shall be imposed on each insured depository institution to recover losses to the Deposit Insurance Fund, as described in paragraph (b) of this section, resulting from the March 12, 2023, systemic risk determination pursuant to 12 U.S.C. 1823(c)(4)(G). The special assessment shall be collected from each insured depository institution on a quarterly basis as described in this section during the initial special assessment period as defined in paragraph (f) of this section and, if necessary, the extended special assessment period as defined in paragraph (g) of this section, and if further necessary, on a one-time basis as described in paragraph (l) of this section.

(b) *Losses to the Deposit Insurance Fund.* As used in this section, “losses to the Deposit Insurance Fund” refers to losses incurred by the Deposit Insurance Fund resulting from actions taken by the FDIC under the March 12, 2023, systemic risk determination, as may be revised from time to time.

(c) *Calculation of special assessment.* An insured depository institution’s special assessment for each quarter during the initial special assessment period and extended special assessment period shall be calculated by multiplying the special assessment rate defined in paragraph (f)(2) or (g)(3) of this section, as appropriate, by the institution’s special assessment base as defined in paragraph (f)(3) or (g)(4) of this section, as appropriate.

(d) *Invoicing of special assessment.* For each assessment period in which the special assessment is imposed, the FDIC shall advise each insured depository institution of the amount and calculation of any special assessment payment due in a form that notifies the institution of the special assessment base and special assessment rate exclusive of any other assessments imposed under this part. This information shall be provided at the same time as the institution’s quarterly certified statement invoice under § 327.2 for the assessment period in which the special assessment was imposed.

(e) *Payment of special assessment.* Each insured depository institution shall pay to the Corporation any special assessment imposed under this section in compliance with and subject to the provisions of §§ 327.3, 327.6, and 327.7. The date for any special assessment payment shall be the date provided in § 327.3(b)(2) for the institution’s

quarterly certified statement invoice for the calendar quarter in which the special assessment was imposed.

(f) *Special assessment during initial special assessment period—(1) Initial special assessment period.* The initial special assessment period shall begin with the first quarterly assessment period of 2024 and end the last quarterly assessment period of 2025, except the initial special assessment period will cease the first quarterly assessment period after the aggregate amount of special assessments collected under this section meets or exceeds the losses to the Deposit Insurance Fund, where amounts collected and losses are compared on a quarterly basis.

(2) *Special assessment rate during initial special assessment period.* The special assessment rate during the initial special assessment period is 3.13 basis points on a quarterly basis.

(3) *Special assessment base during initial special assessment period.* (i) The special assessment base for an insured depository institution during the initial special assessment period that has no affiliated insured depository institution shall equal:

(A) The institution’s uninsured deposits, as described in paragraph (h) of this section; minus

(B) The \$5 billion deduction; provided, however, that an institution’s assessment base cannot be negative.

(ii) The special assessment base for an insured depository institution during the initial special assessment period that has one or more affiliated insured depository institutions shall equal:

(A) The institution’s uninsured deposits, as described in paragraph (h) of this section; minus

(B) The institution’s portion of the \$5 billion deduction, determined according to paragraph (i) of this section; provided, however, that an institution’s special assessment base cannot be negative.

(g) *Special assessment during extended special assessment period—(1) Shortfall amount.* The shortfall amount is the amount of losses to the Deposit Insurance Fund, as reviewed and revised as of the last quarterly assessment period of 2025, that exceed the aggregate amount of special assessments collected during the initial special assessment period.

(2) *Extended special assessment period.* If there is a shortfall amount after the last quarterly assessment period of 2025, the special assessment period will be extended, with at least 30 day notice to insured depository institutions, to collect the shortfall amount. The length of the extended special assessment period shall be the

⁵³ 12 U.S.C. 4802(b).

⁵⁴ Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

minimum number of quarters required to recover the shortfall amount at a rate under paragraph (g)(3) of this section that is at or below 3.13 basis points per quarter.

(3) *Assessment rate during extended special assessment period.* The assessment rate during the extended special assessment period will be the shortfall amount, divided by the total amount of uninsured deposits for the quarter ended December 31, 2022, adjusted for mergers, consolidation, and termination of insurance as of the last quarterly assessment period of 2025, minus the \$5 billion deduction for each insured depository institution or each institution's portion of the \$5 billion deduction, determined according to paragraph (i) of this section, divided by the minimum number of quarters that results in the quarterly rate being no greater than 3.13 basis points.

(4) *Assessment base during the extended special assessment period.* (i) The special assessment base for an insured depository institution during the extended special assessment period that has no affiliated insured depository institution shall equal:

(A) The institution's uninsured deposits, as described in paragraph (h) of this section, adjusted for mergers, consolidation, and termination of insurance as of the last assessment period of 2025; minus

(B) The \$5 billion deduction; provided, however, that an institution's special assessment base cannot be negative.

(ii) The special assessment base for an insured depository institution during the extended special assessment period that has one or more affiliated insured depository institutions shall equal:

(A) The institution's uninsured deposits, as described in paragraph (h) of this section, adjusted for mergers, consolidation, and termination of insurance as of the last assessment period of 2025; minus

(B) The institution's portion of the \$5 billion deduction, determined according to paragraph (i) of this section; provided, however, that an institution's special assessment base cannot be negative.

(h) *Uninsured deposits.* For purposes of this section, the term "uninsured deposits" means an institution's estimated uninsured deposits as reported in Memoranda Item 2 on Schedule RC-O, Other Data For Deposit Insurance Assessments in the Consolidated Reports of Condition and Income (Call Report) or Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) for the quarter ended December 31,

2022, reported as of the date this rule is adopted. Institutions with less than \$1 billion in total assets as of June 30, 2021, were not required to report such items; therefore, for purposes of calculating special assessments or a shortfall special assessment under this section, the amount of uninsured deposits for such institutions as of December 31, 2022, is zero.

Amendments to an institution's Call Report or FFIEC 002 subsequent to the date this rule is adopted by the Board do not affect the amount of the institution's uninsured deposits for purposes of calculating special assessments or shortfall special assessments under this section.

(i) *Special assessment base— institution's portion of the \$5 billion deduction.* For purposes of paragraphs (f)(3)(ii)(B) and (g)(4)(ii)(B) of this section, an institution's portion shall equal the ratio of the institution's uninsured deposits to the sum of the institution's uninsured deposits and the uninsured deposits of all of the institution's affiliated insured depository institutions, multiplied by \$5 billion.

(j) *Affiliates.* For the purposes of this section, an affiliated insured depository institution is an insured depository institution that meets the definition of "affiliate" in section 3 of the FDI Act, 12 U.S.C. 1813(w)(6).

(k) *Effect of mergers, consolidations, and other terminations of insurance on special assessments—(1) Final quarterly certified invoice for acquired institution.* The surviving or resulting insured depository institution in a merger or consolidation shall be liable for any unpaid special assessments or final shortfall special assessments outstanding at the time of the merger or consolidation on the part of the institution that is not the resulting or surviving institution consistent with § 327.6.

(2) *Special assessment for quarter in which the merger or consolidation occurs.* If an insured depository institution is the surviving or resulting institution in a merger or consolidation or acquires all or substantially all of the assets, or assumes all or substantially all of the deposit liabilities, of an insured depository institution, then the surviving or resulting insured depository institution or the insured depository institution that acquires such assets or assumes such deposit liabilities, shall be liable for the acquired institutions' special assessment, if any, from the quarter of the acquisition through the remainder of the initial or extended special

assessment period, including any final shortfall special assessments.

(3) *Other termination.* When the insured status of an institution is terminated, and the deposit liabilities of such institution are not assumed by another insured depository institution, special assessments and any shortfall special assessments shall be paid consistent with § 327.6(c).

(l) *One-time final shortfall special assessment.* If the aggregate amount of special assessments collected during the initial or extended special assessment period(s) do not meet or exceed the losses to the Deposit Insurance Fund, as calculated after the receiverships resulting from the March 12, 2023 systemic risk determination are terminated, insured depository institutions shall pay a one-time final shortfall special assessment in accordance with this paragraph.

(1) *Notification of final shortfall special assessment.* The FDIC shall notify each insured depository institution of the amount of such institution's final shortfall special assessment no later than 45 days before such shortfall assessment is due.

(2) *Aggregate final shortfall special assessment amount.* The aggregate amount of the final shortfall special assessment imposed across all insured depository institutions shall equal the losses to the Deposit Insurance Fund, as of termination of the receiverships to which the March 12, 2023, systemic risk determination applied, minus the aggregate amount of special assessments collected under this section through initial and extended special assessment periods.

(3) *Final shortfall special assessment rate.* The final shortfall special assessment rate shall be the aggregate final shortfall special assessment amount divided by the total amount of uninsured deposits for the quarter ended December 31, 2022, adjusted for mergers, consolidation, and termination of insurance as of the assessment period preceding the final shortfall special assessment period, minus the \$5 billion deduction for each insured depository institution or each institution's portion of the \$5 billion deduction, determined according to paragraph (i) of this section.

(4) *Final shortfall special assessment base.* (i) The final shortfall special assessment base for an insured depository institution that has no affiliated insured depository institution shall equal:

(A) The institution's uninsured deposits, as described in paragraph (h) of this section, adjusted for mergers, consolidation, and termination of

insurance as of the assessment period preceding the final short fall assessment period; minus

(B) The \$5 billion deduction; provided, however, that an institution's final shortfall special assessment base cannot be negative.

(ii) The final shortfall special assessment base for an insured depository institution that has one or more affiliated insured depository institutions shall equal:

(A) The institution's uninsured deposits, as described in paragraph (h) of this section, adjusted for mergers, consolidation, and termination of insurance as of the assessment period preceding the final shortfall assessment period; minus

(B) The institution's portion of the \$5 billion deduction, determined according to paragraph (i) of this section; provided, however, that an institution's final shortfall special assessment base cannot be negative.

(5) *Calculation of final shortfall special assessment.* An insured depository institution's final shortfall special assessment shall be calculated by multiplying the final shortfall special assessment rate by the institution's final shortfall special assessment base as defined in paragraph (l)(4) of this section.

(6) *One-time final special assessment.* The one-time final shortfall special assessment shall be collected on a one-time quarterly basis after final losses to the Deposit Insurance Fund are determined after termination of the receiverships to which the March 12, 2023, systemic risk determination applied.

(7) *Payment, invoicing, and mergers.* Paragraphs (d), (e), and (k) of this section are applicable to the one-time shortfall special assessment.

(m) *Request for revisions.* An insured depository institution may submit a written request for revision of the computation of any special assessment or shortfall special assessment pursuant to this part consistent with § 327.3(f).

(n) *Special assessment collection in excess of losses.* Any special assessments collected under this section that exceed the losses to the Deposit Insurance Fund, as of termination of the receiverships to which the March 12, 2023, systemic risk determination applied, shall be placed in the Deposit Insurance Fund.

(o) *Rule of construction.* Nothing in this section shall prevent the FDIC from imposing additional special assessments as required to recover current or future losses to the Deposit Insurance Fund resulting from any systemic risk

determination under 12 U.S.C. 1823(c)(4)(G).

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on May 11, 2023.

James P. Sheesley,
Assistant Executive Secretary.

[FR Doc. 2023-10447 Filed 5-19-23; 8:45 am]

BILLING CODE 6714-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2023-0188]

RIN 1625-AA09

Drawbridge Operation Regulation; Cuyahoga River, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to create a new operating schedule to govern all movable bridges over the Cuyahoga River. The Coast Guard is also proposing new rules that will assist mariners signal for and anticipate bridge openings. Mariners have raised concerns to the Ninth Coast Guard District Commander regarding the safety and consistency of moveable bridge operations on the Cuyahoga River. These additions are proposed in response to those concerns. We invite your comments on this proposed rulemaking.

DATES: Comments and relate material must reach the Coast Guard on or before July 21, 2023.

ADDRESSES: You may submit comments identified by docket number USCG-2023-0188 using Federal Decision-Making Portal at <https://www.regulations.gov>.

See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email If you have questions on this temporary final rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216-902-6085, email Lee.D.Soule@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations

CRSTF Cuyahoga River Safety Task Force
DHS Department of Homeland Security
FR Federal Register
IGLD85 International Great Lakes Datum of 1985
LWD Low Water Datum Based on IGLD85
OMB Office of Management and Budget
PAWSA Ports And Waterway Safety Assessment
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

The Cuyahoga River is over 100-miles in length and empties into Lake Erie at Cleveland, Ohio, but only the last 7-miles of the river are considered navigable for interstate commerce purposes. The Cuyahoga River system consists of the Cuyahoga River and the Old River Channel, the original outflow channel of the Cuyahoga River. The Cuyahoga River has multiple sharp bends that make visibility down river impossible and is designated as an American Heritage River by Executive Order 13061.

Twenty-four bridges cross the Cuyahoga River. These bridges accommodate small powered and non-powered recreational vessels, along with large commercial vessels of up to 700 feet in length.

The Cuyahoga River is considered one of the major industrial centers in the Great Lakes and handles several commodities for domestic and international commerce, including steel, heavy machinery, dry and liquid bulk products, and salt.

The United States and Canadian Coast Guard conduct fall and spring ice-breaking operations in the Cuyahoga River, depending on shipping schedules and weather conditions.

Heavy recreational traffic is concentrated in the Old River and on the Cuyahoga River up to mile 2.42 during the summer.

All vertical clearances over the Cuyahoga River and Old River Channel are based on IGLD85. Two bridges cross the Old River Channel:

1. The CSX Railroad Bridge, mile 0.89, is a single leaf bascule bridge that provides a horizontal clearance of 170-feet and a vertical clearance of 6-feet in the closed position and an unlimited clearance in the open position. This bridge is maintained in the open position.

2. The Willow Avenue Bridge, mile 1.02, is a vertical lift bridge that provides a horizontal clearance of 150-feet and a vertical clearance of 12-feet in the closed position and 98 feet in the open position.

Twenty-two bridges cross the Cuyahoga River:

1. The Norfolk Southern Railroad Bridge, mile 0.76, also known as “The Iron Curtain” or “NS1” is a vertical lift bridge that provides a horizontal clearance of 250-feet and a vertical clearance of 8-feet in the closed position and 98-feet in the open position.

2. The Main Avenue Viaduct, mile 1.01, is a fixed bridge with a horizontal clearance of 218-feet and a vertical clearance of 92-feet, but 97-feet is available in the center 182-feet of the span.

3. The CSX Railroad Bridge, mile 1.28, is a single leaf bascule bridge that provides a horizontal clearance of 229-feet and a vertical clearance of 8-feet in the closed position and an unlimited clearance in the open position. This bridge is normally maintained in the open position.

4. The Center Street Bridge, mile 1.28, is a bob-tail swing bridge that provides a horizontal clearance of 113-feet and a vertical clearance of 17-feet in the closed position and an unlimited clearance in the open positions.

5. The Detroit-Superior Viaduct, mile 1.42, is a fixed bridge that provides a horizontal clearance of 113-feet and a vertical clearance of 98-feet.

6. The Union Terminal Viaduct, mile 1.89, is a fixed bridge that provides a horizontal clearance of 200-feet and a vertical clearance of 98-feet.

7. The Columbus Road Bridge, mile 1.93, is a vertical lift bridge that provides a horizontal clearance of 220-feet and a vertical clearance of 17-feet in the closed position and 98-feet in the open position.

8. The Flats Industrial Railroad Bridge, mile 2.24, is a vertical lift bridge that provides a horizontal clearance of 200-feet and a vertical clearance of 8-feet in the closed position and 97-feet in the open position.

9. The City of Cleveland Railroad Bridge, mile 2.42, is a vertical lift bridge that provides a horizontal clearance of 200-feet and a vertical clearance of 23-feet in the closed position and 98-feet in the open position.

10. The Carter Road Bridge, mile 2.43, is a vertical lift bridge that provides a horizontal clearance of 201-feet and a vertical clearance of 22-feet in the closed position and 97-feet in the open position.

11. The Eagle Avenue Bridge, mile 2.80, is a vertical lift bridge that provides a horizontal clearance of 187-feet and a vertical clearance of 15-feet in the closed position and 97-feet in the open position. This bridge has been maintained in the open position for over

15 years and plans are being made for its complete removal by winter of 2025.

12. The Hope Memorial Bridge, mile 3.14, is a fixed bridge that provides a horizontal clearance of 178-feet and a vertical clearance of 96-feet.

13. The Norfolk Southern Railroad Bridge also known as “NS2” or “Nickle Plate” or “The Trestle Bridge”, mile 3.34, is a vertical lift bridge that provides a horizontal clearance of 200-feet and a vertical clearance of 64-feet in the closed position and 97-feet in the open position.

14. The Inner Belt Freeway Bridge, mile 3.42, is a fixed bridge that provides a horizontal clearance of 230-feet and a vertical clearance of 93-feet.

15. The West 3rd Street Bridge, mile 3.42, is a vertical lift bridge that provides a horizontal clearance of 200-feet and a vertical clearance of 10-feet in the closed position and 97-feet in the open position.

16. The CSX Railroad Bridge, mile 4.75, is a single leaf bascule bridge that provides a horizontal clearance of 110-feet and a vertical clearance of 10-feet in the closed position and an unlimited clearance in the open position. This bridge is normally maintained in the open position, except when trains cross the river.

17. The I-490 Bridge, mile 4.79, is a fixed bridge that provides a horizontal clearance of 110-feet and a vertical clearance of 101-feet.

18. An Overhead Conveyor Bridge, mile 5.35, is a fixed bridge that provides a horizontal clearance of 210-feet and a vertical clearance of 99-feet.

19. The Cleveland Cliffs Railroad Bridge #1, mile 5.42, is a single leaf bascule bridge that provides a horizontal clearance of 129-feet and a vertical clearance of 15-feet in the closed position and an unlimited clearance in the open position.

20. The Wheeling & Lake Erie Railroad Bridge, mile 5.47, is a vertical lift bridge that provides a horizontal clearance of 200-feet and a vertical clearance of 28-feet in the closed position and 97-feet in the open position.

21. The Norfolk Southern Railroad Bridge, mile 6.07, is a fixed bridge that provides a horizontal clearance of 27-feet and a vertical clearance of 14-feet.

22. The Cleveland Cliffs Railroad Bridge #2, mile 6.09, is a fixed bridge that provides a horizontal clearance of 59-feet and a vertical clearance of 14-feet.

The newly constructed Voinovich Pedestrian Bridge, at the mouth of North Coast Harbor, provides a horizontal clearance of 130-feet and a vertical clearance of 6-feet at center diminishing

to 4-feet at channel edges with an unlimited clearance in the open position.

III. Discussion of Proposed Rule

For 20 years, the Coast Guard has awarded winter operating deviations to all of the moveable highway bridges over the Cuyahoga River from mid-December to the end of March, allowing the bridges to open on signal if a 12-hour advance notice of arrival was received. We propose to make a permanent all-seasons rule for all movable bridges, except for the Norfolk Southern Railroad Bridge, mile 0.76, that, from December 15 through March 31 of each year each bridge will require a 12-hours advance notice for openings. As already required under § 117.55, each bridge will be required to display a sign with the bridge name, river mile, and that from December 15 through March 31 the bridge requires a 12-hour advance notice. The signage will also include the correct number to provide the advance notice. We propose that the Norfolk Southern Railroad Bridge, mile 0.76, be exempted from the winter 12-hour advance notice and will be required to open on signal all year. Freighters need to pass through the Norfolk Southern Railroad Bridge, mile 0.76, to gain refuge from high winds and waves, and a 12-hour delay would be considered unreasonable.

During the 2018 PAWSA that is available on the <https://navcen.uscg.gov> site by visiting Cuyahoga_River_PAWSA_18_Dec_2018.pdf (uscg.gov) we learned that “when the Norfolk Southern Railroad Bridge, mile 0.76, is closed, all inbound and out bound vessel traffic is halted. Congestion builds on both sides of the bridge as vessel operators wait for the bridge to open. Mariners drift and maneuver to maintain position, which increases the risk of collision.” The PAWSA proposed a better means of communications between recreation and commercial vessels. These recommendations included: the posting of telephone number at the bridge that would be answered by the tender or dispatcher, posting of a countdown clock, and requiring a radiotelephone at the Norfolk Southern Railroad Bridge, mile 0.76. The recommendations sought to alleviate congestion, prevent possible collisions, and improve the flow of commerce.

We reviewed complaints from mariners concerning the operation of the Norfolk Southern Railroad Bridge, mile 0.76, and discovered from 2019 through 2022 a total of 291 complaints were received; 115 of the reports involved delays. For comparison, during

the same period, the Coast Guard received two complaints against the Willow Street Bridge, mile 1.02, and one complaint against the Norfolk Southern Railroad Bridge, mile 3.34. Most complaints cite as the perceived cause of delay, communication difficulties with the drawtender, or in the cases of Norfolk Southern, communication difficulties with the train dispatchers.

In the PAWSA discussions related to reducing congestion near the Norfolk Southern Railroad Bridge, mile 0.76 and improving the overall experience for recreational vessels, it was recommended that the Norfolk Southern Railroad Bridge, mile 0.76, install an LED display (countdown clock) on both sides of the Norfolk Southern Railroad

Bridge, mile 0.76, that would communicate the estimated wait time until the bridge lifts. These clocks were in use when the former owner of the Norfolk Southern Railroad Bridge, mile 0.76 operated the crossing. The Coast Guard is proposing the railroad reestablish the use of those clocks or install modern clock faces to communicate the time until next opening.

To improve public safety, reduce vessel congestion at the bridge, and improve communication between the drawtender and the vessels, the Coast Guard proposes to require the Norfolk Southern Railroad Bridge, mile 0.76, to install and maintain signs visible from the upriver and downriver sides of the

bridge. The size, type, and spacing of characters must conform to the standard alphabets for highway signs and be visible to vessels approaching the bridge from upriver or down river of the bridge and be readable at a minimum distance of 500 feet. To improve communications the Coast Guard will propose that the Norfolk Southern Railroad Bridge, mile 1.5, in addition to monitoring the signals listed in 33 CFR 117.15, operate and maintain a Radio Telephone as required under 33 CFR 117.23 and operate and maintain a telephone, whose number will be maintained on the appropriate signs at the bridge.

Suggested signage would appear like this example:

BILLING CODE 9110-04-P

**NORFOLK SOUTHERN RAILROAD BRIDGE
MILE 0.76**

**THIS BRIDGE OPENS ON SIGNAL FOR
RECREATIONAL AND COMERCIAL VESSELS**

TO SIGNAL THE BRIDGE TO OPEN

**ONE PROLONGED BLAST FOLLOWED BY
ONE SHORT BLAST OF YOUR HORN**

OR

VHF-FM MARINE CHANNEL 16

OR

CALL [insert correct phone number here]

Under the proposal, all other movable bridges over the Cuyahoga River, the Old River, and at North Coast Harbor would be allowed to operate with a 12-hour advance notice from December 15th through March 31st and would be required, in accordance with § 117.55, to install and maintain signs visible from the upriver and downriver sides of

the bridge. The size, type, and spacing of characters must conform to the standard alphabets for highway signs and be visible to vessels approaching the bridge from upriver or down river of the bridge and be readable at a minimum distance of 500 feet. The information on the signs must provide the name of the bridge and the river

mile and include that the bridge opens on signal except from December 15 through March 31 when the bridge requires a 12-hour advance notice followed by instructions how to provide the advance notice.

Suggested signage would appear like this example:

CENTER STREET BRIDGE
MILE 1.39

APR-1 TO DEC-14
OPENS ON SIGNAL

DEC-15 THRU MAR-31
REQUIRES A 12-HR ADVANCE NOTICE

TO PROVIDE ADVANCE NOTICE CALL THE CARTER
ROAD BRIDGE
ON VHF-FM MARINE CHANNEL 16 OR CALL:
[INSERT APPROPRIATE PHONE NUMBER HERE]

BILLING CODE 9110-04-C

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders.

A. Regulatory Planning and Review

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

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the bridge

may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the

distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1,

associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2023–0188 in the search box and click “Search.” Next, look for this document in the “Search Results” column, and click on it. Then click on the “Comment” option. If 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.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. We review all comments received, but we will only

post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted, or a final rule is published of any posting or updates to the docket.

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 117.848 to read as follows:

§ 117.848 Cleveland Harbor.

(a) The Norfolk Southern Railroad Bridge, mile 0.76, will open on signal.

(1) The bridge owner will maintain and monitor a VHF–FM Marine Radio, and telephone.

(2) The bridge will display a clock that counts down the estimated time of the next bridge opening that is visible to vessels approaching from the upriver or downriver side of the bridge.

(3) The bridge will also display a sign readable from vessels approaching the bridge from upriver or down river and readable for 500 feet that states:

- (i) The name of the bridge;
- (ii) The river mile;
- (iii) That the bridge is remotely operated; and

(iv) The opening signal of the bridge is one prolonged blast followed by one short blast of the horn or VHF–FM Marine Radio Channel 16, or by calling the number posted by the owner.

(b) All remaining moveable vehicle and railroad bridges on the Cuyahoga River will open on signal, except from December 15 through March 31 when the bridges will open if a 12-hour advance notice is provided. Said bridges include: Willow Avenue Bridge at Mile 1.02; Center Street Bridge, mile 1.28; the Columbus Road Bridge, mile 1.93; the Flats Industrial Railroad Bridge, mile

2.24; the City of Cleveland Railroad Bridge, mile 2.42; the Carter Road Bridge, mile 2.43; the Norfolk Southern Railroad Bridge the West 3rd Street Bridge, mile 3.42; the CSX Railroad Bridge, mile 4.75; the Cleveland Cliffs Railroad Bridge #1, mile 5.42; and the Wheeling & Lake Erie Railroad Bridge.

(c) The Voinovich Pedestrian Bridge, at the mouth of North Coast Harbor, will open on signal except from December 15 through March 31 when the bridge will open if a 12-hour advance notice is provided.

Dated: May 15, 2023.

E.J. Doucette,

Captain, U.S. Coast Guard, Acting Commander, Ninth Coast Guard District.

[FR Doc. 2023–10731 Filed 5–19–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0364]

RIN 1625–AA00

Safety Zone; Monongahela River Mile Marker 122–122.5, Rivesville, WV

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for the Monongahela River at mile marker 122–122.5 from 10 p.m. through 10:30 p.m. This action is necessary to provide for the safety of life on these navigable waters during firework display on July 2, 2023. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Pittsburgh (COTP) or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before June 21, 2023.

ADDRESSES: You may submit comments identified by docket number USCG–2023–0364 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LTJG Eyobe

Mills, Marine Safety Unit Pittsburgh, U.S. Coast Guard; at telephone 412–221–0807 ext. 225, email Eyobe.D.Mills@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On April 11, 2023, the Town of Rivesville notified the Coast Guard that it will be conducting a firework show display from 10 p.m. through 10:30 p.m. on July 2, 2023. The firework display will be conducted on land and the fallout zone will be approximately 100 feet into the Monongahela River. Hazards from the firework show displays include dangerous projectiles and falling firework debris.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within the safety zone before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP is proposing to establish a temporary safety zone from 10 p.m. through 10:30 p.m. on July 2, 2023. The safety zone would cover all navigable waters on the Monongahela River from mile 122 to mile 122.5. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled firework display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits.

This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on size, location, and duration of the temporary safety zone. This safety zone impacts 0.5 miles stretch of the Monongahela River for a short amount of time of 30 minutes on one evening. Vessel traffic will be informed about the safety zone through local notice to mariners. Moreover, the Coast Guard will issue Local Notice to Mariners, Broadcast Notice to Mariner via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission from the COTP to transit the zone.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about

this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination

that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a temporary safety zone lasting 30 minutes that would prohibit entry within the Monongahela River from mile 122 to mile 122.5. Normally such actions are categorically excluded from further review under paragraph L[60a] of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2023-0364 in the search box and click "Search." Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the

Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the proposed rule, you should see a "Subscribe" option for email alerts. The option will notify you when comments are posted, or a final rule is published.

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

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T08-0364 to read as follows:

§ 165.T08-0364 Safety Zone; Monongahela River, Miles 122-122.5, Rivesville, WV.

(a) *Location.* The following area is a temporary safety zone: all navigable waters of the Allegheny River from mile 122 to mile 122.5.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Pittsburgh (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this

section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by phone at 412-670-4288. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 10 p.m. through 10:30 p.m. on July 2, 2023.

Eric J. Velez.

Commander, U.S. Coast Guard, Captain of the Port Marine Safety Unit Pittsburgh.

[FR Doc. 2023-10765 Filed 5-19-23; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2023-0197; FRL-10826-01-R7]

Air Plan Approval; State of Missouri; Construction Permits by Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Missouri State Implementation Plan (SIP) received on August 4, 2022. The submission removes a provision in the Missouri regulation "Construction Permits By Rule" that allows the burning of illegal and waste pharmaceutical drugs in crematories and animal incinerators. In the previous revision, submitted to EPA on March 7, 2019, EPA approved selected revisions of the rule but did not act on a portion of the revision that included the disposal of pharmaceuticals in crematories and animal incinerators because it conflicted with federal requirements on the incineration of illegal and waste pharmaceuticals. By removing the conflicting language, approval of these revisions will ensure consistency between State and federally approved rules. These revisions along with other minor text changes are administrative in nature and do not impact the stringency of the SIP or air quality. The EPA's proposed approval of this rule revision is in accordance with the requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before June 21, 2023.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2023-0197 to

www.regulations.gov. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to www.regulations.gov, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Written Comments” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Steven Brown, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7718; email address: brown.steven@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” and “our” refer to the EPA.

Table of Contents

- I. Written Comments
- II. What is being addressed in this document?
- III. Have the requirements for approval of a SIP revision been met?
- IV. What action is the EPA taking?
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2023-0197, at www.regulations.gov. Once submitted, comments cannot be edited or removed from *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 www.epa.gov/dockets/commenting-epa-dockets.

II. What is being addressed in this document?

The EPA is proposing to approve a SIP revision submitted by the State of Missouri on August 4, 2022. Missouri

requests the EPA to approve revisions to 10 Code of State Regulations (CSR) 10-6.062 in the Missouri SIP. The state has revised the rule to remove a provision in the Missouri regulation “Construction Permits By Rule” that allowed the burning of illegal and waste pharmaceutical drugs in crematories and animal incinerators. In the previous revision, submitted to EPA on March 7, 2019, and in a final rulemaking, EPA approved selected revisions of the rule but did not act on a portion of the revision that included the disposal of pharmaceutical drugs because it conflicted with federal requirements on the incineration of illegal and waste pharmaceuticals. By removing the conflicting language, approval of these revisions will ensure consistency between State and federally approved rules. Other revisions include correcting typographical errors and a minor change to correct a reference to state rule CSR 10-6.060 Construction Permits Required. After review and analysis of the revisions, the EPA concludes that these changes meet the requirements of the Clean Air Act and do not adversely affect air quality. The full text of these changes can be found in the State’s submission, which is included in the docket for this action. The EPA’s analysis of the revisions can be found in the technical support document (TSD), also included in the docket.

III. Have the requirements for approval of a SIP revision been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from 12/01/2021 to 2/03/2022 and received no comments.

In addition, as explained above and in more detail in the technical support document, which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. What action is the EPA taking?

The EPA is proposing to amend the Missouri SIP by approving the State’s request to revise 10 CSR 10-6.062 “Construction Permits By Rule.” We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Missouri rule 10 CSR 10-6.062 discussed in section II of this preamble and as set forth below in the proposed amendments to 40 CFR part 52. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. 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 Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, 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;

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

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.”

Missouri 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. 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide,

Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 15 2023.

Meghan A. McCollister,
Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

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 AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry “10–6.062” to read as follows:

§ 52.1320 Identification of plan.

* * * * *
(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10–6.062	Construction Permits By Rule	7/30/2022	[Date of publication of the final rule in the Federal Register , Federal Register citation of the final rule].	
* * * * *				

* * * * *
[FR Doc. 2023–10760 Filed 5–19–23; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BM03

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Amendment 51

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Announcement of availability of fishery management plan amendment; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) submitted Amendment 51 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. If approved by the Secretary of Commerce, Amendment 51 to the FMP would revise the catch limits for snowy grouper and

the associated sector harvest allocations. In addition, Amendment 51 would revise the commercial seasonal quotas, recreational fishing season, and recreational accountability measures (AMs). The purpose of Amendment 51 is to end overfishing of snowy grouper, rebuild the stock, and achieve optimum yield (OY) while minimizing, to the extent practicable, adverse social and economic effects.

DATES: Written comments must be received by July 21, 2023.

ADDRESSES: You may submit comments on Amendment 51, identified by “NOAA–NMFS–2023–0026,” by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov and enter “NOAA–NMFS–2023–0026” in the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit all written comments to Rick DeVictor, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

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

An electronic copy of Amendment 51, 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/node/151366>.

FOR FURTHER INFORMATION CONTACT: Rick DeVictor, telephone: 727–824–5305, or email: rick.devictor@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or FMP amendment to the Secretary of Commerce (the Secretary) for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement

in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

The Council prepared the FMP that is being revised by Amendment 51. If approved, Amendment 51 would be implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The Council manages the snapper-grouper fishery, including snowy grouper, in Federal waters from North Carolina south to the Florida Keys in the South Atlantic under the FMP. The Magnuson-Stevens Act requires NMFS and regional fishery management councils to 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.

All weights described in this notification are in gutted weight.

In 2004, a stock assessment for snowy grouper was completed through the Southeast Data, Assessment, and Review (SEDAR) process (SEDAR 4), and it was determined that the stock was subject to overfishing and overfished. As a result of that stock status, Amendment 13C to the FMP established management measures to end overfishing (71 FR 55096, September 21, 2006) and Amendment 15A to the FMP established a rebuilding plan for snowy grouper (73 FR 14942, March 20, 2008). The rebuilding plan year started in 2006 with a target time to rebuild snowy grouper of 34 years.

The snowy grouper stock was assessed again in 2013 through SEDAR 36 and was determined to not be undergoing overfishing, although the stock was overfished but rebuilding. In response to the assessment and a subsequent acceptable biological catch (ABC) recommendation by the Council’s Scientific and Statistical Committee (SSC), the Council and NMFS implemented management actions through the final rule for Regulatory Amendment 20 to the FMP (80 FR 43033, July 21, 2015). Regulatory Amendment 20 and its implementing final rule modified the annual catch limit (ACL) by setting it equal to the ABC and OY, increased the commercial trip limit to 200 lb (91 kg), and modified the recreational fishing season from the calendar year to May through August.

The most recent SEDAR stock assessment for South Atlantic snowy

grouper (SEDAR 36 Update) was completed in 2021 and included data through 2018. The assessment used revised estimates for recreational catch from the Marine Recreational Information Program (MRIP) based on the Fishing Effort Survey (FES). In 2018, the MRIP fully transitioned its estimation of recreational effort to the mail-based FES. Previous estimates of recreational catch for snowy grouper were made using MRIP’s Coastal Household Telephone Survey (CHTS) phone call-based methodology. As explained in Amendment 51, total recreational fishing effort estimates generated from the MRIP FES are different than those from the MRIP CHTS and earlier survey methods. This difference in estimates is because MRIP FES is designed to more accurately measure fishing activity, not because there was a sudden change in fishing effort. The MRIP FES is considered a more reliable estimate of recreational effort by the Council’s SSC, the Council, and NMFS, and more robust compared to the MRIP CHTS method. The SSC reviewed the SEDAR 36 Update and found that the assessment was conducted using the best scientific information available, and was adequate for determining stock status and supporting fishing level recommendations. The findings of the assessment indicated that the South Atlantic snowy grouper stock remains overfished and is undergoing overfishing.

Following a notification from NMFS to a fishery management council that a stock is undergoing overfishing and is overfished, the Magnuson-Stevens Act requires the fishery management council to develop an FMP amendment with actions that immediately end overfishing and rebuild the affected stock. In a letter dated June 10, 2021, NMFS notified the Council that the snowy grouper stock is overfished and undergoing overfishing but continues to rebuild, and the Council subsequently developed Amendment 51 in response to the results of SEDAR 36 Update.

In addition to the proposed revisions to the sector ACLs and seasonal commercial quotas, the Council determined that further modifications to snowy grouper management measures are needed to help constrain recreational harvest to the proposed fishing levels in Amendment 51. Amendment 51 would reduce the length of the recreational fishing season and would also adjust the recreational AMs to ensure they are effective at keeping recreational landings from exceeding the proposed recreational ACL and correct for ACL overages if they occur.

The Council decided not to revise the current commercial trip limit or AMs, finding that those measures sufficiently ensured that the commercial harvest of snowy grouper is constrained to the ACL.

The Council determined that the actions in Amendment 51 would end overfishing of South Atlantic snowy grouper, rebuild the stock, and achieve OY while minimizing, to the extent practicable, adverse social and economic effects. The Council would also revise the overfishing limit (OFL) for snowy grouper, set the ACL equal to the ABC, and update other biological reference points in this FMP amendment.

Actions Contained in Amendment 51

Amendment 51 would revise the catch levels for snowy grouper, including the OFL, ABC, and ACL. Actions in this amendment would also revise the sector ACLs, seasonal commercial quotas, recreational fishing season, and recreational AMs.

OFL, ABC, and Annual OY

The current ABC for snowy grouper was approved in Regulatory Amendment 20, based upon a stock assessment (SEDAR 36) and recommendations from the Council's SSC.

Based on the SEDAR 36 Update, the Council's SSC recommended to the Council new OFL and ABC levels, with the ABC reduced from the OFL. The assessment and associated OFL and ABC recommendations for snowy grouper incorporated the revised estimates for recreational catch and effort from the MRIP FES. The SSC determined that the new OFL and ABC recommendations within Amendment 51 also represent the best scientific information available.

The Council chose to specify OY for snowy grouper on an annual basis and set it equal to the ABC and total ACL, in accordance with the guidance provided in the Magnuson-Stevens Act National Standard 1 Guidelines at 50 CFR 600.310(f)(4)(iv).

Total ACLs

As implemented through Regulatory Amendment 20, the current total ACL and annual OY for snowy grouper are equal to the current ABC of 185,464 lb (84,125 kg). In Amendment 51, the Council would revise the ABC and keep the ABC, ACL, and annual OY equal to each other.

The amendment would revise the total ACL and annual OY equal to the recommended ABC of 119,654 lb (54,274 kg) for 2023; 121,272 lb (55,008

kg) for 2024; 122,889 lb (55,741 kg) for 2025; and 122,889 lb (55,741 kg), for 2026 and subsequent fishing years.

Sector Allocations and ACLs

The Council would revise the commercial and recreational allocations of the total ACL for snowy grouper in Amendment 51. The current sector ACLs for snowy grouper are based on the commercial and recreational allocations of 83 percent and 17 percent, respectively, that were revised in Regulatory Amendment 20. These allocations were determined using average commercial and recreational landings from 1986 to 2005, which included estimates of recreational catch from the MRIP CHTS method.

In Amendment 51, the Council would determine allocations using the average commercial and recreational landings from 1986 to 2005, but include the estimates of recreational catch during those years using the MRIP FES method from the SEDAR 36 Update. The Council would specify new commercial and recreational allocations of 87.55 percent and 12.45 percent, respectively, which results in a shift of allocation of 4.55 percent from the recreational sector to the commercial sector. The Council reasoned that using average landings from 1986 to 2005 was more appropriate because it would exclude the more recent years that had depth and area closures that may affect the allocation calculations, and would strike the most appropriate balance between the needs of both sectors. The Council acknowledged that because the snowy grouper portion of the snapper-grouper fishery operates primarily in deeper water and is therefore more difficult to access for recreational fishermen, when compared to snapper-grouper species found in shallower water closer to shore, the allocations between sectors have historically and consistently been much higher for the commercial sector. The Council considers this allocation to be fair and equitable to fishery participants in both the commercial and recreational sectors, and would be carried out in such a manner that no particular individual, corporation, or other entity would acquire an excessive share. The Council determined that this allocation is also reasonably calculated to promote conservation and is a wise use of the resource, since it would remain within the boundaries of a total ACL that is based upon an ABC recommendation from their SSC that incorporates the best scientific information available. The Council acknowledged that the commercial sector would benefit with additional

allocation, but that the economic shifts were relatively minor.

The commercial ACLs would be 104,757 lb (47,517 kg) for 2023; 106,174 lb (48,160 kg) for 2024; 107,589 lb (48,802 kg) for 2025; and 107,589 lb (48,802 kg) for 2026 and subsequent years.

The recreational ACLs would be 1,668 fish for 2023; 1,691 fish for 2024; 1,713 fish for 2025; and 1,713 fish for 2026 and subsequent years.

The commercial quota for snowy grouper is equivalent to the commercial ACL. Regulatory Amendment 27 to the FMP established two commercial fishing seasons for snowy grouper and divided the commercial quota between the seasons (85 FR 4588, January 27, 2020). The Council allocated 70 percent of the commercial quota to Season 1 from January through June, and 30 percent of the quota to Season 2 from July through December. Any remaining commercial quota from Season 1 is added to the commercial quota in Season 2, but any remaining quota from Season 2 is not carried forward into the next fishing year. Amendment 51 would not alter the current commercial fishing seasons or commercial season ACL allocations.

Under Amendment 51, the commercial quotas in 2023 for Season 1 would be 73,330 lb (33,262 kg) and for Season 2 would be 31,427 lb (14,255 kg); in 2024, Season 1 would be 74,322 lb (33,712 kg) and Season 2 would be 31,852 lb (14,448 kg); in 2025, Season 1 would be 75,312 lb (34,161 kg) and Season 2 would be 32,277 lb (14,641 kg); and for 2026 and subsequent years, Season 1 would be 75,312 lb (34,161 kg) and Season 2 would be 32,277 lb (14,641 kg).

Recreational Fishing Season

Recreational harvest of snowy grouper is currently allowed May 1 through August 31. Amendment 51 would revise the recreational fishing season for snowy grouper where harvest would be allowed only from May 1 through June 30. The recreational sector would be closed annually from January 1 through April 30, and from July 1 through December 31. During the proposed seasonal closures, the recreational bag and possession limits for snowy grouper would be zero. Shortening the time recreational fishing is allowed would help to reduce the risk that recreational harvest would exceed the proposed reduction to its sector ACL, while still allowing for retention of snowy grouper when recreational fishermen target co-occurring species, such as blueline tilefish, in some areas.

Recreational AMs

The current recreational AMs were established through Amendment 34 to the FMP (81 FR 3731, January 22, 2016). The AMs include an in-season closure for the remainder of the fishing year if recreational landings reach or are projected to reach the recreational ACL, regardless of whether the stock is overfished. The AMs also include a post-season adjustment if recreational landings exceed the recreational ACL, and then during the following fishing year recreational landings will be monitored for a persistence in increased landings. If the total ACL is exceeded and snowy grouper are overfished, the length of the recreational fishing season and the recreational ACL are reduced by the amount of the recreational ACL overage.

The amendment would revise the recreational AMs for snowy grouper. Given the proposed 2-month fishing season, the current in-season closure and stock status based post-season AM would be removed. The proposed recreational AM would be a post-season AM that would be triggered in the following fishing year if the recreational ACL was exceeded in the previous year. If recreational landings exceed the recreational ACL, NMFS would reduce the length of the recreational fishing season in the following year by the

amount necessary to prevent the recreational ACL from being exceeded. However, the length of the recreational season would not be reduced if NMFS determines, using the best scientific information available, that a reduction is not necessary.

The Council intends the proposed recreational AM would avoid an in-season closure of the recreational sector and would extend maximum fishing opportunities to the sector during the proposed 2-month recreational season. The proposed rule would remove the current potential duplicate AM application of a reduction in the recreational season length and a payback of the recreational ACL overage if the total ACL was exceeded. Under the proposed measure, the AM trigger would not be tied to the total ACL, but only to the recreational ACL. The proposed modification would ensure that an ACL overage in the recreational sector does not in turn affect the catch levels for the commercial sector. Any reduced recreational season length as a result of the AM being implemented would apply to the recreational fishing season in the year following a recreational ACL overage.

Proposed Rule for Amendment 51

A proposed rule to implement Amendment 51 has been drafted. In

accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule for Amendment 51 to determine whether it is consistent with Amendment 51, the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 51 for Secretarial review, approval, and implementation. Comments on Amendment 51 must be received by July 21, 2023. Comments received during the respective comment periods, whether specifically directed to Amendment 51 or the proposed rule, will be considered by NMFS in the decision to approve, partially approve, or disapprove Amendment 51. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: May 16, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023-10721 Filed 5-19-23; 8:45 am]

BILLING CODE 3510-22-P

Notices

Federal Register

Vol. 88, No. 98

Monday, May 22, 2023

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS-AMS-23-0005]

2023/2024 Rates Charged for AMS Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing the 2023/2024 rates it will charge for voluntary grading, inspection, certification, auditing, and laboratory services for a variety of agricultural commodities including meat and poultry, fruits and vegetables, eggs, dairy products, rice, and cotton and tobacco. The 2023/2024 regular, overtime, holiday, and laboratory services rates will be applied at the beginning of the crop year, fiscal year or as required by law depending on the commodity. Other starting dates are added to this notice based on cotton industry practices. This action establishes the rates for user-funded programs based on costs incurred by AMS. This year, cost-based analyses indicated the need to increase user fee rates when current rates are insufficient to cover the costs of providing the service. While cost-saving measures have and will continue to be implemented, user fee rate increases are necessary to offset rising operational costs. In cases where current rates are sufficient to cover the costs of providing the service, user fee rates remain unchanged.

DATES: May 23, 2023.

FOR FURTHER INFORMATION CONTACT: Melissa Bailey, Associate Administrator, AMS, USDA, Room 2036-S, 1400 Independence Ave. SW, Washington, DC 20250; telephone (202) 205-9356, or email melissa.bailey@usda.gov.

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Act of 1946, as

amended (AMA) (7 U.S.C. 1621-1627), provides for the collection of fees to cover costs of various inspection, grading, certification, or auditing services covering many agricultural commodities and products. The AMA also provides for the recovery of costs incurred in providing laboratory services. The Cotton Statistics and Estimates Act (7 U.S.C. 471-476) and the U.S. Cotton Standards Act (7 U.S.C. 51-65) provide for classification of cotton and development of cotton standards materials necessary for cotton classification. The Cotton Futures Act (7 U.S.C. 15b) provides for futures certification services, and the Tobacco Inspection Act (7 U.S.C. 511-511s) provides for tobacco inspection and grading. These Acts also provide for the recovery of costs associated with these services.

On November 13, 2014, the U.S. Department of Agriculture (Department) published in the **Federal Register** a final rule that established standardized formulas for calculating the fees charged by AMS user-funded programs (79 FR 67313). On the basis of rates calculated using these formulas, AMS is to determine the fee rates necessary to sustain program services. Every year since then, the Department has published in the **Federal Register** a notice announcing the rates for its user-funded programs.

This notice announces the 2023/2024 fee rates for voluntary grading, inspection, certification, auditing, and laboratory services for a variety of agricultural commodities including meat and poultry, fruits and vegetables, eggs, dairy products, rice, and cotton and tobacco on a per-hour rate and, in some instances, the equivalent per-unit cost. The per-unit cost is provided to facilitate understanding of the costs associated with the service to the industries that historically used unit-cost basis for payment. Fee rates will be effective at the beginning of the fiscal year, crop year, or as required by specific laws.

Rates reflect direct and indirect costs of providing services. Direct costs include the cost of salaries, employee benefits, and, if applicable, travel and some operating costs. Indirect or overhead costs include the cost of Program and Agency activities supporting the services provided to the industry. The formula used to calculate

these rates also includes operating reserve, which may add to or draw upon the existing operating reserves.

These services include the grading, inspection, or certification of quality factors in accordance with established U.S. Grade Standards or other specifications; audits or accreditation according to International Organization for Standardization (ISO) standards and/or Hazard Analysis and Critical Control Point (HACCP) principles; and other marketing claims. The quality grades serve as a basis for market prices and reflect the value of agricultural commodities to both producers and consumers. AMS' grading and certification, audit and accreditation, plant process and equipment verification, and laboratory approval services are voluntary tools paid for by the users on a fee-for-service basis. The agriculture industry can use these tools to promote and communicate the quality of agricultural commodities to consumers. Laboratory services are provided for analytic testing, including but not limited to chemical, microbiological, biomolecular, and physical analyses. AMS is required by statute to recover the costs associated with these services.

As required by the Cotton Statistics and Estimates Act (7 U.S.C. 471-476), consultations regarding the establishment of the fee for cotton classification with U.S. cotton industry representatives are held in the beginning of the year when most industry stakeholder meetings take place. Representatives of all segments of the cotton industry, including producers, ginners, bale storage facility operators, merchants, cooperatives, and textile manufacturers were informed of the fees during various industry-sponsored forums.

Rates Calculations

AMS calculated the rate for services, per hour per program employee, using the following formulas (a per-unit base is included for programs that charge for services on a per-unit basis):

(1) *Regular rate.* The total AMS grading, inspection, certification, classification, audit, or laboratory service program personnel direct pay divided by direct hours for the previous year, which is then multiplied by the next year's percentage of cost of living increase, plus the benefits rate, plus the operating rate, plus the allowance for

bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service.

(2) *Overtime rate.* The total AMS grading, inspection, certification, classification, audit, or laboratory service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then multiplied by 1.5, plus the benefits rate,

plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

(3) *Holiday rate.* The total AMS grading, inspection, certification, classification, audit, or laboratory service program personnel direct pay divided by direct hours, which is then multiplied by the next year's percentage of cost of living increase and then

multiplied by 2, plus the benefits rate, plus the operating rate, plus an allowance for bad debt. If applicable, travel expenses may also be added to the cost of providing the service.

All rates are per-hour except when a per-unit cost is noted. The specific amounts in each rate calculation are available upon request from the specific AMS program.

2023/2024 RATES

	Regular	Overtime	Holiday	Includes travel costs in rate	Start date
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Cotton Fees

7 CFR Part 27—Cotton Classification Under Cotton Futures Legislation
Subpart A—Requirements; §§ 27.80–27.90 Costs of Classification and Micronaire

Cotton Standardization:

Certification for Futures Contract (Grading services for samples submitted by CCC-licensed samplers).	\$4.25/bale			X	August 1, 2023.
Transfer of Certification Data to New Owner or Certified Warehouse (Electronic transfer performed).	\$0.20/bale or \$5.00 per page minimum			X	August 1, 2023.

7 CFR Part 28—Cotton Classing, Testing, and Standards

Subpart A—Regulations Under the United States Cotton Standards Act; §§ 28.115–28.126 Fees and Costs
Subpart D—Cotton Classification and Market News Service for Producers; § 28.909 Costs; § 28.910 Classification of Samples and Issuance of Classification Data; § 28.911 Review Classification.

Cotton Grading:

Form 1: Grading Services for Producers (submitted by licensed sampler).	\$2.75/bale			X	July 1, 2023.
Form 1 Review (new sample submitted by licensed sampler).	\$2.75/bale			X	July 1, 2023.
Form A Determinations (sample submitted by licensed warehouse).	\$2.75/bale			X	July 1, 2023.
Form C Determinations (sample submitted by non-licensed entity; bale sampled under USDA supervision).	\$2.75/bale			.....	July 1, 2023.
Form D Determination (sample submitted by owner or agent; classification represents sample only).	\$2.75/bale			X	July 1, 2023.
Foreign Growth Classification (sample of foreign growth cotton submitted by owner or agent; classification represents sample only).	\$6.00/sample			X	August 1, 2023.
Arbitration (comparison of a sample to the official standards or a sample type).	\$6.00/sample			X	August 1, 2023.
Practical Cotton Classing Exam (for non-USDA employees).	Exam: \$150/applicant; Reexamination: \$130/applicant			X	July 1, 2023.
Special Sample Handling (return of samples per request)	\$0.50/sample			X	July 1, 2023.
Electronic Copy of Classification Record	\$0.05/bale (\$5.00/month minimum with any records received)			X	July 1, 2023.
Form A Rewrite (reissuance of Form 1, Form A, or Futures Certification data or combination).	\$0.15/bale or \$5.00/page minimum			X	August 1, 2023.
Form R (reissuance of Form 1 classification only)	\$0.15/bale or \$5.00/page minimum			X	July 1, 2023.
International Instrument Level Assessment	\$4.00/sample			X	July 1, 2023.

2023/2024 RATES—Continued

	Regular	Overtime	Holiday	Includes travel costs in rate	Start date
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Dairy Fees

7 CFR Part 58—Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products
 Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products; §§ 58.38–58.46 Fees and Charges

Continuous Resident Grading Service	\$95.00	\$116.00	\$137.00	X	Oct 1, 2023.
Continuous Resident Grading Service 6 p.m.–6 a.m.	\$105.00	\$128.00	\$151.00	X	Oct 1, 2023.
Non-resident and Intermittent Grading Service; State Graders	\$120.00	\$155.00	\$190.00	X	Oct 1, 2023.
Non-resident Services 6 p.m.–6 a.m. (10 percent night differential).	\$132.00	\$171.00	\$190.00	X	Oct 1, 2023.
Export Certificate Services	\$104.00/certificate				Oct 1, 2023.
Equipment Review ¹	\$135.00	\$192.00	\$249.00		Oct 1, 2023.
Equipment Review 6 p.m.–6 a.m. ¹	\$148.00	\$211.00	\$249.00		Oct 1, 2023.
Audit Services	\$135.00			X	Oct 1, 2023.
Special Handling	\$52.00/certificate				Oct 1, 2023.
Uncertified Copy of Certificate	\$12.00/copy				Oct 1, 2023.
Derogation Application	\$125.00/application				Oct 1, 2023.

Specialty Crops Fees

7 CFR Part 51—Fresh Fruits, Vegetables and Other Products (Inspection, Certification, and Standards)

Subpart A—Requirements; §§ 51.37–51.44 Schedule of Fees and Charges at Destination Markets; § 51.45 Schedule of Fees and Charges at Shipping Point Areas

Quality and Condition Inspections for Whole Lots	\$242.00 per lot				Oct 1, 2023.
Quality and Condition Half Lot or Condition-Only Inspections for Whole Lots.	\$200.00 per lot				Oct 1, 2023.
Condition—Half Lot	\$185.00 per lot				Oct 1, 2023.
Quality and Condition or Condition-Only Inspections for Additional Lots of the Same Product.	\$110.00 per lot				Oct 1, 2023.
Dockside Inspections—Each package weighing <30 lbs	\$0.044 per pkg				Oct 1, 2023.
Dockside Inspections—Each package weighing >30 lbs	\$0.068/pkg				Oct 1, 2023.
Charge per Individual Product for Dockside Inspection	\$240.00/lot				Oct 1, 2023.
Charge per Each Additional Lot of the Same Product	\$110.00/lot				Oct 1, 2023.
Inspections for All Hourly Work	\$116.00	\$153.00	\$190.00		Oct 1, 2023.
Audit Services—Federal	\$155.00				Oct 1, 2023.
Audit Services—State	\$155.00				Oct 1, 2023.
GFSI Certification Fee ²	\$250.00/audit				Oct 1, 2023.

7 CFR Part 52—Processed Fruits and Vegetables, Processed Products Thereof, and Other Processed Food Products

Subpart A—Requirements Governing Inspection and Certification; §§ 52.41–52.51 Fees and Charges

Lot Inspections	\$90.00	\$116.00	\$142.00		Oct 1, 2023.
In-plant Inspections Under Annual Contract (year-round)	\$95.00	\$117.00	\$139.00		Oct 1, 2023.
Additional Graders (in-plant) or Less Than Year-Round	\$95.00	\$121.00	\$148.00		Oct 1, 2023.
Audit Services—Federal	\$155.00				Oct 1, 2023.
Audit Services—State	\$155.00				Oct 1, 2023.
GFSI Certification Fee ²	\$250.00/audit				Oct 1, 2023.

2023/2024 RATES—Continued

	Regular	Overtime	Holiday	Includes travel costs in rate	Start date
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Meat Fees

7 CFR Part 54—Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards)

Subpart A—Grading of Meats, Prepared Meats, and Meat Products; §§ 54.27–54.28 Charges for Service

Scheduled Grading	\$86.00	\$107.00	\$129.00	X	Oct 1, 2023.
Unscheduled Grading	\$114.00	\$132.00	\$154.00 .....	.....	Oct 1, 2023.
Scheduled Night Differential (6 p.m.–6 a.m.)	\$95.00	\$118.00	\$129.00	X	Oct 1, 2023.

7 CFR Part 62—Agricultural Marketing Service Audit Verification and Accreditation Programs (AVAAP)

Subpart E—Fees; § 62.300 Fees and Other Costs of Service

Auditing Activities	\$165.00	\$244.00	\$253.00	Oct 1, 2023.
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Poultry Fees

7 CFR Part 56—Voluntary Grading of Shell Eggs

Subpart A—Grading of Shell Eggs; §§ 56.45–56.54 Fees and Charges

7 CFR Part 70—Voluntary Grading of Poultry and Rabbit Products

Subpart A—Grading of Poultry and Rabbit Products; §§ 70.70–70.78 Fees and Charges

Scheduled Grading	\$68.00	\$88.00	\$106.00	X	Oct 1, 2023.
Scheduled, Night Differential (6 p.m.–6 a.m.)	\$75.00	\$98.00	\$106.00	X	Oct 1, 2023.
Scheduled, Sunday Differential	\$87.00	\$112.00	N/A	X	Oct 1, 2023.
Scheduled, Sunday and Night Differential	\$97.00	\$124.00	N/A	X	Oct 1, 2023.
Unscheduled Grading	\$99.00	\$122.00	\$147.00 .....	.....	Oct 1, 2023.

Science and Technology Fees

7 CFR Part 91—Services and General Information

Subpart I—Fees and Charges; §§ 91.37–91.45

Laboratory Testing Services	\$110.00	\$128.00	\$147.00 .....	.....	Oct 1, 2023.
Laboratory Approval Services ¹	\$188.00	\$216.00	\$245.00	X	Jan 1, 2024.

7 CFR Part 75—Provisions for Inspection and Certification of Quality of Agricultural and Vegetable Seeds

§ 75.41 General

Laboratory Testing	\$67.00	\$97.00	\$119.00 .....	.....	Oct 1, 2023.
Administrative Fee	\$17.00/certificate			.....	Oct 1, 2023.
Auditing Services	\$132.00/audit			.....	Oct 1, 2023.
Organization for Economic Cooperation and Development Seed Schemes for Corn Seeds.	\$0.33/100 pounds			.....	July 1, 2023.
Organization for Economic Cooperation and Development Seed Schemes for Other Seeds.	\$0.22/100 pounds			.....	July 1, 2023.

Tobacco Fees

7 CFR Part 29—Tobacco Inspection

Subpart A—Policy Statement and Regulations Governing the Extension of Tobacco Inspection and Price Support Services to New Markets and to Additional Sales on Designated Markets;

Subpart B—Requirements; §§ 29.123–29.129 Fees and Charges; § 29.500 Fees and charges for inspection and acceptance of imported tobacco;

Subpart F—Policy Statement and Provisions Governing the Identification and Certification of Non-quota Tobacco Produced and Marketed in Quota Area; § 29.9251 Fees and Charges

Domestic Permissive Inspection and Certification (re-grading of domestic tobacco for processing plants, retesting of imported tobacco, and grading tobacco for research stations.)	\$55.00	\$64.00	\$72.00 .....	.....	July 1, 2023.
Export Permissive Inspection and Certification (grading of domestic tobacco for manufacturers and dealers for duty drawback consideration).	\$0.0025/pound			X	July 1, 2023.

2023/2024 RATES—Continued

	Regular	Overtime	Holiday	Includes travel costs in rate	Start date
Grading for Risk Management Agency (for Tobacco Crop Insurance Quality Adjustment determinations).	\$0.015/pound			X	July 1, 2023.
Pesticide Test Sampling (collection of certified tobacco sample and shipment to AMS National Science Laboratory for testing).	\$0.0065/kg or \$0.0029/pound			X	July 1, 2023.
Pesticide Retest Sampling (collection of certified tobacco sample from a previously sampled lot for re-testing at the AMS National Science Laboratory; fee includes shipping).	\$115.00/sample and \$55.00/hour			X	July 1, 2023.
Standards Course (training by USDA-certified instructor on tobacco grading procedures).	\$1,250.00/person			.....	July 1, 2023.
Import Inspection and Certification (grading of imported tobacco for manufacturers and dealers).	\$0.0170/kg or \$0.0080/pound			X	July 1, 2023.

Rice Fees

7 CFR Part 868—General Regulations and Standards for Certain Agricultural Commodities
Subpart A—Regulations; §§ 868.90–868.92 Fees

Contract (per hour per Service representative) ³	\$75.10	\$112.70	\$150.30 .....	.....	Oct 1, 2023.
Noncontract (per hour per Service representative) ³	\$93.90	\$140.90	\$160.30 .....	.....	Oct 1, 2023.
Export Port Services ⁴	\$0.047/cwt			.....	Oct 1, 2023.
Inspection for quality (per lot, subplot, or sample inspection):					
Rough rice	\$55.40			.....	Oct 1, 2023.
Brown rice for processing	\$51.20			.....	Oct 1, 2023.
Milled rice	\$43.90			.....	Oct 1, 2023.
Factor analysis for any single factor (per sample):					
Milling yield (Rough or Brown rice)	\$42.90			.....	Oct 1, 2023.
All other factors (all rice)	\$30.80/factor			.....	Oct 1, 2023.
Total oil and free fatty acid	\$54.00			.....	Oct 1, 2023.
Faxed and extra copies of certificates	\$1.90/copy			.....	Oct 1, 2023.
Stowage examination (service-on-request):					
Ship	\$43.90 (per stowage space, minimum 5 spaces per ship)			.....	Oct 1, 2023.
Subsequent ship examinations	\$43.90 (per stowage space, minimum 3 spaces per ship)			.....	Oct 1, 2023.
Barge	\$43.30/examination			.....	Oct 1, 2023.
All other carriers	\$15.60/examination			.....	Oct 1, 2023.
Aflatoxin (Rapid Test Kit)	\$39.60/test			.....	Oct 1, 2023.
All Other Mycotoxins (Rapid Test Kit)	\$45.70/test			.....	Oct 1, 2023.

¹ Travel costs outside the United States will be added to the fee, if applicable.

² Global Food Safety Initiative (GFSI) Certification Fee—\$250 per GFSI audit to recoup the costs associated with attaining technical equivalency to the GFSI benchmarking requirements.

³ Original and appeal inspection services include: Sampling, grading, weighing, and other services requested by the applicant when performed at the applicant's facility.

⁴ Services performed at export locations on lots at rest.

Authority: 7 U.S.C. 15b; 7 U.S.C. 473a–b; 7 U.S.C. 55 and 61; 7 U.S.C. 51–65; 7 U.S.C. 471–476; 7 U.S.C. 511–511s; and 7 U.S.C. 1621–1627.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2023–10839 Filed 5–19–23; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency’s estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding these information collections are best assured of having their full effect if received by June 21, 2023. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

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

National Agricultural Statistics Service

Title: Current Agricultural Industrial Reports (CAIR).

OMB Control Number: 0535–0254.

Summary of Collection: The Current Agricultural Industrial Reports (CAIR) surveys have become an integral part of the Census of Agriculture and numerous other surveys conducted by NASS. Under the authority of the Census of Agriculture Act of 1997 (Pub. L. 105–113) and defined under Title 7, Sec. 2204(g), these surveys will be mandatory. The data from the CAIR surveys will supply data users with important information on the utilization of many of the crops, livestock, and poultry produced in the U.S.

Need and Use of the Information: Data from these surveys is essential to measuring the consumption of agricultural products in the production of numerous consumer goods. Agricultural products such as grain, oilseeds, fibers, and animal co-products is used in the creation of cooking oils, flour, lubricants, fuel, fabrics, soap, paint, methyl esters, resins, and numerous other products. The data are needed to provide a more complete picture of the importance of agriculture to the American population. Data from these instruments is published and publications are available to everyone at the same time on the NASS website.

Description of Respondents: Business or other for-profit.

Number of Respondents: 760.

Frequency of Responses: Reporting: One time.

Total Burden Hours: 2,283.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–10877 Filed 5–19–23; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–45–2023]

Approval of Expansion of Subzone 15E; Kawasaki Motors Manufacturing Corp., USA; Boonville, Missouri

On March 9, 2023, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Greater Kansas City Foreign-Trade Zone, Inc., grantee of FTZ 15, requesting an expansion of Subzone 15E, subject to the existing activation limit of FTZ 15, on behalf of Kawasaki Motors Manufacturing Corp., USA, in Boonville, Missouri.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (88 FR 15641, March 14, 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 400.36(f)), the application to expand Subzone 15E was approved on May 17, 2023, subject to the FTZ Act and the Board’s regulations, including section 400.13, and further subject to FTZ 15’s 2,000-acre activation limit.

Dated: May 17, 2023.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2023–10851 Filed 5–19–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–89–2023]

Foreign-Trade Zone 244; Subzone 244A Application for Expansion; Skechers USA, Inc.; Banning, California

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the March Joint Powers Authority, grantee of FTZ 244, requesting an expansion of Subzone 244A on behalf of Skechers USA, Inc., in Banning, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on May 16, 2023.

Subzone 244A was approved by the FTZ Board on December 20, 2010 (Board Order 1734, 76 FR 87, January 3, 2011) and was converted to a subzone under the alternative site framework (ASF) on July 9, 2018 (S–99–2018). Subzone 244A currently consists of the following sites in Riverisde County: Site 1 (120.5 acres)—29800 Eucalyptus Avenue, Moreno Valley; Site 2 (16 acres)—22705 Newehope Drive, Moreno Valley; and Site 3 (29.09 acres)—3350 Redlands Avenue, Perris.

The applicant is now requesting to expand Subzone 244A to include an additional site: Site 4 (63.9 acres)—2600 East John Street, Banning, Riverside County. Because the site of the proposed expanded subzone is outside FTZ 244’s ASF service area, authorization of the expanded subzone would not be under the ASF. The expanded subzone would

be subject to the existing activation limit of FTZ 244. No authority for production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Qahira El-Amin of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is July 3, 2023. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 17, 2023.

A copy of the application will be available for public inspection in the "Online FTZ Information Section" section of the FTZ Board's website, which is accessible via www.trade.gov/ftz.

For further information, contact Qahira El-Amin at Qahira.El-Amin@trade.gov.

Dated: May 17, 2023.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2023-10853 Filed 5-19-23; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Carlos Daniel Rodriguez, Inmate Number: 55257-509, FCI Bastrop, Federal Correctional Institution, P.O. Box 1010, Bastrop, TX 78602; Order Denying Export Privileges

On December 2, 2021, in the U.S. District Court for the Southern District of Texas, Carlos Daniel Rodriguez ("Rodriguez") was convicted of violating 18 U.S.C. 554(a). Specifically, Rodriguez was convicted of smuggling from the United States to Mexico, approximately 15,000 rounds of 5.56-millimeter ammunition and approximately 193 thirty-round magazines designed for use in AR-type rifles. As a result of his conviction, the Court sentenced Rodriguez to 46 months of confinement, three years of supervised release, and a \$100 assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act ("ECRA"),¹ the export privileges of any person who

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801-4852.

has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security ("BIS") licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Rodriguez's conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations ("EAR" or the "Regulations"), BIS provided notice and opportunity for Rodriguez to make a written submission to BIS. 15 CFR 766.25.² BIS has not received a written submission from Rodriguez.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Rodriguez's export privileges under the Regulations for a period of 10 years from the date of Rodriguez's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Rodriguez had an interest at the time of his conviction.³

Accordingly, it is hereby *ordered*:

First, from the date of this Order until December 2, 2031, Carlos Daniel Rodriguez, with a last known address of Inmate Number: 55257-509, FCI Bastrop, Federal Correctional Institution, P.O. Box 1010, Bastrop, TX 78602, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives ("the Denied Person"), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2022).

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Rodriguez by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Rodriguez may file an appeal of this Order with the Under Secretary of Commerce for Industry and

Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Rodriguez and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until December 2, 2031.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023-10872 Filed 5-19-23; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Manuel Alberto Munoz-Sandoval, Inmate Number: 17385-509, FCI Big Spring, Federal Correctional Institution, 1900 Simler Ave, Big Spring, TX 79720; Order Denying Export Privileges

On November 10, 2021, in the U.S. District Court for the Western District of Texas, Manuel Alberto Munoz-Sandoval (“Munoz-Sandoval”) was convicted of violating 18 U.S.C. 554(a). Specifically, Munoz-Sandoval was convicted of smuggling from the United States to Mexico, semi-automatic firearms, to wit: an Iberia Hi-Point, model JCP, .40 caliber pistol; a Smith and Wesson, model SD9VE, 9 mm caliber pistol; a Taurus, model PT111 G2A, 9mm caliber pistol; and a Ruger, model LCP II, .380 caliber pistol. As a result of his conviction, the Court sentenced Munoz-Sandoval to 28 months of confinement with credit for time served, 2 years supervised release, and \$100 assessment.

Pursuant to section 1760(e) of the Export Control Reform Act (“ECRA”),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (“BIS”) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Munoz-Sandoval’s conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration

Regulations (“EAR” or the “Regulations”), BIS provided notice and opportunity for Munoz-Sandoval to make a written submission to BIS. 15 CFR 766.25.² BIS has not received a written submission from Munoz-Sandoval.

Based upon my review of the record and consultations with BIS’s Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Munoz-Sandoval’s export privileges under the Regulations for a period of five years from the date of Munoz-Sandoval’s conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Munoz-Sandoval had an interest at the time of his conviction.³

Accordingly, it is hereby *Ordered*:

First, from the date of this Order until November 10, 2026, Manuel Alberto Munoz-Sandoval, with a last known address of Inmate Number: 17385-509, FCI Big Spring, Federal Correctional Institution, 1900 Simler Ave, Big Spring, TX 79720, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (“the Denied Person”), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Munoz-Sandoval by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Munoz-Sandoval may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Munoz-Sandoval and shall be published in the **Federal Register**.

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2022).

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801-4852.

Sixth, this Order is effective immediately and shall remain in effect until November 10, 2026.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–10871 Filed 5–19–23; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–897]

Large Diameter Welded Pipe From the Republic of Korea: Preliminary Results 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) preliminarily determines that HiSteel Co., Ltd. (HiSteel) and the non-individually-examined companies for which a review was requested made sales of large diameter welded pipe (welded pipe) from the Republic of Korea (Korea) at prices below normal value (NV), while Hyundai Steel Company (Hyundai Steel) did not make sales of the subject merchandise at prices below NV during the period of review (POR), May 1, 2021, through April 30, 2022. We invite interested parties to comment on these preliminary results.

DATES: Applicable May 22, 2023.

FOR FURTHER INFORMATION CONTACT: Alexis Cherry or Samantha Kinney, 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) 482–0607 or (202) 482–2285, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2019, Commerce published the antidumping duty order on welded pipe from Korea.¹ On May 2, 2022, Commerce published a notice of opportunity to request an administrative review of the *Order* for the POR.² Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), Commerce

received timely requests to conduct an administrative review of the *Order*. On May 31, 2022, the Domestic Interested Party³ filed a timely request for review with respect to 23 companies,⁴ and HiSteel, Hyundai Steel, Hyundai RB Co., Ltd (Hyundai RB), and SeAH Steel Corporation (SeAH) each individually timely requested reviews of their respective entries during the POR.⁵ On July 14, 2022, in accordance with 19 CFR 351.221(c)(1)(i), Commerce initiated an administrative review of the *Order* on 23 companies.⁶ On September 1, 2022, Commerce selected HiSteel and Hyundai Steel as the mandatory respondents in this review.⁷ On April 5, 2023, Commerce determined not to select a voluntary respondent and denied voluntary respondent treatment to SeAH.⁸

Pursuant to section 751(a)(3)(A) of the Act, on January 12, 2023, Commerce determined that it was not practicable to complete the preliminary results of this review within 245 days and extended the deadline for these preliminary results by 105 days, until May 16, 2023.⁹

For a detailed description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.¹⁰ The Preliminary Decision Memorandum is a public document and is available 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 Preliminary Decision

³ The Domestic Interested Party is the American Line Pipe Producers Association Trade Committee.

⁴ See Domestic Interested Party's Letter, "Request for Administrative Review," dated May 31, 2022.

⁵ See HiSteel's Letter, "Request for Administrative Review," dated May 31, 2022; Hyundai Steel's Letter, "Hyundai Steel's Request for Administrative Review," dated May 31, 2022; Hyundai RB's Letter, "Request for Administrative Review," dated May 31, 2022; and SeAH's Letter, "Request for Administrative Review," dated May 31, 2022.

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 42144 (July 14, 2022). The 23 companies are HiSteel, Hyundai Steel and the 21 non-selected companies listed in Appendix II.

⁷ See Memorandum, "Respondent Selection," dated September 1, 2022.

⁸ See Memorandum, "Whether to Select Voluntary Respondents," dated April 5, 2023.

⁹ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2021–2022," dated January 12, 2023.

¹⁰ See Memorandum, "Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review; 2021–2022: Large Diameter Welded Pipe from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Memorandum can be found at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The product covered by the *Order* is welded pipe from Korea. For a full description of the scope, see the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. For a full description of the methodology underlying these preliminary results, see the Preliminary Decision Memorandum. A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice.

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a weighted-average dumping margin to be determined for companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when determining the weighted-average dumping margin for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely {on the basis of facts available}."

In this review, the preliminary weighted-average dumping margin for HiSteel is not zero, *de minimis*, or based entirely on facts otherwise available, whereas Hyundai Steel's preliminary weighted-average dumping margin is zero. Therefore, Commerce has preliminarily assigned a weighted-average dumping margin to the non-examined companies that is equal to the weighted-average dumping margin for HiSteel in accordance with its practice.¹¹

¹¹ See, e.g., *Certain Corrosion-Resistant Steel Products from Taiwan: Final Results of the Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019*, 86 FR 28554, 28555 (May 27, 2021).

¹ See *Large Diameter Welded Pipe from the Republic of Korea: Amended Final Affirmative Antidumping Determination and Antidumping Duty Order*, 84 FR 18767 (May 2, 2019) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 87 FR 25619 (May 2, 2022).

Preliminary Results of the Review

We preliminarily determine that the following weighted-average dumping margins exist for the period May 1, 2020, through April 30, 2021:

Exporter or producer	Weighted-average dumping margin (percent)
HiSteel Co., Ltd	6.17
Hyundai Steel Company	0.00
Non-Examined Companies ¹²	6.17

Disclosure and Public Comment

We intend to disclose the calculations performed for these preliminary results to interested parties with an Administrative Protective Order within five days after the date of publication of these preliminary results.¹³

Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the date of publication of this notice.¹⁴ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.¹⁵ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁶ Executive summaries should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) whether any participant is a foreign national; and (4) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.

¹² See Appendix II.

¹³ See 19 CFR 351.224(b).

¹⁴ See also 19 CFR 351.303 (for general filing requirements).

¹⁵ See 19 CFR 351.309(d); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

¹⁶ See 19 CFR 351.309(c)(2) and (d)(2).

All briefs and hearing requests must be filed electronically using ACCESS¹⁷ and must be served on interested parties.¹⁸ An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁹

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce intends to determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this administrative 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).

For an individually examined respondent whose weighted-average dumping margin is not zero or *de minimis* (*i.e.*, less than 0.50 percent), upon completion of the final results, Commerce intends to calculate importer-specific antidumping duty assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales.²⁰ Where we do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales. To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. Where either a respondent's weighted-average dumping margin is zero or *de minimis*, or an importer-specific assessment rate is zero or *de minimis*, we intend to instruct

CBP to liquidate appropriate entries without regard to antidumping duties.²¹

For entries of subject merchandise during the POR produced by each individually examined respondent for which it did not know its merchandise was destined for the United States, we intend to instruct CBP to liquidate such entries at the all-others rate (*i.e.*, 7.08 percent)²² if there is no rate for the intermediate company(ies) involved in the transaction.²³

For the companies which were not selected for individual examination, we intend to assign an antidumping duty assessment rate equal to the weighted-average dumping margin determined for the non-examined companies in the final results of review.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future cash deposits of estimated antidumping duties, where applicable.²⁴

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies listed above will be equal to the weighted-average dumping margin established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated exporters not covered in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which the company was reviewed; (3) if the exporter is not a firm covered in this review, a prior completed review, or the less-than-fair value (LTFV) investigation, but the producer is, then the cash deposit rate will be the company-specific rate established for the most recently-completed segment of this proceeding

²¹ See 19 CFR 351.106(c)(2); see also *Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

²² See *Order*, 84 FR at 18768.

²³ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

²⁴ See section 751(a)(2)(C) of the Act.

¹⁷ See 19 CFR 351.303.

¹⁸ See 19 CFR 351.303(f).

¹⁹ See *Temporary Rule*, 85 FR at 41363.

²⁰ See 19 CFR 351.212(b)(1).

for the producer of subject merchandise; and (4) the cash deposit rate for all other producers and exporters will continue to be 7.08 percent, the all-others rate established in the LTFV investigation.²⁵

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of the Review

Commerce intends to issue the final results of this administrative review, including the results of our analysis of issues raised by the parties in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1), unless this deadline is extended.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h)(2) and 351.221(b)(4).

Dated: May 16, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
- V. Currency Conversion
- VI. Recommendation

Appendix II

Review-Specific Average Rate Applicable to Companies Not Selected for Individual Review

1. AJU Besteel Co., Ltd.
2. Chang Won Bending Co., Ltd.
3. Daiduck Piping Co., Ltd.
4. Dong Yang Steel Pipe Co., Ltd.

5. Dongbu Incheon Steel Co., Ltd.
6. EEW KHPC Co., Ltd.
7. EEW Korea Co., Ltd.
8. Geumok Tech. Co. Ltd.
9. Hansol Metal Co. Ltd.
10. Husteel Co., Ltd.
11. Hyundai RB Co., Ltd.
12. Il Jin Nts Co. Ltd.
13. Kiduck Industries Co., Ltd.
14. Kum Kang Kind. Co., Ltd.
15. Kumsoo Connecting Co., Ltd.
16. Nexteel Co., Ltd.
17. SeAH Steel Corporation
18. Seonghwa Industrial Co., Ltd.
19. SIN-E B&P Co., Ltd.
20. Steel Flower Co., Ltd.
21. WELTECH Co., Ltd.

[FR Doc. 2023-10855 Filed 5-19-23; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Request for Duty-Free Entry of Scientific Instrument or Apparatus

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on March 17, 2023 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Enforcement & Compliance, International Trade Administration.

Title: Review and Approval; Comment Request; Request for Duty-Free Entry of Scientific Instrument or Apparatus.

OMB Control Number: 0625-0037.

Form Number(s): ITA-338P.

Type of Request: Regular Submission current information collection.

Number of Respondents: 65.

Average Hours per Response: 2 hours.

Burden Hours: 130.

Needs and Uses: The collected information is necessary in order to assess a respondent's eligibility to enter equipment duty free, consistent with 19 U.S.C. 1202 and 15 CFR 301.

Affected Public: State or local government; Federal agencies; not for-profit institutions.

Frequency: Every time respondent seeks to import qualifying equipment duty free.

Respondent's Obligation: Mandatory.

Legal Authority: 19 U.S.C. 1202; 15 CFR 301.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0625-0037.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023-10876 Filed 5-19-23; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

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

SUMMARY: The Department of Commerce (Commerce) hereby publishes a list of scope rulings and circumvention determinations made during the period January 1, 2023, through March 31, 2023. We intend to publish future lists after the close of the next calendar quarter.

DATES: Applicable May 22, 2023.

FOR FURTHER INFORMATION CONTACT: Marcia E. Short, 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: 202-482-1560.

SUPPLEMENTARY INFORMATION:

Background

Commerce regulations provide that it will publish in the **Federal Register** a list of scope rulings on a quarterly basis.¹ Our most recent notification of

²⁵ See *Order*, 84 FR at 18768.

¹ See 19 CFR 351.225(o).

scope rulings was published on February 3, 2023.² This current notice covers all scope rulings and scope ruling/circumvention determination combinations made by Enforcement and Compliance between January 1, 2023, and March 31, 2023.

Scope Rulings Made January 1, 2023, Through March 31, 2023

Mexico

A–201–853 and C–201–854: Standard Steel Welded Wire Mesh From Mexico

Requestor: Keysteel Corp., Mid-South Wire Company, National Wire LLC, Oklahoma Steel & Wire Co., and Wire Mesh Corp. Imports of 6X6 W1.4/W1.4 or D.14/D1.4 (*i.e.*, 10 gauge), 8 x 131 foot rolls of wire mesh are covered by the scope of the antidumping duty (AD) and countervailing duty (CVD) orders based on the criteria set forth under 19 CFR 351.225(k)(1); February 28, 2023.

People's Republic of China (China)

A–570–108 and C–570–109: Ceramic Tile From China

Requestor: Elysium Tiles, Inc. and Elysium Tile Florida, Inc. Composite marble tile, consisting of a marble top layer bonded to a porcelain tile base layer, is covered by the scope of the AD/CVD orders on ceramic tile from China because porcelain tile is explicitly covered by the plain language of the orders, and the marble layer is a decorative feature which does not remove the tile from the scope of the orders; January 25, 2023.

A–570–979 and C–570–980: Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From China

Requestor: Anker Innovations Limited (Anker). The PowerSolar 3-Port 100W Foldable Outdoor Solar Panel (Model A2431) that is exported by Anker is not covered by the scope of the AD/CVD orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from China because the product meets one of the express scope exclusions for off-grid solar panels contained in the plain language of the scope of the orders; January 30, 2023.

A–570–090 and C–570–091: Certain Steel Wheels 12 to 16.5 Inches in Diameter From China

Requestor: Asia Wheel Co., Ltd. Certain models of trailer wheels which Asia Wheel processes in Thailand from rims produced in Thailand from

rectangular steel plates from China or a third country and discs produced in Thailand from rectangular steel plates sourced from China or a third country and exported by Asia Wheel to the United States are not covered by the AD/CVD orders on certain steel wheels 12 to 16.5 inches in diameter from China based on the plain language of the scope because the Chinese steel plate components are neither finished or unfinished rims, discs, or steel wheels; February 24, 2023.

A–570–067 and C–570–068: Forged Steel Fittings From China

Requestor: UTEX Industries, Inc. Eight fitting components of UTEX's LargeBore Frac System are not covered by the scope of the AD/CVD orders on forged steel fittings from China because they are made to different standards and specifications than in-scope merchandise and are similar to merchandise previously found to be outside the scope of the AD/CVD orders; March 10, 2023.

A–570–049 and C–570–050: Ammonium Sulfate From China

Requestor: Cambridge Isotope Laboratories, Inc. ¹⁵N Ammonium Sulfate Isotope that is imported by Cambridge Isotope Laboratories, Inc. (CIL) is within the scope of the AD/CVD orders on ammonium sulfate from the People's Republic of China based on the plain language of the scope of the orders and the description of the product contained in the scope ruling request; March 16, 2023.

A–570–601: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From China

Requestor: Dorman Products Inc. Eight models of rear loaded knuckles that Dorman imports from China are not covered by the scope of the AD order based on the criteria set forth under 19 CFR 351.225(k)(3); March 30, 2023.

Preliminary Scope Rulings Made January 1, 2023, Through March 31, 2023

China

A–570–106 and C–570–107: Wooden Cabinets and Vanities and Components Thereof From China—Malaysia Scope Inquiry

Requestor: The American Kitchen Cabinet Alliance. Preliminary scope ruling that Scenario 1 merchandise (finished wooden doors, drawer faces, and frames produced in China are combined in Malaysia with wooden cabinet boxes and drawer boxes started and finished in Malaysia) is within the

scope of the AD/CVD order on wooden cabinets and vanities and components thereof from China. Insufficient information for preliminary scope ruling pertaining to Scenario 2 merchandise (semifinished wooden doors, drawer faces, and frames produced in China are further processed in Malaysia and then combined in Malaysia with wooden cabinet boxes and drawer boxes produced in Malaysia) and Scenario 3 merchandise (semifinished parts of wooden cabinet and vanity doors, drawer faces, and frames (all the rails, stiles, and panels) are produced in China and are further processed in Malaysia and then combined in Malaysia with wooden cabinet boxes and drawer boxes produced in Malaysia). Preliminary scope ruling that Scenario 4 merchandise (finished wooden toe kicks produced in China are combined in Malaysia with all other components necessary to build a complete wooden cabinet which were started and finished in Malaysia) is not within the scope of the AD/CVD orders; March 16, 2023.

A–570–106 and C–570–107: Wooden Cabinets and Vanities and Components Thereof From China—Vietnam Scope Inquiry

Requestor: The American Kitchen Cabinet Alliance. Preliminary scope ruling that Scenario 1 merchandise (finished wooden doors, drawer faces, and frames produced in China are combined in Vietnam with wooden cabinet boxes and drawer boxes produced in Vietnam) is within the scope of the AD/CVD order on wooden cabinets and vanities and components thereof from China. Insufficient information for preliminary scope ruling pertaining to Scenario 2 merchandise (semifinished wooden doors, drawer faces, and frames produced in China are further processed in Vietnam and then combined in Vietnam with wooden cabinet boxes and drawer boxes produced in Vietnam) and Scenario 3 merchandise (semifinished parts of wooden cabinet and vanity doors, drawer faces, and frames (including the rails, stiles, and panels) are produced in China and are further processed in Vietnam and then combined in Vietnam with wooden cabinet boxes and drawer boxes produced in Vietnam). Preliminary scope ruling that Scenario 4 merchandise (finished wooden toe kicks produced in China are combined in Vietnam with all other components necessary to build a complete wooden cabinet that are started and finished in Vietnam) is not within the scope of the AD/CVD orders; March 16, 2023.

² See Notice of Scope Rulings, 88 FR 7402 (February 3, 2023).

Notification to Interested Parties

Interested parties are invited to comment on the completeness of this list of completed scope inquiries and scope/circumvention inquiry combinations made during the period January 1, 2023, through March 31, 2023. Any comments should be submitted to the Deputy Assistant Secretary for AD/CVD Operations, Enforcement and Compliance, International Trade Administration, via email to CommerceCLU@trade.gov.

This notice is published in accordance with 19 CFR 351.225(o).

Dated: May 16, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023-10854 Filed 5-19-23; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-122-857]

Preliminary Results of Changed Circumstances Review: Antidumping Duty Order on Certain Softwood Lumber Products From Canada

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that GreenFirst Forest Products (QC) Inc. (GreenFirst QC) is the successor-in-interest to Rayonier A.M. Canada G.P. (RYAM) and, accordingly, that subject merchandise produced and/or exported by GreenFirst QC should be assigned the cash deposit rate established for subject merchandise produced and/or exported by RYAM for purposes of the antidumping duty order on certain softwood lumber products (softwood lumber) from Canada.

DATES: Applicable May 22, 2023.

FOR FURTHER INFORMATION CONTACT: Zachary Shaykin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2638.

SUPPLEMENTARY INFORMATION:**Background**

On November 17, 2022, Commerce published the initiation of a changed circumstances review (CCR) on the antidumping duty order¹ of softwood

lumber from Canada.² Commerce declined to combine the *Initiation Notice* with the preliminary results of the CCR,³ citing the need to issue an additional supplemental questionnaire to GreenFirst Forest Products Inc. (GreenFirst Forest Products) and its subsidiary, GreenFirst QC (collectively, GreenFirst), regarding GreenFirst QC's ownership and management, supplier base, and customer base.⁴ On December 16, 2022 and April 17, 2023, we issued supplemental questionnaires to GreenFirst requesting this information.⁵ On December 27, 2022 and April 24, 2023, GreenFirst timely responded to these supplemental questionnaires.⁶ On January 6 and 13, 2023, the Committee Overseeing Action for Lumber International Trade Investigations or Negotiations (COALITION) and GreenFirst submitted rebuttal and surrebuttal comments, respectively regarding GreenFirst's First Supplemental Response.⁷ No other interested party submitted comments or factual information regarding GreenFirst's request.

Scope of the Order

The products covered by the *Order* is softwood lumber from Canada. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.⁸

Legal Framework

In determining whether one company is the successor-in-interest to another

Amended Final Determination, 83 FR 350 (January 3, 2018) (*Order*).

² See *Certain Softwood Lumber Products from Canada: Initiation of Antidumping Duty Changed Circumstances Review*, 87 FR 69004 (November 17, 2022) (*Initiation Notice*).

³ See 19 CFR 351.221(c)(3)(ii).

⁴ See *Initiation Notice*.

⁵ See Commerce's Letters, "Investigation of Certain Softwood Lumber Products from Canada: Supplemental Questionnaire," dated December 16, 2022; and "Changed Circumstances Review of Certain Softwood Lumber Products from Canada: Second Supplemental Questionnaire," dated April 17, 2023.

⁶ See GreenFirst's Letters, "Softwood Lumber from Canada: Supplemental Questionnaire Response," dated December 27, 2022 (First Supplemental Response); and "Softwood Lumber from Canada: Second Supplemental Questionnaire Response," dated April 24, 2023.

⁷ See COALITION's Letter, "Certain Softwood Lumber Products from Canada: Comments on GreenFirst's Response to Supplemental Questionnaire," dated January 6, 2023; see also GreenFirst's Letter, "Softwood Lumber from Canada: Rebuttal Factual Information and Comments on Petitioner's January 6, 2023, Submission," dated January 13, 2023.

⁸ See Memorandum, "Decision Memorandum for the Preliminary Results of Changed Circumstances Review: Certain Softwood Lumber Products from Canada," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

company as part of an antidumping duty proceeding, Commerce examines several factors including, but not limited to: (1) management and ownership; (2) production facilities; (3) supplier relationships; and (4) customer base.⁹ Although no single, or even several, of these factors will necessarily provide a dispositive indication of succession, generally, Commerce will consider a company to be the successor-in-interest if its resulting operation is not materially dissimilar to that of its predecessor.¹⁰ Thus, if the "totality of circumstances" demonstrate that, with respect to the production and sale of the subject merchandise, the new company operates as essentially the same business entity as the prior company, Commerce will assign the successor-in-interest the cash deposit rate of its predecessor.¹¹

Preliminary Results of Review

We preliminarily determine that GreenFirst QC is the successor-in-interest to RYAM for purposes of the *Order*. Record evidence submitted by GreenFirst indicates that, based on the totality of the circumstances under Commerce's successor-in-interest criteria, GreenFirst QC operates as materially the same business entity as RYAM with respect to the production and sale of subject merchandise. In particular, we preliminarily find that while the management structure is materially dissimilar under GreenFirst QC from RYAM, there were not substantial changes in ownership. In addition, we preliminarily find that GreenFirst's production facilities, supplier relationships, and customer base with regard to the subject merchandise are substantially the same as RYAM's before GreenFirst's acquisition of RYAM's lumber assets.

Therefore, based on record evidence, we preliminarily determine that GreenFirst QC is the successor-in-interest to RYAM, and the cash deposit rate assigned to RYAM should be the rate for GreenFirst QC as a result of this successor-in-interest finding. Should Commerce's final results of review remain the same as these preliminary results of review, GreenFirst QC will be

⁹ See, e.g., *Ball Bearings and Parts Thereof from France: Final Results of Changed-Circumstances Review*, 75 FR 34688 (June 18, 2010), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

¹⁰ See, e.g., *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

¹¹ *Id.*; see also *Brass Sheet and Strip from Canada: Final Results of Administrative Review*, 57 FR 20461 (May 13, 1992), and accompanying IDM at Comment 1.

¹ See *Certain Softwood Lumber Products from Canada: Antidumping Duty Order and Partial*

assigned the cash deposit rate currently assigned to RYAM with respect to the subject merchandise (*i.e.*, 4.76 percent).¹² Therefore, we will instruct U.S. Customs and Border Protection to suspend liquidation of entries of softwood lumber from Canada produced and/or exported by GreenFirst QC, effective on the publication date of the final results, at the cash deposit rate for estimated antidumping duties assigned to RYAM.

For the complete successor-in-interest analysis, *see* the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary 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 Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Public Comment

In accordance with 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the due date for case briefs, in accordance with 19 CFR 351.309(d).¹³ Parties who submit case or rebuttal briefs are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁴

All comments are to be filed electronically via ACCESS and must be served on interested parties.¹⁵ Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁶ An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m.

¹² *See Certain Softwood Lumber Products from Canada: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2020, 87 FR 48465 (August 9, 2022).*

¹³ Commerce is exercising its discretion under 19 CFR 351.309(d)(1) to alter the time limit for the filing of rebuttal briefs.

¹⁴ *See* 19 CFR 351.30(c)(2) and (d)(2).

¹⁵ *See generally* 19 CFR 351.303.

¹⁶ *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period, 85 FR 41363 (July 10, 2020).*

Eastern Time on the day on which it is due.

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of publication of this notice in the **Federal Register**. Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and the time of the hearing two days before the scheduled date.

Final Results of Review

Consistent with 19 CFR 351.216(e), we intend to issue the final results of this CCR no later than 270 days after the date on which this review was initiated.

Notification to Interested Parties

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Tariff Act of 1930, as amended and 19 CFR 351.221(b)(4).

Dated: May 16, 2023.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Successor-in-Interest Determination
- V. Recommendation

[FR Doc. 2023-10858 Filed 5-19-23; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD018]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public hybrid meeting of its Risk Policy Working Group to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). This meeting will be held in

person with a webinar option. Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, June 8, 2023, at 9 a.m.

ADDRESSES:

Meeting address: This meeting will be held at the enVision Hotel and Conference Center (formerly Holiday Inn), 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339-2200.

Webinar registration URL information: <https://attendee.gotowebinar.com/register/3833909516029682784>.

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

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Risk Policy Working Group (RPWG) will address the terms of reference (TORs) approved by the New England Fishery Management Council (Council), including progress made in reviewing the Council's current Risk Policy, and Risk Policy Road Map (TOR 1). The RPWG will also begin considering possible changes to the Risk Policy (TOR 2), focusing on goals and objectives, identifying and defining key terms, and outlining how an updated Risk Policy could interact with existing ABC control rules used in each of the Council's Fishery Management Plans. Other business will be discussed, if necessary.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at

(978) 465-0492, at least 5 days prior to the meeting date.

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

Dated: May 17, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023-10866 Filed 5-19-23; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD025]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ad Hoc Marine Planning Committee (MPC) will hold an online public meeting.

DATES: The online meeting will be held Tuesday, June 6, 2023, from 10 a.m. to 4 p.m. Pacific Daylight Time or until business for the day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including a proposed agenda and directions on how to attend the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see www.pcouncil.org). You may send an email to Mr. Kris Kleinschmidt (kris.kleinschmidt@noaa.gov) or contact him at (503) 820-2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Staff Officer, Pacific Council; telephone: (503) 820-2409.

SUPPLEMENTARY INFORMATION: The purpose of this online meeting is for the MPC to consider current offshore wind (OSW) energy issues and to provide information and advice to the Pacific Council for consideration at its June 2023 meeting. The primary purpose of the meeting will be to consider draft Wind Energy Areas (WEAs) off the Oregon Coast, which are anticipated to be released for public review and comment. NOAA's National Centers for

Coastal Ocean Science (NCCOS) will describe the spatial suitability modeling and data used to identify draft WEAs, and the Bureau of Ocean Energy Management will describe process and next steps in OSW energy planning off Oregon. The MPC may discuss pending Fisheries Communications Plans for the five California OSW leases provisionally awarded in December 2022. Other topics may be considered as appropriate.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (kris.kleinschmidt@noaa.gov; (503) 820-2412) at least 10 days prior to the meeting date.

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

Dated: May 17, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023-10869 Filed 5-19-23; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XC970]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys in the New York Bight

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from Invenery Wind Offshore, LLC (IWO) for authorization to take marine mammals incidental to marine site characterization surveys in waters off of

New Jersey and New York in the New York Bight, specifically within the Bureau of Ocean Energy Management (BOEM) Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS) Lease Area OCS-A 0542 (Lease Area) and associated Export Cable Route (ECR) survey area (ECR Area). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, 1-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than June 21, 2023.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and should be submitted via email to ITP.clevenstine@noaa.gov.

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

FOR FURTHER INFORMATION CONTACT: Alyssa Clevenstine, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>. In case of problems

accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

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

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

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do

not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On February 3, 2023, NMFS received a request from IWO for an IHA to take marine mammals incidental to conducting marine site characterization surveys in waters off of New Jersey and New York in the New York Bight, specifically within the BOEM Lease Area OCS–A 0542 and associated ECR Area. Following NMFS’ review of the application, IWO submitted a revised request on March 29, 2023. NMFS deemed the application adequate and complete on April 25, 2023. IWO’s request is for take of small numbers of 15 species (16 stocks) of marine mammals by Level B harassment only. Neither IWO nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

IWO proposes to conduct marine site characterization surveys, including high-resolution geophysical (HRG) surveys, in waters off of New Jersey and New York in the New York Bight, specifically within BOEM Lease Area OCS–A 0542 and associated ECR Area, collectively considered the Survey Area.

The planned marine site characterization surveys are designed to obtain data sufficient to meet BOEM guidelines for providing geophysical, geotechnical, and geohazard information for site assessment plan surveys and/or construction and operations plan development. The objective of the surveys is to support the site characterization, siting, and engineering design of offshore wind

project facilities including wind turbine generators, offshore substations, and submarine cables within the Survey Area. Up to three vessels may conduct survey efforts concurrently. Underwater sound resulting from IWO’s marine site characterization survey activities, specifically HRG surveys, have the potential to result in incidental take of marine mammals in the form of Level B harassment.

Dates and Duration

The proposed activity is planned to begin once an IHA is issued. The proposed surveys are estimated to require a maximum of 274 survey days within a single year across a maximum of three vessels operating concurrently, which would include up to two vessels operating offshore (greater than 20 meters (m); 65 feet (ft) depth) and one vessel operating nearshore (less than 20 m (65 ft) depth). The survey days are proposed to occur any month throughout the year as the exact timing of the surveys during the year is not yet certain. A “survey day” is defined as a 24-hour (hr) activity period in which active acoustic sound sources are used offshore and a 12-hr activity period when a vessel is operating nearshore. Surveyed at a speed of approximately 3.8 knots (kn; 7.04 kilometer (km) per hr (km/hr)), it is expected that each offshore vessel would cover approximately 80 km of trackline per day, and the nearshore vessel would cover 25–30 km of trackline per day (inclusive of infills and line-turns), based on IWO’s expectations regarding data acquisition efficiency. There is up to 12,818 km of trackline survey effort planned: a maximum trackline length of 7,460 km is planned for the Lease Area and 5,358 km for the ECR Area. The IHA would be effective for 1 year from the date of issuance.

Specific Geographic Region

IWO’s survey activities would occur in waters off of New Jersey and New York in the New York Bight, specifically within BOEM Lease Area OCS–A 0542 and associated ECR Area (Figures 1, 2). The Survey Area (9,470 square km (km²)) includes both the Lease Area (569 km²; 40–50 m depth) and ECR Area (8,901 km²; 1–55 m depth).

BILLING CODE 3510-22-P

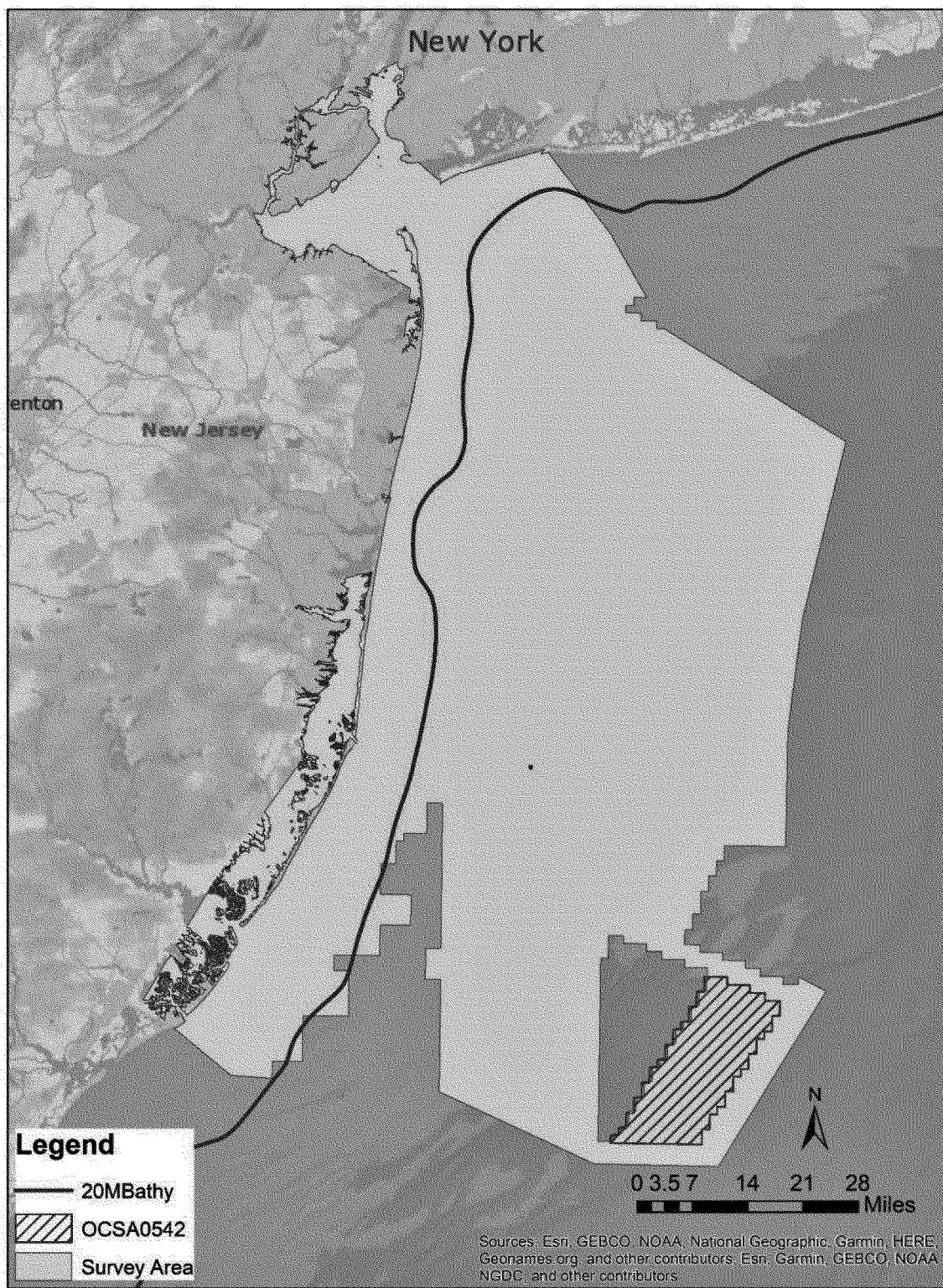


Figure 1 -- Proposed Survey Area

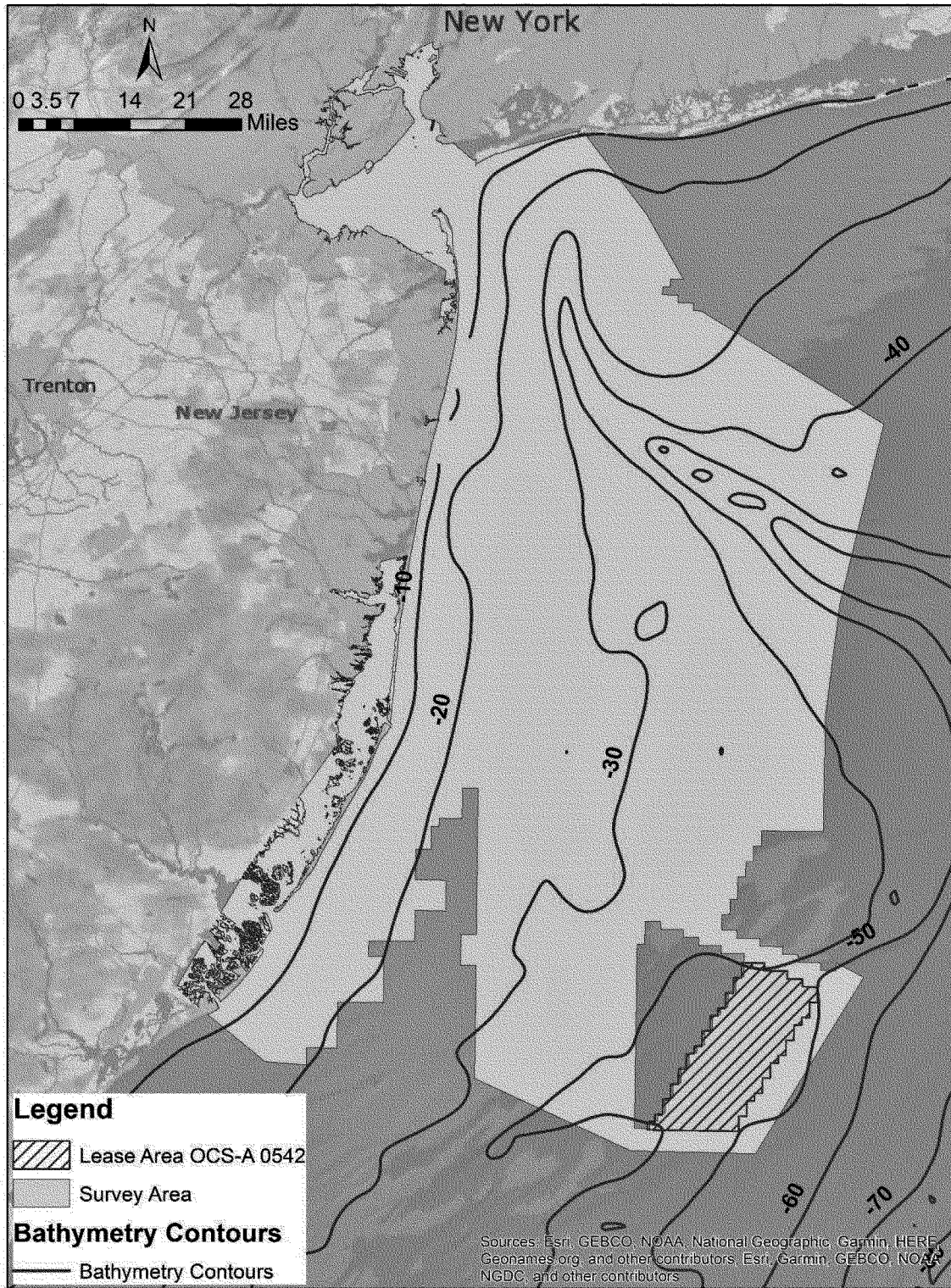


Figure 2 -- Proposed Survey Area with Bathymetric Contours Showing Water Depth (m)

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Detailed Description of the Specified Activity

IWO's marine site characterization surveys within the Survey Area include

HRG and geotechnical surveys, including: depth sounding to determine water depth, site bathymetry, and general seafloor topography using a multibeam echosounder (MBES);

seafloor imaging using a side-scan sonar; magnetic intensity measurements using a gradiometer; shallow penetration sub-bottom profilers (SBPs); compressed high-intensity radiated

pulse (CHIRP) and parametric); and medium penetration SBPs (sparkers).

- MBES and side-scan sonars are used to determine water depths and general seafloor topography. The proposed MBES and side-scan sonar both have operating frequencies greater than 180 kilohertz (kHz) and are, therefore, outside the general hearing range of marine mammals.

- Gradiometers are used to detect local variations in regional magnetic field from geological strata and potential ferrous objects on and below the seafloor. The proposed gradiometer has an operating frequency greater than 180 kHz and is, therefore, outside the general hearing range of marine mammals.

- CHIRP SBPs are shallow penetration non-impulsive, non-parametric sources used to map the near-surface stratigraphy (soil down to 10 m) of sediment below seabed. A CHIRP system emits signals covering a frequency sweep from approximately 0.01–1.9 kHz over time. The frequency range can be adjusted to meet project variables.

- Parametric SBPs are shallow penetration non-impulsive sources used for providing high data density in subsurface profiles that are typically required for cable routes, very shallow water, and archaeological surveys. These sources generate short, very narrow-beam (1° to 3.5°) signals at high

frequencies (generally around 85–115 kHz). The narrow beamwidth significantly reduces the potential that a marine mammal could be exposed to the signal while the high frequency of operation means that the signal is rapidly attenuated in seawater (and cannot be heard by mysticetes). These sources are typically deployed on a pole rather than towed behind the vessel.

NMFS does not expect geotechnical survey activities or HRG survey activities using MBES, side-scan sonar, gradiometer, or shallow SBP to present a reasonably anticipated risk of causing incidental take of marine mammals, so these activities are not discussed further in this notice.

IWO proposes to use sparkers during HRG survey activities that have the potential to cause incidental take of marine mammals. Sparkers are medium penetration impulsive sources used to map deep subsurface stratigraphy (soils down to at least 100 m (328 ft) below the seabed in sand and at least 125 m (410 ft) below the seabed in mixed sediments). Sparkers create omnidirectional acoustic pulses from 50 hertz (Hz) to 4 kHz, are typically towed behind the vessel, and may be operated with different numbers of electrode tips to allow tuning of the acoustic waveform for specific applications. There are three sparker systems planned for use: Applied Acoustics Dura-Spark 240/400 (400 tip/500 joules (J)), Applied

Acoustics Dura-Spark UHD 400+400 Seismic Sound Source (400 tip/500–800 J), and the Geo-Source 200–400 Marine Multi-Tip Sparker System (400 tip/400–500 J).

Crocker and Fratantonio (2016) measured the Applied Acoustics Dura-Spark but did not provide data for an energy setting near 800 J for a 400-tip configuration (Crocker and Fratantonio (2016) provide measurements at 500, 2,000, and 2,400 J). No data are provided by Crocker and Fratantonio (2016) for the Applied Acoustics Dura-Spark UHD or Geo-Source sparker system. Therefore, IWO proposes to use the data provided for the Applied Acoustics Dura-Spark at the 400 tip/500 J setting as a proxy for all three sparker systems as it is the closest match due to the similarities in composition and operation, with both employing up to 400 electrode tips. NMFS concurs with these selections, which are described in Table 1.

IWO proposes to use the same equipment over the entire Survey Area and has requested authorization of take based on the assumption that the sparkers, using any of the impulsive sparker systems listed as they all produce the same distance to the 160 dB sound pressure level (SPL) threshold for acoustic impacts, would occur during all survey effort (see Table 1–3 and Section 6.1 in application).

TABLE 1—REPRESENTATIVE SURVEY EQUIPMENT EXPECTED TO RESULT IN TAKE OF MARINE MAMMALS

Equipment type	Equipment make/model	Operating frequency (kHz)	Source level (SPL dB re 1 μPa @ 1 m)	Source level (Peak dB re 1 μPa @ 1 m)	Sound exposure level (dB re 1 μPa ² s)	Reference	Pulse duration (ms)	Repetition rate (Hz)	Beam width (degrees)
Medium SBP (sparker).	Applied Acoustics Dura-Spark 240/400 (500 J).	0.3–1.2	203	211	174	Crocker and Fratantonio, 2016‡.	1.1	4.6	180
Medium SBP (sparker).	Applied Acoustics Dura-Spark UHD 400+400 (500 J)*.	0.3–1.2	203	211	174	Crocker and Fratantonio, 2016‡.	1.1	4	180
Medium SBP (sparker).	GeoMarine Geo-Source 200–400 (400–500 J).	0.3–1.2	203	211	174	Crocker and Fratantonio, 2016§.	1.1	4	180

Note: Proposed equipment or equivalents will be used.

* This sparker may be used at a power setting of up to 800 J.

‡ Applied Acoustics Dura-spark 240/400 400 tip/500 J Proxy.

§ This system was tested and measured by Crocker and Fratantonio (2016) and we use the specifications for 400 tips and 500 J.

kHz—kilohertz.

ms—milliseconds.

Hz—hertz.

μPa—microPascal.

SPL—sound pressure level.

dB—decibel.

re—referenced at.

m—meters.

s—seconds.

SBP—sub-bottom profiler.

NR—not reported.

J—joules.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, incorporated here by reference, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments) and more general information about

these species (e.g., physical and behavioral descriptions) may be found on NMFS' website (<https://www.fisheries.noaa.gov/find-species>).

Table 2 lists all species or stocks for which take is expected and proposed to be authorized for this activity, and summarizes information related to the species or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or proposed to be authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here

as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All MMPA managed stocks in this region are assessed in NMFS' U.S. Atlantic and Gulf of Mexico SARs. All values presented in Table 2 are the most recent available at the time of publication (including from the draft 2022 SARs) and are available online at: www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.

TABLE 2—SPECIES AND STOCKS LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES ¹

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Order Artiodactyla—Infraorder Cetacea—Mysticeti (baleen whales)						
<i>Family Balaenidae:</i>						
North Atlantic right whale	<i>Eubalaena glacialis</i>	Western North Atlantic ..	E/D; Y	338 (0; 332; 2020)	0.7	8.1
<i>Family Balaenopteridae (rorquals):</i>						
Fin whale	<i>Balaenoptera physalus</i>	Western North Atlantic ..	E/D; Y	6,802 (0.24; 5,573; 2016)	11	1.8
Humpback whale	<i>Megaptera novaeangliae</i>	Gulf of Maine ..	-/-; Y	1,396 (0; 1,380; 2016)	22	12.15
Minke whale	<i>Balaenoptera acutrostrata</i>	Canadian East Coastal	-/-; N	21,968 (0.31; 17,002; 2016)	170	10.6
Sei whale	<i>Balaenoptera borealis</i>	Nova Scotia ..	E/D; Y	6,292 (1.02; 3,098; 2016)	6.2	0.8
Odontoceti (toothed whales, dolphins, and porpoises)						
<i>Family Physeteridae:</i>						
Sperm whale	<i>Physeter macrocephalus</i>	North Atlantic ..	E/D; Y	4,349 (0.28; 3,451; 2016)	3.9	0
<i>Family Delphinidae:</i>						
Atlantic spotted dolphin	<i>Stenella frontalis</i>	Western North Atlantic ..	-/-; N	39,921 (0.27; 32,032; 2016)	320	0
Atlantic white-sided dolphin	<i>Lagenorhynchus acutus</i>	Western North Atlantic ..	-/-; N	93,233 (0.71; 54,443; 2016)	544	27
Bottlenose dolphin	<i>Tursiops truncatus</i>	Western North Atlantic, Offshore.	-/-; N	62,851 (0.23; 51,914; 2016)	519	28
Bottlenose dolphin	<i>Tursiops truncatus</i>	Western North Atlantic, Northern Migratory Coastal.	-/D; Y	6,639 (0.41; 4,759; 2016)	48	12.2–21.5
Long-finned pilot whale	<i>Globicephala melas</i>	Western North Atlantic ..	-/-; N	39,215 (0.3; 30,627; 2016)	306	9
Risso's dolphin	<i>Grampus griseus</i>	Western North Atlantic ..	-/-; N	35,215 (0.19; 30,051; 2016)	301	34
Common dolphin	<i>Delphinus delphis</i>	Western North Atlantic ..	-/-; N	172,974 (0.21; 145,216; 2016)	1,452	390
<i>Family Phocoenidae (porpoises):</i>						
Harbor porpoise	<i>Phocoena phocoena</i>	Gulf of Maine/Bay of Fundy.	-/-; N	95,543 (0.31; 74,034; 2016)	851	164
Order Carnivora—Pinnipedia						
<i>Family Phocidae (earless seals):</i>						
Gray seal ⁵	<i>Halichoerus grypus</i>	Western North Atlantic ..	-/-; N	27,300 (0.22; 22,785; 2016)	1,389	4,453
Harbor seal	<i>Phoca vitulina</i>	Western North Atlantic ..	-/-; N	61,336 (0.08; 57,637; 2018)	1,729	329

¹ Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (<https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/>; Committee on Taxonomy (2022)).

² ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

³ NMFS marine mammal stock assessment reports online at: www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

⁴ These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury (M/SI) from all sources combined (e.g., commercial fisheries, vessel strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

⁵ NMFS's stock abundance estimate (and associated PBR value) applies to the U.S. population only. Total stock abundance (including animals in Canada) is approximately 451,600. The annual M/SI given is for the total stock.

As indicated above, all 15 species (16 stocks) in Table 2 temporally and spatially co-occur with the proposed activity to the degree that take is reasonably likely to occur. While other species have been documented in the area (see Table 3–1 of the IHA application), the temporal and/or spatial occurrence of these species is such that take is not expected to occur and they are not discussed further beyond the explanation provided here.

North Atlantic Right Whale

North Atlantic right whales (NARW) range from calving grounds in the southeastern United States to feeding grounds in New England waters and into Canadian waters (Hayes *et al.*, 2018). They are observed year round in the Mid-Atlantic Bight, and surveys have demonstrated the existence of seven areas where NARWs congregate seasonally in Georges Bank, off Cape Cod, and in Massachusetts Bay (Hayes *et al.*, 2018). In the late fall months (e.g., October), NARWs are generally thought to depart from the feeding grounds in the North Atlantic and move south to their calving grounds off Georgia and Florida. However, recent research indicates our understanding of their movement patterns remains incomplete (Davis *et al.*, 2017). A review of passive acoustic monitoring data from 2004 to 2014 throughout the western North Atlantic demonstrated nearly continuous year-round NARW presence across their entire habitat range (for at least some individuals), including in locations previously thought of as migratory corridors, suggesting that not all of the population undergoes a consistent annual migration (Davis *et al.*, 2017). Given that IWO's surveys would be concentrated offshore in the New York Bight, some NARWs may be present year round. However, the majority of NARWs in the vicinity of the survey areas are likely to be transient, migrating through the area.

Recent aerial surveys in the New York Bight showed NARW in the proposed survey area in the winter and spring, preferring deeper waters near the shelf break (NARW observed in depths ranging from 33–1,041 m) but were observed throughout the survey area (Zoidis *et al.*, 2021, Robinson *et al.*, 2021). Similarly, passive acoustic data collected from 2018 to 2020 in the New York Bight showed detections of NARW throughout the year (Estabrook *et al.*,

2021). Seasonally, NARW acoustic presence was highest in the fall. NARW can be anticipated to occur in the proposed survey area year-round but with lower levels in the summer from July–September.

Since 2010, the NARW population has been in decline (Pace III *et al.*, 2017), with a 40 percent decrease in calving rate (Kraus *et al.*, 2016). In 2018, no new NARW calves were documented in their calving grounds; this represented the first time since annual NOAA aerial surveys began in 1989 that no new NARW calves were observed. Calf numbers have increased since 2018 with 20 NARW calves documented in 2021 and 15 in 2022.

Elevated NARW mortalities have occurred since June 7, 2017, along the U.S. and Canadian coast. This event has been declared an unusual mortality event (UME), with human interactions, including entanglement in fixed fishing gear and vessel strikes, implicated in at least 60 of the mortalities or serious injuries thus far. As of May 9, 2023, a total of 98 confirmed cases of mortality, serious injury, or morbidity (sublethal injury or illness) have been documented. The preliminary cause of most of these cases is from rope entanglements or vessel strikes. More information is available online at: <https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2023-north-atlantic-right-whale-unusual-mortality-event>.

The proposed survey area is within a migratory corridor biologically important area (BIA) for NARWs that extends from Massachusetts to Florida (LaBrecque *et al.*, 2015). There is possible migratory behavior that could occur in this area between November and April. Off the coast of New Jersey, the migratory BIA extends from the coast to beyond the shelf break.

NMFS' regulations at 50 CFR part 224.105 designated nearshore waters of the Mid-Atlantic Bight as Mid-Atlantic U.S. Seasonal Management Areas (SMA) for NARWs in 2008. SMAs were developed to reduce the threat of collisions between ships and NARWs around their migratory route and calving grounds. The New York/New Jersey SMA, which occurs in the New York Bight, is in the proposed survey area and is active from November 1 through April 30 of each year. Within SMAs, the regulations require a mandatory vessel speed (less than 10

kn) or 5.14 meters per second (m/sec) for all vessels longer than 65 ft (19.8 m).

On August 1, 2022, NMFS announced proposed changes to the existing NARW vessel speed regulations to further reduce the likelihood of mortalities and serious injuries to endangered NARWs from vessel collisions, which are a leading cause of the species' decline and a primary factor in an ongoing UME (87 FR 46921). Should a final vessel speed rule be issued and become effective during the effective period of this IHA (or any other MMPA incidental take authorization), the authorization holder would be required to comply with any and all applicable requirements contained within the final rule. Specifically, where measures in any final vessel speed rule are more protective or restrictive than those in this or any other MMPA authorization, authorization holders would be required to comply with the requirements of the rule. Alternatively, where measures in this or any other MMPA authorization are more restrictive or protective than those in any final vessel speed rule, the measures in the MMPA authorization would remain in place. The responsibility to comply with the applicable requirements of any vessel speed rule would become effective immediately upon the effective date of any final vessel speed rule and, when notice is published of the effective date, NMFS would also notify IWO if the measures in the speed rule were to supersede any of the measures in the MMPA authorization such that they were no longer applicable.

Fin Whale

Fin whales are present north of 35 degrees N latitude in every season and are broadly distributed throughout the western North Atlantic for most of the year (Waring *et al.*, 2016). They are typically found in small groups of up to five individuals (Brueggeman *et al.*, 1987). The main threats to fin whales are fishery interactions and vessel collisions (Waring *et al.*, 2016).

The western north Atlantic stock of fin whales includes the area from central Virginia to Newfoundland/Labrador, Canada. This region is primarily a feeding ground for this migratory species that tend to calve and breed in lower latitudes or offshore. There is currently no critical habitat designated for this species.

Aerial surveys in the New York Bight observed fin whales year-round throughout the survey area, but they preferred deeper waters near the shelf break (Robinson et al., 2021). Passive acoustic data from 2018 to 2020 also detected fin whales throughout the year (Estabrook et al., 2021).

Humpback Whale

On September 8, 2016, NMFS divided the once single species of humpback whales into 14 distinct population segments (DPS),¹ removed the current species-level listing, and, instead, listed four DPSs as endangered and one DPS as threatened (81 FR 62259, September 8, 2016). The remaining nine DPSs were not listed. The West Indies DPS, which is not listed under the ESA, is the only DPS of humpback whale that is expected to occur in the survey area. Members of the West Indies DPS disperse to multiple western North Atlantic feeding populations, including the Gulf of Maine stock designated under the MMPA. Whales occurring in the project area are considered to be from the West Indies DPS but are not necessarily from the Gulf of Maine stock. Barco et al. (2002) estimated that, based on photo-identification, only 39 percent of individual humpback whales observed along the mid- and south Atlantic U.S. coast are from the Gulf of Maine stock. Bettridge et al. (2015) estimated the size of this population at 12,312 (95 percent confidence interval (CI) 8,688–15,954) whales in 2004–05, which is consistent with previous population estimates of approximately 10,000–11,000 whales (Stevick et al., 2003, Smith et al., 1999) and the increasing trend for the West Indies DPS (Bettridge et al., 2015).

Humpback whales utilize the mid-Atlantic as a migration pathway between calving/mating grounds to the south and feeding grounds in the north (Waring et al., 2007a, Waring et al., 2007b). A key question with regard to humpback whales off the Mid-Atlantic States is to which feeding population whales in these waters belong.

Since January 2016, elevated humpback whale mortalities have occurred along the Atlantic coast from Maine to Florida. Partial or full necropsy examinations have been conducted on approximately half of the

191 known cases (as of May 9, 2023). Of the whales examined, about 40 percent had evidence of human interaction, either vessel strike or entanglement. While a portion of the whales have shown evidence of pre-mortem vessel strike, this finding is not consistent across all whales examined and more research is needed. NOAA is consulting with researchers that are conducting studies on the humpback whale populations, and these efforts may provide information on changes in whale distribution and habitat use that could provide additional insight into how these vessel interactions occurred. More information is available at: <https://www.fisheries.noaa.gov/national/marine-life-distress/2016-2023-humpback-whale-unusual-mortality-event-along-atlantic-coast>.

Minke Whale

Minke whales can be found in temperate, tropical, and high-latitude waters. The Canadian East Coast stock can be found in the area from the western half of the Davis Strait (45° W longitude) to the Gulf of Mexico (Waring et al., 2016). This species generally occupies waters less than 100 m deep on the continental shelf. There appears to be a strong seasonal component to minke whale distribution in the survey areas, in which spring to fall are times of relatively widespread and common occurrence while during winter the species appears to be largely absent (Waring et al., 2016). Aerial surveys in the New York Bight area found that minke whales were observed throughout the survey area with highest numbers sighting in the spring months (Robinson et al., 2021).

Since January 2017, elevated minke whale mortalities have occurred along the Atlantic coast from Maine through South Carolina, with a total of 142 strandings (as of May 9, 2023). This event has been declared a UME; as of 2023, it is pending closure. Full or partial necropsy examinations were conducted on more than 60 percent of the stranded whales. Preliminary findings in several of the whales have shown evidence of human interactions or infectious disease, but these findings are not consistent across all of the whales examined, so more research is needed. More information is available at: <https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2023-minke-whale-unusual-mortality-event-along-atlantic-coast>.

Sei Whale

The Nova Scotia stock of sei whales can be found in deeper waters of the continental shelf edge waters of the

northeastern U.S. and northeastward to south of Newfoundland. Sei whales occur in shallower waters to feed. Currently there is no critical habitat for sei whales, though they can be observed along the shelf edge of the continental shelf. The main threats to this stock are interactions with fisheries and vessel collisions.

Aerial surveys conducted in the New York Bight observed sei whales in both winter and spring, though they preferred deeper waters near the shelf break (Robinson et al., 2021). Passive acoustic data in the survey area detected sei whales throughout the year except January and July with highest detections in March and April (Estabrook et al., 2021).

Sperm Whale

The distribution of the sperm whale in the U.S. EEZ occurs on the continental shelf edge, over the continental slope, and into mid-ocean regions (Waring et al., 2014). They are rarely found in waters less than 300 m deep. The basic social unit of the sperm whale appears to be the mixed school of adult females, their calves, and some juveniles of both sexes, normally numbering 20–40 animals. There is evidence that some social bonds persist for many years (Christal et al., 1998). In summer, the distribution of sperm whales includes the area northeast of Georges Bank and into the Northeast Channel region, as well as the continental shelf (inshore of the 100-m isobath) south of New England. In the fall, sperm whales occur south of New England on the continental shelf at its highest level. In winter, sperm whales are concentrated east and northeast of Cape Hatteras, North Carolina.

Aerial studies in the New York Bight observed sperm whales in the highest number in the summer with a preference for the shelf break (Robinson et al., 2021). Passive acoustic recordings of sperm whale recorded them throughout the year, and the highest number of whales occurred during spring and summer (Estabrook et al., 2021).

Atlantic Spotted Dolphin

Atlantic spotted dolphins are found in tropical and warm temperate waters ranging from southern New England, south to the Gulf of Mexico and the Caribbean to Venezuela (Waring et al., 2014). The Western North Atlantic stock regularly occurs in continental shelf waters south of Cape Hatteras, North Carolina and in continental shelf edge and continental slope waters north of this region (Waring et al., 2014).

¹ Under the Endangered Species Act, in 16 U.S.C. 1532(16), a distinct population segment (or DPS) is a vertebrate population or group of populations that is discrete from other populations of the species and significant in relation to the entire species. NOAA Fisheries and the U.S. Fish and Wildlife Service released a joint statement on February 7, 1996 (61 FR 4722), that defines the criteria for identifying a population as a DPS.

Atlantic White-Sided Dolphin

White-sided dolphins are found in temperate and sub-polar waters of the North Atlantic, primarily in continental shelf waters to the 100-m depth contour from central west Greenland to North Carolina (Waring et al., 2016). The Gulf of Maine stock is most common in continental shelf waters from Hudson Canyon to Georges Bank and in the Gulf of Maine and lower Bay of Fundy. Sighting data indicate seasonal shifts in distribution (Northridge et al., 1997). During January to May, low numbers of white-sided dolphins are found from Georges Bank to Jeffreys Ledge (off New Hampshire) with even lower numbers south of Georges Bank as documented by a few strandings collected on beaches of Virginia to South Carolina. From June through September, large numbers of white-sided dolphins are found from Georges Bank to the lower Bay of Fundy. From October to December, white-sided dolphins occur at intermediate densities from southern Georges Bank to southern Gulf of Maine (Payne and Heinemann, 1990). Sightings south of Georges Bank, particularly around Hudson Canyon, occur year round but at low densities. Aerial studies confirmed observations in fall and winter in the New York Bight area with preference for deep water at the shelf break throughout the year (Robinson et al., 2021).

Bottlenose Dolphin

There are two distinct bottlenose dolphin morphotypes in the Western North Atlantic: the Western North Atlantic Northern Migratory Coastal Stock (coastal stock) and the Western North Atlantic Offshore Stock (offshore stock) (Waring et al., 2016). The coastal stock resides in waters typically less than 20 m deep, along the inner continental shelf (within 7.5 km (4.6 miles) of shore), around islands, and is continuously distributed south of Long Island, New York into the Gulf of Mexico. Torres et al. (2003) found a statistically significant break in the distribution of the ecotypes at 34 km from shore based upon the genetic analysis of tissue samples collected in nearshore and offshore waters from New York to central Florida. The offshore stock was found exclusively seaward of 34 km and in waters deeper than 34 m (Hayes et al., 2017, Hayes et al., 2018). The offshore stock is distributed primarily along the outer continental shelf and continental slope in the Northwest Atlantic Ocean from Georges Bank to the Florida Keys. Both stocks of bottlenose dolphins are likely to occur in the proposed survey area. These two

stocks are considered geographically separated by the 20-m depth contour with the Coastal Stock found in waters less than 20 m and the Offshore Stock in waters greater than 20 m in depth.

Long-Finned Pilot Whale

Only long-finned pilot whales are reasonably expected to occur in this project area due to their more northerly distribution and association with colder water compared to short-finned pilot whales (Garrison and Rosel, 2017). Long-finned pilot whales are found from North Carolina to Iceland, Greenland, and the Barents Sea (Waring et al., 2016). In U.S. Atlantic waters, the Western North Atlantic stock is distributed principally along the continental shelf edge off the northeastern U.S. coast in winter and early spring. In late spring, pilot whales move onto Georges Bank and into the Gulf of Maine and more northern waters and remain in these areas through late autumn (Waring et al., 2016).

Risso's Dolphin

The Western North Atlantic stock of Risso's dolphin occurs from Florida to eastern Newfoundland. They are common on the northwest Atlantic continental shelf in summer and fall with lower abundances in winter and spring. Aerial surveys in the New York Bight area sighted Risso's dolphins throughout the year at the shelf break with highest abundances in spring and summer (Robinson et al., 2021).

Common Dolphin

Common dolphins within the U.S. Atlantic EEZ belong to the Western North Atlantic stock, generally occurring from Cape Hatteras to the Scotian Shelf (Hayes et al., 2021). Common dolphins are a highly seasonal, migratory species. Within the U.S. Atlantic EEZ, this species is distributed along the continental shelf and typically associated with Gulf Stream features (Hayes et al., 2021, CETAP, 1982, Hamazaki, 2002, Selzer and Payne, 1988). They are commonly found over the continental shelf between the 100-m and 2,000-m isobaths and over prominent underwater topography and east to the mid-Atlantic Ridge (Waring et al., 2016). Common dolphins occur from Cape Hatteras northeast to Georges Bank (35° N to 42° N latitude) during mid-January to May and move as far north as the Scotian Shelf from mid-summer to fall (Selzer and Payne, 1988). Migration onto the Scotian Shelf and continental shelf off Newfoundland occurs when water temperatures exceed 51.8 °F (11° Celsius) (Sergeant et al., 1970, Gowans and Whitehead, 1995).

Breeding usually takes place between June and September (Hayes et al., 2019). Kraus et al. (2016) observed 3,896 individual common dolphins within the Rhode Island/Massachusetts Wind Energy Area. Summer surveys included observations of the most individuals followed by fall, winter, and then spring.

Harbor Porpoise

In the project area, only the Gulf of Maine/Bay of Fundy stock of harbor porpoises may be present in the fall and winter. This stock is found in U.S. and Canadian Atlantic waters and is concentrated in the northern Gulf of Maine and southern Bay of Fundy region, generally in waters less than 150 m deep (Waring et al., 2016). During fall (October–December) and spring (April–June), they are more widely dispersed from New Jersey to Maine with lower densities farther north and south. In winter (January–March), intermediate densities of harbor porpoises can be found in waters off New Jersey to North Carolina with lower densities found in waters off New York to New Brunswick, Canada (Hayes et al., 2020). They are seen from the coastline to deep waters (greater than 1,800 m) (Westgate and Read, 1998), although the majority of the population is found over the continental shelf (Waring et al., 2016). The main threat to the species is interactions with fisheries, with documented take in the U.S. northeast sink gillnet, mid-Atlantic gillnet, and northeast bottom trawl fisheries and in the Canadian herring weir fisheries (Waring et al., 2016).

Pinnipeds (Gray Seal and Harbor Seal)

Gray seals are regularly observed in the survey area and these seals belong to the western North Atlantic stock. The range for this stock is thought to be from New Jersey to Labrador Sea. Current population trends show that gray seal abundance is likely increasing in the U.S. Atlantic EEZ (Waring et al., 2016). Although the rate of increase is unknown, surveys conducted since their arrival in the 1980s indicate a steady increase in abundance in both Maine and Massachusetts (Waring et al., 2016). It is believed that recolonization by Canadian gray seals is the source of the U.S. population increase (Waring et al., 2016). Documented haulouts for gray seals exist in the Long Island area, with a possible rookery on Little Gull Island. Since June 2022, elevated numbers of sick and dead harbor seals and gray seals have been documented along the southern and central coast of Maine. This event has also been declared a UME. Preliminary testing of samples

found that some harbor and gray seals were positive for the highly pathogenic avian influenza. NMFS and other partners are working on an ongoing investigation of this UME. From June 1, 2022–February 19, 2023, there have been 337 seal strandings. Information on these UMEs are available online at: <https://www.fisheries.noaa.gov/2022-2023-pinniped-unusual-mortality-event-along-maine-coast>.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have

deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (e.g., (Richardson et al., 2005, Wartzok and Ketten, 1999, Au and Hastings, 2008)). To reflect this, Southall et al. (2007) and Southall et al. (2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, etc.). Note that no direct measurements

of hearing ability have been successfully completed for mysticetes (i.e., low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65-dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall et al. (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 3.

TABLE 3—MARINE MAMMAL HEARING GROUPS (NMFS, 2018)

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (i.e., all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall et al. 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall et al. (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä et al., 2006, Kastelein et al., 2009, Reichmuth et al., 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section provides a discussion of the ways in which components of the specified activity may impact marine mammals and their habitat. Detailed descriptions of the potential effects of similar specified activities have been provided in other recent **Federal Register** notices, including for survey activities using the same methodology, over a similar amount of time, and occurring in the mid-Atlantic region, including the New York Bight (e.g., 87 FR 38094, June 27, 2022; 87 FR 51359, August 22, 2022). No significant new information is available, and we refer to the detailed discussions in those documents rather than repeating the details here.

The Estimated Take section later in this document includes a quantitative

analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Summary on Specific Potential Effects of Acoustic Sound Sources

For general information on sound, its interaction with the marine environment, and a description of acoustic terminology, please see, e.g., (American National Standards Institute, 1986, American National Standards Institute, 1995, Au and Hastings, 2008, Hastings and Popper, 2005, Mitson, 1995, NIOSH, 1998, Richardson et al., 2005, Southall et al., 2007, Urick, 1983). Underwater sound from active acoustic sources can cause one or more of the following: temporary or permanent hearing impairment, behavioral disturbance, masking, stress, and non-auditory physical effects. The degree of effect is intrinsically related to the signal characteristics, received level,

distance from the source, and duration of the sound exposure. Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran, 2015). TS can be permanent (PTS; permanent threshold shift), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS; temporary threshold shift), in which case the animal's hearing threshold would recover over time (Southall et al., 2007).

When PTS occurs, there is physical damage to the sound receptors in the ear (i.e., tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall et al., 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (e.g., (Ward, 1997)). Therefore, NMFS does not consider TTS to constitute auditory injury.

Animals in the vicinity of IWO's proposed HRG survey activities are unlikely to incur even TTS due to the characteristics of the sound sources, which include generally very short pulses and potential duration of exposure. These characteristics mean that instantaneous exposure is unlikely

to cause TTS because it is unlikely that exposure would occur close enough to the vessel for received levels to exceed peak pressure TTS criteria, and the cumulative duration of exposure would be insufficient to exceed cumulative sound exposure level (SEL) criteria. Even for high-frequency cetacean species (e.g., harbor porpoises), which have the greatest sensitivity to potential TTS, individuals would have to make a very close approach and remain very close to the vessel operating these sources in order to receive multiple exposures at relatively high levels as would be necessary to cause TTS. Intermittent exposures—as would occur due to the brief, transient signals produced by these sources—require a higher cumulative SEL to induce TTS than would continuous exposures of the same duration (*i.e.*, intermittent exposure results in lower levels of TTS). Moreover, most marine mammals would more likely avoid a loud sound source rather than swim in such close proximity as to result in TTS. Kremser et al. (2005) noted that the probability of a cetacean swimming through the area of exposure when a sub-bottom profiler emits a pulse is small—because if the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause TTS and would likely exhibit avoidance behavior to the area near the transducer rather than swim through at such a close range.

Behavioral disturbance to marine mammals from sound may include a variety of effects, including subtle changes in behavior (e.g., minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (e.g., species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors. Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal.

In addition, sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (e.g., those used for intraspecific communication and social interactions, prey detection,

predator avoidance, navigation). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (e.g., snapping shrimp, wind, waves, precipitation) or anthropogenic (e.g., shipping, sonar, seismic exploration) in origin. Marine mammal communications would not likely be masked appreciably by the acoustic signals given the directionality of the signals for the HRG survey equipment planned for use (Table 1) and the brief period for when an individual mammal would likely be exposed.

Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (e.g., crustaceans, cephalopods, fish, zooplankton) (*i.e.*, effects to marine mammal habitat). Prey species exposed to sound might move away from the sound source, experience TTS, experience masking of biologically relevant sounds, or show no obvious direct effects. The most likely impacts, if any, for most prey species in a given area would be temporary avoidance of the area. Surveys using active acoustic sound sources move through an area, limiting exposure to multiple pulses. In all cases, sound levels would return to ambient once a survey ends and the noise source is shut down and, when exposure to sound ends, behavioral and/or physiological responses are expected to end relatively quickly. Finally, the HRG survey equipment will not have significant impacts to the seafloor and does not represent a source of pollution.

Vessel Strike

Vessel collisions with marine mammals, or vessel strikes, can result in death or serious injury of the animal. These interactions are typically associated with large whales, which are less maneuverable than are smaller cetaceans or pinnipeds in relation to large vessels. Vessel strikes generally involve commercial shipping vessels, which are normally larger and of which there is much more traffic in the ocean than geophysical survey vessels. Jensen et al. (2003) summarized vessel strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (e.g., commercial shipping). For vessels used in geophysical survey activities, vessel speed while towing gear is typically only 4–5 kn (2.1–2.6 m/s). At these speeds, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are so low as to be

discountable. At average transit speed for geophysical survey vessels, the probability of serious injury or mortality resulting from a strike is less than 50 percent. However, the likelihood of a strike actually happening is again low given the smaller size of these vessels and generally slower speeds. Notably in the Jensen and Silber study, no strike incidents were reported for geophysical survey vessels during that time period.

The potential effects of IWO's specified survey activity are expected to be limited to Level B behavioral harassment. No permanent or temporary auditory effects or significant impacts to marine mammal habitat, including prey, are expected.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of "small numbers," and the negligible impact determinations.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to sound produced by the sparkers. Based on the characteristics of the signals produced by the acoustic sources planned for use, Level A harassment is neither anticipated (even absent mitigation) nor proposed to be authorized. As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below we describe how the proposed take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas;

and, (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.*, previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimates.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.*, frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.*, bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.*, (Ellison et al., 2012, Southall et al., 2007, Southall et al., 2021)). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared (RMS) SPL of 120 dB (referenced to 1 microPascal (re 1 μ Pa)) for continuous (*e.g.*, vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 μ Pa for non-explosive impulsive (*e.g.*, seismic airguns) or intermittent (*e.g.*, scientific sonar) sources.

Generally speaking, Level B harassment take estimates based on these behavioral harassment thresholds are expected to include any likely takes by TTS as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced

hearing sensitivity and the potential reduced opportunities to detect important signals (conspecific communication, predators, prey) may result in changes in behavior patterns that would not otherwise occur.

IWO's marine site characterization surveys include the use of impulsive (*i.e.*, sparker) sources, and therefore the SPL threshold of 160 dB re 1 μ Pa is applicable.

Level A Harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (NMFS, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive).

The references, analysis, and methodology used in the development of the thresholds are described in NMFS (2018) Technical Guidance, which may be accessed at: www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.

IWO's marine site characterization surveys include the use of impulsive (*i.e.*, sparker) sources. However, as discussed above, NMFS has concluded that Level A harassment is not a reasonably likely outcome for marine mammals exposed to noise through use of the sources proposed for use here, and the potential for Level A harassment is not evaluated further in this document. Please see IWO's application for details of a quantitative exposure analysis exercise (*i.e.*, calculated Level A harassment isopleths and estimated Level A harassment exposures). IWO did not request authorization of take by Level A harassment, and no take by Level A harassment is proposed for authorization by NMFS.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

NMFS has developed a user-friendly methodology for estimating the extent of the Level B harassment isopleths associated with relevant HRG survey equipment (NMFS, 2020). This methodology incorporates frequency and directionality (when relevant) to refine estimated ensonified zones. For acoustic sources that operate with different beamwidths, the maximum beamwidth was used, and the lowest

frequency of the source was used when calculating the frequency-dependent absorption coefficient (Table 1). IWO used 180° beamwidth in the calculation for the proposed sparker systems as is appropriate for an omnidirectional source.

NMFS considers the data provided by Crocker and Fratantonio (2016) to represent the best available information on source levels associated with HRG survey equipment and, therefore, recommends that source levels provided by Crocker and Fratantonio (2016) be incorporated in the method described above to estimate isopleth distances to harassment thresholds. In cases where the source level for a specific type of HRG equipment is not provided in Crocker and Fratantonio (2016), NMFS recommends either the source levels provided by the manufacturer be used, or, in instances where source levels provided by the manufacturer are unavailable or unreliable, a proxy from Crocker and Fratantonio (2016) be used instead. Table 1 shows the HRG equipment type used during the planned surveys and the source levels associated with those HRG equipment types.

IWO proposes to use the Applied Acoustics Dura-Spark 240/400 (400 tip/500 J), Applied Acoustics Dura-Spark UHD 400+400 (400 tip/500–800 J) and the Geo-Source 200–400 Marine Multi-tip Sparker System (400 tip/400–500 J). For the two Applied Acoustics source configurations (Table 1), the maximum power expected to be discharged is 800 J. However, Crocker and Fratantonio (2016) did not measure the Dura-Spark with an energy of 800 J, only 500 J, 2,000 J, and 2,400 J, so the source level values for 500 J (provided in Table 10 of Crocker and Fratantonio (2016)) were used as a proxy, as this setting was anticipated to be more representative of the application of the equipment than the next level reported for 2,000 J. The Applied Acoustics Dura-Spark was also used as a proxy for the Geo-Source 200–400 Marine Multi-tip Sparker System (400 tip/400–500 J). Using the measured source level of 203 dB RMS SPL of the proxy, results of modeling indicated that all three sparkers would produce an estimated distance of 141 m to the Level B harassment isopleth.

Results of modeling using the methodology described above indicated that, of the HRG survey equipment proposed for use by the applicant (Table 1) that has the potential to result in Level B harassment of marine mammals, all three systems would produce the same distance to the Level B harassment isopleth (141 m).

Marine Mammal Occurrence

In this section we provide information about the occurrence of marine mammals, including density or other relevant information that will inform the take calculations.

Habitat-based density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts et al., 2016, Roberts and Halpin, 2022) represent the best available information regarding marine mammal densities in the proposed survey area. These density data incorporate aerial and shipboard line-transect survey data from NMFS and other organizations and incorporate data from numerous physiographic and dynamic oceanographic and biological covariates, and controls for the influence of sea state, group size, availability bias, and perception bias on the probability of making a sighting. These density models were originally developed for all cetacean taxa in the U.S. Atlantic in 2016 and models for all taxa were updated in 2022 (Roberts et al., 2016, Roberts and Halpin, 2022). More information is available online at <https://seamap.env.duke.edu/models/Duke/EC/>. Marine mammal density estimates in the survey area (animals/km²) were obtained using the most recent model results for all taxa.

For the exposure analysis, density data from Roberts and Halpin (2022) were mapped using a geographic information system (GIS). For the survey area, the monthly densities of each species as reported by Roberts and Halpin (2022) were averaged by season; thus, a density was calculated for each species for spring, summer, fall, and winter. Density seasonal averages were calculated for both the Lease Area and the ECR Area for each species to assess the greatest average seasonal densities for each species. To be conservative since the exact timing for the survey during the year is uncertain, the greatest average seasonal density calculated for each species was carried forward in the exposure analysis, with exceptions noted later in this discussion. Estimated greatest average seasonal densities (animals/km²) of marine mammal species that may be taken incidental to the planned survey can be found in Tables 6–1 and 6–2 of IWO's IHA application. Below, we discuss how densities were assumed to apply to specific species for which the Roberts and Halpin (2022) models provide results at the genus or guild level.

There are two stocks of bottlenose dolphins that may be impacted by the surveys (Western North Atlantic Northern Migratory Coastal Stock (Coastal Stock) and Western North Atlantic Offshore Stock (Offshore Stock)), however, Roberts and Halpin (2022) do not differentiate by stock. The Coastal Stock is assumed to generally occur in waters less than 20 m (65 ft) and the Offshore Stock in waters greater than 20 m (65 ft) isobath. The Lease Area is in waters greater than 20 m (65 ft) depth and only the Offshore Stock would occur and potentially be taken by survey effort in that area. Both stocks could occur in the ECR Area, so IWO calculated separate mean seasonal densities for the portion that is less than 20 m depth and for the portion that is greater than 20 m depth to use for estimating take of the Coastal and Offshore Stocks of bottlenose dolphins, respectively.

Furthermore, the Roberts and Halpin (2022) density model does not differentiate between the different pinniped species. For seals, given their size and behavior when in the water, seasonality, and feeding preferences, there is limited information available on species-specific distribution. Density estimates from Roberts and Halpin (2022) include all seal species that may occur in the Western North Atlantic combined (*i.e.*, gray, harbor, harp, hooded). For this IHA, only gray seals and harbor seals are reasonably expected to occur in the survey area; densities of seals were split evenly between these two species.

Finally, the Roberts and Halpin (2022) density model does not differentiate between pilot whale species. While the exact latitudinal ranges of the two species are uncertain, only long-finned pilot whales are expected to occur in this project area due to their more northerly distribution and tolerance of shallower, colder shelf waters (Hayes et al., 2022). Short-finned pilot whales are not anticipated to occur as far north as the survey area so we assume that all pilot whales near the project area would be long-finned pilot whales (Garrison and Rosel, 2017). For this IHA, densities of pilot whales are assumed to be only long-finned pilot whale.

Take Estimation

Here we describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and proposed for authorization.

In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in harassment, radial distances to predicted isopleths corresponding to Level B harassment thresholds were calculated, as described above. The distance (*i.e.*, 141 m distance associated with the sparker systems) to the Level B harassment criterion and the total length of the survey trackline were then used to calculate the total ensonified area, or harassment zone, around the survey vessel.

IWO proposes to conduct HRG surveys for a maximum total of 12,818 km trackline length, of which 7,460 km are in the Lease Area and 5,358 km are in the ECR Area. Of the ECR Area trackline, 1,600 km are in waters less than 20 m depth. Based on the maximum estimated distance to the Level B harassment threshold (141 m) for all three sparker systems and maximum total survey length, the total ensonified area is 3,615 km² (2,104 km² Lease Area and 1,511 km² ECR Area (452 km² in waters less than 20 m depth; 1,059 km² in waters greater than 20 m depth)), based on the following formula, where the total estimated trackline length (L) in each area was used and buffered with the horizontal distance to the Level B harassment threshold (R) to determine the total area ensonified to 160 dB SPL.

$$\text{Harassment Zone} = (L \times 2R) + \pi R^2$$

The number of marine mammals expected to be incidentally taken during the total survey is then calculated by estimating the number of each species predicted to occur within the ensonified area (animals/km²), incorporating the greatest seasonal estimated marine mammal densities as described above. The product is then rounded to generate an estimate of the total number of instances of harassment expected for each species over the duration of the survey (up to 274 days). A summary of this method is illustrated in the following formula, where the Harassment Zone is multiplied by the highest seasonal mean density (D) of each species or stock (animals/km²; except for pilot whales where annual density was used based on data availability).

$$\text{Estimated Take} = \text{Harassment Zone} \times D$$

The resulting take of marine mammals (Level B harassment) is shown in Table 4.

TABLE 4—ESTIMATED TAKE NUMBERS AND TOTAL TAKE PROPOSED FOR AUTHORIZATION

Species	Ensonified area (km ²)	Density (animals/km ²)	Estimated take	Total take proposed to be authorized	Percent of abundance ¹
North Atlantic right whale	3,615	0.001748	6	6	1.87
Humpback whale	3,615	0.003657	13	13	0.95
Fin whale	3,615	0.004856	18	18	0.26
Sei whale	3,615	0.001813	7	7	0.10
Minke whale	3,615	0.025476	92	92	0.42
Sperm whale	3,615	0.000371	1	†2	0.03
Risso's dolphin	3,615	0.002841	10	10	0.03
Long-finned pilot whale	3,615	0.003363	12	†15	0.03
Atlantic white-sided dolphin	3,615	0.027836	101	101	0.11
Common dolphin	3,615	0.245719	888	888	0.51
Atlantic spotted dolphin	3,615	0.011683	42	42	0.11
Harbor porpoise	3,615	0.262904	950	950	0.99
Common bottlenose dolphin (Offshore Stock) ²	3,164	0.193127	611	611	0.97
Common bottlenose dolphin (Northern Migratory Coastal Stock) ³	452	1.758553	795	795	11.97
Gray seal	3,615	⁴ 0.262904	950	950	0.21
Harbor seal	3,615	⁴ 0.262904	950	950	⁵ 1.55

† Take request based on average group size using sightings data from (CETAP, 1982, Palka et al., 2017, Palka et al., 2021) (see Attachment 3 of application).

¹ Based on the 2022 draft marine mammal stock assessment reports (SAR).

² The ensonified area for the offshore stock is for greater than 20 m water depth includes all the lease area and portions of the ECR.

³ The ensonified area for the migratory coastal stock is only the areas of less than 20 m water depth (found only in portions of the ECR).

⁴ These each represent 50% of a generic seal density value.

⁵ This abundance estimate is based on the total stock abundance (including animals in Canada). The NMFS stock abundance estimate for U.S. population is only 27,300.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be

effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and,

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

NMFS proposes that the following mitigation measures be implemented during IWO's planned marine site characterization surveys. Pursuant to section 7 of the ESA, IWO would also be required to adhere to relevant Project Design Criteria (PDC) of the NMFS' Greater Atlantic Regional Fisheries Office (GARFO) programmatic consultation (specifically PDCs 4, 5, and 7) regarding geophysical surveys along the U.S. Atlantic coast (<https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#offshore-wind-site-assessment-and-site-characterization-activities-programmatic-consultation>).

Visual Monitoring and Shutdown Zones

IWO must employ independent, dedicated, trained protected species observers (PSOs), meaning that the PSOs must (1) be employed by a third-party observer provider, (2) have no tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence

of marine mammals and mitigation requirements (including brief alerts regarding maritime hazards), and (3) have successfully completed an approved PSO training course appropriate for geophysical surveys. Visual monitoring must be performed by qualified, NMFS-approved PSOs. PSO resumes must be provided to NMFS for review and approval prior to the start of survey activities.

During survey operations (e.g., any day in which use of the sparker system is planned to occur, and whenever the sparker system is in the water, whether activated or not), a minimum of one visual marine mammal observer (PSO) must be on duty on each source vessel and conducting visual observations at all times during daylight hours (i.e., from 30 minutes (min) prior to sunrise through 30 min following sunset). A minimum of two PSOs must be on duty on each source vessel during nighttime hours. Visual monitoring must begin no less than 30 min prior to ramp-up (described below) and must continue until 30 min after use of the sparker system ceases.

Visual PSOs shall coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. PSOs shall establish and monitor applicable shutdown zones (see below). These

zones shall be based upon the radial distance from the sparker system (rather than being based around the vessel itself).

Two shutdown zones are defined, depending on the species and context. Here, an extended shutdown zone encompassing the area at and below the sea surface out to a radius of 500 m from the sparker system (0–500 m) is defined for NARW. For all other marine mammals, the shutdown zone encompasses a standard distance of 100 m (0–100 m) during the use of the sparker. Any observations of marine mammals by crew members aboard any vessel associated with the survey shall be relayed to the PSO team.

Visual PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least 1 hr between watches and may conduct a maximum of 12 hr of observation per 24-hr period.

Pre-Start Clearance and Ramp-Up Procedures

A ramp-up procedure, involving a gradual increase in source level output, is required at all times as part of the activation of the sparker system when technically feasible. Operators should ramp up sparker to half power for 5 min and then proceed to full power. A 30 min pre-start clearance observation period of the shutdown zones must occur prior to the start of ramp-up. The intent of the pre-start clearance observation period (30 min) is to ensure no marine mammals are within the shutdown zones prior to the beginning of ramp-up. The intent of the ramp-up is to warn marine mammals of pending operations and to allow sufficient time for those animals to leave the immediate vicinity. All operators must adhere to the following pre-start clearance and ramp-up requirements:

- The operator must notify a designated PSO of the planned start of ramp-up as agreed upon with the lead PSO; the notification time should not be less than 60 min prior to the planned ramp-up in order to allow the PSOs time to monitor the shutdown zones for 30 min prior to the initiation of ramp-up (pre-start clearance). During this 30 min pre-start clearance period the entire shutdown zone must be visible, except as indicated below.

- Ramp-ups shall be scheduled so as to minimize the time spent with the source activated.

- A visual PSO conducting pre-start clearance observations must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed.

- Any PSO on duty has the authority to delay the start of survey operations if a marine mammal is detected within the applicable pre-start clearance zone.

- The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that mitigation commands are conveyed swiftly while allowing PSOs to maintain watch.

The pre-start clearance requirement is waived for small delphinids and pinnipeds. Detection of a small delphinid (individual belonging to the following genera of the Family Delphinidae: *Steno*, *Delphinus*, *Lagenorhynchus*, *Stenella*, and *Tursiops*) or pinniped within the shutdown zone does not preclude beginning of ramp-up, unless the PSO confirms the individual to be of a genus other than those listed, in which case normal pre-clearance requirements apply.

If there is uncertainty regarding identification of a marine mammal species (*i.e.*, whether the observed marine mammal(s) belongs to one of the delphinid genera for which the pre-clearance requirement is waived), PSOs may use best professional judgment in making the decision to call for a shutdown.

- Ramp-up may not be initiated if any marine mammal to which the pre-start clearance requirement applies is within the shutdown zone. If a marine mammal is observed within the shutdown zone during the 30 min pre-start clearance period, ramp-up may not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings (30 min for all baleen whale species and sperm whales, 15 min for all other species).

- PSOs must monitor the shutdown zones 30 min before and during ramp-up, and ramp-up must cease and the source must be shut down upon observation of a marine mammal within the applicable shutdown zone.

- Ramp-up may occur at times of poor visibility, including nighttime, if appropriate visual monitoring has occurred with no detections of marine mammals in the 30 min prior to beginning ramp-up. Sparker activation may only occur at night where operational planning cannot reasonably avoid such circumstances.

If the acoustic source is shut down for brief periods (*i.e.*, less than 30 min) for reasons other than implementation of prescribed mitigation (*e.g.*, mechanical difficulty), it may be activated again without ramp-up if PSOs have maintained constant visual observation

and no detections of marine mammals have occurred within the applicable shutdown zone. For any longer shutdown, pre-start clearance observation and ramp-up are required.

Shutdown Procedures

All operators must adhere to the following shutdown requirements:

- Any PSO on duty has the authority to call for shutdown of the sparker system if a marine mammal is detected within the applicable shutdown zone.

- The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the source to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch.

- When the sparker system is active and a marine mammal appears within or enters the applicable shutdown zone, the source must be shut down. When shutdown is instructed by a PSO, the sparker system must be immediately deactivated and any dispute resolved only following deactivation.

- Two shutdown zones are defined, depending on the species and context. An extended shutdown zone encompassing the area at and below the sea surface out to a radius of 500 m from the sparker system (0–500 m) is defined for NARW. For all other marine mammals, the shutdown zone encompasses a standard distance of 100 m (0–100 m) during the use of the sparker.

The shutdown requirement is waived for small delphinids and pinnipeds. If a small delphinid (individual belonging to the following genera of the Family Delphinidae: *Steno*, *Delphinus*, *Lagenorhynchus*, *Stenella*, and *Tursiops*) or pinniped is visually detected within the shutdown zone, no shutdown is required unless the PSO confirms the individual to be of a genus other than those listed, in which case a shutdown is required.

If there is uncertainty regarding identification of a marine mammal species (*i.e.*, whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived or one of the species with a larger shutdown zone), PSOs may use best professional judgment in making the decision to call for a shutdown.

Upon implementation of shutdown, the source may be reactivated after the marine mammal has been observed exiting the applicable shutdown zone or following a clearance period (30 min for all baleen whale species and sperm whales, 15 min for all other species) with no further detection of the marine mammal.

If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the Level B harassment zone (141 m), shutdown must occur.

Vessel Strike Avoidance

Crew and supply vessel personnel must use an appropriate reference guide that includes identifying information on all marine mammals that may be encountered. Vessel operators must comply with the below measures except under extraordinary circumstances when the safety of the vessel or crew is in doubt or the safety of life at sea is in question. These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

Vessel operators and crews must maintain a vigilant watch for all marine mammals and slow down, stop their vessel(s), or alter course, as appropriate and regardless of vessel size, to avoid striking any marine mammals. A single marine mammal at the surface may indicate the presence of submerged animals in the vicinity of the vessel; therefore, precautionary measures should always be exercised. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel (species-specific distances are detailed below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.*, PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to

(1) distinguish marine mammal from other phenomena, and (2) broadly to identify a marine mammal as a NARW, other whale (defined in this context as sperm whales or baleen whales other than NARWs), or other marine mammals.

All survey vessels, regardless of size, must observe a 10-kn (18.52 km/hr) speed restriction in specific areas designated by NMFS for the protection of NARWs from vessel strikes. These include all Seasonal Management Areas (SMA) established under 50 CFR 224.105 (when in effect), any dynamic management areas (DMA) (when in effect), and Slow Zones. See www.fisheries.noaa.gov/national/conservation/conservation-reducing-ship-strikes-north-atlantic-right-whales for specific detail regarding these areas.

- All vessels must reduce speed to 10 kn (18.52 km/hr) or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel.
- All vessels must maintain a minimum separation distance of 500 m from NARWs, baleen whales (except humpback and minke), sperm whales, and any unidentified large whales. If a NARW, baleen whale (except humpback and minke), sperm whale, and any unidentified large whale is sighted within the relevant separation distance, the vessel must steer a course away at 10 kn (18.52 km/hr) or less until the 500-m separation distance has been established. If a whale is observed but cannot be confirmed as a species other than a NARW, the vessel operator must assume that it is a NARW and take appropriate action.

- All vessels must maintain a minimum separation distance of 100 m from all humpback and minke whales.
 - All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an understanding that at times this may not be possible (*e.g.*, for animals that approach the vessel).
 - When marine mammals are sighted while a vessel is underway, the vessel must take action as necessary to avoid violating the relevant separation distance (*e.g.*, attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area, reduce speed and shift the engine to neutral). This does not apply to any vessel towing gear or any vessel that is navigationally constrained.
- Members of the PSO team will consult the NMFS NARW reporting system and Whale Alert, daily and as able, for the presence of NARWs throughout survey operations, and for the establishment of DMAs and/or Slow Zones. It is IWO's responsibility to maintain awareness of the establishment and location of any such areas and to abide by these requirements accordingly.

Seasonal Operating Requirements

As described above, a section of the survey area partially overlaps with a portion of a NARW SMA off the port of New York/New Jersey. This SMA is active from November 1 through April 30 of each year. The survey vessel, regardless of length, would be required to adhere to vessel speed restrictions (less than 10 kn (18.52 km/hr)) when operating within the SMA during times when the SMA is active (Table 5).

TABLE 5—NORTH ATLANTIC RIGHT WHALE DYNAMIC MANAGEMENT AREA (DMA) AND SEASONAL MANAGEMENT AREA (SMA) RESTRICTIONS WITHIN THE SURVEY AREA

Survey area	Species	DMA restrictions	Slow zones	SMA restrictions
Lease Area	North Atlantic right whale.	If established by NMFS, all of IWO's vessel will abide by the described restrictions.	If established by NMFS, all of IWO's vessel will abide by the described restrictions.	N/A.
ECR Area (within SMA).	North Atlantic right whale.	If established by NMFS, all of IWO's vessel will abide by the described restrictions.	If established by NMFS, all of IWO's vessel will abide by the described restrictions.	November 1 through April 31 (Ports of New York/New Jersey).
ECR Area (outside SMA).	North Atlantic right whale.	If established by NMFS, all of IWO's vessel will abide by the described restrictions.	If established by NMFS, all of IWO's vessel will abide by the described restrictions.	N/A.

More information on Vessel Strike Reduction for the NARW can be found at NMFS' website: <https://www.fisheries.noaa.gov/national/conservation/conservation-reducing-vessel-strikes-north-atlantic-right-whales>.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined

that the proposed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat,

paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,
- Mitigation and monitoring effectiveness.

Proposed Monitoring Measures

Visual monitoring must be performed by qualified, NMFS-approved PSOs. IWO must submit PSO resumes for NMFS review and approval prior to commencement of the survey. Resumes should include dates of training and any

prior NMFS approval, as well as dates and description of last experience, and must be accompanied by information documenting successful completion of an acceptable training course.

For prospective PSOs not previously approved, or for PSOs whose approval is not current, NMFS must review and approve PSO qualifications. Resumes should include information related to relevant education, experience, and training, including dates, duration, location, and description of prior PSO experience. Resumes must be accompanied by relevant documentation of successful completion of necessary training.

NMFS may approve PSOs as conditional or unconditional. A conditionally-approved PSO may be one who is trained but has not yet attained the requisite experience. An unconditionally-approved PSO is one who has attained the necessary experience. For unconditional approval, the PSO must have a minimum of 90 days at sea performing the role during a geophysical survey, with the conclusion of the most recent relevant experience not more than 18 months previous.

At least one of the visual PSOs aboard the vessel must be unconditionally-approved. One unconditionally-approved visual PSO shall be designated as the lead for the entire PSO team. This lead should typically be the PSO with the most experience, who would coordinate duty schedules and roles for the PSO team and serve as primary point of contact for the vessel operator. To the maximum extent practicable, the duty schedule shall be planned such that unconditionally-approved PSOs are on duty with conditionally-approved PSOs.

A “trained lookout” may be used on a space-limited nearshore vessel (generally operating in water less than 20 m depth for no more than 12 hr/day) during required breaks for the approved PSO on duty. Project-specific training must be conducted for all vessel crew with “lookout” responsibilities prior to the start of a survey and during any changes in crew such that all relevant survey personnel are fully aware and understand the mitigation, monitoring, and reporting requirements. All vessel crew members operating as a trained lookout must be briefed in the identification of protected species that may occur in the survey area and in relevant mitigation requirements. Reference materials must be available aboard all project vessels for identification of protected species.

At least one PSO aboard each acoustic source vessel must have a minimum of

90 days at-sea experience working in the role, with no more than 18 months elapsed since the conclusion of the at-sea experience. One PSO with such experience must be designated as the lead for the entire PSO team and serve as the primary point of contact for the vessel operator. (Note that the responsibility of coordinating duty schedules and roles may instead be assigned to a shore-based, third-party monitoring coordinator.) To the maximum extent practicable, the lead PSO must devise the duty schedule such that experienced PSOs are on duty with those PSOs with appropriate training but who have not yet gained relevant experience.

PSOs must successfully complete relevant training, including completion of all required coursework and passing (80 percent or more) a written and/or oral examination developed for the training program.

PSOs must have successfully attained a bachelor’s degree from an accredited college or university with a major in one of the natural sciences, a minimum of 30 semester hours or equivalent in the biological sciences, and at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver shall be submitted to NMFS and must include written justification. Alternate experience that may be considered includes, but is not limited to (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; and (3) previous work experience as a PSO (PSO must be in good standing and demonstrate good performance of PSO duties).

IWO must work with the selected third-party PSO provider to ensure PSOs have all equipment (including backup equipment) needed to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals, and to ensure that PSOs are capable of calibrating equipment as necessary for accurate distance estimates and species identification. Such equipment, at a minimum, shall include:

- At least one thermal (infrared) imager device suited for the marine environment;
- Reticle binoculars (*e.g.*, 7 × 50) of appropriate quality (at least one per PSO, plus backups);
- Global positioning units (GPS) (at least one plus backups);

- Digital cameras with a telephoto lens that is at least 300-mm or equivalent on a full-frame single lens reflex (SLR) (at least one plus backups). The camera or lens should also have an image stabilization system;

- Equipment necessary for accurate measurement of distances to marine mammal;
- Compasses (at least one plus backups);
- Means of communication among vessel crew and PSOs; and,
- Any other tools deemed necessary to adequately and effectively perform PSO tasks.

The equipment specified above may be provided by an individual PSO, the third-party PSO provider, or the operator, but IWO is responsible for ensuring PSOs have the proper equipment required to perform the duties specified in the IHA.

The PSOs will be responsible for monitoring the waters surrounding the survey vessel to the farthest extent permitted by sighting conditions, including Shutdown Zones, during all HRG survey operations. PSOs will visually monitor and identify marine mammals, including those approaching or entering the established Shutdown Zones during survey activities. It will be the responsibility of the PSO(s) on duty to communicate the presence of marine mammals as well as to communicate the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate.

PSOs must be equipped with binoculars and have the ability to estimate distance and bearing to detect marine mammals, particularly in proximity to Shutdown Zones. Reticulated binoculars must also be available to PSOs for use as appropriate based on conditions and visibility to support the sighting and monitoring of marine mammals. During nighttime operations, appropriate night-vision devices (e.g., night-vision goggles with thermal clip-ons and infrared technology) would be used. Position data would be recorded using hand-held or vessel GPS units for each sighting.

During good conditions (e.g., daylight hours; Beaufort sea state (BSS) 3 or less), to the maximum extent practicable, PSOs must also conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the active acoustic sources and between acquisition periods, to the maximum extent practicable. Any observations of marine mammals by crew members aboard the vessel associated with the survey would be relayed to the PSO team.

Data on all PSO observations would be recorded based on standard PSO collection requirements (see *Proposed Reporting Measures*). This would include dates, times, and locations of survey operations; dates and times of observations, location and weather; details of marine mammal sightings (e.g., species, numbers, behavior); and details of any observed marine mammal behavior that occurs (e.g., noted behavioral disturbances). Members of the PSO team shall consult the NMFS NARW reporting system and Whale Alert, daily and as able, for the presence of NARWs throughout survey operations.

Proposed Reporting Measures

IWO shall submit a draft comprehensive report to NMFS on all activities and monitoring results within 90 days of the completion of the survey or expiration of the IHA, whichever comes sooner. The report must describe all activities conducted and sightings of marine mammals, must provide full documentation of methods, results, and interpretation pertaining to all monitoring, and must summarize the dates and locations of survey operations and all marine mammal sightings (dates, times, locations, activities, associated survey activities). The draft report shall also include geo-referenced, time-stamped vessel tracklines for all time periods during which acoustic sources were operating. Tracklines should include points recording any change in acoustic source status (e.g., when the sources began operating, when they were turned off, or when they changed operational status such as from full array to single gun or vice versa). GIS files shall be provided in Environmental Systems Research Institute, Inc. (ESRI) shapefile format and include the Coordinated Universal Time (UTC) date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates shall be referenced to the WGS84 geographic coordinate system. In addition to the report, all raw observational data shall be made available. The report must summarize the information. A final report must be submitted within 30 days following resolution of any comments on the draft report. All draft and final marine mammal monitoring reports must be submitted to PR.ITP.MonitoringReports@noaa.gov, nmfs.gar.incidental-take@noaa.gov, and ITP.clevenstine@noaa.gov.

PSOs must use standardized electronic data forms to record data. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of

marine mammal to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source. If required mitigation was not implemented, PSOs should record a description of the circumstances. At a minimum, the following information must be recorded:

1. Vessel names (source vessel), vessel size and type, maximum speed capability of vessel;
2. Dates of departures and returns to port with port name;
3. PSO names and affiliations;
4. Date and participants of PSO briefings;
5. Visual monitoring equipment used;
6. PSO location on vessel and height of observation location above water surface;
7. Dates and times (Greenwich Mean Time) of survey on/off effort and times corresponding with PSO on/off effort;
8. Vessel location (decimal degrees) when survey effort begins and ends and vessel location at beginning and end of visual PSO duty shifts;
9. Vessel location at 30-second intervals if obtainable from data collection software, otherwise at practical regular interval;
10. Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any change;
11. Water depth (if obtainable from data collection software);
12. Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including BSS and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon;
13. Factors that may contribute to impaired observations during each PSO shift change or as needed as environmental conditions change (e.g., vessel traffic, equipment malfunctions); and,
14. Survey activity information (and changes thereof), such as acoustic source power output while in operation, number and volume of airguns operating in an array, tow depth of an acoustic source, and any other notes of significance (i.e., pre-start clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.).
15. Upon visual observation of any marine mammal, the following information must be recorded:

a. Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);

b. Vessel/survey activity at time of sighting (e.g., deploying, recovering, testing, shooting, data acquisition, other);

c. PSO who sighted the animal;

d. Time of sighting;

e. Initial detection method;

f. Sightings cue;

g. Vessel location at time of sighting (decimal degrees);

h. Direction of vessel's travel (compass direction);

i. Speed of the vessel(s) from which the observation was made;

j. Identification of the animal (e.g., genus/species, lowest possible taxonomic level or unidentified); also note the composition of the group if there is a mix of species;

k. Species reliability (an indicator of confidence in identification);

l. Estimated distance to the animal and method of estimating distance;

m. Estimated number of animals (high/low/best);

n. Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);

o. Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars, or markings, shape and size of dorsal fin, shape of head, and blow characteristics);

p. Detailed behavior observations (e.g., number of blows/breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior before and after point of closest approach);

q. Mitigation actions; description of any actions implemented in response to the sighting (e.g., delays, shutdowns, ramp-up, speed or course alteration, etc.) and time and location of the action;

r. Equipment operating during sighting;

s. Animal's closest point of approach and/or closest distance from the center point of the acoustic source; and,

t. Description of any actions implemented in response to the sighting (e.g., delays, shutdown, ramp-up) and time and location of the action.

If a NARW is observed at any time by PSOs or personnel on the project vessel, during surveys or during vessel transit, IWO must report the sighting information to the NMFS NARW Sighting Advisory System (866-755-6622) within 2 hr of occurrence, when practicable, or no later than 24 hr after occurrence. NARW sightings in any location may also be reported to the U.S. Coast Guard via channel 16 and through

the WhaleAlert app (<http://www.whalealert.org>).

In the event that personnel involved in the survey activities discover an injured or dead marine mammal, the incident must be reported to NMFS as soon as feasible by phone (866-755-6622) and by email (nmfs.gar.incidental-take@noaa.gov and PR.ITP.MonitoringReports@noaa.gov). The report must include the following information:

1. Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

2. Species identification (if known) or description of the animal(s) involved;

3. Condition of the animal(s) (including carcass condition if the animal is dead);

4. Observed behaviors of the animal(s), if alive;

5. If available, photographs or video footage of the animal(s); and

6. General circumstances under which the animal was discovered.

In the event of a vessel strike of a marine mammal by any vessel involved in the activities, IWO must report the incident to NMFS by phone (866-755-6622) and by email (nmfs.gar.incidental-take@noaa.gov and PR.ITP.MonitoringReports@noaa.gov) as soon as feasible. The report would include the following information:

1. Time, date, and location (latitude/longitude) of the incident;

2. Species identification (if known) or description of the animal(s) involved;

3. Vessel's speed during and leading up to the incident;

4. Vessel's course/heading and what operations were being conducted (if applicable);

5. Status of all sound sources in use;

6. Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;

7. Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;

8. Estimated size and length of animal that was struck;

9. Description of the behavior of the marine mammal immediately preceding and/or following the strike;

10. If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;

11. Estimated fate of the animal (e.g., dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and

12. To the extent practicable, photographs or video footage of the animal(s).

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (e.g., intensity, duration), the context of any impacts or responses (e.g., critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (e.g., as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the majority of our analysis applies to all the species listed in Table 2, given that some of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are included as separate subsections below. Specifically, we provide additional discussion related to NARW and to other species currently experiencing UMEs.

NMFS does not anticipate that serious injury or mortality would occur as a result from HRG surveys, even in the absence of mitigation, and no serious

injury or mortality is proposed to be authorized. As discussed in the Potential Effects of Specified Activities on Marine Mammals and their Habitat section, non-auditory physical effects, auditory physical effects, and vessel strike are not expected to occur. NMFS expects that all potential takes would be in the form of Level B harassment in the form of temporary avoidance of the area or decreased foraging (if such activity was occurring), reactions that are considered to be of low severity and with no lasting biological consequences (e.g., (Southall et al., 2007, Ellison et al., 2012)).

In addition to being temporary, the maximum expected harassment zone around a survey vessel is 141 m. Therefore, the ensounded area surrounding each vessel is relatively small compared to the overall distribution of the animals in the area and their use of the habitat. Feeding behavior is not likely to be significantly impacted as prey species are mobile and are broadly distributed throughout the survey area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

There are no rookeries, mating or calving grounds known to be biologically important to marine mammals within the planned survey area and there are no feeding areas known to be biologically important to marine mammals within the survey area. There is no designated critical habitat for any ESA-listed marine mammals in the survey area.

North Atlantic Right Whales

The status of the NARW population is of heightened concern and, therefore, merits additional analysis. As noted previously, elevated NARW mortalities began in June 2017 and there is an active UME. Overall, preliminary findings attribute human interactions, specifically vessel strikes and entanglements, as the cause of death for the majority of NARWs. As noted previously, the survey area overlaps a migratory corridor BIA for NARWs that extends from Massachusetts to Florida and from the coast to beyond the shelf break. Due to the fact that the planned

survey activities are temporary (will occur for up to 1 year) and the spatial extent of sound produced by the survey would be small relative to the spatial extent of the available migratory habitat in the BIA, NARW migration is not expected to be impacted by the survey. This important migratory area is approximately 269,488 km² in size (compared with the approximately 3,615 km² of total estimated Level B harassment ensounded area associated with the Survey Area) and is comprised of the waters of the continental shelf offshore the East Coast of the United States, extending from Florida through Massachusetts.

Given the relatively small size of the ensounded area, it is unlikely that prey availability would be adversely affected by HRG survey operations. Required vessel strike avoidance measures will also decrease risk of vessel strike during migration; no vessel strike is expected to occur during IWO's planned activities. Additionally, only very limited take by Level B harassment of NARWs has been requested and is being proposed for authorization by NMFS as HRG survey operations are required to maintain and implement a 500-m shutdown zone. The 500-m shutdown zone for NARWs is conservative, considering the Level B harassment zone for the most impactful acoustic source (i.e., sparker) is estimated to be 141 m, and thereby minimizes the intensity and duration of any potential incidents of behavioral harassment for this species. As noted previously, Level A harassment is not expected due to the small estimated zones in conjunction with the aforementioned shutdown requirements. NMFS does not anticipate NARW takes that would result from IWO's proposed activities would impact annual rates of recruitment or survival. Thus, any takes that occur would not result in population level impacts.

Other Marine Mammal Species With Active UMEs

As noted previously, there are several active UMEs occurring in the vicinity of IWO's Survey Area. Elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through Florida since January 2016. Of the cases examined, approximately half had evidence of human interaction (i.e., vessel strike, entanglement). The UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or DPS) remains stable at approximately 12,000 individuals.

Beginning in January 2017, elevated minke whale strandings have occurred along the Atlantic coast from Maine through South Carolina, with highest numbers in Massachusetts, Maine, and New York. This event does not provide cause for concern regarding population level impacts, as the likely population abundance is greater than 20,000 whales.

Elevated numbers of harbor seal and gray seal mortalities were first observed from 2018–2020 and, as part of a separate UME, again in 2022. These have occurred across Maine, New Hampshire, and Massachusetts. Based on tests conducted so far, the main pathogen found in the seals is phocine distemper virus (2018–2020) and avian influenza (2022), although additional testing to identify other factors that may be involved in the UMEs is underway. The UMEs do not provide cause for concern regarding population-level impacts to any of these stocks. For harbor seals, the population abundance is over 60,000 and annual M/SI (339) is well below PBR (1,729) (Hayes et al., 2022). The population abundance for gray seals in the United States is over 27,000, with an estimated abundance, including seals in Canada, of approximately 450,000. In addition, the abundance of gray seals is likely increasing in the U.S. Atlantic as well as in Canada (Hayes et al., 2021, Hayes et al., 2022).

The required mitigation measures are expected to reduce the number and/or severity of takes for all species listed in Table 2, including those with active UMEs, to the level of least practicable adverse impact. In particular, they would provide animals the opportunity to move away from the sound source before HRG survey equipment reaches full energy, thus preventing them from being exposed to sound levels that have the potential to cause injury. No Level A harassment is anticipated, even in the absence of mitigation measures, or proposed for authorization.

NMFS expects that takes would be in the form of short-term Level B harassment by way of brief startling reactions and/or temporary vacating of the area, or decreased foraging (if such activity was occurring)—reactions that (at the scale and intensity anticipated here) are considered to be of low severity, with no lasting biological consequences. Since both the sources and marine mammals are mobile, animals would only be exposed briefly to a small ensounded area that might result in take. Additionally, required mitigation measures would further reduce exposure to sound that could

result in more severe behavioral harassment.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or proposed to be authorized;
- No Level A harassment (PTS) is anticipated, even in the absence of mitigation measures, or proposed to be authorized;
- Foraging success is not likely to be significantly impacted as effects on species that serve as prey species for marine mammals from the survey are expected to be minimal;
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the ensonified areas during the planned survey to avoid exposure to sounds from the activity;
- Take is anticipated to be by Level B harassment only consisting of brief startling reactions and/or temporary avoidance of the ensonified area;
- Survey activities would occur in such a comparatively small portion of the BIA for the NARW migration that any avoidance of the area due to survey activities would not affect migration. In addition, mitigation measures require shutdown at 500 m (over three times the size of the Level B harassment zone of 141 m) to minimize the effects of any Level B harassment take of the species; and,
- The proposed mitigation measures, including visual monitoring and shutdowns, are expected to minimize potential impacts to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most

appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

NMFS proposes to authorize incidental take by Level B harassment only of 15 marine mammal species with 16 managed stocks. The total amount of takes proposed for authorization relative to the best available population abundance is less than 2 percent for 15 of the 16 managed stocks (less than 12 percent for the Western North Atlantic Northern Migratory Coastal Stock of bottlenose dolphins) (Table 4). The take numbers proposed for authorization are considered conservative estimates for purposes of the small numbers determination as they assume all takes represent different individual animals, which is unlikely to be the case.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

NMFS' Office of Protected Resources is proposing to authorize take of four

species of marine mammals which are listed under the ESA, including NARW, fin whale, sei whale, and sperm whale, and has determined these activities fall within the scope of activities analyzed in the NMFS GARFO programmatic consultation regarding geophysical surveys along the U.S. Atlantic coast in the three Atlantic Renewable Energy Regions (completed June 29, 2021; revised September 2021).

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to IWO for conducting marine site characterization surveys in waters off of New Jersey and New York in the New York Bight for a period of 1 year, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>.

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for marine site characterization surveys. We also request comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, one-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of Proposed Activity section of this notice is planned, or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA).
- The request for renewal must include the following:
 - An explanation that the activities to be conducted under the requested renewal IHA are identical to the

activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

○ A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: May 17, 2023.

Kimberly Damon-Randall,

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

[FR Doc. 2023-10850 Filed 5-19-23; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD036]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of hybrid conference.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet June 5, 2023 through June 11, 2023, in Sitka, AK.

DATES: The Council's Scientific and Statistical Committee (SSC) will begin at 8 a.m. in the auditorium on Monday, June 5, 2023, and continue through Wednesday, June 7, 2023. The Council's Advisory Panel (AP) will begin at 8 a.m. in room 6 on Tuesday, June 6, 2023, and continue through Thursday, June 8, 2023. The Council will begin at 8 a.m. in the auditorium on Thursday, June 8, 2023, and continue through Sunday, June 11, 2023. All times listed are Alaska Time.

ADDRESSES: The meetings will be a hybrid conference. The in-person

component of the meeting will be held at the Harrigan Centennial Hall, 330 Harbor Drive, Sitka, AK 99835, or join the meeting online through the links at <https://www.npfmc.org/upcoming-council-meetings>.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501-2252; telephone: (907) 271-2809. Instructions for attending the meeting via webconference are given under Connection Information below.

FOR FURTHER INFORMATION CONTACT:

Diana Evans, Council staff; email: diana.evans@noaa.gov; telephone: (907) 271-2809. For technical support, please contact our Council administrative staff; email: npfmc.admin@noaa.gov.

SUPPLEMENTARY INFORMATION:

Agenda

*Monday, June 5, 2023, Through
Wednesday, June 7, 2023*

The SSC agenda will include the following issues:

1. Discussion of potential meeting cycle adjustments
2. Presentation on revised National Standard 1 guidelines
3. Bering Sea and Aleutian Island (BSAI) Crab harvest specifications—review and recommendations for the Stock Assessment and Fishery Evaluation (SAFE) report, acceptable biological catch and overfishing limits (ABC/OFLs), Plan Team report
4. Observer reports—review Observer Annual Report for 2022
5. Bristol Bay Red King Crab (BBRKC) closure areas—Initial review
6. Crew data collection discussion paper—Review

The SSC will also meet in Executive Session on Monday morning, to discuss internal administrative issues. The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/2994> prior to the meeting, along with meeting materials.

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council's primary peer review panel for scientific information, as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066). The peer-review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

*Tuesday, June 6, 2023, Through
Thursday, June 9, 2023*

The Advisory Panel agenda will include the following issues:

1. Crab C share recent participation requirement—Initial review
2. BSAI Crab harvest specifications—SAFE report, ABC/OFLs, Plan Team report
3. Observer reports—review (a) Observer Annual Report for 2022; (b) partial coverage cost efficiencies report, and (c) Partial Coverage Fishery Monitoring Advisory Committee (PCFMAC) and Fishery Monitoring Advisory Committee (FMAC) reports
4. BBRKC closure areas—Initial review
5. Small sablefish release staff update—Review
6. Programmatic Environmental Impact Statement (EIS)—Consider purpose and need, alternatives; Ecosystem Committee Report
7. Staff Tasking, including discussion of potential meeting cycle adjustments

The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/2993> prior to the meeting, along with meeting materials.

*Thursday, June 8, 2023, Through
Sunday, June 11, 2023*

The Council agenda will include the following issues. The Council may take appropriate action on any of the issues identified.

1. B Reports (Executive Director, NMFS Management, NOAA General Counsel (GC), Alaska Fishery Science Center (AFSC), Alaska Department of Fish and Game (ADF&G), United States Coast Guard (USCG), United States Fish and Wildlife Service (USFWS), AP, SSC)
2. BSAI Crab harvest specifications—SAFE report, ABC/OFLs, Plan Team report
3. Observer reports—review (a) Observer Annual Report for 2022; (b) partial coverage cost efficiencies report, and (c) PCFMAC and FMAC reports
4. Crab C share recent participation requirement—Initial review
5. Small sablefish release staff update—Review
6. BBRKC closure areas—Initial review
7. Programmatic EIS—Consider purpose and need, alternatives; Ecosystem Committee report
8. Staff Tasking, including potential meeting cycle adjustments and action as necessary on crew data collection

The Council will also meet in Executive Session on Friday afternoon, to discuss internal administrative issues. The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/2993> prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: <https://www.npfmc.org/upcoming-council-meetings>. For technical support, please contact our administrative staff, email: npfmc.admin@noaa.gov.

If you are attending the meeting in-person, please refer to the COVID avoidance protocols on our website, <https://www.npfmc.org/upcoming-council-meetings/>.

Public Comment

Public comment letters will be accepted and should be submitted electronically through the links at <https://www.npfmc.org/upcoming-council-meetings>. The Council strongly encourages written public comment for this meeting, to avoid any potential for technical difficulties to compromise oral testimony. The written comment period is open from May 12, 2023, to June 2, 2023, and closes at 12 p.m. Alaska Time on Friday, June 2, 2023.

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

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

Dated: May 17, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023-10867 Filed 5-19-23; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648-XC976]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council)

Groundfish Advisory Subpanel (GAP) will hold an online meeting, which is open to the public.

DATES: The meeting will be held Tuesday, June 13, 2023, from 9 a.m. to 3 p.m., Pacific Time, or until business for each day is completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements, will be provided in the meeting announcement on the Pacific Council's website (see www.pcouncil.org). You may send an email to Mr. Kris Kleinschmidt (kris.kleinschmidt@noaa.gov) or contact him at (503) 820-2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

FOR FURTHER INFORMATION CONTACT: Brett Wiedoff, Staff Officer, Pacific Council; telephone: (503) 820-2424.

SUPPLEMENTARY INFORMATION: The primary purpose of the meeting is for the GAP to begin reviewing materials and preparing recommendations on groundfish matters for the June 2023 Pacific Council meeting. The GAP may also discuss other items on the Pacific Council's June agenda, particularly Pacific halibut and administrative matters.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (kris.kleinschmidt@noaa.gov); (503) 820-2412) at least 10 days prior to the meeting date.

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

Dated: May 17, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023-10870 Filed 5-19-23; 8:45 am]

BILLING CODE 3510-22-P

CONSUMER FINANCIAL PROTECTION BUREAU

[Docket No. CFPB-2023-0035]

Agency Information Collection Activities: Comment Request

AGENCY: Consumer Financial Protection Bureau.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau or CFPB) is requesting the Office of Management and Budget's (OMB's) approval for a new information collection titled "CFPB National Age-Friendly Banking Survey."

DATES: Written comments are encouraged and must be received on or before July 21, 2023 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

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

- *Email:* PRA_Comments@cfpb.gov. Include Docket No. CFPB-2023-0035 in the subject line of the email.

- *Mail/Hand Delivery/Courier:* Comment Intake, Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Anthony May, PRA Officer, at 202-435-7278, or email: CFPB_PRA@cfpb.gov. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov. Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: CFPB National Age-Friendly Banking Survey.

OMB Control Number: 3170-00XX.

Type of Review: New collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 5,528.

Estimated Total Annual Burden Hours: 817.

Abstract: Older adults are increasingly becoming an important customer base for banks and credit unions. This proposed survey examines how banking experiences may vary as people age and how they may differ for specific subpopulations of older adults that face unique challenges related to accessibility and quality of banking services (such as older adults living in rural communities, older adults of color, and the oldest segment of the population (75 and older)).

Additionally, the survey will enable the Bureau to understand the experiences of older adults with banking, including challenges and opportunities for adoption of “age-friendly” account features. The survey will collect information on respondents’ experiences with their primary bank or credit union specifically regarding:

- Background information about type of institution, length and quality of the relationship;

- Importance, availability, and use of “age-friendly” banking features;

- Experiences with fraud and scams and financial caregiving involving accounts with their primary bank;

- Use and accessibility of banking services; and

- Other aspects of the relationship with their primary financial institution, including credit and loans.

The survey is supplemented with existing panelists’ responses to demographic, geographic, and financial questions. The results will inform:

- CFPB’s age-friendly banking educational, regulatory, and policy work;

- Banks, lenders, and financial institutions’ initiatives and resources focused on financial inclusion of older adults; and

- State, local, and community entities seeking to strengthen the financial inclusion component of their “age-friendly” community plans.

The data gathered through this survey will empower many other governmental, nonprofit, and other entities to conduct analysis on topics of interest relevant to their work. These entities can apply their findings to enhance consumer protections and expand age-friendly banking products and services nationwide.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility;

(b) The accuracy of the Bureau’s estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB’s approval. All comments will become a matter of public record.

Anthony May,

Paperwork Reduction Act Officer, Consumer Financial Protection Bureau.

[FR Doc. 2023–10805 Filed 5–19–23; 8:45 am]

BILLING CODE 4810-AM-P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2023–HQ–0010]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Headquarters Air Force Junior Reserve Officer Training Corps (AFJROTC) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency’s estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 21, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to AF Information Collections Office, 1800 Air Force Pentagon, Suite 4C146, Washington, DC 20330, ATTN: Ms. Mia Day, or call 703–697–4593.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Air Force JROTC Instructor Application; OMB Control Number 0701–AFJR.

Needs and Uses: Air Force JROTC collects instructor application data from qualified United State Air Force veterans, and retired Air Force personnel who are interested in becoming an AFJROTC Instructor at a high school. When the applicant has entered or attached all the required information, the submit button is pressed to complete the application and a message is displayed confirming their submission. The received application is reviewed and evaluated by the Headquarters AFJROTC Instructor Management Division to verify qualifications. After review, an approval or disapproval letter is sent to the applicant. Fully approved applicants are then referred to the schools of their preference for consideration for an AFJROTC Instructor vacancy. Eligibility for membership cannot be determined if this information is not collected.

Affected Public: Individuals or households.

Annual Burden Hours: 750.

Number of Respondents: 500.

Responses per Respondent: 1.

Annual Responses: 500.

Average Burden per Response: 1.5 hours.

Frequency: On occasion.

Dated: May 16, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison
Office, Department of Defense.

[FR Doc. 2023-10810 Filed 5-19-23; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF-2023-HQ-0008]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Department of the Air Force announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 21, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to AF Information Collections Office, 1800 Air Force Pentagon, Suite 4C146, Washington, DC 20330, ATTN: Ms. Mia Day, or call 703-697-4593.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Intercontinental Ballistic Missile Hardened Intersite Cable Right-of-Way Landowner Questionnaire; AF Form 3951; OMB Control Number 0701-0141.

Needs and Uses: This form collects updated landowner/tenant information as well as data on local property conditions which could adversely affect the Hardened Intersite Cable System (HICS) such as soil erosion, projected/building projects, evacuation plans, etc. This information also aids in notifying landowners/tenants when HCIS preventative or corrective maintenance becomes necessary to ensure uninterrupted Intercontinental Ballistic Missile command and control capability. The information collection requirement is necessary to report changes in ownership/lease information, conditions of missile cable route and associated appurtenances, and projected building/excavation projects. The information collected is used to ensure system integrity and to maintain a close contact public relations program with involved personnel and agencies.

Affected Public: Business or other for profit; Not-for-profit institutions.

Annual Burden Hours: 709.

Number of Respondents: 2,834.

Responses per Respondent: 1.

Annual Responses: 2,834.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Dated: May 16, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 2023-10808 Filed 5-19-23; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF-2023-HQ-0009]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Department of the Air Force announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 21, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to AF Information Collections Office, 1800 Air Force Pentagon, Suite 4C146, Washington, DC 20330, ATTN: Ms. Mia Day, or call 703-697-4593.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Department of Defense Military Working Dog Adoption Application; DD Form 3076-7; OMB Control Number 0701-0163.

Needs and Uses: This form is used to assess the suitability of U.S. citizens and

local and state law enforcement agencies to adopt Department of Defense Military Working Dogs, as outlined in DoDI 5200.31E, Title 10 United States Code 2583, and AFI 31–126. The information is needed to determine if individuals voluntarily submitting the adoption application are suitable adopters for Military Working Dogs, based on the best interests of the Military Working Dog. The information is used to contact applicants and to interview, screen and select applicants for voluntary adoption.

Affected Public: Individuals or households.

Annual Burden Hours: 200.

Number of Respondents: 200.

Responses per Respondent: 1.

Annual Responses: 200.

Average Burden per Response: 1 hour.

Frequency: On occasion.

Dated: May 16, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–10809 Filed 5–19–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0048]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 21, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Military Spouse Priority Placement Program Self-Certification Checklist; DD Form 3145–4; OMB Control Number 0704–MSSC.

Type of Request: New.

Number of Respondents: 277,448.

Responses per Respondent: 1.

Annual Responses: 277,448.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 138,724.

Needs and Uses: The Military Spouse Priority Placement Program Self-Certification Checklist must be completed by military spouses when applying for appropriated funds GS–15 and below (or equivalent positions in other pay systems) in the competitive service or excepted service in order to receive priority consideration for competitive service and excepted service positions at DoD activities in the U.S., and in U.S. territories and possessions. The military spouses must provide evidence of their appointment eligibility, and evidence of marriage to a current active duty military member of the U.S. Armed Forces (including the U.S. Coast Guard and full-time National Guard or Military Reservist) with a copy of the permanent-change-of-station orders. This collection will be used by gaining DoD activities to certify preference eligibility for the possible appointment of the military spouse into their vacancy.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

Dated: May 16, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–10801 Filed 5–19–23; 8:45 am]

BILLING CODE 5001–06–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meetings

TIME AND DATE: 1:00 p.m.–3:00 p.m., May 23, 2023.

PLACE: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004.

STATUS: Closed. During the closed meeting, the Board Members will discuss issues dealing with potential Recommendations to the Secretary of Energy. The Board is invoking the exemption to close a meeting described in 5 U.S.C. 552b(c)(3) and 10 CFR 1704.4(c). The Board has determined that it is necessary to close the meeting since conducting an open meeting is likely to disclose matters that are specifically exempted from disclosure by statute. In this case, the deliberations will pertain to potential Board Recommendations which, under 42 U.S.C. 2286d(b) and (h)(3), may not be made publicly available until after they have been received by the Secretary of Energy or the President, respectively.

MATTERS TO BE CONSIDERED: The meeting will proceed in accordance with the closed meeting agenda which is posted on the Board's public website at www.dnfsb.gov. Technical staff may present information to the Board. The Board Members are expected to conduct deliberations regarding potential Recommendations to the Secretary of Energy.

CONTACT PERSON FOR MORE INFORMATION:

Tara Tadlock, Associate Director for Board Operations, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

Dated: May 18, 2023.

Joyce Connery,

Chair.

[FR Doc. 2023–10980 Filed 5–18–23; 4:15 pm]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION**[Docket No.: ED–2023–SCC–0027]****Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Grant Application Form for Project Objectives and Performance Measures Information****AGENCY:** Office of Finance and Operations (OFO), 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 21, 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 Cleveland Knight, 202–987–0064.**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: Grant Application Form for Project Objectives and Performance Measures Information.*OMB Control Number:* 1894–0017.*Type of Review:* An extension without change of a currently approved ICR.*Respondents/Affected Public:* Private sector.*Total Estimated Number of Annual Responses:* 8,800.*Total Estimated Number of Annual Burden Hours:* 44,000.*Abstract:* The U.S. Department of Education Grant Application Form for Project Objectives and Performance Measures Information serves as a precursor to the U.S. Department of Education Grant Performance Report Form (ED 524 B) in which project objectives, measures, and targets will be entered by applicants at the time that grant applications are entered in *Grants.gov*.

The Grant Application Form for Project Objectives and Performance Measures Information form and instructions are used by many ED discretionary grant programs to enable grantees to meet ED deadline dates for submission of performance reports to the Department.

Dated: May 17, 2023.

Stephanie Valentine,*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2023–10818 Filed 5–19–23; 8:45 am]

BILLING CODE 4000–01–P**DEPARTMENT OF ENERGY****DOE Advanced Scientific Computing Advisory Committee****AGENCY:** Office of Science, Department of Energy.**ACTION:** Notice of open meeting.**SUMMARY:** This notice announces an open meeting of the DOE Advanced Scientific Computing Advisory Committee (ASCAC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.**DATES:** Monday, June 12, 2023; 10 a.m. to 6 p.m. EDT, and Tuesday, June 13, 2023; 10 a.m. to 1 p.m. EDT.**ADDRESSES:** DoubleTree by Hilton Washington DC Crystal City, 300 Army Navy Drive, Arlington, VA 22202. Teleconference: Virtual attendance of the ASCAC meeting will be possible viaZoom. Instructions will be posted on the ASCAC website at <https://science.energy.gov/ascr/ascac/> prior to the meeting, and can also be obtained by contacting Christine Chalk by email at christine.chalk@science.doe.gov or by telephone at (301) 903–7486. Advanced registration is required.**FOR FURTHER INFORMATION CONTACT:** Christine Chalk, Office of Advanced Scientific Computing Research; SC–31/ Germantown Building; U.S. Department of Energy; 1000 Independence Avenue SW; Washington, DC 20585–1290; Telephone (301) 903–7486; email at christine.chalk@science.doe.gov.**SUPPLEMENTARY INFORMATION:***Purpose of the Committee:* The purpose of the committee is to provide advice and guidance on a continuing basis to the Office of Science and the Department of Energy on scientific priorities within the field of advanced scientific computing research.*Purpose of the Meeting:* This meeting is the semi-annual meeting of the Committee.*Tentative Agenda:*

- View from Germantown
- Update on Exascale project activities
- Update of Oak Ridge Leadership Computing Facility
- Update on planning for an integrated research infrastructure
- Report from Subcommittee on International Competitiveness
- Technical presentations
- Public Comment (10-minute rule)

The meeting agenda includes an update on the budget, accomplishments, and planned activities of the Advanced Scientific Computing Research program and the exascale computing project; technical presentations from funded researchers and industry collaborations; updates from subcommittees, and there will be an opportunity for comments from the public. The meeting will conclude at 1:00 p.m. (eastern time) on June 13, 2023. Agenda updates and presentations will be posted on the ASCAC website prior to the meeting: <https://science.osti.gov/ascr/ascac>.*Public Participation:* The meeting is open to the public. Individuals and representatives of organizations who would like to offer comments and suggestions may do so during the meeting. Approximately 30 minutes will be reserved for public comments. The time allotted per speaker will depend on the number who wish to speak but will not exceed 10 minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should submit their request at least five

days before the meeting. Those not able to attend the meeting or who have insufficient time to address the committee are invited to send a written statement to Christine Chalk, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, email to Christine.Chalk@science.doe.gov.

Minutes: The minutes of this meeting will be available within 90 days on the Advanced Scientific Computing website at <https://science.osti.gov/ascr/ascac>.

Signed in Washington, DC, on May 15, 2023.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2023-10841 Filed 5-19-23; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Electricity Advisory Committee

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Electricity Advisory Committee (EAC). The Federal Advisory Committee Act (FACA) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, June 7, 2023; 1 p.m.–5:30 p.m. EST; Thursday, June 8, 2023; 8 a.m.–12:30 p.m. EST

ADDRESSES: The June meeting of the EAC will be held at the National Rural Electric Cooperative Association Headquarters in Arlington, VA, 4301 Wilson Blvd., Ste 1, Arlington, VA 22203. Members of the public are encouraged to participate virtually, however, limited physical space is available for members of the public to attend onsite. To register to attend either in-person or virtually, please visit the meeting website: www.energy.gov/oe/electricity-advisory-committee-eac-2023-meetings, under *June 7–8, 2023 Electricity Advisory Committee Meeting | Department of Energy*. Please note, you must register for each day you would like to attend.

FOR FURTHER INFORMATION CONTACT: Ms. Jayne Faith, Designated Federal Officer, Office of Electricity, U.S. Department of Energy, Washington, DC 20585; Telephone: (202) 586-2983 or Email: Jayne.Faith@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The EAC was established in accordance with the provisions of FACA, as amended, to provide advice to the U.S. Department of Energy (DOE) in implementing the

Energy Policy Act of 2005, executing certain sections of the Energy Independence and Security Act of 2007, and modernizing the nation's electricity delivery infrastructure. The EAC is composed of individuals of diverse backgrounds selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues that pertain to the electric sector.

Tentative Agenda

June 7, 2023

- 12:45 p.m.–1:00 p.m. WebEx Attendee Sign-On
- 1:00 p.m.–1:15 p.m. Welcome, Introductions, Developments since April Meeting
- 1:15 p.m.–2:00 p.m. Update from the Office of Electricity
- 2:00 p.m.–3:00 p.m. Presentation of EAC Resilience Metrics Work Product and Vote
- 3:00 p.m.–3:15 p.m. Break
- 3:15 p.m.–5:00 p.m. Facilitating a Transforming Grid Storage Panel
- 5:00 p.m.–5:15 p.m. Wrap-up and Adjourn Day 1

June 8, 2023

- 7:45 a.m.–8:00 a.m. WebEx Attendee Sign-On
- 8:00 a.m.–8:15 a.m. Opening Remarks
- 8:15 a.m.–10:00 a.m. Demand and Distribution Edge Panel
- 10:00 a.m.–10:15 a.m. Break
- 10:15 a.m.–10:30 a.m. Energy Storage Subcommittee Update
- 10:30 a.m.–10:45 a.m. Smart Grid Subcommittee Update
- 10:45 a.m.–11:00 a.m. GRNS Subcommittee Update
- 11:00 a.m.–11:20 a.m. Public Comments
- 11:20 p.m.–12:00 p.m. Wrap-up and Adjourn June Meeting of the EAC

The meeting agenda and times may change to accommodate EAC business. For EAC agenda updates, see the EAC website at: www.energy.gov/oe/electricity-advisory-committee-eac-2023-meetings, under *June 7–8, Electricity Advisory Committee Meeting | Department of Energy*.

Public Participation: The EAC welcomes the attendance of the public at its meetings. Individuals who wish to offer public comments at the EAC meeting may do so on June 8, 2023, but must register in advance by 5:00 p.m. Eastern time on June 7, 2023, by sending a written request identified by “Electricity Advisory Committee June 2023 Meeting,” to Ms. Jayne Faith at Jayne.Faith@hq.doe.gov. Approximately 20 minutes will be reserved for public comments. Time allotted per speaker

will depend on the number who wish to speak but is not expected to exceed three minutes. Anyone who is not able to attend the meeting, or for whom the allotted public comments time is insufficient to address pertinent issues with the EAC, is invited to send a written statement identified by “Electricity Advisory Committee June 2023 Meeting,” to Ms. Jayne Faith at Jayne.Faith@hq.doe.gov.

Minutes: The minutes of the EAC meeting will be posted on the EAC web page at www.energy.gov/oe/electricity-advisory-committee-eac-2023-meetings. They can also be obtained by contacting Ms. Jayne Faith at the address above.

Signed in Washington, DC, on May 15, 2023.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2023-10840 Filed 5-19-23; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Notice of Intent for Bipartisan Infrastructure Law, Section 40551: Weatherization Assistance Program Enhancement & Innovation FOA

AGENCY: Office of State and Community Energy Programs, U.S. Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy (DOE) Office of State and Community Energy Programs (SCEP) issued a Notice of Intent (NOI) to issue a Funding Opportunity Announcement (FOA) entitled “WAP Enhancement & Innovation” in accordance with the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law (BIL). As stated in the NOI, the aim of this anticipated FOA is to support WAP Enhancement & Innovation, and the broader government-wide approach to deploy demonstration projects that maximize the benefits of the clean energy transition as the nation works to curb the climate crisis, empower workers, and advance environmental justice. The anticipated FOA will seek applications to expand the impact of DOE’s existing Weatherization Assistance Program (WAP) by utilizing leveraged resources and enhanced community partnerships to perform deep energy retrofits of low-income residential buildings and empower local community representation within the energy workforce. DOE plans to seek proposals that drive innovative approaches to program coordination and service delivery, while fostering the

collaboration of dynamic and diverse teams.

DATES: The NOI was issued via the Clean Energy Infrastructure eXCHANGE system on June 6, 2023 available at <https://infrastructure-exchange.energy.gov/>.

FOR FURTHER INFORMATION CONTACT: Ms. Brittany Price, U.S. Department of Energy, Office of State and Community Energy Programs, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (240) 306-7252, Email: weatherization.innovation@hq.doe.gov. Electronic communications are recommended for correspondence.

SUPPLEMENTARY INFORMATION: Congress, through section 1011(e) of the Consolidated Appropriations Act, 2021, (Pub. L. 116-260),¹ directed DOE to establish a competitive program for WAP Enhancement & Innovation, with five (5) purposes:

1. Expand the number of dwelling units that are occupied by low-income persons that receive weatherization assistance by making such dwelling units weatherization-ready;

2. Promote the deployment of renewable energy in dwelling units that are occupied by low-income persons;

3. Ensure healthy indoor environments by enhancing or expanding health and safety measures and resources available to dwellings that are occupied by low-income persons;

4. Disseminate new methods and best practices among entities providing weatherization assistance; and

5. Encourage entities providing weatherization assistance to hire and retain employees who are individuals—

a. From the community in which the assistance is provided; and

b. From communities or groups that are underrepresented in the home energy performance workforce, including religious and ethnic minorities, women, veterans, individuals with disabilities, and individuals who are socioeconomically disadvantaged.

Congress established the following eight (8) award factors to consider when awarding financial assistance for WAP Enhancement & Innovation:

1. The applicant's record of constructing, renovating, repairing, or making energy efficient single-family, multifamily, or manufactured homes that are occupied by low-income persons, either directly or through affiliates, chapters, or other partners (using the most recent year for which data are available);

2. The number of dwelling units occupied by low-income persons that the applicant has built, renovated, repaired, weatherized, or made more energy efficient in the 5 years preceding the date of the application;

3. The qualifications, experience, and past performance of the applicant, including experience successfully managing and administering Federal funds;

4. The strength of an applicant's proposal to achieve one or more of the purposes stated above;

5. The extent to which such applicant will utilize partnerships and regional coordination to achieve one or more of the purposes stated above;

6. Regional and climate zone diversity;

7. Urban, suburban, and rural localities; and

8. Such other factors as the Secretary determines to be appropriate.

In response to this direction, SCEP anticipates that the FOA that may include the following three (3) Topic Areas:

- Topic Area 1—Multifamily Housing;

- Topic Area 2—Single Family & Manufactured Housing; and

- Topic Area 3—Workforce Development.

Through the FOA, SCEP tentatively envisions awarding multiple financial assistance awards in the form of grants using funds made available to WAP through section 40551 of the BIL.² From the amount appropriated for WAP, DOE intends to make a total of \$25 million in BIL funds available through this opportunity, with a maximum award amount of \$2 million. Eligible entities would include existing WAP Grantees, WAP Subgrantees, and other nonprofit entities. The period of performance for each award would be three (3) years.

SCEP issued the NOI so that interested parties are aware of the SCEP's intention to issue this FOA in the near term. All of the information contained in the NOI is subject to change. Once the FOA has been released, SCEP will provide an avenue for potential applicants to submit questions.

Signing Authority

This document of the Department of Energy was signed on May 17, 2023, by Henry McKoy, Director of the Office of State and Community Energy Programs,

² Section 40551 of BIL authorized \$3,500,000,000 for fiscal year 2022, to remain available until expended. DOE is limited to using no more than \$25,000,000 for any fiscal year to carry out WAP Enhancement & Innovation per section 1011(e), 42 U.S.C. 6864d(j)(2).

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 17, 2023.

Treana V. Garrett,

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

[FR Doc. 2023-10861 Filed 5-19-23; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person/virtual hybrid meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, June 14, 2023; 6:00 p.m.–8:00 p.m. EDT.

ADDRESSES: This hybrid meeting will be in-person at the Department of Energy (DOE) Information Center (address below) and virtually via Zoom. To provide a safe meeting environment, seating may be limited. To attend virtually or to register for in-person attendance, please send an email to: orssab@orem.doe.gov by 5:00 p.m. EDT on Wednesday, June 7, 2023.

Board members, DOE representatives, agency liaisons, and Board support staff will participate in-person, following COVID-19 precautionary measures, at: DOE Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37831.

Attendees should check the website listed below for any meeting format changes due to COVID-19 protocols.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of

¹ Codified at 42 U.S.C. 6864d.

Environmental Management (OREM), P.O. Box 2001, EM-942, Oak Ridge, TN 37831; Phone (865) 241-3315; or email: Melyssa.Noel@orem.doe.gov. Or visit the website at www.energys.gov/orssab.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE-EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Comments from the Deputy Designated Federal Officer (DDFO)
- Comments from DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency liaisons
- Presentation
- Public Comment Period
- Motions/Approval of May 10, 2023 Meeting Minutes
- Status of Outstanding Recommendations
- Subcommittee Reports

Public Participation: This meeting is open to the public. The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Melyssa P. Noel at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board via email either before or after the meeting. Public comments received by no later than 5:00 p.m. EDT on Wednesday, June 7, 2023, will be read aloud during the meeting. Comments will be accepted after the meeting, by no later than 5:00 p.m. EDT on Monday, June 19, 2023. Please submit comments to orssab@orem.doe.gov. Please put "Public Comment" in the subject line. Individuals who wish to make oral statements should contact Melyssa P. Noel at the email address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to submit written public comments should email them as directed above. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by emailing or calling Melyssa P. Noel at

the email address and telephone number listed above. Minutes will also be available at the following website: <https://www.energys.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings>.

Signed in Washington, DC, on May 17, 2023.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2023-10863 Filed 5-19-23; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19-1634-000; ER14-152-000; ER13-1141-000; ER13-1142-000; ER13-1143-000; ER13-1144-000; ER20-2452-000; ER20-2453-000; ER20-844-000; ER10-2196-000; ER20-528-000; ER17-1849-000; ER19-1009-000; ER16-918-000; ER10-2740-000; ER19-1633-000; ER15-1657-000; ER19-1638-000.

Applicants: Tiverton Power, LLC, SEPG Energy Marketing Services, LLC, Rumford Power, LLC, Rocky Road Power, LLC, Rhode Island State Energy Center, LP, Revere Power, LLC, Nautilus Power, LLC, Lincoln Power, L.L.C., Lakewood Cogeneration Limited Partnership, Hamilton Projects Acquiror, LLC, Hamilton Patriot LLC, Hamilton Liberty LLC, Essential Power Rock Springs, LLC, Essential Power OPP, LLC, Essential Power Newington, LLC, Essential Power Massachusetts, LLC, Elgin Energy Center, LLC, Bridgeport Energy LLC.

Description: Supplement to December 30, 2022, Triennial Market Power Analysis for Northeast Region of Lakewood Cogeneration Limited Partnership, et al.

Filed Date: 5/15/23.

Accession Number: 20230515-5282.

Comment Date: 5 p.m. ET 6/5/23.

Docket Numbers: ER23-1436-001.

Applicants: Upper Missouri G. & T. Electric Cooperative, Inc.

Description: Tariff Amendment: Amendment to Revised Rate Schedule FERC No. 2 (05.16.23) to be effective 6/1/2023.

Filed Date: 5/16/23.

Accession Number: 20230516-5108.

Comment Date: 5 p.m. ET 6/6/23.

Docket Numbers: ER23-1592-002.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment to Original WMPA, SA No. 6868; Queue No. AF2-165 to be effective 6/7/2023.

Filed Date: 5/16/23.

Accession Number: 20230516-5096.

Comment Date: 5 p.m. ET 6/6/23.

Docket Numbers: ER23-1891-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 5631; Queue No. AC1-098/AC1-099/AC2-084 (amend) to be effective 7/16/2023.

Filed Date: 5/16/23.

Accession Number: 20230516-5065.

Comment Date: 5 p.m. ET 6/6/23.

Docket Numbers: ER23-1893-000.

Applicants: Northern Indiana Public Service Company LLC.

Description: § 205(d) Rate Filing: St John CIAC Agreement to be effective 4/26/2023.

Filed Date: 5/16/23.

Accession Number: 20230516-5082.

Comment Date: 5 p.m. ET 6/6/23.

Docket Numbers: ER23-1894-000.

Applicants: Pome BESS LLC.

Description: Baseline eTariff Filing: POME BESS MBR Application Filing to be effective 5/17/2023.

Filed Date: 5/16/23.

Accession Number: 20230516-5112.

Comment Date: 5 p.m. ET 6/6/23.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES23-46-000.

Applicants: Northern Indiana Public Service Company LLC.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Northern Indiana Public Service Company LLC.

Filed Date: 5/15/23.

Accession Number: 20230515-5323.

Comment Date: 5 p.m. ET 6/5/23.

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 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 16, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023-10829 Filed 5-19-23; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM93-11-000]

Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992; Notice of Annual Change in the Producer Price Index for Finished Goods

The Commission's regulations include a methodology for oil pipelines to change their rates through use of an index system that establishes ceiling levels for such rates. The Commission bases the index system, found at 18 CFR 342.3, on the annual change in the Producer Price Index for Finished Goods (PPI-FG), minus point two one percent (PPI-FG-0.21%). The Commission determined in the January 2022 Order¹ that PPI-FG-0.21% is the appropriate oil pricing index factor for pipelines to use for this period.

The regulations provide that the Commission will publish annually an index figure reflecting the final change in the PPI-FG after the Bureau of Labor Statistics publishes the final PPI-FG in May of each calendar year. The annual average PPI-FG index figures were 221.0 for 2021 and 250.9 for 2022.² Thus, the percent change (expressed as a decimal) in the annual average PPI-FG from 2021 to 2022, minus 0.21 percent, is positive 0.133194.³ Oil pipelines must multiply their July 1, 2022, through June 30, 2023, index ceiling

¹ *Five-Year Rev. of the Oil Pipeline Index*, 178 FERC ¶ 61,023, at P 105 (January 2022 Order), *reh'g denied*, 179 FERC ¶ 61,100 (2022).

² Bureau of Labor Statistics (BLS) publishes the final figure in mid-May of each year. This figure is publicly available from the Division of Industrial Prices and Price Indexes of the BLS, at 202-691-7705, and in print in August in Table 1 of the annual data supplement to the BLS publication *Producer Price Indexes* via the internet at <http://www.bls.gov/ppi/home.htm>. To obtain the BLS data, scroll down to "PPI Databases" and click on "Top Picks" of the Commodity Data including "headline" FD-ID indexes (Producer Price Index—PPI). At the next screen, under the heading "PPI Commodity Data," select the box, "Finished goods—WPUFD49207," then scroll to the bottom of this screen and click on Retrieve data.

³ $[250.9 - 221.0] / 221.0 = 0.135294 - 0.0021 = 0.133194$.

levels⁴ by positive 1.133194⁵ to compute their index ceiling levels for July 1, 2023, through June 30, 2024, in accordance with 18 CFR 342.3(d). For guidance in calculating the ceiling levels for each 12-month period beginning January 1, 1995,⁶ see *Explorer Pipeline Company*, 71 FERC ¶ 61,416, at n.6 (1995).

In addition to publishing the full text of this Notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print this Notice via the internet through FERC's Home Page (<http://www.ferc.gov>) using the eLibrary link. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field and follow other directions on the search page.

User assistance is available for eLibrary and other aspects of FERC's website during normal business hours. For assistance, please contact the Commission's Online Support at 1-866-208-3676 (toll free) or 202-502-6652 (email at FERCOnlineSupport@ferc.gov), or the Public Reference Room at 202-502-8371, TTY 202-502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

Dated: May 16, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023-10832 Filed 5-19-23; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Staff Attendance at North American Electric Reliability Corporation Standard Drafting Team Meetings

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission and/or Commission staff may attend the following meetings:

North American Electric Reliability Corporation Project 2021-07 Extreme Cold Weather Grid Operations,

⁴ See January 2022 Order, 178 FERC ¶ 61,023 at P 106 (directing oil pipelines to recompute their July 1, 2021 through June 30, 2022 index ceiling levels to be effective March 1, 2022), *reh'g denied*, 179 FERC ¶ 61,100 at P 8; see also *Revisions to Oil Pipeline Reguls. Pursuant to the Energy Pol'y Act of 1992*, 178 FERC ¶ 61,046 (2022).

⁵ $1 + 0.133194 = 1.133194$.

⁶ For a listing of all prior multipliers issued by the Commission, see the Commission's website, <https://www.ferc.gov/industries-data/oil/general-information/oil-pipeline-index>.

Preparedness, Coordination Standard Drafting Team Meetings:

May 30, 2023 (1:00 p.m.–3:00 p.m. eastern time)

June 1, 2023 (1:00 p.m.–3:00 p.m. eastern time)

June 6, 2023 (1:00 p.m.–3:00 p.m. eastern time)

June 8, 2023 (1:00 p.m.–3:00 p.m. eastern time)

June 15, 2023 (1:00 p.m.–3:00 p.m. eastern time)

June 20, 2023 (1:00 p.m.–3:00 p.m. eastern time)

June 22, 2023 (1:00 p.m.–3:00 p.m. eastern time)

June 27, 2023 (1:00 p.m.–3:00 p.m. eastern time)

June 29, 2023 (1:00 p.m.–3:00 p.m. eastern time)

Further information regarding these meetings may be found at: <https://www.nerc.com/Pages/Calendar.aspx>.

The discussions at the meetings, which are open to the public, may address matters at issue in the following Commission proceeding:

Docket Nos. RD23-1-000, RD23-1-001
Extreme Cold Weather Reliability Standards EOP-011-3 and EOP-012-1.

For further information, please contact Chanel Chasanov, 202-502-8569, or chanel.chasanov@ferc.gov.

Dated: May 16, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023-10830 Filed 5-19-23; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23-476-000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on May 9, 2023, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Suite 1300, Houston, Texas 77002-2700, filed in the above referenced docket, a prior notice request for authorization, in accordance with section 7 of the Natural Gas Act, and part 157 sections 157.205 and 157.216 of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act and Columbia's blanket certificate issued in Docket No. CP83-76-000 for authorization to abandon one injection/withdrawal well, connecting pipeline, and appurtenances located in the Ripley

Storage Field in Jackson County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open for 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 FERC at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Any questions regarding this prior notice request should be directed to David A. Alonzo, Manager, Project Authorizations, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas 77002-2700, at (832) 320-5477 or david.alonzo@tcenergy.com.

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 p.m. Eastern Time on July 15, 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,¹ any person² 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,³ and must be submitted by the protest deadline, which is July 15, 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 Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is July 15, 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/resources/guides/how-to/intervene.asp>.

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 July 15, 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 CP23-476-000 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";⁶

(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 CP23-476-000.

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 on the applicant either by mail at: David A. Alonzo, Manager, Project Authorizations, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas 77002-2700, at david.alonzo@tcenergy.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.

⁶ 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.

¹ 18 CFR 157.205.

² Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

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 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 www.ferc.gov/docs-filing/subscription.asp.

Dated: May 16, 2023.

Kimberly D. Bose,
Secretary.

[FR Doc. 2023-10831 Filed 5-19-23; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID-9788-000]

Yellepeddi, Sarat K.; Notice of Filing

Take notice that on May 16, 2023, Sarat K. Yellepeddi submitted for filing, application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b) and part 45.8 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR part 45.8.

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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, (866) 208-3676 or TTY, (202) 502-8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5 p.m. Eastern Time on June 6, 2023.

Dated: May 16, 2023.

Kimberly D. Bose,
Secretary.

[FR Doc. 2023-10833 Filed 5-19-23; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas & Oil Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP23-770-000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing:

Negotiated Rate Agreements—5/15/2023 to be effective 5/15/2023.

Filed Date: 5/15/23.

Accession Number: 20230515-5183.

Comment Date: 5 p.m. ET 5/30/23.

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 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 16, 2023.

Debbie-Anne A. Reese,
Deputy Secretary.

[FR Doc. 2023-10828 Filed 5-19-23; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2023-0067; FRL-10578-03-OCSPP]

Pesticide Product Registration; Receipt of Applications for New Uses (March 2023)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before June 21, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2023-0067, through the *Federal eRulemaking Portal* at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Dan Rosenblatt, Registration Division (RD)

(7505T), main telephone number: (202) 566-2875, email address: RDfRNotices@epa.gov. The mailing address for this contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](https://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then

identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

Notice of Receipt—New Uses

1. *EPA Registration Numbers:* 100-759, 100-953, and petition #2E9007. *Docket ID number:* EPA-HQ-OPP-2022-0644. *Applicant:* The IR-4 Project, NC State University, Campus Box 7710, Raleigh, NC, 27695. *Active ingredient:* Fludioxonil. *Product type:* Fungicide. *Proposed Use:* Additional new food uses of fludioxonil on cranberry. *Contact:* RD.

2. *EPA Registration Numbers:* 100-811, 100-953, and petition #2E9006.

Docket ID number: EPA-HQ-OPP-2022-0645. *Applicant:* The IR-4 Project, NC State University, Campus Box 7710, Raleigh, NC, 27695. *Active ingredient:* Cyprodinil. *Product type:* Fungicide. *Proposed Use:* Additional new food uses of cyprodinil on cranberry. *Contact:* RD.

3. *EPA Registration Numbers:* 8033-140, 8033-139. *Docket ID number:* EPA-HQ-OPP-2022-0742. *Applicant:* Nippon Soda Co., Ltd c/o Nisso America Inc. 379 Thornall Street, 5th floor Edison, NJ 08837. *Active ingredient:* Ipflufenquin. *Product type:* Fungicide. *Proposed Uses:* Fruit, small, vine climbing except fuzzy kiwifruit (crop sub-group 13-07F), stone fruit (crop group 12-12), and tree nuts (crop group 14-12). *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: May 15, 2023.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2023-10823 Filed 5-19-23; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate Receiverships

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for the institutions listed below, intends to terminate its receivership for said institutions.

NOTICE OF INTENT TO TERMINATE RECEIVERSHIPS

Fund	Receivership name	City	State	Date of appointment of receiver
10021	Franklin Bank, SSB	Houston	TX	11/07/2008.
10047	FirstCity Bank	Stockbridge	GA	03/20/2009.
10048	Omni National Bank	Atlanta	GA	03/27/2009.
10053	American Southern Bank	Kennesaw	GA	04/24/2009.
10054	First Bank of Beverly Hills	Calabasas	CA	04/24/2009.
10064	Bank of Lincolnwood	Lincolnwood	IL	06/05/2009.
10100	Community Bank of Nevada	Las Vegas	NV	08/14/2009.
10101	Community Bank of Arizona	Phoenix	AZ	08/14/2009.
10120	Irwin Union Bank & Trust Co	Columbus	IN	09/18/2009.
10180	Community Bank & Trust	Cornelia	GA	01/29/2010.
10195	The Park Avenue Bank	New York	NY	03/12/2010.
10205	Desert Hills Bank	Phoenix	AZ	03/26/2010.
10217	Tamalpais Bank	San Rafael	CA	04/16/2010.
10224	Wheatland Bank	Naperville	IL	04/23/2010.
10317	Earthstar Bank	Southampton	PA	12/10/2010.
10369	Atlantic Bank & Trust	Charleston	SC	06/03/2011.
10374	First Chicago Bank & Trust	Chicago	IL	07/08/2011.
10380	Bank of Choice	Greeley	CO	07/22/2011.
10396	Bank of the Commonwealth	Norfolk	VA	09/23/2011.
10402	Country Bank	Aledo	IL	10/14/2011.
10412	Community Bank of Rockmart	Rockmart	GA	11/10/2011.
10431	Premier Bank	Wilmette	IL	03/23/2012.
10434	Bank of The Eastern Shore	Cambridge	MD	04/27/2012.

NOTICE OF INTENT TO TERMINATE RECEIVERSHIPS—Continued

Fund	Receivership name	City	State	Date of appointment of receiver
10441	Carolina Federal Savings Bank	Charleston	SC	06/08/2012.
10448	Montgomery Bank & Trust	Ailey	GA	07/06/2012.
10462	Gulfsouth Private Bank	Destin	FL	10/19/2012.
10463	Nova Bank	Berwyn	PA	10/26/2012.
10465	Heritage Bank of Florida	Lutz	FL	11/02/2012.
10478	Banks of Wisconsin	Kenosha	WI	05/31/2013.
10481	Sunrise Bank	Valdosta	GA	05/10/2013.
10488	First National Bank	Edinburg	TX	09/13/2013.
10507	The National Republic Bank of Chicago.	Chicago	IL	10/24/2014.

The liquidation of the assets for each receivership has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors. Based upon the foregoing, the Receiver has determined that the continued existence of the receiverships will serve no useful purpose. Consequently, notice is given that the receiverships shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of any of the receiverships, such comment must be made in writing, identify the receivership to which the comment pertains, and be sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Section, 600 North Pearl, Suite 700, Dallas, TX 75201. No comments concerning the termination of the above-mentioned receiverships will be considered which are not sent within this timeframe.

(Authority: 12 U.S.C. 1819.)

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on May 17, 2023.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2023–10838 Filed 5–19–23; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10434]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: On May 28, 2010, the Office of Management and Budget (OMB) issued Paperwork Reduction Act (PRA) guidance related to the “generic” clearance process. Generally, this is an expedited clearance process by which agencies may obtain OMB’s approval of collection of information requests that are “usually voluntary, low-burden, and uncontroversial,” do not raise any substantive or policy issues, and do not require policy or methodological review. The process requires the submission of an overarching plan that defines the scope of the individual collections that may be submitted under that umbrella. This notice is intended to advise the public of our intent to extend OMB’s approval of our MACPro (Medicaid and CHIP Program) umbrella and all of the individual generic collection of information requests that fall under that umbrella. This notice also provides the public with general instructions for obtaining documents that are associated with such collections and for submitting comments.

DATES: Comments must be received by July 21, 2023.

ADDRESSES: Submitting Comments

When commenting, please reference the applicable collection’s CMS ID number and/or the OMB control number (both numbers are listed below under the **SUPPLEMENTARY INFORMATION** caption). To be assured consideration, comments and recommendations must be submitted in any one of the following ways and by the applicable due date:

1. *Electronically.* We encourage you to submit comments through the Federal eRulemaking portal at the applicable web address listed below under the **SUPPLEMENTARY INFORMATION** caption under “Docket Information.” If needed, instructions for submitting such comments can be found on that website.

2. *By regular mail.* Alternatively, you can submit written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs (OSORA), Division of Regulations Development, Attention:

CMS–10434/OMB 0938–1188, Room C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Obtaining Documents To obtain copies of supporting statements and any related forms and supporting documents for the collections listed in this notice, please refer to the following instructions:

1. We encourage you to access the Federal eRulemaking portal at the applicable web address listed below under the **SUPPLEMENTARY INFORMATION** caption under “Docket Information.” If needed, follow the online instructions for accessing the applicable docket and the documents contained therein.

FOR FURTHER INFORMATION CONTACT: For general information contact William N. Parham at 410–786–4669. For policy related questions, contact the individual listed below under the **SUPPLEMENTARY INFORMATION** caption under “Docket Information.”

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information that they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c). Generally, it applies to voluntary and mandatory requirements that are related to any one or more of the following activities: the collection of information, the reporting of information, the disclose of information to a third-party, and/or recordkeeping.

While there are some exceptions (such as collections having non-substantive changes and collections requesting emergency approval) section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** and solicit comment on each of its proposed collections of information, including: new collections, extensions of existing collections, revisions of existing collections, and reinstatements of previously approved collections before submitting such collections to OMB for approval. To comply with this

requirement, CMS is publishing this notice.

Interested parties are invited to submit comments regarding our burden estimates or any other aspect of the collection, including: the necessity and utility of the proposed information collection for the proper performance of our agency's functions; the accuracy of burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden. See **DATES** and **ADDRESSES** for instructions for submitting comments.

While we will review all comments received, we may choose not to post off-topic or inappropriate comments. Otherwise, all comments will be posted without edit under the applicable docket number, including any personal information that the commenter provides. Our response to such comments will be posted at [reginfo.gov](https://www.reginfo.gov) under the applicable OMB control number.

Medicaid and CHIP Program (MACPro)

At this time, MACPro is made up of the main umbrella (see collection number 1 in the following list) and nine individual generic collections of information (see collection numbers 2 through 10 in the following list). Details such as the collection's requirements and burden estimates can be found in the collection's supporting statement and associated materials (see **ADDRESSES** for instructions for obtaining such documents).

Docket Information

1. *Title:* Medicaid and CHIP Program (MACPro).

Type of Request: Revision of a currently approved collection.

CMS ID Number: CMS-10434.

OMB Control Number: 0938-1188.

eRulemaking Docket ID Number:

CMS-2023-0080.

Docket Web Address: <https://www.regulations.gov/docket/CMS-2023-0080>.

For Policy Related Questions, Contact: William N. Parham at 410-786-4669.

2. *Title:* Initial Application.

Type of Request: Extension of a currently approved collection.

CMS ID Number: CMS-10434 #1.

OMB Control Number: 0938-1188.

eRulemaking Docket ID Number:

CMS-2023-0081.

Docket Web Address: <https://www.regulations.gov/docket/CMS-2023-0081>.

For Policy Related Questions, Contact: Stephanie Bell at 410-786-0617.

3. *Title:* CHIP State Plan Eligibility.

Type of Request: Extension of a currently approved collection.

CMS ID Number: CMS-10434 #2.

OMB Control Number: 0938-1188.

eRulemaking Docket ID Number:

CMS-2023-0082.

Docket Web Address: <https://www.regulations.gov/docket/CMS-2023-0082>.

For Policy Related Questions, Contact: Stephanie Bell at 410-786-0617.

4. *Title:* Alternative Benefit Plans (ABPs).

Type of Request: Extension of a currently approved collection.

CMS ID Number: CMS-10434 #3.

OMB Control Number: 0938-1188.

eRulemaking Docket ID Number:

CMS-2023-0083.

Docket Web Address: <https://www.regulations.gov/docket/CMS-2023-0083>.

For Policy Related Questions, Contact: Adrienne Delozier at 410-786-0278.

5. *Title:* Medicaid State Plan Eligibility.

Type of Request: Extension of a currently approved collection.

CMS ID Number: CMS-10434 #15.

OMB Control Number: 0938-1188.

eRulemaking Docket ID Number:

CMS-2023-0090.

Docket Web Address: <https://www.regulations.gov/docket/CMS-2023-0090>.

For Policy Related Questions, Contact: Suzette Seng at 410-786-4703.

6. *Title:* Health Home State Plan Amendment (SPA).

Type of Request: Extension of a currently approved collection.

CMS ID Number: CMS-10434 #22.

OMB Control Number: 0938-1188.

eRulemaking Docket ID Number:

CMS-2023-0084.

Docket Web Address: <https://www.regulations.gov/docket/CMS-2023-0084>.

For Policy Related Questions, Contact: Mary Pat Farkas at 410-786-5731.

7. *Title:* Medicaid Adult and Child Core Set Measures.

Type of Request: Extension of a currently approved collection.

CMS ID Number: CMS-10434 #26.

OMB Control Number: 0938-1188.

eRulemaking Docket ID Number:

CMS-2023-0085.

Docket Web Address: <https://www.regulations.gov/docket/CMS-2023-0085>.

For Policy Related Questions, Contact: Virginia (Gigi) Raney at 410-786-6117.

8. *Title:* Maternal and Infant Health Quality.

Type of Request: Extension of a currently approved collection.

CMS ID Number: CMS-10434 #45.

OMB Control Number: 0938-1188.

eRulemaking Docket ID Number:

CMS-2023-0086.

Docket Web Address: <https://www.regulations.gov/docket/CMS-2023-0086>.

For Policy Related Questions, Contact: Virginia (Gigi) Raney at 410-786-6117.

9. *Title:* Health Home Core Sets.

Type of Request: Extension of a currently approved collection.

CMS ID Number: CMS-10434 #47.

OMB Control Number: 0938-1188.

eRulemaking Docket ID Number:

CMS-2023-0087.

Docket Web Address: <https://www.regulations.gov/docket/CMS-2023-0087>.

For Policy Related Questions, Contact: Mary Pat Farkas at 410-786-5731.

10. *Title:* Medicaid Extended Postpartum Coverage and Continuous Eligibility for Children.

Type of Request: Extension of a currently approved collection.

CMS ID Number: CMS-10434 #77.

OMB Control Number: 0938-1188.

eRulemaking Docket ID Number:

CMS-2023-0088.

Docket Web Address: <https://www.regulations.gov/docket/CMS-2023-0088>.

For Policy Related Questions, Contact: Alexa Turner at 410-786-8823.

Dated: May 17, 2023.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023-10860 Filed 5-19-23; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-3435-FN]

Medicare and Medicaid Programs: Application From the Center for Improvement in Healthcare Quality for Initial CMS-Approval of Its Critical Access Hospital Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces our decision to approve the Center for Improvement in Healthcare Quality for initial recognition as a national accrediting organization for critical access hospitals that wish to participate in the Medicare or Medicaid programs.

DATES: The decision announced in this notice is applicable June 1, 2023 to June 1, 2027.

FOR FURTHER INFORMATION CONTACT: Caecilia Blondiaux, (410) 786-2190.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a critical access hospital (CAH) provided certain requirements are met. Sections 1820(c)(2)(B), 1820(e) and 1861(mm)(1) of the Social Security Act (the Act) establishes distinct criteria for facilities seeking designation as a CAH. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 485, subpart F, specify the conditions of participation (CoPs) that a CAH must meet to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for CAHs. The regulations at 42 CFR 485.647 specify that a CAH's psychiatric or rehabilitation distinct part unit (DPU), if any, must meet the hospital requirements specified in subparts A, B, C, and D of part 482 and selected provisions of 42 CFR part 412 in order for the CAH DPU to participate in the Medicare program.

Prior to becoming a CAH, to enter into an agreement, a CAH must first be certified by a state survey agency as a hospital complying with the conditions or requirements at part 482, then can convert to a CAH by complying with the conditions or requirements at part 485, subpart F. The CAH is subject to regular surveys by a state survey agency to determine whether it continues to meet these requirements. However, there is an alternative to surveys by state agencies. Certification by a nationally recognized accreditation program can substitute for ongoing state review.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by a Centers for Medicare & Medicaid Services (CMS) approved national accrediting organization (AO) that all applicable Medicare requirements are met or exceeded, we will deem those provider entities as having met such requirements. Accreditation by an AO is voluntary and is not required for Medicare participation.

If an AO is recognized by the Secretary of the Department of Health and Human Services (the Secretary) as having standards for accreditation that meet or exceed Medicare requirements,

any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare requirements. A national AO applying for approval of its accreditation program under part 488, subpart A, must provide CMS with reasonable assurance that the AO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare requirements.

Our regulations concerning the approval of AOs are at §§ 488.4 and 488.5. The regulations at § 488.5(e)(2)(i) require an AO to reapply for continued approval of its accreditation program every 6 years or sooner, as determined by CMS. This notice is to announce our initial approval of the Center for Improvement in Healthcare Quality's (CIHQ's) CAH accreditation program. CIHQ's CAH deeming authority will be reviewed for continued approval in accordance with the regulations at §§ 488.4 and 488.5 after this initial term of approval.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination, to complete our survey activities and application process. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice

On December 7, 2022, we published a proposed notice in the **Federal Register** (87 FR 75049), announcing CIHQ's request for initial approval of its Medicare critical hospital accreditation program. In the December 2022 proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.5, we conducted a review of CIHQ's Medicare CAH accreditation application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

- A virtual administrative review of CIHQ's: (1) corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3)

procedures for training, monitoring, and evaluation of its surveyors; (4) ability to investigate and respond appropriately to complaints against accredited facilities; and, (5) survey review and decision-making process for accreditation.

- A comparison of CIHQ's accreditation to our current Medicare CAH CoPs.

- A documentation review of CIHQ's survey process to:

- ++ Determine the composition of the survey team, surveyor qualifications, and CIHQ's ability to provide continuing surveyor training.

- ++ Compare CIHQ's processes to those of state survey agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

- ++ Evaluate CIHQ's procedures for monitoring CAH out of compliance with CIHQ's program requirements. The monitoring procedures are used only when CIHQ identifies noncompliance. If noncompliance is identified through validation reviews, the state survey agency monitors corrections as specified at § 488.7(d).

- ++ Assess CIHQ's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

- ++ Establish CIHQ's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

- ++ Determine the adequacy of staff and other resources.

- ++ Confirm CIHQ's ability to provide adequate funding for performing required surveys.

- ++ Confirm CIHQ's policies with respect to whether surveys are announced or unannounced.

- ++ Obtain CIHQ's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

IV. Analysis of and Responses to Public Comments on the Proposed Notice

In accordance with section 1865(a)(3)(A) of the Act, the December 7, 2022 proposed notice also solicited public comments regarding whether CIHQ's requirements met or exceeded the Medicare CoPs for CAHs. We received one comment, which was out of the scope of the proposed notice.

V. Provisions of the Final Notice

A. Differences Between CIHQ's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared CIHQ's CAH requirements and survey process with the Medicare CoPs and survey process as outlined in the State Operations Manual (SOM). Our review and evaluation of CIHQ's CAH application were conducted as described in section III of this notice and has yielded the following areas where, as of the date of this notice, CIHQ's has completed revising its standards and certification processes in order to—

- Meet the standard's requirements of all of the following regulations:

- ++ Section 485.604(a)(2), to clarify the requirements for clinical nurse specialists' education, including a master's or doctoral level degree in a defined clinical area of nursing from an accredited educational institution.

- ++ Section 485.616(c)(4)(iv), to specify the requirement of an internal review of a distant-site physician's or practitioner's performance under privileges at the CAH whose patients are receiving the telemedicine services from the physician or practitioner.

- ++ Section 485.623(b)(1), to ensure that all essential mechanical, electrical and patient care equipment is maintained in safe operating condition.

- ++ Section 485.623(c)(1)(i), to align CIHQ's comparable standards with the Life Safety Code (LSC) (National Fire Protection Association (NFPA) 101 and Tentative Interim Amendments (TIAs): TIA 12-1, TIA 12-2, TIA 12-3, and TIA 12-4).

- ++ Section 485.627(a), to include additional clarification or specific language on "determining, implementing and monitoring policies governing the CAH's total operation".

- ++ Section 485.635(b)(3), to include reference to state law within its standard for radiology services.

- ++ Section 485.638(a)(4)(iv), to specify the qualifications of who may make entries into the medical record, which must be dated, and signed by the individual who made the entry.

- ++ Section 485.639(a), to further expand on the qualifications on the practitioners who are allowed to perform surgery for CAH patients, in accordance with its approved policies and procedures, and with state scope of practice laws.

In addition to the standards review, CMS also reviewed CIHQ's comparable survey processes, which were conducted as described in section III of this notice, and yielded the following

areas where, as of the date of this notice, CIHQ has completed revising its survey processes in order to demonstrate that it uses survey processes that are comparable to state survey agency processes by:

- Revising CIHQ's surveyor guide to ensure a comprehensive review of environmental safety and life safety requirements are performed.

- Clarifying CIHQ's policies to align with the SOM Appendix A-Hospitals, Survey Protocol, Task 3, Survey Locations, and Appendix W-CAHs Entrance Activities, to include that all hospital departments and services at the primary hospital campus and remote locations, satellite locations, inpatient care locations, out-patient surgery locations, complex out-patient care locations, and a select sample of each type of other services provided at additional provider based locations, including contracted patient care activities or patient services will be surveyed. These facility types may have occupancy classifications other than healthcare or ambulatory occupancies, as determined by the LSC.

- Updating CIHQ's position summaries and description to include that the LSC surveyor's responsibilities is comprised of an assessment of both the LSC and Health Care Facilities Code.

B. Term of Approval

Based on our review and observations described in sections III and V of this notice, we approve CIHQ as a national AO for CAHs that request participation in the Medicare program. The decision announced in this notice is effective June 1, 2023 through June 1, 2027 (4 years).

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Evell J. Barco Holland, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: May 17, 2023.

Evell J. Barco Holland,
Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2023-10824 Filed 5-19-23; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-3443-PN]

Medicare and Medicaid Programs; Application by the Center for Improvement in Healthcare Quality (CIHQ) for Initial CMS Approval of Its Psychiatric Hospital Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice with request for comment.

SUMMARY: This notice acknowledges the receipt of an application from the Center for Improvement in Healthcare Quality (CIHQ) for initial recognition as a national accrediting organization for psychiatric hospitals that wish to participate in the Medicare or Medicaid programs.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, by June 21, 2023.

ADDRESSES: In commenting, refer to file code CMS-3443-PN.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <https://www.regulations.gov>. Follow the "Submit a comment" instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-3443-PN, P.O. Box 8010, Baltimore, MD 21244-8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-3443-PN, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Donald Howard, (410) 786-6764 or Lillian Williams, (410) 786-8638.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: <https://www.regulations.gov>. Follow the search instructions on that website to view public comments. CMS will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the individual will take actions to harm the individual. CMS continues to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a psychiatric hospital provided certain requirements are met. Section 1861(f) of the Social Security Act (the Act) establishes distinct criteria for facilities seeking designation as a psychiatric hospital. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 482 subparts A, B, C and E specify the minimum conditions that a psychiatric hospital must meet to participate in the Medicare program, the scope of covered services and the conditions for Medicare payment for psychiatric hospitals.

Generally, to enter into an agreement, a psychiatric hospital must first be certified by a State Survey Agency as complying with the conditions or requirements set forth in part 482 subparts A, B, C and E of our CMS regulations. Thereafter, the psychiatric hospital is subject to regular surveys by a State Survey Agency to determine whether it continues to meet these requirements.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all

applicable Medicare conditions are met or exceeded, we may treat the provider entity as having met those conditions, that is, we may “deem” the provider entity as having met the requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary of the Department of Health and Human Services (the Secretary) as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body’s approved program may be deemed to meet the Medicare conditions. A national accrediting organization (AO) applying for approval of its accreditation program under part 488, subpart A, must provide Centers for Medicare and Medicaid Services (CMS) with reasonable assurance that the AO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of AO are set forth at § 488.5.

The Center for Improvement in Healthcare Quality (CIHQ) has submitted an initial application for CMS-approval of its psychiatric hospital accreditation program.

II. Approval of Deeming Organization

Section 1865(a)(2) of the Act and our regulations at § 488.5 require that our findings concerning review and approval of a national AO’s requirements consider, among other factors, the applying AO’s requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide us with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization’s complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this notice is to inform the public of CIHQ’s initial request for approval of its psychiatric hospital accreditation program. This notice also solicits public comment on whether CIHQ’s requirements meet or exceed the

Medicare conditions of participation (CoPs) for psychiatric hospitals.

III. Evaluation of Deeming Authority Request

CIHQ submitted all the necessary materials to enable us to make a determination concerning its request for initial approval of its hospital accreditation program. This application was determined to be complete on March 23, 2023. Under section 1865(a)(2) of the Act and our regulations at § 488.5 (Application and re-application procedures for national AO), our review and evaluation of CIHQ will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of CIHQ’s standards for hospitals as compared with CMS’ hospital CoPs.

- CIHQ’s survey process to determine the following:

- ++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

- ++ The comparability of CIHQ’s processes to those of state agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

- ++ CIHQ’s processes and procedures for monitoring a hospital found out of compliance with the CIHQ’s program requirements. These monitoring procedures are used only when CIHQ identifies noncompliance. If noncompliance is identified through validation reviews or complaint surveys, the state survey agency monitors corrections as specified at § 488.9(c).

- ++ CIHQ’s capacity to report deficiencies to the surveyed facilities and respond to the facility’s plan of correction in a timely manner.

- ++ CIHQ’s capacity to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization’s survey process.

- ++ The adequacy of CIHQ’s staff and other resources, and its financial viability.

- ++ CIHQ’s capacity to adequately fund required surveys.

- ++ CIHQ’s policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.

- ++ CIHQ’s policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys or participate in accreditation decisions.

++ CIHQ’s agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require (including corrective action plans).

IV. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

V. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Evell Barco, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: May 17, 2023.

Evell J. Barco Holland,
Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2023–10826 Filed 5–19–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Case Plan Requirement, Title IV–E of the Social Security Act

AGENCY: Children’s Bureau, Administration for Children and Families, United States Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Administration for Children and Families (ACF) is requesting a three-year extension of the information collection Case Plan Requirement, Title IV–E of the Social Security Act, (Office of Management and Budget (OMB)) #0970–0428, expiration September 9, 2023). There are no changes to the requirements, but burden estimates have been updated to reflect current numbers of children in foster care.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing infocollection@acf.hhs.gov. Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The case plan information collection is authorized in sections 422(b)(8)(A)(ii) and 471(a)(16) and defined in sections 475 and 475A

of the Social Security Act (the Act). Statutory requirements in the Act mandate that States, Territories, and Tribes with an approved title IV–E plan develop a case review system and case plan for each child in the foster care system for whom the State, Territory, or Tribe receives title IV–E reimbursement of foster care maintenance payments. The case review system assures that each child has a case plan designed to achieve placement in a safe setting that is the least restrictive, most family-like setting available and in close proximity to the child’s parental home, consistent with the best interest and special needs of the child. States, Territories, and Tribes meeting these requirements also partly comply with title IV–B, section 422(b), of the Act, which assures certain protections for children in foster care. The case plan is a written document that provides a narrative description of the child-specific program of care. Federal regulations at 45 CFR 1356.21(g) and sections 475 and 475A of the Act delineate the specific information that must be addressed in the case plan. ACF does not specify a format for the case plan nor does ACF require submission of the document to the Federal Government. Case plan information is recorded in a format developed and maintained by the State, Territorial, or Tribal title IV–E agency.

Buren estimates have been adjusted to reflect two additional agencies and an increased number of children exiting foster care.

Respondents: State, Territorial, and Tribal title IV–agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Case Plan	66	23,039	4.8	7,298,755	2,432,918

Estimated Total Annual Burden Hours: 2,432,918.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) the quality, utility,

and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: 42 U.S.C. 622; 42 U.S.C. 671; 42 U.S.C. 675; 42 U.S.C. 675a.

Mary B. Jones,
ACF/OPRE Certifying Officer.
[FR Doc. 2023–10800 Filed 5–19–23; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration**

[Docket No. FDA-2023-N-1272]

Agency Information Collection Activities; Proposed Collection; Comment Request; Third Party Disclosure and Recordkeeping Requirements for Reportable Food**AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of FDA's third-party disclosure and recordkeeping requirements for reportable food.

DATES: Either electronic or written comments on the collection of information must be submitted by July 21, 2023.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of July 21, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such

as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2023-N-1272 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Third Party Disclosure and Recordkeeping Requirements for Reportable Food." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not

in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT:

Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4)

ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Third Party Disclosure and Recordkeeping Requirements for Reportable Food—21 U.S.C. 350f

OMB Control Number 0910-0643—
Extension

The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Food and Drug Administration Amendments Act of 2007 (FDAAA) (Pub. L. 110-85), requires the establishment of a Reportable Food Registry (the Registry) by which instances of reportable food must be submitted to FDA by responsible parties and may be submitted by public health officials. Section 417 of the FD&C Act (21 U.S.C. 350f) defines “reportable food” as an article of food (other than infant formula) for which there is a reasonable probability that the use of, or exposure to, such article of food will cause serious adverse health consequences or death to humans or animals. (See section 417(a)(2) of the FD&C Act.) We believe that the most efficient and cost-effective means to implement the Registry is by utilizing our electronic Safety Reporting Portal. The information collection provisions associated with the submission of reportable food reports has been approved under OMB control number 0910-0291.

In conjunction with the reportable foods requirements, section 417 of the FD&C Act also establishes third-party disclosure and recordkeeping burdens. Specifically, we may require the responsible party to notify the immediate previous source(s) and/or immediate subsequent recipient(s) of a reportable food (sections 417(d)(6)(B)(i) to (ii) of the FD&C Act). Similarly, we may also require the responsible party that is notified (*i.e.*, the immediate previous source and/or immediate subsequent recipient) to notify their own immediate previous source(s) and/or immediate subsequent recipient(s) of a reportable food (sections 417(d)(7)(C)(i) to (ii) of the FD&C Act).

Notification to the immediate previous source(s) and immediate subsequent recipient(s) of the article of

food may be accomplished by electronic communication methods such as email, fax, or text messaging or by telegrams, mailgrams, or first-class letters. Notification may also be accomplished by telephone call or other personal contacts, but we recommend that such notifications also be confirmed by one of the previous methods and/or documented in an appropriate manner. We may require that the notification include any or all of the following data elements: (1) the date on which the article of food was determined to be a reportable food; (2) a description of the article of food including the quantity or amount; (3) the extent and nature of the adulteration; (4) the results of any investigation of the cause of the adulteration if it may have originated with the responsible party, if known; (5) the disposition of the article of food, when known; (6) product information typically found on packaging including product codes, use-by dates, and the names of manufacturers, packers, or distributors sufficient to identify the article of food; (7) contact information for the responsible party; (8) contact information for parties directly linked in the supply chain and notified under section 417(d)(6)(B) or 417(d)(7)(C) of the FD&C Act, as applicable; (9) the information required by FDA to be included in the notification provided by the responsible party involved under section 417(d)(6)(B) or 417(d)(7)(C) of the FD&C Act or required to report under section 417(d)(7)(A) of the FD&C Act; and (10) the unique number described in section 417(d)(4) of the FD&C Act (section 417(d)(6)(B)(iii)(I), (d)(7)(C)(iii)(I), and (e) of the FD&C Act). We may also require that the notification provides information about the actions that the recipient of the notification will perform and/or any other information we may require (section 417(d)(6)(B)(iii)(II) and (III) and (d)(7)(C)(iii)(II) and (III) of the FD&C Act).

Section 417(g) of the FD&C Act requires that responsible persons maintain records related to reportable foods for a period of 2 years.

The congressionally-identified purpose of the Registry is to provide a reliable mechanism to track patterns of adulteration in food which would support efforts by FDA to target limited inspection resources to protect the

public health (see FDAAA, section 1005(a)(4)). The reporting and recordkeeping requirements described previously are designed to enable FDA to quickly identify and track an article of food (other than infant formula) for which there is a reasonable probability that the use of or exposure to such article of food will cause serious adverse health consequences or death to humans or animals. We use the information collected under these authorities to help ensure that such products are quickly and efficiently removed from the market.

As required under section 1005(f) of FDAAA and to assist industry, we have issued the guidance entitled, “Guidance for Industry: Questions and Answers Regarding the Reportable Food Registry as Established by the Food and Drug Administration Amendments Act of 2007,” which is available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-questions-and-answers-regarding-reportable-food-registry-established-food-and-drug>. The guidance contains questions and answers relating to the requirements under section 417 of the FD&C Act, including: (1) how, when and where to submit reports to FDA; (2) who is required to submit reports to FDA; (3) what is required to be submitted to FDA; and (4) what may be required when providing notifications to other persons in the supply chain of an article of food. The guidance also refers to previously approved collections of information found in FDA regulations. The collections of information in 21 CFR 7.46 of FDA’s regulations have been approved under OMB control number 0910-0249.

Description of Respondents: Mandatory respondents to this collection of information are the owners, operators, or agents in charge of a domestic or foreign facility engaged in manufacturing, processing, packing, or holding food for consumption in the United States (“responsible parties”) who have information on a reportable food. Voluntary respondents to this collection of information are Federal, State, and local public health officials who have information on a reportable food.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN ¹

Activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Notifying immediate previous source of the article of food under section 417(d)(6)(B)(i) of the FD&C Act (mandatory reporters only).	1,200	1	1,200	0.6 (36 minutes)	720
Notifying immediate subsequent recipient of the article of food under section 417(d)(6)(B)(ii) of the FD&C Act (mandatory reporters only).	1,200	1	1,200	0.6 (36 minutes)	720
Notifying immediate previous source of the article of food under section 417(d)(7)(C)(i) of the FD&C Act (mandatory reporters only).	1,200	1	1,200	0.6 (36 minutes)	720
Notifying immediate subsequent recipient of the article of food under section 417(d)(7)(C)(ii) of the FD&C Act (mandatory reporters only).	1,200	1	1,200	0.6 (36 minutes)	720
Total					2,880

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Third Party Disclosure: Although it is not mandatory under section 1005 of FDAAA that responsible persons notify the sources and recipients of instances

of reportable food, for purposes of the burden estimate we are assuming FDA would exercise its authority and require such notifications in all such instances

for mandatory reporters. This notification burden does not affect voluntary reporters of reportable food events.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Maintenance of reportable food records under section 417(g) of the FD&C Act—mandatory reports.	1,200	1	1,200	0.25 (15 minutes) ...	300
Maintenance of reportable food records under section 417(g) of the FD&C Act—voluntary reports.	4	1	4	0.25 (15 minutes) ...	1
Total					301

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Recordkeeping: As noted previously, section 417(g) of the FD&C Act requires that responsible persons maintain records related to reportable foods reports and notifications for a period of 2 years. However, we do not expect that records will always be kept in relation to voluntary reportable food reports.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: May 17, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–10880 Filed 5–19–23; 8:45 am]

BILLING CODE 4164–01–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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Biological and Emerging

Infections Research Resources Program (BEI–RRP).

Date: June 14, 2023.

Time: 10 a.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F52A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Shilpakala Ketha, 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 3F52A, Rockville, MD 20852, (301) 761–6821, shilpa.ketha@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 16, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–10843 Filed 5–19–23; 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: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: June 13, 2023.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 903 South 4th Street, Hamilton, MT 59840-2932 (Virtual Meeting).

Contact Person: Kristin L. McNally, PhD., Scientific Review Officer, Scientific Review Program, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 903 South 4th Street, Hamilton, MT 59840-2932, (406) 375-9641, mcnallyk@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 16, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-10844 Filed 5-19-23; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Cellular Immunology Core Laboratory (N01).

Date: June 13, 2023.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E71, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Samita S. Andreansky, 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 3E71, Rockville, MD 20852, 240-669-2915, samita.andreansky@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 15, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-10846 Filed 5-19-23; 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: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; New Technologies for the In Vivo Delivery of Gene Therapeutics for an HIV Cure (R01 Clinical Trial Not Allowed).

Date: June 28, 2023.

Time: 10:00 a.m. to 6:00 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 3G11, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Barry J. Margulies, PhD., Scientific Review Officer, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G11, Rockville, MD 20852, (301) 761-7956, barry.margulies@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 16, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-10845 Filed 5-19-23; 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 a meeting of the NIH Clinical Center Research Hospital Board.

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: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiology of Eye Disease—2 Study Section.

Date: June 14-15, 2023.

Time: 9 a.m. to 6 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: Cibu Paul Thomas, Ph.D. Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1011-H, Bethesda, MD 20894 (301) 402-4341, thomascp@mail.nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social and Environmental Determinants of Health Study Section.

Date: June 14–15, 2023.

Time: 9 a.m. to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Canopy by Hilton, 940 Rose Avenue, North Bethesda, MD 20852.

Contact Person: Ananya Paria, DHSC, MPH, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1007H, Bethesda, MD 20892, (301) 827-6513, pariaa@mail.nih.gov.

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Bioengineering of Neuroscience, Vision and Low Vision Technologies Study Section.

Date: June 15–16, 2023.

Time: 8:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Bethesdan Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Tina Tze-Tsang Tang, Ph.D. Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Suite 3030 Bethesda, MD 20817, (301) 435-4436, tangt@mail.nih.gov

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Social Psychology, Personality and Interpersonal Processes Study Section.

Date: June 15–16, 2023.

Time: 9:30 a.m. to 7 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: Janetta Lun, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1007E, Bethesda, MD 20892, (301) 435-5877, janetta.lun@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Viral Dynamics and Transmission.

Date: June 20–21, 2023.

Time: 8 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hotel George, 15 E Street NW, Washington, DC 20001.

Contact Person: Sharon Isern, Ph.D. Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 810J, Bethesda, MD 20892, (301) 435-0000, iserns2@mail.nih.gov.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Cellular, Molecular and Integrative Reproduction Study Section.

Date: June 20, 2023.

Time: 8 a.m. to 7 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: Anthony Wing Sang Chan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 809K, Bethesda, MD 20892, (301) 496-9392 chana2@csr.nih.gov.

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Tumor Evolution, Heterogeneity and Metastasis Study Section.

Date: June 21–22, 2023.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Rolf Jakobi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, MSC 7806, Bethesda, MD 20892, 301-435-1718, jakobir@mail.nih.gov.

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Cellular and Molecular Technologies Study Section.

Date: June 21–22, 2023.

Time: 9 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Canopy by Hilton, 940 Rose Avenue, North Bethesda, MD 20852.

Contact Person: Tatiana V. Cohen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 5213, Bethesda, MD 20892, 301-455-2364, tatiana.cohen@nih.gov.

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Basic Mechanisms of Cancer Health Disparities Study Section.

Date: June 21–22, 2023.

Time: 9 a.m. to 8 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: Sulagna Banerjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (612) 309-2479, sulagna.banerjee@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 16, 2023.

Tyeshia M. Roberson-Curtis,
Program Analyst, Office of Federal Advisory
Committee Policy.

[FR Doc. 2023-10842 Filed 5-19-23; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2023-0292]

National Chemical Transportation Safety Advisory Committee; June 2023 Meetings

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The National Chemical Transportation Safety Advisory Committee (Committee) will conduct a series of meetings over 2 days in Washington DC, to discuss matters relating to the safe and secure marine transportation of hazardous materials. The subcommittee meetings will also be available by videoconference for those unable to attend in person, however the full committee meeting will be held in person only. All meetings will be open to the public.

DATES:

Meetings: National Chemical Transportation Safety Advisory Committee subcommittees will meet on Wednesday, June 14, 2023, from 9 a.m. to 5 p.m. Eastern Daylight Time (EDT) each day. The full Committee will meet on Thursday, June 15, 2023, from 9 a.m. until 5 p.m. EDT. Please note these meetings may close early if the Committee has completed its business.

Comments and supporting documents: To ensure your comments are reviewed by Committee members before the meeting, submit your written comments no later than May 31, 2023.

ADDRESSES: The meeting will be held at the American Bureau of Shipping Group, 80 M Street Southeast, Suite 480, Washington, DC 20003.

Pre-registration Information: Pre-registration is required for in-person access to the meeting or to attend the subcommittee meetings by videoconference. Public attendees will be required to pre-register no later than noon EDT on May 31, 2023, to be admitted to the meeting. In-person attendance may be capped due to limited space in the meeting venue, and registration will be on a first-come-first-served basis. To pre-register, contact Lieutenant Ethan Beard at Ethan.T.Beard@uscg.mil. You will be asked to provide your name, telephone number, email, company, or group with which you are affiliated, and whether you wish to attend virtually or in person; if a foreign national, also provide your country of citizenship,

passport country, country of residence, place of birth, passport number, and passport expiration date.

The National Chemical Transportation Safety Advisory Committee is committed to ensuring all participants have equal access regardless of disability status. If you require reasonable accommodation due to a disability to fully participate, please email Lieutenant Ethan Beard at Ethan.T.Beard@uscg.mil or call at 202–372–1419 as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the meeting as time permits, but if you want Committee members to review your comment before the meeting, please submit your comments no later than May 31, 2023. We are particularly interested in comments on the topics in the “Agenda” section below. 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>, email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG–2023–0292]. Comments received will be posted without alteration at <https://www.regulations.gov>, including any personal information provided. You may wish to review the Privacy and Security Notice found via a link on the homepage of <https://www.regulations.gov>. For more about the privacy and submissions in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be 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.

FOR FURTHER INFORMATION CONTACT: Lieutenant Ethan T. Beard, Alternate Designated Federal Officer of the National Chemical Transportation Safety Advisory Committee, telephone 202–372–1419, or email Ethan.T.Beard@uscg.mil.

SUPPLEMENTARY INFORMATION: Notice of the meeting of the National Chemical Transportation Safety Advisory

Committee is in compliance with the *Federal Advisory Committee Act*, (Pub. L. 117–286, 5 U.S.C., ch. 10). The Committee is authorized by section 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018* (Pub. L. 115–282, 132 Stat. 4190) and is codified in 46 U.S.C. 15101. The Committee operates under the provisions of the *Federal Advisory Committee Act* and 46 U.S.C. 15109. The Committee provides advice and recommendations to the Secretary of Homeland Security on matters related to the safe and secure marine transportation of hazardous materials.

Agenda

Wednesday, June 14, 2023

Four subcommittees will meet concurrently to discuss the following task statements:

(1) Task Statement 22–01: Recommendations to Support Reductions to Emissions and Environmental Impacts Associated with Marine Transport of Chemicals, Liquefied Gases and Liquefied Natural Gas (LNG).

(2) Task Statement 22–02: Recommendations on Industry Best Practices and Regulatory Updates Related to the Maritime Transportation of Lithium Batteries.

(3) Task Statement 22–03: Recommendations on Testing Requirements for Anti-Flashback Burners for Vapor Control Systems.

(4) Task Statement 21–01: Recommendations on Loading Limits of Gas Carriers and U.S. Coast Guard Supplement to International Hazardous Zone Requirements.

The task statements and other subcommittee information are located at Homeport at the following address: [https://homeport.uscg.mil/missions/federal-advisory-committees/national-chemical-transportation-safety-advisory-committee-\(nctsac\)/task-statements](https://homeport.uscg.mil/missions/federal-advisory-committees/national-chemical-transportation-safety-advisory-committee-(nctsac)/task-statements). The agenda for the discussion of each task statement will include the following:

(1) Introduction and review subcommittee task statement.

(2) Public comment period.

(3) Subcommittee discussion and preparation of any proposed recommendations for the Committee meeting on June 15, 2023.

(4) Adjournment of meeting.

Thursday, June 15, 2023

The agenda for the National Chemical Transportation Safety Advisory Committee meeting on Thursday, June 15, 2023 is as follows:

(1) Call to order.

(2) Roll call and determination of quorum.

(3) Remarks from U.S. Coast Guard leadership.

(4) Chairman and Designated Federal Officer’s remarks.

(5) Acceptance of November 3, 2022 Committee meeting minutes and status of task items.

(6) Committee will review, discuss, and formulate recommendations on the following items:

a. Task Statement 21–01: Recommendations on Loading Limits of Gas Carriers and U.S. Coast Guard Supplement to International Hazardous Zone Requirements

b. Task Statement 22–01: Recommendations to Support Reductions to Emissions and Environmental Impacts Associated with Marine Transport of Chemicals, Liquefied Gases and Liquefied Natural Gas (LNG)

c. Task Statement 22–02: Recommendations on Industry Best Practices and Regulatory Updates Related to the Maritime Transportation of Lithium Batteries

d. Task Statement 22–03: Recommendations on Testing Requirements for Anti-Flashback Burners for Vapor Control Systems

(7) Subcommittee recommendation discussion.

(8) Committee outreach improvement discussion.

(9) Task statement tracking discussion.

(10) Open Committee member discussion.

(11) Public comment period.

(12) Set next meeting date and location.

(13) Adjournment of meeting.

A copy of all meeting documentation will be available at: [https://homeport.uscg.mil/missions/federal-advisory-committees/national-chemical-transportation-safety-advisory-committee-\(nctsac\)/committee-meetings](https://homeport.uscg.mil/missions/federal-advisory-committees/national-chemical-transportation-safety-advisory-committee-(nctsac)/committee-meetings) no later than June 7, 2023. Alternatively, you may contact Lieutenant Ethan Beard as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Public comments or questions will be taken throughout the meetings as the Committee discusses the issues and prior to deliberations and voting. There will be a final public comment period at the end of meetings. Speakers are requested to limit their comments to two minutes. Contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above, to register as a speaker.

Dated: May 9, 2023.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2023-10816 Filed 5-19-23; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

2023 CISA SBOM-a-Rama

AGENCY: Cybersecurity and Infrastructure Security Agency, DHS.

ACTION: Announcement of public event.

SUMMARY: The Cybersecurity and Infrastructure Security Agency will facilitate a public event to build on existing community-led work around Software Bill of Materials (“SBOM”) on specific SBOM topics.

DATES: Wednesday June 14, 2023, from 12:00 p.m. to 6:00 p.m., Eastern Standard Time, or 9:00 a.m. to 3:00 p.m., Pacific Standard Time.

ADDRESSES: The event will be a hybrid event held at the USC Hotel, 3540 S Figueroa St, Los Angeles, CA 90007, as well as virtually, with connection information and dial-in information available at <https://www.cisa.gov/SBOM>. A form to allow individuals to register their interest in either in-person or virtual participation will be available at <https://cisa.gov/SBOM>. See the “Participation in the SBOM-a-Rama” section in the **SUPPLEMENTARY INFORMATION** caption for more information on how to participate.

FOR FURTHER INFORMATION CONTACT: Justin Murphy, (202) 961-4350, Email: justin.murphy@cisa.dhs.gov.

SUPPLEMENTARY INFORMATION: A Software Bill of Materials (“SBOM”) has been identified by the cybersecurity community as a key aspect of modern cybersecurity, including software security and supply chain security. Executive Order 14028 declares that “the trust we place in our digital infrastructure should be proportional to how trustworthy and transparent that infrastructure is, and to the consequences we will incur if that trust is misplaced.”¹ SBOMs play a key role in providing this transparency.

E.O. 14028 defines SBOM as “a formal record containing the details and supply chain relationships of various components used in building software.”² The E.O. further notes that “[s]oftware developers and vendors

often create products by assembling existing open source and commercial software components. The SBOM enumerates these components in a product.”³ Transparency from SBOMs aids multiple parties across the software lifecycle, including software developers, purchasers, and operators.⁴ Recognizing the importance of SBOMs in transparency and security, and that SBOM evolution and refinement would be most effective coming from the community, the Cybersecurity and Infrastructure Security Agency (CISA) is facilitating a public event around SBOM, which is intended to advance the software and security communities’ understanding of SBOM creation, use, and implementation across the broader technology ecosystem.

I. SBOM Background

The idea of a software bill of materials is not novel.⁵ It has been discussed and explored in the software industry for many years, building on industrial and supply chain innovations.⁶ Academics identified the potential value of a “software bill of materials” as far back as 1995,⁷ and tracking use of third-party code is a longstanding software best practice.⁸

Still, SBOM generation and sharing across the software supply chain was not seen as a commonly accepted practice in modern software. In 2018, the National Telecommunications and Information Administration (NTIA) convened the first “multistakeholder process” to “promot[e] software component transparency.”⁹ Over the subsequent three years, this stakeholder

³ *Ibid.*

⁴ *Ibid.*

⁵ A brief summary of the history of a software bill of materials can be found in Carmody, S., Coravos, A., Fahs, G. et al. Building resilient medical technology supply chains with a software bill of materials. *npj Digit. Med.* 4, 34 (2021). <https://doi.org/10.1038/s41746-021-00403-w>.

⁶ See “Toyota Supply Chain Management: A Strategic Approach to Toyota’s Renowned System” by Ananth V. Iyer, Sridhar Seshadri, and Roy Vasher—a work about Edwards Deming’s Supply Chain Management https://books.google.com/books/about/Toyota_Supply_Chain_Management_A_Strateg.html?id=jY5wqdeIrg8C.

⁷ Leblang D.B., Levine P.H., Software configuration management: Why is it needed and what should it do? In: Estublier J. (eds) *Software Configuration Management Lecture Notes in Computer Science*, vol. 1005, Springer, Berlin, Heidelberg (1995).

⁸ The Software Assurance Forum for Excellence in Code (SAFECode), an industry consortium, has released a report on third party components that cites a range of standards. *Managing Security Risks Inherent in the Use of Third-party Components*, SAFECode (May 2017), available at https://www.safecode.org/wp-content/uploads/2017/05/SAFECode_TPC_Whitepaper.pdf.

⁹ National Telecommunications and Information Administration (NTIA), Notice of Open Meeting, 83 FR 26434 (June 7, 2018).

community developed guidance to help foster the idea of SBOM, including high-level overviews, initial advice on implementation, and technical resources.¹⁰ When the NTIA-initiated multistakeholder process concluded, NTIA noted that “what was an obscure idea became a key part of the global agenda around securing software supply chains.”¹¹ In July 2022, CISA facilitated eight public listening sessions¹² around four open topics (two for each topic): Cloud & Online Applications, Sharing & Exchanging SBOMs, Tooling & Implementation, and On-ramps & Adoption. These public listening sessions resulted in the formation of four public, community-led workstreams around each of the four topics. The groups have been convening on a weekly basis since August 2022. More information can be found at <https://cisa.gov/SBOM>.

CISA believes that the concept of SBOM and its implementation need further refinement. Work to help scale and operationalize SBOM implementation should continue to come from a broad-based community effort, rather than be dictated by any specific entity. To support such a community effort to advance SBOM technologies, processes, and practices, CISA will facilitate the 2023 CISA SBOM-a-Rama.

II. Topics for CISA SBOM-a-Rama

The goal of this meeting is to help the broader software and security community understand the current state of SBOM and what efforts have been made by different parts of the SBOM community, including CISA-facilitated community-led work and other activity from sectors and governments. Attendees are invited to ask questions, share comments, and raise further issues that need attention. Specific presentations will be made on the community-led efforts around sharing SBOMs, cloud and online applications, tools and implementation, the Vulnerability Exploitability eXchange (VEX) model, and SBOM on-ramps and adoption. The event will also feature presentations and discussion on sectors’ and governments’ efforts around the world.

¹⁰ ntia.gov/SBOM.

¹¹ NTIA, *Marking the Conclusion of NTIA’s SBOM Process* (Feb. 9, 2022), <https://www.ntia.doc.gov/blog/2022/marking-conclusion-ntia-s-sbom-process>.

¹² Public Listening Sessions on Advancing SBOM Technology, Processes, and Practices, <https://www.federalregister.gov/documents/2022/06/01/2022-11733/public-listening-sessions-on-advancing-sbom-technology-processes-and-practices>.

¹ E.O. 14028, *Improving the Nation’s Cybersecurity*, 1, 86 FR 26633 (May 17, 2021).

² *Id.* at 10(j), 86 FR 26633 at 26646 (May 17, 2021).

A full agenda will be posted in advance of the meeting at <https://cisa.gov/SBOM>.

III. Participation in the SBOM-a-Rama

This event is open to anyone. CISA welcomes participation from anyone interested in learning about the current state of SBOM practice and implementation, including private sector practitioners, policy experts, academics, and representatives from non-U.S. organizations. A form to allow individuals to register their interest in either in-person or virtual participation will be available at <https://cisa.gov/SBOM>.

Additional information regarding the 2023 CISA SBOM-a-Rama will be posted at <https://cisa.gov/SBOM>.

This notice is issued under the authority of 6 U.S.C. 652(c)(10)–(11), 659(c)(4), (9), (12).

Eric Goldstein,

Executive Assistant Director for Cybersecurity, Cybersecurity and Infrastructure Security Agency, Department of Homeland Security.

[FR Doc. 2023–10825 Filed 5–19–23; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7066–N–07]

60-Day Notice of Proposed Information Collection: Community Development Block Grant-Pathways to Removing Obstacles (CDBG–PRO) Housing Competition Application Collection; OMB Control No.: 2506–New

AGENCY: Office of Community Planning and Development, 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 21, 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 www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 60-day Review—Open for Public Comments” or by using the search function. Interested persons are also invited to submit comments regarding this proposal by name and/or OMB Control Number and can be sent to Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410–5000; or email at PaperworkReductionActOffice@hud.gov.

FOR FURTHER INFORMATION CONTACT: Jessie Handforth Kome, Director, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410, telephone number 202–708–3587 x5539 (this is not a toll-free number). Facsimile inquiries may be sent to Ms. Jessie Handforth Kome at 202–708–0033. Except for the “800” number, these telephone numbers are not toll-free. 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: CDBG–PRO Housing Competition Application Collection.

OMB Approval Number: 2506–New.

Type of Request: New collection.

Form Number: N/A.

Description of the need for the information and proposed use: HUD is issuing this NOFO under the authority of the Consolidated Appropriations Act, 2023 (Pub. L. 117–328, enacted December 29, 2022) (Appropriations Act) for the identification and removal of barriers to affordable housing production and preservation. The most successful proposals in this competition will demonstrate not only how applicants identify and remove affordable housing barriers within their jurisdiction(s), but also demonstrate: (1) progress and a commitment to overcoming local barriers to facilitate the increase in affordable housing production and preservation; and (2) an acute demand for housing affordable to households with incomes below 100 percent of the area median income. HUD encourages applicants to also consider how their proposed activities will address issues related to affordable housing production and preservation, such as advancing equity, locating affordable housing near transit and other services, and developing and preserving affordable housing in accordance with input from community members and other stakeholders.

Respondents: State and local governments, metropolitan planning organizations and multijurisdictional entities.

Estimated Number of Respondents: 100+.

Estimated Number of Responses: 100.

Frequency of Response: 1.

Average Hours per Response: 3.

Total Estimated Burdens: \$11,676.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
See above	100	1	100	3	300	\$38.92	\$11,676

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.

Marion M. McFadden,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2023–10837 Filed 5–19–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORW00000.L1160000.DF0000.
LXSSH1080000.223L1109AF; BLM_OR_
FRN_MO4500170288]

Notice of Public Meetings for the San Juan Islands National Monument Advisory Committee, Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the U.S. Department of the Interior, Bureau of Land Management's (BLM) San Juan Islands National Monument Advisory Committee (MAC) will meet as follows.

DATES: The MAC will hold public meetings Wednesday, September 27, 2023, and Thursday, December 7, 2023. Both meetings will be held from 9 a.m. to 3 p.m. Pacific Time (PT) virtually on the Zoom platform. Public comment periods will be offered at both meetings from 12:30 until 1:30 p.m. PT.

ADDRESSES: The Zoom meeting information and instructions will be posted on the MAC's web page at <https://www.blm.gov/get-involved/resource-advisory-council/near-you/oregon-washington/san-juan-islands-mac> at least 2 weeks prior to each meeting and on the press release that goes out 1 week prior to each meeting.

The public may send written comments to the MAC at BLM Spokane District, Attn. MAC, 1103 N. Fancher, Spokane Valley, WA 99212.

FOR FURTHER INFORMATION CONTACT: Brie Chartier, Monument Manager, 650 Mullis St. Suite 100, Friday Harbor, WA

98250, (509) 220–5976, or *bchartier@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: The San Juan Islands MAC is comprised of 12 members representing a wide array of interests, including recreation, Tribal interests, education, environmental organizations, and landowners.

The September meeting will begin with a welcome of MAC members. After introductions, members will review the Record of Decision for the new Resource Management Plan for the San Juan Islands National Monument. Discussion and review will continue until a working lunch at noon. The next topic will be to consider opportunities for the MAC to support implementation of the management plan. The MAC will adjourn no later than 3 p.m. PT. All MAC meetings are open to the public. Tribal and government representatives will be given the opportunity to speak before the public comment period. At 12:30 p.m. PT, members of the public will have the opportunity to make comments to the MAC during a 1-hour public comment period. Persons wishing to make comments during the public comment period will be called upon by the MAC Chair. Depending on the number of persons wishing to comment, the length of comments may be limited.

The December meeting will begin at 9 a.m. PT with welcomes and introductions. After introductions, members will review possible implementation projects that the MAC can assist with and prioritize items for the BLM. This discussion and review will continue through a working lunch at noon. The MAC will adjourn no later than 3 p.m. PT. All MAC meetings are open to the public. Tribal and government representatives will be given the opportunity to speak before the public comment period. At 12:30 p.m. PT members of the public will have the opportunity to make comments to the MAC during a 1-hour public comment period. Persons wishing to make comments during the public comment period will be called upon by the MAC Chair. Depending on the number of persons wishing to comment, the length of comments may be limited.

Please make requests in advance for sign language interpreter services,

assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least 7 business days prior to the meeting to give the BLM sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Before including your address, phone number, email address, or other personal identifying information in your comment, please be aware that your entire comment including your personally identifying information—may be made publicly available at any time. While individuals may request their personally identifying information to be withheld from public view, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR 1784.4–2.)

Kurt Pindel,

Spokane District Manager.

[FR Doc. 2023–10862 Filed 5–19–23; 8:45 am]

BILLING CODE 4331–24–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_UT_FRN_MO4500171435]

Call for Nominations for the Bears Ears National Monument Advisory Committee, the San Rafael Swell Recreation Area Advisory Council, and the Utah Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to request public nominations for the Bureau of Land Management's (BLM) Bears Ears National Monument Advisory Committee (MAC), the San Rafael Swell Recreation Area Advisory Council (SRS Council), and the Utah Resource Advisory Council (RAC) to fill existing vacancies and for member terms that are scheduled to expire.

DATES: All nominations must be received no later than June 21, 2023.

ADDRESSES: Nominations for the Bears Ears MAC should be sent to Rachel Wootton, BLM Canyon Country District Office, 82 Dogwood Ave., Moab, UT 84532, telephone: (435) 259–2187, Attention: Bears Ears National Monument Advisory Committee Nominations, or email *rwootton@blm.gov* with the subject line “Bears Ears National Monument Advisory Committee Nominations.” Nominations for the SRS Council should be sent to

Angela Hawkins, BLM Green River District Office, 170 South 500 East, Vernal, UT 84078, telephone: (435) 781-2724, Attention: San Rafael Swell Advisory Council Nominations, or email ahawkins@blm.gov with the subject line "San Rafael Swell Advisory Council Nominations." Nominations for the Utah RAC should be sent to Christina Judd, BLM Utah State Office, 440 West 200 South, Ste. 500, Salt Lake City, UT 84101, telephone: (801) 539-4020, Attention: Utah RAC Nominations, or email cjudd@blm.gov with the subject line "Utah RAC Nominations."

Nominations will be accepted for 30 days from the date this notice is posted.

FOR FURTHER INFORMATION CONTACT:

Please contact the individuals listed in the **ADDRESSES** section of this notice. 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: All BLM advisory councils and committees are regulated by the Federal Advisory Committee Act, section 309 of the Federal Land Policy and Management Act as amended, and the regulations contained in 43 CFR 1784. Members are appointed to serve three-year terms and their duties and responsibilities are solely advisory in nature. All nominations must include a completed application (OMB Control No. 1004-0204, available at https://www.blm.gov/sites/blm.gov/files/1120-019_0.pdf), letters of reference from the represented interests or organizations, and any other information that speaks to the candidate's qualifications. The specific category the nominee would be representing should be identified in the letter of nomination and on the application form. Members serve without compensation. However, while away from their homes or regular places of business, members engaged in council business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, in the same manner as persons employed intermittently in Federal Government service.

The councils will meet approximately two to four times annually, and at such other times as designated by the Designated Federal Officer.

The Bears Ears MAC was established pursuant to Presidential Proclamation 9558, "Establishment of the Bears Ears

National Monument" (Monument) (December 28, 2016); Presidential Proclamation 10285, "Bears Ears National Monument" (October 8, 2021); the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600); Section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a); and the Wilderness Act (16 U.S.C. 1131). The fifteen-member citizen-based MAC provides advice and recommendations regarding the development of the management plan and, as appropriate, management of the Monument to the Secretary of the Interior, through the Director of the BLM, and to the Secretary of Agriculture, through the Chief of the U.S. Department of Agriculture Forest Service. The Bears Ears National Monument, co-managed by the BLM Monticello Field Office, the Manti La Sal National Forest, and the five Tribes of the Bears Ears Commission, holds special meaning to a wide variety of users. This area's rich cultural heritage is held sacred by many Native American Tribes, who continue to rely on the lands for traditional and ceremonial uses. The natural resources contained in the Monument are regularly used by local communities for firewood gathering and livestock grazing, and the area is used for numerous recreation activities, including hiking, backpacking, rock climbing, river rafting, and riding off highway vehicles.

The Bears Ears MAC is seeking nominations in the following categories:

- (1) An elected official from local government within San Juan County representing the county;
- (2) A representative with paleontological expertise;
- (3) A representative of private landowners;
- (4) A representative of local business owners; and
- (5) A representative of the public at large.

The individual selected to serve with paleontological expertise will be appointed as a special Government Employees (SGE). Individuals selected from the other categories will be appointed as representative members. Please be aware that members selected to serve as SGEs will be required, prior to appointment, to file a Confidential Financial Disclosure Report in order to avoid involvement in real or apparent conflicts of interest. You may find a copy of the Confidential Financial Disclosure Report at the following website: <https://www.doi.gov/ethics/special-government-employees/financial-disclosure>. Additionally, after appointment, members appointed as SGEs will be required to meet

applicable financial disclosure and ethics training requirements. Please contact 202-208-7960 or DOI_Ethics@sol.doi.gov with any questions about the ethics requirements for members appointed as SGEs.

The SRS Council was established under title I, subpart A, section 1223 of the John D. Dingell, Jr. Conservation, Management, and Recreation Act of March 12, 2019, which directed the Secretary of the Interior to establish a seven-member citizen-based advisory council to provide advice and recommendations to the Secretary through the BLM with respect to the preparation and implementation of the management plan for the San Rafael Swell Recreation Area. Congress created the San Rafael Swell Recreation Area to provide for the protection, conservation, and enhancement of the recreational, cultural, natural, scenic, wildlife, ecological, historical, and educational resources of the area. The San Rafael Swell Recreation Area features magnificent badlands of brightly colored and wildly eroded sandstone formations, deep canyons, and giant plates of stone tilted upright through massive geologic upheaval, and features numerous recreational experiences including hiking, biking, four-wheel driving, horseback, canyoneering, and river running.

The SRS Council is seeking nominations in the following categories:

- (1) A representative of grazing allotment permittees within the recreation area or wilderness areas designated;
- (2) A representative with expertise in the historical uses of the recreation area; and
- (3) A representative of conservation organizations.

Individuals selected from these categories will be appointed as representative members.

The Utah RAC was established as a statutory advisory committee and, pursuant to section 804(d)(1)(D) of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6803(d)(1)(D)), the RAC is authorized to make recommendations on BLM and U.S. Department of Agriculture Forest Service recreation fee proposals. The 15-member citizen-based RAC provides advice and recommendations to the Secretary through the BLM concerning the issues relating to land use planning or the management of the public land resources located within the State of Utah. BLM manages nearly 22.8 million acres of public lands in Utah, representing about 42 percent of the State. These lands are varied, ranging from high alpine peaks, to rolling

uplands and sprawling desert lowlands that feature some of the most spectacular scenery in the world, from the snow-capped peaks of remote mountain ranges to colorful red-rock canyons and deserts that offer opportunities to experience solitude and enjoy outdoor recreation. The BLM also provides opportunities for responsible mineral and energy development and grazing in Utah, which are important aspects of our multiple use mission.

The Utah RAC is seeking nominations in the following two membership categories:

(1) One nomination in *Category Two*—Representatives of nationally or regionally recognized environmental organizations; dispersed recreational activities; archaeological and historical interests; or nationally or regionally recognized wild horse and burro interest groups.

(2) Two nominations in *Category Three*—Hold State, county, or local elected office; are employed by a State agency responsible for the management of natural resources, land, or water; represent Indian Tribes within or adjacent to the area for which the RAC is organized; are employed as academicians in natural resource management or the natural sciences; or represent the affected public at large.

Individuals selected from these categories will be appointed as representative members. Simultaneous with this notice, the BLM will issue a press releases providing additional information for submitting nominations. (Authority: 43 CFR 1784.4-1.)

Gregory Sheehan,
State Director.

[FR Doc. 2023-10848 Filed 5-19-23; 8:45 am]

BILLING CODE 4311-25-P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR04084000, XXXR4081X1,
RN.20350010.REG0000]

Colorado River Basin Salinity Control Advisory Council Notice of Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of Reclamation is publishing this notice to announce that a Federal Advisory Committee meeting of the Colorado River Basin Salinity Control Advisory Council (Council) will take place.

DATES: The meeting will take place in-person and virtually on Tuesday June 6, 2023, from 1:30 p.m. to approximately 5:00 p.m. (MDT).

ADDRESSES: The in-person meeting will be held at the Hotel Terra Jackson Hole, 3335 West Village Drive, Teton Village WY, 83025. To access the meeting virtually, please contact Melynda Roberts; see **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Melynda Roberts, telephone (801) 524-3727; email at mroberts@usbr.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The meeting of the Council is being held under the provisions of the Federal Advisory Committee Act of 1972. The Council was established by the Colorado River Basin Salinity Control Act of 1974 (Pub. L. 93-320) (Act) to receive reports and advise Federal agencies on implementing the Act.

Purpose of the Meeting: The purpose of the meeting is to discuss the accomplishments of Federal agencies and make recommendations on future activities to control salinity.

Agenda: Council members will be briefed on the status of salinity control activities. The Bureau of Reclamation, Bureau of Land Management, U.S. Fish and Wildlife Service, and United States Geological Survey of the Department of the Interior; the Natural Resources Conservation Service of the Department of Agriculture; and the Environmental Protection Agency will each present a progress report and a schedule of activities on salinity control in the Colorado River Basin. The Council will discuss salinity control activities, the contents of the reports, and the Basin States Program created by Public Law 110-246, which amended the Act. A final agenda will be posted online at <https://www.usbr.gov/uc/progact/salinity/> at least one week prior to the meeting.

Meeting Accessibility/Special Accommodations: The meeting is open to the public. Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact Melynda Roberts (see **FOR FURTHER INFORMATION CONTACT** section of this notice) at least seven (7)

business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Individuals wanting virtual access to the meeting or those requiring special accommodations should contact Melynda Roberts (see **FOR FURTHER INFORMATION CONTACT**) no later than June 2, 2023, to receive instructions.

Public Comments: The Council chairman will provide time for oral comments from members of the public at the meeting. Individuals wanting to make an oral comment should contact Melynda Roberts (see **FOR FURTHER INFORMATION CONTACT**) to be placed on the public comment list. Members of the public may also file written statements with the Council before, during, or up to 30 days after the meeting either in person or by mail. To allow full consideration of information by Council members at this meeting, written comments must be provided to Melynda Roberts (see **FOR FURTHER INFORMATION CONTACT**) by June 2, 2023.

Public Disclosure of Personal Information: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. ch. 10.

Wayne Pullan,

Regional Director, Upper Colorado Basin—Interior Region 7, Bureau of Reclamation.

[FR Doc. 2023-10799 Filed 5-19-23; 8:45 am]

BILLING CODE 4332-90-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-372]

Exempt Chemical Preparations Under the Controlled Substances Act

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Order with opportunity for comment.

SUMMARY: The applications for exempt chemical preparations received by the Drug Enforcement Administration between July 28, 2020, and December 31, 2022, as listed below, were accepted

for filing and have been approved or denied as indicated.

DATES: Interested persons may file written comments on this order in accordance with 21 CFR 1308.23(e). Electronic comments must be submitted, and written comments must be postmarked, on or before July 21, 2023. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

ADDRESSES: To ensure proper handling of comments, please reference "Docket No. DEA-372" on all correspondence, including any attachments.

Electronic comments: Drug Enforcement Administration (DEA) encourages that all comments be submitted through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Please go to <http://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon completion of your submission you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on [Regulations.gov](http://www.regulations.gov). If you have received a comment tracking number, your comment has been successfully submitted and there is no need to resubmit the same comment.

Paper comments: Paper comments that duplicate the electronic submission are not necessary and are discouraged. Should you wish to mail a comment *in lieu of* an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrisette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Ph.D., Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (571) 362-8201.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov> and in the DEA's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of

Information Act applies to all comments received.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also place all the personal identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment.

Comments containing personal identifying information and confidential business information identified as directed above will generally be made publicly available in redacted form. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments posted to <http://www.regulations.gov> may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as directed above as confidential.

An electronic copy of this document is available at <http://www.regulations.gov> for easy reference.

Legal Authority

Section 201 of the Controlled Substances Act (CSA) (21 U.S.C. 811) authorizes the Attorney General, by regulation, to exempt from certain provisions of the CSA certain compounds, mixtures, or preparations containing a controlled substance, if he finds that such compounds, mixtures, or preparations meet the requirements detailed in 21 U.S.C. 811(g)(3)(B).¹ The DEA regulations at 21 CFR 1308.23 and 1308.24 further detail the criteria by which the DEA Assistant Administrator may exempt a chemical preparation or mixture from certain provisions of the

CSA. The Assistant Administrator may, pursuant to 21 CFR 1308.23(f), modify or revoke the criteria by which exemptions are granted and modify the scope of exemptions at any time.

Exempt Chemical Preparation Applications Submitted Between July 28, 2020, and December 31, 2022

DEA received applications between July 28, 2020, and December 31, 2022, requesting exempt chemical preparation status detailed in 21 CFR 1308.23. Pursuant to the criteria stated in 21 U.S.C. 811(g)(3)(B) and in 21 CFR 1308.23, the Assistant Administrator has found that each of the compounds, mixtures, and preparations described in Chart I below is intended for laboratory, industrial, educational, or special research purposes and not for general administration to a human being or animal and either: (1) contains no narcotic controlled substance and is packaged in such a form or concentration that the packaged quantity does not present any significant potential for abuse; or (2) contains either a narcotic or non-narcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion, or concentration that the preparation or mixture does not present any potential for abuse and, if the preparation or mixture contains a narcotic controlled substance, is formulated in such a manner that it incorporates methods of denaturing or other means so that the preparation or mixture is not liable to be abused or have ill effects, if abused, and so that the narcotic substance cannot in practice be removed.

Accordingly, pursuant to 21 U.S.C. 811(g)(3)(B), 21 CFR 1308.23, and 21 CFR 1308.24, the Assistant Administrator has determined that each of the chemical preparations or mixtures generally described in Chart I below and specifically described in the application materials received by DEA is exempt, to the extent described in 21 CFR 1308.24, from application of sections 302, 303, 305, 306, 307, 308, 309, 1002, 1003, and 1004 (21 U.S.C. 822-823, 825-829, and 952-954) of the CSA, and 21 CFR 1301.74, as of the date that was provided in the approval letters to the individual requesters.

Scope of Approval

The exemptions are applicable only to the precise preparation or mixture described in the application submitted to DEA in the form(s) listed in this order and only for those above mentioned sections of the CSA and the CFR. In accordance with 21 CFR 1308.24(h), any

¹ This authority has been delegated from the Attorney General to the DEA Administrator by 28 CFR 0.100, and subsequently redelegated to the Deputy Assistant Administrator pursuant to 28 CFR 0.104 and Section 7 of the appendix to subpart R of part 0.

change in the quantitative or qualitative composition of the preparation or mixture, or change in the trade name or other designation of the preparation or mixture after the date of application requires a new application. The requirements set forth in 21 CFR 1308.24(b)–(e) apply to the exempted materials. In accordance with 21 CFR 1308.24(g), DEA may prescribe requirements other than those set forth in 21 CFR 1308.24(b)–(e) on a case-by-case basis for materials exempted in bulk quantities. Accordingly, in order to

limit opportunities for diversion from the larger bulk quantities, DEA has determined that each of the exempted bulk products listed in this order may only be used in-house by the manufacturer, and may not be distributed for any purpose, or transported to other facilities.

Additional exempt chemical preparation requests received between July 28, 2020, and December 31, 2022, and not otherwise referenced in this order, may remain under consideration until DEA receives additional information required, pursuant to 21

CFR 1308.23(d), as detailed in separate correspondence to individual requesters. DEA's order on such requests will be communicated to the public in a future **Federal Register** publication.

DEA also notes that these exemptions are limited to exemption from only those sections of the CSA and the CFR that are specifically identified in 21 CFR 1308.24(a). All other requirements of the CSA and the CFR apply, including registration as an importer as required by 21 U.S.C. 957.

CHART I

Supplier name	Product name	Form	Application date
AAB–MLE	(AAB–MLE) Chemistry	Amber vial: 5 mL	8/25/2022
Absolute Standards, Inc	(-)-trans- Δ^9 -THC acid A, 100 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	(-)-trans- Δ^9 -THC acid A, 1000 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	(-)- Δ^8 -THC, 100 ug/mL, in Ethanol	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	(-)- Δ^8 -THC, 1000 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	(-)- Δ^8 -THC, 1000 ug/mL, in Ethanol	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	(-)- Δ^9 -THC—Calibration Standard, 100 ug/mL, in Ethanol	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	(-)- Δ^9 -THC—Performance Test HPLC–GC, 100–1000 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	(-)- Δ^9 -THC, 100 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	(-)- Δ^9 -THC, 1000 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	(-)- Δ^9 -THC, 1000 ug/mL, in Ethanol	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	(+/-)-Amphetamine-D6, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	3-Methylmorphine, 1000 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	6-Acetylcodeine, 100 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	6-Acetylmorphine, 1000 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Amfepramone, 1000 ug/mL, in Acetonitrile:Water [1:1]	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Anhydroecgonine methyl ester-D3, 100 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Butalbital, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Cannabinoid Calibration Mix—Acids, 100 ug/mL, in Acetonitrile (1% DIPEA & 0.05% Ascorbic acid)	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Cannabinoid Calibration Mix—Neutrals, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Chloral hydrate, 1000 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Chloral hydrate, 2000 ug/mL, in Acetone	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Cocaethylene, 1000 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Codeine-6- β -D-glucuronide-D3, 100 ug/mL, in Acetonitrile:Water [1:1]	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Codeine-D3, 1000 ug/mL, in Ethanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Codeine-D6, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Codeine-D6, 1000 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	CPC Custom Mix Rev. 1, Varied ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	d,1-MBDB, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Dihydrocodeine, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Dihydrocodeine-6- β -D-glucuronide, 100 ug/mL, in Acetonitrile:Water [1:1]	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Drug Calibration Standard, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	EPA Method 539 Mix #1, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	EPA Method 539 Mix #2, Varied ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Heroin, 100 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Heroin, 1000 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Hydrocodone-D3, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Hydromorphone-D3, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Lorazepam glucuronide, 100 ug/mL, in Acetonitrile:Water [1:1]	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Lysergic acid diethylamide-D3 (LSD–D3), 100 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Mazindol, 1000 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Morphine, 1000 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Morphine-3- β -D-glucuronide, 100 ug/mL, in Methanol:Water [1:1]	Glass ampoule: 1 ml	4/22/2022

CHART I—Continued

Supplier name	Product name	Form	Application date
Absolute Standards, Inc	Morphine-6-β-D-glucuronide-D3, 100 ug/mL, in Acetonitrile:Water [1:1].	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Morphine-D6, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Nordiazepam-D5, 1000 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Oxazepam-D5, 100 ug/mL, in Acetonitrile	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Potency in Beverage Matrix PT, 10–1000 ug/mL, in Ethanol:Water (1:1).	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Standard 2, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Tetrahydrocannabivarinic acid (THCVA) PT, 10–1000 ug/mL, in Acetonitrile.	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Total THC—Calibration Mix HPLC 2, 100 ug/mL, in Acetonitrile.	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Total THC—Calibration Mix HPLC 3, 100 ug/mL, in Acetonitrile.	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Total THC—Calibration Mix HPLC 4, 100 ug/mL, in Acetonitrile.	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Total THC—Calibration Mix HPLC, 100 ug/mL, in Acetonitrile.	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Total THC—Calibration Mix HPLC, 100 ug/mL, in Hemp Oil:Acetone:Acetonitrile (5:4:1).	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Total THC—Calibration Standard HPLC, 100 ug/mL, in Acetonitrile.	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Total THC—Performance Test HPLC in ACN, 10–1000 ug/mL, in Acetonitrile.	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Total THC—Performance Test HPLC in ACN, 10–1000 ug/mL, in Acetonitrile.	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Total THC—Performance Test HPLC in Hemp Oil, 10–1000 ug/g, in Hemp Oil:Acetone:Acetonitrile (10:9:1).	Glass ampoule: 1 mL (~1 g).	6/23/2022
Absolute Standards, Inc	Total THC—Performance Test HPLC in Hemp Oil, 10–1000 ug/g, in Hemp Oil:Acetone:Acetonitrile (5:4:1).	Glass ampoule: 1 mL (~1 g).	6/23/2022
Absolute Standards, Inc	Total THC—Performance Test HPLC in Hemp Oil, 10–1000 ug/g, in Hemp Oil:Acetone:Ethanol (5:4:1).	Glass ampoule: 1 mL (~1 g).	6/23/2022
Absolute Standards, Inc	Total THC—Performance Test HPLC in Olive Oil, 10–1000 ug/g, in Olive Oil:Acetone:Ethanol (5:4:1).	Glass ampoule: 1 mL (~1 g).	6/23/2022
Absolute Standards, Inc	Total THC—Performance Test HPLC, 10–1000 ug/mL, in Acetonitrile Part # 38415.	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Total THC—Performance Test HPLC, 10–1000 ug/mL, in Acetonitrile Part # 38417.	Glass ampoule: 1 ml	6/23/2022
Absolute Standards, Inc	Tryptamine Mix, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Tryptamine Mix, 1000 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
Absolute Standards, Inc	Zolpidem-D6, 100 ug/mL, in Methanol	Glass ampoule: 1 ml	4/22/2022
API	(API) Chemistry	Amber vial: 5 mL	8/25/2022
API	(API) Remedial Chemistry	Amber vial: 5 mL	8/25/2022
ASI Chemicals	17α-methyl Testosterone (100 μg/mL in methanol)	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	17α-methyl Testosterone (50 μg/mL in methanol)	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	17α-methyl Testosterone-[13C3] (100 μg/mL in methanol).	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	17α-methyl Testosterone-[13C3] (50 μg/mL in methanol).	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	17α-methyl Testosterone-[13C4] (100 μg/mL in methanol).	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	17α-methyl Testosterone-[13C4] (50 μg/mL in methanol).	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	1Δ Dihydrotestosterone (1Δ DHT) (100 μg/mL in methanol).	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	1Δ Dihydrotestosterone (1Δ DHT) (50 μg/mL in methanol).	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	1Δ Dihydrotestosterone (1Δ DHT)-[13C3] (100 μg/mL in methanol).	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	1Δ Dihydrotestosterone (1Δ DHT)-[13C3] (50 μg/mL in methanol).	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	5-Androsten-3β,17β-diol (100 μg/mL in methanol)	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	5-Androsten-3β,17β-diol (50 μg/mL in methanol)	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	5-Androsten-3β,17β-diol-[13C3, 2H3] (100 μg/mL in methanol).	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	5-Androsten-3β,17β-diol-[13C3, 2H3] (50 μg/mL in methanol).	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	5-Androsten-3β,17β-diol-[13C3] (100 μg/mL in methanol).	Glass ampoule: 1 mL	5/3/2022
ASI Chemicals	5-Androsten-3β,17β-diol-[13C3] (50 μg/mL in methanol).	Glass ampoule: 1 mL	5/3/2022

CHART I—Continued

Supplier name	Product name	Form	Application date
ASI Chemicals	Androst-4-ene-3, 17-dione-[13C3] (50 µg/mL in acetonitrile).	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Androst-4-ene-3, 17-dione-[13C3] (50 µg/mL in methanol).	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Androst-4-ene-3, 17-dione (1 mg/mL acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Androst-4-ene-3, 17-dione (1 mg/mL methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Androst-4-ene-3, 17-dione (100 µg/mL in acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Androst-4-ene-3, 17-dione (100 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Androst-4-ene-3, 17-dione (50 µg/mL in acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Androst-4-ene-3, 17-dione (50 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldenone (1 mg/mL methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldenone (100 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldenone (50 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldenone sulfate (1 mg/mL methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldenone sulfate (100 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldenone sulfate (50 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldenone sulfate-[13C3] (100 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldenone sulfate-[13C3] (50 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldenone-[13C3] (1 mg/mL methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldenone-[13C3] (100 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldenone-[13C3] (50 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldione (1, 4-Androstadiene-3, 17-dione) (100 µg/mL in methanol).	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldione (1, 4-Androstadiene-3, 17-dione) (50 µg/mL in methanol).	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldione (1, 4-Androstadiene-3, 17-dione)-[13C3] (100 µg/mL in methanol).	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Boldione (1, 4-Androstadiene-3, 17-dione)-[13C3] (50 µg/mL in methanol).	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Dihydrotestosterone (1 mg/mL acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Dihydrotestosterone (1 mg/mL methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Dihydrotestosterone (100 µg/mL in acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Dihydrotestosterone (100 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Dihydrotestosterone (50 µg/mL in acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Dihydrotestosterone (50 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Dihydrotestosterone-[13C3, 2H3] (1 mg/mL methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Dihydrotestosterone-[13C3, 2H3] (100 µg/mL in methanol).	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Dihydrotestosterone-[13C3, 2H3] (50 µg/mL in methanol).	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Dihydrotestosterone-[13C3] (1 mg/mL methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Dihydrotestosterone-[13C3] (100 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Dihydrotestosterone-[13C3] (50 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Methandriol (100 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Methandriol (50 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Methandriol-[13C3] (100 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Methandriol-[13C3] (50 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Methandriol-[13C4] (100 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Methandriol-[13C4] (50 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone (1 mg/mL in acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone (1 mg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone (100 µg/mL in acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone (100 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone (50 µg/mL in acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone (50 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone-[13C3, 2H3] (1 mg/mL acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone-[13C3, 2H3] (1 mg/mL methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone-[13C3, 2H3] (100 µg/mL in acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone-[13C3, 2H3] (100 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone-[13C3, 2H3] (50 µg/mL in acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone-[13C3, 2H3] (50 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone-[13C3] (1 mg/mL methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone-[13C3] (100 µg/mL in acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone-[13C3] (100 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone-[13C3, 2H3] (50 µg/mL in acetonitrile)	Glass ampule: 1 mL	5/3/2022
ASI Chemicals	Testosterone-[13C3] (50 µg/mL in methanol)	Glass ampule: 1 mL	5/3/2022
Audit MicroControls, Inc	Control FLQ Unassayed Chemistry, Level 2	Kit: 10 bottles, 4 mL each	5/4/2022
Audit MicroControls, Inc	Control FLQ Unassayed Chemistry, Level 2	Plastic bottle: 4mL	5/4/2022
Audit MicroControls, Inc	Control FLQ Unassayed Chemistry, Level 2	Kit: 5 bottles, 4 mL each	5/4/2022
Audit MicroControls, Inc	Control FLQ Unassayed Chemistry, Level 3	Plastic bottle: 4mL	5/4/2022
Audit MicroControls, Inc	Control FLQ Unassayed Chemistry, Level 3	Kit: 5 bottles, 4 mL each	5/4/2022

CHART I—Continued

Supplier name	Product name	Form	Application date
Audit MicroControls, Inc	Control FLQ Unassayed Chemistry, Level 3	Kit: 10 bottles, 4 mL each	5/4/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Abbott Systems	Kit: 5 vials x 4 mL each	5/20/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Abbott Systems Level A	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Abbott Systems Level B	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Abbott Systems Level C	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Abbott Systems Level D	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Abbott Systems Level E	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Beckman AU	Kit: 5 vials x 4 mL each	5/20/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Beckman AU Level A	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Beckman AU Level B	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Beckman AU Level C	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Beckman AU Level D	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Beckman AU Level E	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Roche Systems	Kit: 5 vials x 4 mL each	5/20/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Roche Systems Level A	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Roche Systems Level B	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Roche Systems Level C	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Roche Systems Level D	1 vial x 4 mL	5/31/2022
Audit MicroControls, Inc	Linearity FLQ TDM for Roche Systems Level E	1 vial x 4 mL	5/31/2022
Biochemical Diagnostics, Inc	Detectabuse Custom Liquid Control Urine, MC277	Glass vials: 20 mL, 25 mL	8/26/2020
Biochemical Diagnostics, Inc	Detectabuse Custom Liquid Control Urine, MC278	Glass vials: 5 mL, 10 mL, 20 mL, 25 mL	8/26/2020
Biochemical Diagnostics, Inc	Detectabuse Custom Liquid Control Urine, MC279	Glass vials: 5 mL, 10 mL, 20 mL, 25 mL	8/26/2020
Biochemical Diagnostics, Inc	Salivabuse Liquid Control Oral Fluid, OF28	Glass vials: 5 mL, 20 mL, 25 mL	7/28/2020
Biochemical Diagnostics, Inc	Salivabuse Liquid Control Oral Fluid, OF29	Glass vials: 5 mL, 20 mL, 25 mL	9/24/2020
Cayman Chemical Company	(-)-11-hydroxy- Δ 8-THCV (exempt preparation) 1 mg/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	(-)-11-hydroxy- Δ 8-THCV (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	(-)-11-hydroxy- Δ 8-THCV (exempt preparation) 100 μ g/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	(-)-11-hydroxy- Δ 8-THCV (exempt preparation) 100 μ g/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	2,5-DMA (hydrochloride) (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	2,5-DMA (hydrochloride) (exempt preparation) 100 μ g/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	3-Methylmethcathinone (hydrochloride) (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	3-Methylmethcathinone (hydrochloride) (exempt preparation) 100 μ g/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	3-Methylmethcathinone-d3 (hydrochloride) (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	3-Methylmethcathinone-d3 (hydrochloride) (exempt preparation) 100 μ g/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	4-methoxy DMT (exempt preparation) 1 mg/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	4-methoxy DMT (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	4-methoxy DMT (exempt preparation) 100 μ g/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	4-methoxy DMT (exempt preparation) 100 μ g/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	5-fluoro MDMB-PICA (exempt preparation) 1 mg/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	5-fluoro MDMB-PICA (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	5-fluoro MDMB-PICA (exempt preparation) 100 μ g/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	5-fluoro MDMB-PICA (exempt preparation) 100 μ g/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	5-fluoro MDMB-PICA-d5 (exempt preparation) 1 mg/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	5-fluoro MDMB-PICA-d5 (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	5-fluoro MDMB-PICA-d5 (exempt preparation) 100 μ g/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022

CHART I—Continued

Supplier name	Product name	Form	Application date
Cayman Chemical Company	5-fluoro MDMB-PICA-d5 (exempt preparation) 100 µg/ml in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	6-Acetylmorphine (CRM) 1 mg/ml in Acetonitrile	Glass ampule: 1 mL	5/9/2022
Cayman Chemical Company	6-Acetylmorphine (CRM) 100 µg/ml in Acetonitrile	Glass ampule: 1 mL	5/9/2022
Cayman Chemical Company	6-Acetylmorphine-d6 (CRM) 1 mg/ml in Acetonitrile	Glass ampule: 1 mL	5/9/2022
Cayman Chemical Company	6-Acetylmorphine-d6 (CRM) 100 µg/ml in Acetonitrile	Glass ampule: 1 mL	5/9/2022
Cayman Chemical Company	9(R)-Δ7-THC (CRM) 1 mg/mL in acetonitrile	Glass Ampule: 1 mL	9/7/2021
Cayman Chemical Company	9(R)-Δ7-THC (CRM) 1 mg/mL in methanol	Glass Ampule: 1 mL	9/7/2021
Cayman Chemical Company	9(R)-Δ7-THC (CRM) 100 µg/ml in acetonitrile	Glass Ampule: 1 mL	9/7/2021
Cayman Chemical Company	9(R)-Δ7-THC (CRM) 100 µg/ml in methanol	Glass Ampule: 1 mL	9/7/2021
Cayman Chemical Company	9(S)-Δ7-THC (CRM) 1 mg/mL in acetonitrile	Glass Ampule: 1 mL	9/7/2021
Cayman Chemical Company	9(S)-Δ7-THC (CRM) 1 mg/mL in methanol	Glass Ampule: 1 mL	9/7/2021
Cayman Chemical Company	9(S)-Δ7-THC (CRM) 100 µg/ml in acetonitrile	Glass Ampule: 1 mL	9/7/2021
Cayman Chemical Company	9(S)-Δ7-THC (CRM) 100 µg/ml in methanol	Glass Ampule: 1 mL	9/7/2021
Cayman Chemical Company	ADB-BUTINACA (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	ADB-BUTINACA (exempt preparation) 100 µg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Brorphine (hydrochloride) (CRM) 1 mg/mL in Methanol	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Brorphine (hydrochloride) (CRM) 100 µg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Brorphine-d7 (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Brorphine-d7 (exempt preparation) 100 µg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Etonitazene (hydrochloride) (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Etonitazene (hydrochloride) (exempt preparation) 100 µg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	exo-THC (CRM) 1 mg/ml in Acetonitrile	Glass ampule: 1 mL	5/9/2022
Cayman Chemical Company	exo-THC (CRM) 1 mg/ml in Methanol	Glass ampule: 1 mL	5/9/2022
Cayman Chemical Company	exo-THC (CRM) 100 µg/ml in Acetonitrile	Glass ampule: 1 mL	5/9/2022
Cayman Chemical Company	exo-THC (CRM) 100 µg/ml in Methanol	Glass ampule: 1 mL	5/9/2022
Cayman Chemical Company	Isotonitazene (CRM) 1 mg/mL in Methanol	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Isotonitazene (CRM) 100 µg/mL in Methanol	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Isotonitazene-d7 (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Isotonitazene-d7 (exempt preparation) 100 µg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	LAMPA (exempt preparation) 100 µg/ml in Acetonitrile	Glass ampule: 0.5 mL	5/9/2022
Cayman Chemical Company	LAMPA (exempt preparation) 50 µg/ml in Acetonitrile	Glass ampule: 1.0 mL	5/9/2022
Cayman Chemical Company	LSD (L-hemitartrate) (exempt preparation) 100 µg/ml in Methanol.	Glass ampule: 0.5 mL	5/9/2022
Cayman Chemical Company	LSD (L-hemitartrate) (exempt preparation) 50 µg/ml in Methanol.	Glass ampule: 1.0 mL	5/9/2022
Cayman Chemical Company	meta-Fluorofentanyl (hydrochloride) (exempt preparation) 100 µg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Metonitazene (hydrochloride) (exempt preparation) 1 mg/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Metonitazene (hydrochloride) (exempt preparation) 100 µg/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	MiPLA (exempt preparation) 100 µg/ml in Acetonitrile	Glass ampule: 0.5 mL	5/9/2022
Cayman Chemical Company	MiPLA (exempt preparation) 50 µg/ml in Acetonitrile	Glass ampule: 1.0 mL	5/9/2022
Cayman Chemical Company	Mushroom Hydroxy-Tryptamine Mixture 1 mg/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Mushroom Hydroxy-Tryptamine Mixture 250 µg/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Mushroom Hydroxy-Tryptamine Mixture 500 µg/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Mushroom Phosphorylated Tryptamine Mixture (CRM) 1 mg/mL in ACN:H2O.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Mushroom Phosphorylated Tryptamine Mixture (CRM) 250 µg/mL in ACN:H2O.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Mushroom Phosphorylated Tryptamine Mixture (CRM) 500 µg/mL in ACN:H2O.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Norbuprenorphine (CRM) 1 mg/ml in Methanol	Glass ampule: 1 mL	5/9/2022
Cayman Chemical Company	Norbuprenorphine (CRM) 100 µg/ml in Methanol	Glass ampule: 1 mL	5/9/2022
Cayman Chemical Company	Norbuprenorphine-d3 (CRM) 1 mg/ml in Methanol	Glass ampule: 1 mL	5/9/2022
Cayman Chemical Company	Norbuprenorphine-d3 (CRM) 100 µg/ml in Methanol	Glass ampule: 1 mL	5/9/2022
Cayman Chemical Company	N-Pyrrolidino Etonitazene (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022

CHART I—Continued

Supplier name	Product name	Form	Application date
Cayman Chemical Company	N-Pyrrolidino Etonitazene (exempt preparation) 100 µg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	ortho-Fluorofentanyl (hydrochloride) (exempt preparation) 100 µg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Phenylacetone (exempt preparation) 1 mg/mL in Methyl Acetate.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Phenylacetone (exempt preparation) 100 µg/mL in Methyl Acetate.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Protonitazene (hydrochloride) (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Protonitazene (hydrochloride) (exempt preparation) 100 µg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Triazolam (exempt preparation) 1 mg/mL in Methanol	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Triazolam (exempt preparation) 100 µg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Δ8-THC-C8 (exempt preparation) 1 mg/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Δ8-THC-C8 (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Δ8-THC-C8 (exempt preparation) 100 µg/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Δ8-THC-C8 (exempt preparation) 100 µg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Δ9-THC-C8 (exempt preparation) 1 mg/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Δ9-THC-C8 (exempt preparation) 1 mg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Δ9-THC-C8 (exempt preparation) 100 µg/mL in Acetonitrile.	Glass ampule: 1 mL	9/17/2022
Cayman Chemical Company	Δ9-THC-C8 (exempt preparation) 100 µg/mL in Methanol.	Glass ampule: 1 mL	9/17/2022
Cerilliant Corporation	(-)-11-Hydroxy-delta8-THC	Amber ampule: 1 mL	4/29/2022
Cerilliant Corporation	(-)-delta9-THC-beta-D-glucuronide	Amber ampule: 1 mL	5/3/2022
Cerilliant Corporation	(-)-delta9-THC-O-beta-D-glucuronide, sodium salt	Glass ampule: 1.0 mL	10/11/2022
Cerilliant Corporation	5-MeO-DMT-D4	Amber ampule: 1 mL	8/24/2022
Cerilliant Corporation	Brorphine HCl	Glass ampule: 1.0 mL	4/22/2022
Cerilliant Corporation	Brorphine-D7 HCl	Glass ampule: 1.0 mL	4/22/2022
Cerilliant Corporation	Bufetonine-D4	Amber ampule: 1 mL	8/24/2022
Cerilliant Corporation	Buprenorphine-D9	Amber ampule: 1 mL	8/24/2022
Cerilliant Corporation	Delta8-Tetrahydrocannabinolic Acid A (delta8-THCA-A).	Glass ampule: 1.0 mL	4/22/2022
Cerilliant Corporation	Delta8-Tetrahydrocannabinol (delta8-THCP)	Glass ampule: 1.0 mL	4/22/2022
Cerilliant Corporation	Delta8-Tetrahydrocannabivarin (delta8-THCV)	Glass ampule: 1.0 mL	4/22/2022
Cerilliant Corporation	Delta8-Tetrahydrocannabivarin-D5 (delta8-THCV-D5)	Glass ampule: 1.0 mL	4/22/2022
Cerilliant Corporation	Delta8-THC-O-Acetate	Glass ampule: 1.0 mL	4/22/2022
Cerilliant Corporation	Mephobarbital-D3	Glass ampule: 1.0 mL	4/22/2022
Cerilliant Corporation	Methoxetamine HCl	Amber ampule: 1 mL	8/24/2022
Cerilliant Corporation	Metodesnitazene HCl	Amber ampule: 1 mL	4/29/2022
Cerilliant Corporation	Metodesnitazene-D4 HCl	Amber ampule: 1 mL	4/29/2022
Cerilliant Corporation	N,N-Dimethyltryptamine-D4 (DMT-D4)	Glass ampule: 1.0 mL	4/22/2022
Cerilliant Corporation	Nordesomorphine HCl	Glass ampule: 1.0 mL	4/22/2022
Cliniqa Corporation	Phenobarbital Calibrator Kit	Kit: 6 Vials, 5 ml each	8/31/2022
Cliniqa Corporation	Phenobarbital Calibrator Level 1, Part: 43822	Vial: 5 ml	8/31/2022
Cliniqa Corporation	Phenobarbital Calibrator Level 2, Part: 43823	Vial: 5 ml	8/31/2022
Cliniqa Corporation	Phenobarbital Calibrator Level 3, Part: 43824	Vial: 5 ml	8/31/2022
Cliniqa Corporation	Phenobarbital Calibrator Level 4, Part: 43824	Vial: 5 ml	8/31/2022
Cliniqa Corporation	Phenobarbital Calibrator Level 5, Part: 43825	Vial: 5 ml	8/31/2022
Cliniqa Corporation	Phenobarbital Calibrator Level 6, Part: 43826	Vial: 5 ml	8/31/2022
College of American Pathologists (CAP)	2023 NOB-01	Amber Vial: 15 mL	8/3/2022
College of American Pathologists (CAP)	2023 NOB-02	Amber Vial: 15 mL	8/3/2022
College of American Pathologists (CAP)	2023 NOB-03	Amber Vial: 15 mL	8/3/2022
College of American Pathologists (CAP)	2023 NOB-04	Amber Vial: 15 mL	8/3/2022
College of American Pathologists (CAP)	2023 NOB-05	Amber Vial: 15 mL	8/3/2022
College of American Pathologists (CAP)	2023 NOB-06	Amber Vial: 15 mL	8/3/2022
College of American Pathologists (CAP)	2023 SCDD-01	HDPE Bottle: 10 mL	8/3/2022
College of American Pathologists (CAP)	2023 SCDD-02	HDPE Bottle: 10 mL	8/3/2022
College of American Pathologists (CAP)	2023 SCDD-03	HDPE Bottle: 10 mL	8/3/2022
College of American Pathologists (CAP)	2023 SCDD-04	HDPE Bottle: 10 mL	8/3/2022
College of American Pathologists (CAP)	2023 SCDD-05	HDPE Bottle: 10 mL	8/3/2022
College of American Pathologists (CAP)	2023 SCDD-06	HDPE Bottle: 10 mL	8/3/2022
Helena Laboratories	SPIFE Nexus IFE Kit, Cat. No. 2401, 2408, 2409	Kit: 10 gels	10/13/2022

CHART I—Continued

Supplier name	Product name	Form	Application date
Helena Laboratories	SPIFE Nexus Split Beta SPE Kit, Cat. No. 2420, 2421, 2422.	Kit: 10 gels	10/13/2022
Immunoanalysis Corporation	Cannabinoid Oral Fluid Calibrator—2	Amber vial: 10 mL	5/2/2022
Immunoanalysis Corporation	Cannabinoid Oral Fluid Calibrator—3	Amber vial: 10 mL	5/2/2022
Immunoanalysis Corporation	Cannabinoid Oral Fluid Calibrator—4	Amber vial: 10 mL	5/2/2022
Immunoanalysis Corporation	Cannabinoid Oral Fluid Calibrator—1	Amber vial: 10 mL	5/2/2022
Immunoanalysis Corporation	Cannabinoid Oral Fluid Control—High	Amber vial: 10 mL	5/2/2022
Immunoanalysis Corporation	Cannabinoid Oral Fluid Control—Low	Amber vial: 10 mL	5/2/2022
Immunoanalysis Corporation	Cannabinoid Oral Fluid Control—Set	1 kit: 2 vials x 10 mL	5/2/2022
Immunoanalysis Corporation	Meperidine Urine Calibrator 1	LDPE Dropper Bottle: 15 mL	5/2/2022
Immunoanalysis Corporation	Meperidine Urine Calibrator 2	LDPE Dropper Bottle: 15 mL	5/2/2022
Immunoanalysis Corporation	Meperidine Urine Calibrator 3	LDPE Dropper Bottle: 15 mL	5/2/2022
Immunoanalysis Corporation	Meperidine Urine Calibrator 4	LDPE Dropper Bottle: 15 mL	5/2/2022
Immunoanalysis Corporation	Meperidine Urine Control High	LDPE Dropper Bottle: 15 mL	5/2/2022
Immunoanalysis Corporation	Meperidine Urine Control Low	LDPE Dropper Bottle: 15 mL	5/2/2022
Immunoanalysis Corporation	Meperidine Urine Control Set	1 kit: 2 vials x 15 mL	5/2/2022
Immunoanalysis Corporation	Tapentadol Urine Calibrator 1	LDPE Dropper Bottle: 15 mL	5/2/2022
Immunoanalysis Corporation	Tapentadol Urine Calibrator 2	LDPE Dropper Bottle: 15 mL	5/2/2022
Immunoanalysis Corporation	Tapentadol Urine Calibrator 3	LDPE Dropper Bottle: 15 mL	5/2/2022
Immunoanalysis Corporation	Tapentadol Urine Calibrator 4	LDPE Dropper Bottle: 15 mL	5/2/2022
Immunoanalysis Corporation	Tapentadol Urine Control High	LDPE Dropper Bottle: 15 mL	5/2/2022
Immunoanalysis Corporation	Tapentadol Urine Control Low	LDPE Dropper Bottle: 15 mL	5/2/2022
Immunoanalysis Corporation	Tapentadol Urine Control Set	1 kit: 2 vials x 15 mL	5/2/2022
LGC—Dr. Ehrenstorfer	Cannabinoids Acids Mixture 11213 1000 µg/mL in Acetonitrile.	Amber ampule: 0.4 mL	9/1/2022
LGC—Dr. Ehrenstorfer	Custom Cannabinoids Acid/Neutrals Mix Kit, 16 compounds, 1000 µg/mL, 0.4 mL.	1 kit; 2 vials x 0.4 mL	9/1/2022
LGC—Dr. Ehrenstorfer	Custom Pharmaceutical Mixture 11648 30–40 µg/mL in Methanol.	Pack: 5 Amber ampules, 1.0 mL each.	10/28/2022
LGC—Dr. Ehrenstorfer	Custom Pharmaceutical Mixture 11649 150 µg/mL in Methanol.	Pack: 5 Amber ampules, 1.0 mL each.	10/28/2022
LGC—Dr. Ehrenstorfer	Hormones Mixture 264 200 µg/mL in methanol	Amber ampule: 1 mL	7/7/2022
LGC—Dr. Ehrenstorfer	Mestanolone 100 µg/mL in Methanol	Amber ampule: 1.0 mL	10/28/2022
LGC—Dr. Ehrenstorfer	Methenolone acetate 100 µg/mL in Methanol	Amber ampule: 1.0 mL	10/28/2022
LGC—Dr. Ehrenstorfer	Psilocin 1000 µg/mL in Acetonitrile	Amber ampule: 1 mL	8/15/2022
LGC—Dr. Ehrenstorfer	Psilocybin 1000 µg/mL in Acetonitrile	Amber ampule: 1 mL	8/15/2022
LGC—Dr. Ehrenstorfer	Psilocybin 1000 µg/mL in Acetonitrile:Water	Amber ampule: 1 mL	12/22/2022
LGC—Dr. Ehrenstorfer/Kaycha Labs	Cannabinoids Acid/Neutrals Kit 11390 500:1000 µg/mL in Acetonitrile.	1 kit; 2 ampules x 0.4 mL	10/28/2022
LGC—Dr. Ehrenstorfer/Kaycha Labs	Cannabinoids Acids Mixture 11792 1000 µg/mL in Acetonitrile.	Amber ampule: 0.4 mL	10/28/2022
LGC—Dr. Ehrenstorfer/Kaycha Labs	Cannabinoids Neutrals Mixture 11389 500:1000 µg/mL in Acetonitrile.	Amber ampule: 0.4 mL	10/28/2022
Lin-Zhi International	LZI Norbuprenorphine Calibrator (Urine), Norbuprenorphine, Cutoff Calibrator #2 Ref# 0275.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norbuprenorphine Calibrator (Urine), Norbuprenorphine, High Calibrator Ref# 0279.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norbuprenorphine Calibrator (Urine), Norbuprenorphine, Intermediate Calibrator #1 Ref# 0277.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norbuprenorphine Calibrator (Urine), Norbuprenorphine, Intermediate Calibrator #2 Ref# 0278.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norbuprenorphine Calibrator (Urine), Norbuprenorphine, Low/Cutoff Calibrator #1 Ref# 0273.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norbuprenorphine Control (Urine), Norbuprenorphine, Level 1 Control Ref# 0272.	Dropper bottle: 5 mL	5/20/2022

CHART I—Continued

Supplier name	Product name	Form	Application date
Lin-Zhi International	LZI Norbuprenorphine Control (Urine), Norbuprenorphine, Level 1/Level 2 Control Ref# 0274.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norbuprenorphine Control (Urine), Norbuprenorphine, Level 2 Control Ref# 0276.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norfentanyl Calibrator (Urine), Norfentanyl, Cutoff Calibrator, Ref# 0313.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norfentanyl Calibrator (Urine), Norfentanyl, Cutoff Calibrator, Ref# 0553.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norfentanyl Calibrator (Urine), Norfentanyl, High Calibrator, Ref# 0555.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norfentanyl Calibrator (Urine), Norfentanyl, Intermediate Calibrator, Ref# 0554.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norfentanyl Calibrator (Urine), Norfentanyl, Low Calibrator, Ref# 0552.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norfentanyl Control (Urine), Norfentanyl, Level 1 Control, Ref# 0317.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norfentanyl Control (Urine), Norfentanyl, Level 1 Control, Ref# 0557.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Norfentanyl Control (Urine), Norfentanyl, Level 2 Control, Ref# 0318.	Dropper bottle: 5 mL	5/20/2022
Lin-Zhi International	LZI Oxycodone (100) Calibrator (Urine) Oxycodone, Cutoff Calibrator Ref# 0613.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone (100) Calibrator (Urine) Oxycodone, High Calibrator Ref# 0615.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone (100) Calibrator (Urine) Oxycodone, Intermediate Calibrator Ref# 0614.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone (100) Calibrator (Urine) Oxycodone, Low Calibrator Ref# 0612.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone (100) Control (Urine) Oxycodone, Level 1 Control Ref# 0617.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone (100) Control (Urine) Oxycodone, Level 2 Control Ref# 0618.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone (300) Calibrator (Urine) Oxycodone, Cutoff Calibrator Ref# 0623.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone (300) Calibrator (Urine) Oxycodone, High Calibrator Ref# 0625.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone (300) Calibrator (Urine) Oxycodone, Intermediate Calibrator Ref# 0624.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone (300) Calibrator (Urine) Oxycodone, Low Calibrator Ref# 0622.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone (300) Control (Urine) Oxycodone, Level 1 Control Ref# 0627.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone (300) Control (Urine) Oxycodone, Level 2 Control Ref# 0628.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone 100 Control (Urine) Oxycodone, Level 1 Control Ref# 242b.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone 100 Control (Urine) Oxycodone, Level 2 Control Ref# 0244b.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone 300 Control (Urine) Oxycodone, Level 1 Control Ref# 0245b.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone 300 Control (Urine) Oxycodone, Level 2 Control Ref# 0247b.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone Calibrator (Urine) Oxycodone, Cutoff Calibrator #1 Ref# 243b.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone Calibrator (Urine) Oxycodone, Cutoff Calibrator #2 Ref 0246b.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone Calibrator (Urine) Oxycodone, High Calibrator Ref# 0249b.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone Calibrator (Urine) Oxycodone, Intermediate Calibrator Ref# 0248b.	Dropper bottle: 5 mL	10/21/2022
Lin-Zhi International	LZI Oxycodone Calibrator (Urine) Oxycodone, Low Calibrator Ref# 0252b.	Dropper bottle: 5 mL	10/21/2022
Lipomed Inc	5-MeO—DMT HCl 1.0 mg/mL in methanol	Glass ampule: 1 mL	10/26/2022
Lipomed Inc	Ecgonine-D3 HCl 0.1 mg free base/1 mL methanol	Amber ampule: 1 mL	6/16/2022
Lipomed Inc	Ecgonine-D3 HCl 1 mg free base/1 mL methanol	Amber ampule: 1 mL	6/16/2022
Microgenics Corporation	DRI Tramadol Calibrator (Kit Reference Number B40000366).	Kit: 5 Dropper vials, 10 mL each.	7/28/2022
Microgenics Corporation	DRI Tramadol Cutoff Calibrator (Kit Reference Number B40000352).	Kit: 2 Dropper vials, 10 mL each.	7/28/2022

CHART I—Continued

Supplier name	Product name	Form	Application date
Microgenics Corporation	DRI Tramadol High and Low Control Set (Kit Reference Number B40000354).	Kit: 4 Dropper vials, 10 mL each.	7/28/2022
o2si smart solutions	4-androstene-3,17-dione in MeOH Check Standard Solution, 1000 mg/L—NOT FOR SALE.	Amber ampule: 1 mL	6/9/2022
o2si smart solutions	Boldenone Check Standard Solution, 1000 mg/L—NOT FOR SALE.	Amber ampule: 1 mL	6/9/2022
o2si smart solutions	Boldenone Cypionate Check Standard Solution, 1000 mg/L—NOT FOR SALE.	Amber ampule: 1 mL	6/9/2022
o2si smart solutions	Carisoprodol Check Standard Solution, 1000 mg/L—NOT FOR SALE.	Amber ampule: 1 mL	6/9/2022
o2si smart solutions	Custom CBD Mix, 14–0226, 50 mg/L, 1 ml	Amber ampule: 1 mL	6/3/2022
o2si smart solutions	Custom Pharmaceutical Mixture ICV (Second Source), 16–0260, 250.0 ug/mL, Intermediate Second Source Solution—NOT FOR SALE.	Amber Ampule: 1 mL	6/3/2022
o2si smart solutions	Custom tramadol hydrochloride Check Standard Solution 1000 ug/mL, 1 mL—NOT FOR SALE.	Amber ampule: 1 mL	6/9/2022
o2si smart solutions	hydrocodone Check Standard Solution, 600 mg/L—NOT FOR SALE.	Amber ampule: 1 mL	6/9/2022
o2si smart solutions	Mesterolone Check Standard Solution, 1000 mg/L—NOT FOR SALE.	Amber ampule: 1 mL	6/9/2022
o2si smart solutions	Methandrostenolone Check Standard Solution, 1000 mg/L—NOT FOR SALE.	Amber ampule: 1 mL	6/9/2022
o2si smart solutions	Methylandrostenediol Check Standard Solution, 1000 mg/L—NOT FOR SALE.	Amber ampule: 1 mL	6/9/2022
o2si smart solutions	Nandrolone Check Standard Solution, 1000 mg/L—NOT FOR SALE.	Amber ampule: 1 mL	6/9/2022
o2si smart solutions	Norandrost-4-ene-3,17-dione Check Standard Solution, 1000 mg/L—NOT FOR SALE.	Amber ampule: 1 mL	6/9/2022
o2si smart solutions	Δ11-tetrahydrocannabinol (Δ11-THC) Check Standard Solution, 1000 mg/L—NOT FOR SALE.	Amber ampule: 1 mL	6/9/2022
o2si smart solutions	Δ9-Tetrahydrocannabinolic Acid A (THCA-A) 1,000 mg/L, 1 mL.	Amber ampule: 1 mL	6/3/2022
Purisys, LLC	Psilocybin in acetonitrile and water 50/50 (1000 µg/mL).	Sealed ampule: 1 mL	6/20/2022
Purisys, LLC	Psilocybin in methanol (1000 µg/mL)	Sealed ampule: 1 mL	6/20/2022
Purisys, LLC	Psilocyn in acetonitrile (1000 µg/mL)	Sealed ampule: 1 mL	6/20/2022
Research Triangle Institute	000510B, 024684B, 030499B, 042153B, 055989B, 062349B, 083382B, 111897B, 148824B, 155004B, 184804B, 197074B, 311984B, 354224B, 391748B, 435051B, 449027B, 450311B, 547555B, 588785B, 607650B, 629955B, 659866B, 685170B, 690224B, 704404B, 739818B, 755519B, 786768B, 840845B, 850706B, 867191B, 873675B, 881673B, 944697B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	000961A, 028507A, 122496A, 124939A, 146011A, 172880A, 199407A, 227676A, 252508A, 261015A, 273618A, 383859A, 401419A, 480710A, 541555A, 562713A, 566101A, 603052A, 634045A, 651890A, 663698A, 682928A, 709182A, 732034A, 751652A, 760159A, 800892A, 804976A, 851909A, 862613A, 866630A, 922818A, 924669A, 942014A, 966208A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	001463B, 056161B, 107629B, 111602B, 126970B, 166567B, 175590B, 188240B, 198345B, 223752B, 237183B, 253762B, 255482B, 286257B, 326332B, 360906B, 377257B, 379111B, 404891B, 423558B, 433059B, 455486B, 461435B, 483519B, 502764B, 509234B, 547604B, 602800B, 614378B, 626714B, 631256B, 790344B, 829670B, 879115B, 885801B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	001606A, 034021A, 034890A, 065398A, 072182A, 081665A, 117541A, 148317A, 178942A, 190301A, 194056A, 232816A, 241897A, 250131A, 285050A, 359642A, 361879A, 405155A, 405282A, 427024A, 434271A, 446335A, 472385A, 491144A, 499887A, 524408A, 584798A, 668222A, 679493A, 754144A, 772642A, 805653A, 836473A, 962024A, 989289A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	001882A, 003386A, 008001A, 036365A, 043476A, 049468A, 093011A, 121668A, 147157A, 159640A, 298865A, 300140A, 331164A, 373683A, 435558A, 458412A, 504018A, 521415A, 552735A, 557896A, 565233A, 597129A, 679583A, 686656A, 730842A, 738661A, 759583A, 762094A, 772188A, 796105A, 846506A, 850914A, 936439A, 953618A, 996794A.	HDPE bottles: 35 mL	8/31/2022

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Supplier name	Product name	Form	Application date
Research Triangle Institute	001911A, 066956A, 101918A, 126757A, 128548A, 131445A, 145955A, 156293A, 182198A, 200877A, 213964A, 248426A, 282721A, 305999A, 347698A, 351236A, 358446A, 454083A, 474850A, 524878A, 538040A, 632371A, 645527A, 708701A, 753168A, 796829A, 809111A, 888059A, 772188A, 796105A, 846506A, 850914A, 936439A, 953618A, 996794A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	003361B, 034629B, 067012B, 124682B, 142773B, 167685B, 183666B, 195477B, 241017B, 271325B, 284980B, 313159B, 324894B, 369085B, 373076B, 402924B, 415700B, 441888B, 463448B, 485113B, 520479B, 527487B, 598224B, 601374B, 615440B, 621902B, 661723B, 676451B, 731610B, 754997B, 784073B, 812149B, 902699B, 928121B, 978887B.	HDPE bottle: 35 mL	8/31/2022
Research Triangle Institute	003448B, 015003B, 033257B, 051607B, 076795B, 086721B, 140063B, 154580B, 173603B, 217900B, 241527B, 320381B, 339878B, 343712B, 364134B, 376127B, 398329B, 435004B, 443888B, 507663B, 526180B, 557663B, 567632B, 580102B, 596225B, 668846B, 712347B, 726102B, 742402B, 750051B, 776472B, 782223B, 824770B, 932935B, 976562B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	004989A, 013012A, 027562A, 044380A, 154098A, 154741A, 185768A, 202000A, 246871A, 265204A, 291552A, 306577A, 378455A, 507424A, 508991A, 524092A, 541563A, 600788A, 631655A, 648882A, 710877A, 746735A, 806986A, 825580A, 834352A, 849961A, 864935A, 889688A, 889828A, 895160A, 935366A, 944847A, 954723A, 986218A, 999914A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	005306B, 022155B, 026649B, 026742B, 032480B, 070164B, 077412B, 186051B, 192207B, 192642B, 235537B, 285192B, 287451B, 294932B, 328247B, 350454B, 392066B, 426765B, 438623B, 443893B, 447115B, 483581B, 484403B, 538111B, 558104B, 587578B, 713806B, 760507B, 798731B, 801403B, 851528B, 881775B, 910133B, 912386B, 967955B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	005315B, 088737B, 133447B, 134986B, 138498B, 264329B, 301439B, 304873B, 326234B, 330104B, 340076B, 400042B, 419868B, 458556B, 479112B, 489402B, 501455B, 502598B, 507757B, 532466B, 546529B, 552545B, 559012B, 598384B, 635803B, 641543B, 652391B, 658182B, 687555B, 707014B, 820357B, 859660B, 876517B, 898388B, 906900B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	005439B, 011930B, 046166B, 197699B, 206789B, 248185B, 283679B, 285363B, 345812B, 374710B, 383701B, 388926B, 407067B, 420238B, 427842B, 440203B, 467272B, 482460B, 515969B, 621243B, 649488B, 651127B, 682891B, 706549B, 710331B, 770838B, 780409B, 831298B, 833173B, 834221B, 909138B, 939345B, 954694B, 963283B, 981590B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	005723A, 010224A, 020000A, 033830A, 083801A, 122906A, 159113A, 217773A, 262678A, 270720A, 309089A, 337094A, 411674A, 414070A, 435026A, 440244A, 448082A, 458522A, 472864A, 475153A, 511058A, 559785A, 565367A, 598943A, 634227A, 670003A, 777915A, 783190A, 812998A, 822338A, 855236A, 922444A, 937688A, 938532A, 998637A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	006430A, 013459A, 083240A, 119548A, 149300A, 169547A, 192832A, 225510A, 230645A, 264897A, 282867A, 290126A, 294426A, 296462A, 350660A, 381192A, 409139A, 410463A, 420783A, 430841A, 457188A, 459390A, 518144A, 563951A, 586542A, 636622A, 690317A, 730844A, 753255A, 801244A, 819956A, 877290A, 898991A, 995313A, 997081A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	006879B, 009972B, 012667B, 054797B, 075328B, 098345B, 134554B, 136667B, 167612B, 179524B, 186471B, 215151B, 235906B, 303492B, 305353B, 331557B, 342325B, 360990B, 364819B, 392707B, 414436B, 468654B, 492622B, 532754B, 544205B, 558235B, 616987B, 684423B, 704968B, 838395B, 896763B, 908346B, 927866B, 956663B, 987434B.	HDPE bottles: 35 mL	8/31/2022

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Supplier name	Product name	Form	Application date
Research Triangle Institute	006920B, 020354B, 029319B, 031990B, 034822B, 042207B, 048107B, 055863B, 062980B, 180007B, 224273B, 231191B, 251500B, 394695B, 406299B, 412181B, 427366B, 441921B, 455861B, 483103B, 552056B, 556237B, 577736B, 581693B, 609637B, 634703B, 648347B, 650407B, 691524B, 706847B, 712961B, 716064B, 786421B, 886840B, 967471B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	007013B, 029665B, 077131B, 084117B, 207707B, 219369B, 226822B, 236412B, 264552B, 305802B, 362467B, 363118B, 378155B, 403329B, 458800B, 462530B, 519443B, 547861B, 549333B, 551294B, 572105B, 587099B, 610886B, 622350B, 705566B, 755270B, 758516B, 788962B, 815469B, 821224B, 880073B, 891005B, 900131B, 916817B, 978949B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	007575B, 010564B, 049417B, 056443B, 137748B, 149802B, 162773B, 210356B, 280059B, 319246B, 323927B, 384539B, 425487B, 435554B, 446009B, 508479B, 509725B, 578196B, 605592B, 644051B, 646818B, 647736B, 662660B, 669235B, 732556B, 775167B, 791834B, 852883B, 872952B, 910032B, 913848B, 933061B, 974170B, 979810B, 993544B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	007784B, 014508B, 028031B, 080858B, 085996B, 090901B, 095109B, 096064B, 122024B, 141066B, 155489B, 194479B, 212321B, 232486B, 249109B, 261871B, 267804B, 315752B, 343373B, 362472B, 366920B, 394840B, 399190B, 464303B, 487803B, 496956B, 547033B, 571357B, 603262B, 606421B, 754259B, 754685B, 792289B, 797949B, 818628B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	007888A, 050795A, 069787A, 086958A, 153683A, 185945A, 209492A, 209693A, 214788A, 220744A, 238399A, 257856A, 263040A, 396891A, 429298A, 443211A, 443690A, 535109A, 536428A, 585115A, 597393A, 601201A, 684287A, 750374A, 755395A, 805610A, 808685A, 810895A, 821892A, 830817A, 844339A, 875325A, 926105A, 958595A, 967906A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	007903B, 017985B, 031552B, 043262B, 057633B, 064564B, 089872B, 120384B, 126918B, 128428B, 153228B, 212323B, 286181B, 289422B, 346325B, 419167B, 461622B, 468811B, 501592B, 610538B, 637505B, 750393B, 799587B, 849634B, 865416B, 871040B, 889576B, 917871B, 939706B, 947843B, 961793B, 963374B, 979701B, 994785B, 999253B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	008032B, 012738B, 052220B, 088599B, 093064B, 100286B, 139524B, 226299B, 227270B, 270718B, 293463B, 297771B, 309806B, 346141B, 354754B, 367972B, 371775B, 389472B, 446715B, 493432B, 503077B, 506978B, 582788B, 599737B, 606106B, 611349B, 623399B, 649389B, 679139B, 682140B, 689305B, 700957B, 732128B, 889627B, 894309B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	008571A, 070024A, 091919A, 100911A, 130398A, 161925A, 199153A, 209306A, 215841A, 232053A, 266979A, 294330A, 330101A, 345673A, 375563A, 391042A, 414927A, 456849A, 460582A, 482918A, 499736A, 549627A, 615819A, 619423A, 662555A, 711237A, 737276A, 747990A, 756855A, 808378A, 896800A, 935486A, 949787A, 975519A, 991426A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	008631B, 023083B, 043754B, 066138B, 150229B, 169194B, 227915B, 249863B, 252429B, 286397B, 351990B, 394654B, 440317B, 473473B, 480349B, 504552B, 507791B, 537321B, 539239B, 550242B, 641204B, 672390B, 707658B, 707837B, 721330B, 766960B, 770825B, 837377B, 844329B, 873578B, 873818B, 893460B, 902900B, 911997B, 960424B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	009143A, 015996A, 078142A, 095870A, 118345A, 151179A, 156516A, 173169A, 175916A, 190596A, 209203A, 288286A, 288890A, 343180A, 347813A, 363418A, 390678A, 432120A, 450923A, 532426A, 544398A, 554513A, 609044A, 661927A, 671221A, 735308A, 847434A, 851222A, 868823A, 887805A, 904442A, 931295A, 933778A, 938816A, 948526A.	HDPE bottles: 35 mL	8/31/2022

CHART I—Continued

Supplier name	Product name	Form	Application date
Research Triangle Institute	009937A, 015923A, 050705A, 081256A, 100964A, 108168A, 120966A, 156469A, 188689A, 207981A, 275894A, 453028A, 471595A, 495221A, 583757A, 589400A, 593145A, 594479A, 598805A, 618975A, 630735A, 661590A, 666175A, 679992A, 680075A, 707077A, 842076A, 850528A, 856251A, 924518A, 945544A, 947282A, 952841A, 959426A, 965994A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	010629A, 047551A, 052155A, 059322A, 098927A, 119623A, 166596A, 208267A, 211411A, 215824A, 282424A, 326313A, 391724A, 459832A, 481545A, 486765A, 492565A, 518547A, 521108A, 539049A, 539858A, 569104A, 628205A, 656511A, 661177A, 703220A, 725851A, 754166A, 809419A, 827153A, 845980A, 882001A, 916725A, 919569A, 953658A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	011022B, 088221B, 105045B, 121549B, 130874B, 157642B, 158649B, 169871B, 213417B, 358087B, 373967B, 448997B, 489558B, 491060B, 565288B, 570948B, 633973B, 687498B, 692157B, 713022B, 765067B, 766026B, 783453B, 785262B, 798521B, 818224B, 834146B, 864904B, 872245B, 906153B, 910283B, 920860B, 929480B, 954299B, 962249B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	011472B, 064251B, 097605B, 102256B, 154958B, 217983B, 346348B, 348548B, 349536B, 353599B, 360643B, 378144B, 499795B, 548635B, 560078B, 596930B, 618715B, 624505B, 625964B, 714902B, 720694B, 722487B, 748403B, 778831B, 787862B, 790376B, 805531B, 841680B, 868008B, 885341B, 887496B, 945796B, 953858B, 980975B, 993436B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	012070B, 024242B, 060641B, 063550B, 071377B, 146349B, 151752B, 156824B, 189419B, 208831B, 226714B, 252879B, 276992B, 291169B, 300610B, 312688B, 327866B, 422977B, 470242B, 505775B, 506044B, 538162B, 553340B, 657346B, 684241B, 710820B, 752741B, 754022B, 762641B, 838397B, 862850B, 956213B, 964599B, 983459B, 990186B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	012160B, 064255B, 105594B, 131691B, 133975B, 138158B, 150777B, 197643B, 198532B, 205752B, 245023B, 350103B, 402245B, 410628B, 412351B, 542749B, 597477B, 618159B, 644749B, 681352B, 734193B, 741378B, 758790B, 772787B, 798421B, 833693B, 855796B, 898725B, 900549B, 906940B, 920433B, 971632B, 976406B, 983870B, 994874B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	012663A, 030406A, 042029A, 134208A, 157170A, 264784A, 321385A, 341864A, 378750A, 380086A, 388894A, 406012A, 406888A, 422664A, 456872A, 476320A, 498092A, 558914A, 559101A, 562610A, 570348A, 584605A, 598903A, 722526A, 765330A, 778488A, 779472A, 804784A, 805500A, 824755A, 826474A, 843906A, 890144A, 897082A, 931671A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	013485A, 038008A, 204339A, 222014A, 246406A, 258988A, 312673A, 321839A, 325063A, 351095A, 358770A, 364750A, 371671A, 413772A, 417613A, 464080A, 537087A, 605371A, 649083A, 649576A, 678255A, 683334A, 702885A, 705801A, 707043A, 722131A, 774230A, 784476A, 826652A, 852272A, 874313A, 900419A, 923068A, 962554A, 988074A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	014699B, 020401B, 020613B, 053169B, 089884B, 146588B, 200543B, 246367B, 260139B, 279610B, 298949B, 298978B, 311939B, 328885B, 373233B, 384502B, 423300B, 436888B, 449836B, 454497B, 476913B, 499046B, 501566B, 504889B, 552188B, 603046B, 607710B, 607957B, 706859B, 719495B, 724079B, 749773B, 909379B, 914018B, 965309B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	015309B, 044514B, 051397B, 088627B, 092768B, 107796B, 146165B, 172789B, 218589B, 220923B, 270176B, 272635B, 288651B, 293091B, 299226B, 311151B, 336085B, 401340B, 407536B, 471010B, 484132B, 591481B, 665201B, 712745B, 724129B, 742624B, 751246B, 784058B, 797003B, 840817B, 844183B, 911916B, 922264B, 941318B, 946767B.	HDPE bottles: 35 mL	8/31/2022

CHART I—Continued

Supplier name	Product name	Form	Application date
Research Triangle Institute	018647B, 023471B, 056945B, 083696B, 090207B, 092054B, 201539B, 221710B, 255020B, 275669B, 313125B, 338552B, 344662B, 388016B, 432159B, 458676B, 548727B, 549839B, 604551B, 621961B, 654990B, 709969B, 715388B, 773915B, 812441B, 819380B, 858004B, 900873B, 904709B, 914319B, 914831B, 964677B, 972462B, 976978B, 995400B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	018691A, 055478A, 604500A	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	020578A, 062638A, 076894A, 092798A, 121935A, 149982A, 152068A, 167013A, 182740A, 259167A, 286865A, 300656A, 309666A, 327523A, 337510A, 393272A, 458973A, 558618A, 559226A, 573235A, 650693A, 706588A, 737826A, 774178A, 784852A, 815955A, 826069A, 843176A, 862642A, 923509A, 925038A, 936385A, 944703A, 946375A, 987996A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	020790A, 087729A, 169804A, 188603A, 195167A, 280407A, 298143A, 310142A, 316099A, 318433A, 331877A, 335859A, 337630A, 424745A, 426079A, 464249A, 505399A, 521413A, 541231A, 554133A, 583885A, 587931A, 611694A, 629678A, 662790A, 730595A, 751103A, 799215A, 833318A, 851459A, 874446A, 875952A, 901910A, 910805A, 928524A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	021986B, 089652B, 095413B, 125576B, 147625B, 150359B, 160019B, 190411B, 220035B, 322940B, 345836B, 387975B, 421367B, 432164B, 440847B, 452863B, 465177B, 499409B, 503793B, 524493B, 558840B, 684189B, 727026B, 735982B, 756767B, 774287B, 791334B, 800210B, 818711B, 837294B, 862724B, 923542B, 928312B, 955505B, 971564B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	022169B, 068945B, 090567B, 167785B, 185107B, 203284B, 271309B, 325738B, 332291B, 340408B, 385627B, 436047B, 445940B, 449424B, 450655B, 497983B, 532866B, 541881B, 594288B, 604446B, 616351B, 637504B, 643078B, 654947B, 657707B, 786709B, 805704B, 814864B, 850397B, 855787B, 856184B, 862151B, 910595B, 922997B, 931166B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	022808A, 040620A, 076325A, 126699A, 154431A, 166852A, 176123A, 177249A, 195873A, 206199A, 217902A, 277826A, 335915A, 343719A, 413742A, 416084A, 440614A, 461082A, 480207A, 513341A, 520253A, 541777A, 570217A, 589927A, 593068A, 625807A, 655427A, 664591A, 727901A, 826102A, 842842A, 859299A, 860712A, 875286A, 890895A.	HDPE bottle: 35 mL	8/31/2022
Research Triangle Institute	023290A, 031068A, 074113A, 125447A, 187424A, 191876A, 215541A, 218764A, 231664A, 233679A, 239062A, 247658A, 281440A, 286582A, 298963A, 324752A, 341150A, 355291A, 366501A, 367229A, 448037A, 565607A, 651328A, 703904A, 740505A, 775456A, 817705A, 826423A, 837223A, 862326A, 867355A, 873190A, 905177A, 938382A, 949435A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	023669A, 031619A, 033068A, 079396A, 089241A, 114019A, 127318A, 153617A, 164752A, 188783A, 208732A, 228725A, 280814A, 306275A, 315774A, 364769A, 375130A, 391406A, 402501A, 409654A, 441308A, 489991A, 529319A, 638805A, 665202A, 679716A, 688168A, 688947A, 689043A, 751917A, 799531A, 907717A, 921798A, 929437A, 981723A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	024208A, 026599A, 050552A, 055715A, 057602A, 061693A, 066803A, 165847A, 192872A, 201680A, 212189A, 235919A, 244067A, 271686A, 311044A, 317801A, 327983A, 335646A, 381122A, 390594A, 454487A, 459917A, 529517A, 531702A, 547037A, 681222A, 698107A, 735125A, 797409A, 801141A, 814996A, 863099A, 887771A, 949911A, 960562A.	HDPE bottles: 35 mL	8/31/2022

CHART I—Continued

Supplier name	Product name	Form	Application date
Research Triangle Institute	025789B, 073439B, 096224B, 096731B, 098505B, 121527B, 138481B, 159681B, 171540B, 231326B, 279857B, 366094B, 369006B, 392271B, 444197B, 448387B, 448738B, 518246B, 518249B, 552260B, 568792B, 599485B, 637890B, 672888B, 701961B, 713036B, 728027B, 740826B, 762860B, 788811B, 806492B, 841761B, 878723B, 897052B, 967897B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	029192B, 030759B, 053190B, 098716B, 164275B, 194122B, 197887B, 221746B, 266652B, 268923B, 292114B, 296583B, 320003B, 352484B, 411266B, 413436B, 451832B, 504047B, 633370B, 651295B, 657073B, 689117B, 726879B, 738490B, 741740B, 750540B, 751238B, 783304B, 786031B, 854160B, 880410B, 881084B, 899780B, 933166B, 975514B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	030100A, 038859A, 076643A, 081857A, 096610A, 109479A, 118605A, 122129A, 171098A, 233006A, 236469A, 269560A, 283775A, 298707A, 339509A, 397286A, 449740A, 470146A, 523424A, 580372A, 606260A, 663693A, 668655A, 715717A, 733825A, 794817A, 849620A, 906542A, 918136A, 923222A, 935484A, 940766A, 942606A, 972416A, 998640A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	030168B, 047308B, 055471B, 057851B, 161926B, 187584B, 228108B, 233242B, 264017B, 268345B, 292158B, 310065B, 315305B, 335230B, 339001B, 344914B, 471362B, 531432B, 532353B, 537102B, 568839B, 589324B, 609292B, 619817B, 626109B, 654314B, 656731B, 657222B, 668368B, 670229B, 677870B, 776167B, 838384B, 936812B, 954302B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	031574A, 048660A, 058244A, 067070A, 069171A, 120673A, 124908A, 129060A, 158121A, 165678A, 171213A, 220762A, 259406A, 270260A, 277014A, 309203A, 342965A, 391752A, 414592A, 509568A, 535341A, 572938A, 613937A, 626181A, 677419A, 727884A, 750807A, 762397A, 788740A, 839431A, 875915A, 900980A, 913771A, 928278A, 968586A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	031805A, 049270A, 073495A, 076585A, 082137A, 112230A, 148246A, 159497A, 171743A, 194546A, 261194A, 266859A, 327479A, 478001A, 484363A, 490578A, 506526A, 535156A, 553278A, 578460A, 585871A, 613233A, 614502A, 680352A, 723957A, 742379A, 772394A, 793765A, 834022A, 927423A, 947657A, 975414A, 982854A, 997154A, 997469A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	034910B, 061304B, 073474B, 085271B, 133608B, 211334B, 231923B, 247554B, 258901B, 317496B, 369971B, 383488B, 414173B, 431835B, 476665B, 478289B, 536171B, 540501B, 548940B, 557912B, 581834B, 604729B, 620678B, 654309B, 668617B, 705147B, 705783B, 780132B, 784260B, 799739B, 861730B, 887992B, 904481B, 942456B, 977440B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	037202A, 049224A, 119956A, 134374A, 139634A, 195451A, 206227A, 217960A, 236143A, 251827A, 304527A, 321851A, 383372A, 406374A, 422462A, 438217A, 452445A, 481511A, 514272A, 545360A, 548820A, 551678A, 554033A, 695357A, 733332A, 750845A, 756803A, 769869A, 783829A, 812540A, 853617A, 866255A, 910455A, 931519A, 946778A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	038532A, 044611A, 051823A, 065305A, 082543A, 092115A, 195471A, 251121A, 277803A, 279833A, 297529A, 304245A, 382835A, 386666A, 452482A, 476224A, 488416A, 495710A, 513383A, 560784A, 562958A, 616576A, 716262A, 747861A, 754363A, 763902A, 815364A, 820383A, 831011A, 891513A, 919496A, 946631A, 984297A, 991120A, 994081A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	039859A, 045183A, 063346A, 085444A, 109043A, 153572A, 189632A, 198485A, 216345A, 251012A, 266129A, 380638A, 382717A, 396944A, 438554A, 439165A, 458813A, 471756A, 478399A, 615334A, 684905A, 691893A, 700140A, 726882A, 743741A, 764757A, 767828A, 779222A, 829417A, 852304A, 862236A, 877450A, 885149A, 944896A, 973575A.	HDPE bottles: 35 mL	8/31/2022

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Supplier name	Product name	Form	Application date
Research Triangle Institute	041872A, 056764A, 103839A, 109733A, 129246A, 154352A, 179503A, 275386A, 426832A, 453054A, 460826A, 479764A, 525289A, 542471A, 547586A, 588443A, 591582A, 598385A, 653451A, 664576A, 675492A, 703662A, 718768A, 737248A, 764156A, 800711A, 859606A, 898221A, 904213A, 909808A, 925276A, 939247A, 950899A, 976241A, 997527A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	041917A, 078334A, 100984A, 145475A, 160522A, 168453A, 207321A, 211817A, 223620A, 262525A, 362588A, 368391A, 376607A, 453519A, 479849A, 481588A, 518913A, 526818A, 541292A, 550724A, 623049A, 625966A, 639050A, 648379A, 693860A, 705300A, 711941A, 874547A, 886132A, 909156A, 913167A, 926604A, 926997A, 930695A, 947845A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	042787A, 047665A, 072558A, 152698A, 206053A, 217476A, 230479A, 231452A, 260872A, 275700A, 348049A, 355507A, 369271A, 371699A, 402827A, 414113A, 441834A, 456017A, 497453A, 503329A, 523764A, 528528A, 552441A, 618509A, 686925A, 714761A, 738363A, 773615A, 802335A, 805271A, 856731A, 870103A, 916098A, 920231A, 946267A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	043469A, 062002A, 069496A, 093297A, 106890A, 108389A, 124644A, 137999A, 244865A, 245125A, 288902A, 340364A, 356185A, 419624A, 440916A, 445884A, 470956A, 482716A, 508349A, 509943A, 516790A, 552981A, 562084A, 563336A, 596809A, 600392A, 718165A, 779540A, 780607A, 793669A, 848761A, 853984A, 889128A, 976687A, 987007A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	045424A, 184418A, 519509A	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	045897A, 053505A, 100424A, 106803A, 159580A, 165781A, 174535A, 209438A, 242595A, 280915A, 290380A, 292908A, 352817A, 388196A, 398498A, 400221A, 406528A, 408141A, 571660A, 636669A, 650109A, 655893A, 668772A, 669064A, 769651A, 777624A, 783316A, 879796A, 886745A, 894330A, 897075A, 912061A, 925007A, 950873A, 975835A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	047134A, 095085A, 100690A, 121363A, 130780A, 169345A, 231162A, 247213A, 302166A, 306907A, 392897A, 395029A, 453710A, 477306A, 486339A, 495254A, 498295A, 513243A, 514150A, 562429A, 597567A, 661472A, 663838A, 713448A, 729152A, 802007A, 806836A, 843119A, 849799A, 870488A, 871674A, 874589A, 891306A, 953505A, 982050A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	049722A, 311172A, 488938A	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	050449A, 056574A, 064867A, 085858A, 087554A, 109292A, 210320A, 242288A, 265348A, 267357A, 311545A, 337844A, 342413A, 422199A, 430175A, 438690A, 467661A, 470007A, 472809A, 542622A, 599361A, 607843A, 629755A, 685557A, 714806A, 737431A, 772880A, 778552A, 781175A, 791007A, 803776A, 896581A, 908951A, 921493A, 946300A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	051784B, 127779B, 130397B, 138691B, 216489B, 238036B, 269103B, 285114B, 317648B, 319324B, 355361B, 361686B, 402519B, 404383B, 416563B, 421126B, 443282B, 452020B, 475416B, 546525B, 585380B, 614778B, 628584B, 649786B, 650558B, 656200B, 696700B, 703199B, 715597B, 784614B, 796384B, 840326B, 883052B, 977920B, 996486B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	054792B, 056573B, 063797B, 071680B, 095599B, 148124B, 182354B, 233578B, 244315B, 252467B, 294004B, 308054B, 354927B, 425418B, 471292B, 486641B, 495270B, 497273B, 510744B, 512040B, 582929B, 624606B, 684268B, 684534B, 686981B, 723080B, 758986B, 759613B, 781835B, 867179B, 905367B, 926198B, 948410B, 950726B, 985929B.	HDPE bottles: 35 mL	8/31/2022

CHART I—Continued

Supplier name	Product name	Form	Application date
Research Triangle Institute	057321B, 101475B, 168714B, 183117B, 183683B, 201419B, 201954B, 225019B, 334046B, 385552B, 433118B, 495579B, 528075B, 541791B, 588992B, 610992B, 650979B, 676140B, 676599B, 694912B, 715448B, 739506B, 745221B, 766468B, 769268B, 769555B, 775780B, 827742B, 845598B, 879975B, 886145B, 887195B, 908268B, 923406B, 939968B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	057932B, 085895B, 093192B, 110619B, 111563B, 113976B, 274062B, 291204B, 293274B, 305051B, 339589B, 346040B, 366415B, 376721B, 379592B, 381524B, 392562B, 408614B, 408798B, 421727B, 457066B, 496976B, 501959B, 526462B, 534071B, 561642B, 595349B, 596036B, 696912B, 698706B, 789423B, 891267B, 911936B, 981309B, 996068B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	057998A, 078191A, 088123A, 089209A, 113682A, 131667A, 132381A, 216930A, 231123A, 233602A, 245262A, 252938A, 320764A, 365348A, 373904A, 416797A, 417256A, 432533A, 465179A, 517264A, 585543A, 639314A, 730233A, 735279A, 753946A, 781743A, 782286A, 788641A, 807862A, 809648A, 842572A, 892415A, 914558A, 926795A, 965716A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	060346A, 152550A, 158644A, 177612A, 179433A, 205591A, 243762A, 251230A, 291059A, 349865A, 367163A, 373327A, 588588A, 595808A, 597291A, 599248A, 603697A, 643932A, 654943A, 670850A, 688542A, 712369A, 755953A, 763946A, 784664A, 799362A, 806657A, 809349A, 849376A, 886748A, 899325A, 914294A, 945762A, 983101A, 997274A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	060903A, 066052A, 114124A, 117983A, 120937A, 176850A, 178740A, 205941A, 288053A, 332252A, 344224A, 360708A, 374198A, 422400A, 425437A, 433881A, 435267A, 441171A, 469798A, 490186A, 582615A, 588726A, 603400A, 614110A, 636301A, 647368A, 670612A, 712447A, 720119A, 750062A, 816568A, 825835A, 902046A, 926199A, 997658A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	063770B, 096634B, 177319B, 206691B, 239220B, 283761B, 295759B, 301477B, 342504B, 349019B, 352604B, 422688B, 423260B, 445947B, 450784B, 454576B, 516630B, 530995B, 569440B, 574917B, 601281B, 614108B, 648679B, 766211B, 772362B, 833299B, 846264B, 863815B, 874549B, 879911B, 947492B, 952623B, 979839B, 984586B, 987631B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	079738A, 096466A, 128309A, 142384A, 275960A, 292102A, 353862A, 382503A, 390449A, 394258A, 424520A, 437027A, 457166A, 462418A, 471533A, 501015A, 525775A, 528555A, 538347A, 556974A, 580809A, 641272A, 654382A, 665324A, 668923A, 721325A, 773903A, 779801A, 791095A, 792980A, 798843A, 811620A, 829479A, 901040A, 930728A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	086387A, 091812A, 101377A, 135549A, 139005A, 174049A, 223716A, 240158A, 258738A, 262371A, 294375A, 336242A, 350542A, 360847A, 414209A, 474147A, 492327A, 495976A, 532911A, 569799A, 577298A, 595539A, 694617A, 714797A, 756271A, 816279A, 834696A, 843823A, 857589A, 874025A, 900079A, 917428A, 933361A, 959976A, 961602A.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	092668A, 547625A, 648748A	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	096635A, 758482A, 887095A	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	097620B, 126231B, 130645B, 140942B, 183863B, 211639B, 227565B, 296152B, 315862B, 397670B, 401339B, 413701B, 421646B, 441994B, 470019B, 495907B, 519876B, 571274B, 591979B, 603808B, 640006B, 707710B, 732958B, 754367B, 761483B, 798235B, 847702B, 850137B, 867981B, 886437B, 909518B, 934713B, 950118B, 951285B, 972965B.	HDPE bottle: 35 mL	8/31/2022

CHART I—Continued

Supplier name	Product name	Form	Application date
Research Triangle Institute	101562B, 166440B, 180129B, 189270B, 192127B, 207800B, 219602B, 261013B, 306066B, 313000B, 338628B, 347605B, 355708B, 378507B, 417902B, 496349B, 510899B, 554520B, 621404B, 649518B, 667397B, 669450B, 683639B, 691723B, 833683B, 847988B, 849629B, 868176B, 876062B, 907224B, 911561B, 953896B, 964173B, 965464B, 988120B.	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	107834A, 143875A, 172166A	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	126688A, 237853A, 846903A	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	133028A, 339095A, 479015A	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	188942A, 217551A, 900195A	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	262153A, 477682A, 521760A	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	392034A, 523827A, 887757A	HDPE bottles: 35 mL	8/31/2022
Research Triangle Institute	501410A, 716724A, 852982A	HDPE bottles: 35 mL	8/31/2022
RTI International	EQAP Round: RTI-#22-2 Matrix: Plasma #2 Date: 10/18/2022 Sample P2.	HDPE bottles: 60 mL	6/30/2022
RTI International	EQAP Round: RTI-#22-2 Matrix: Plasma #2 Date: 10/18/2022 Sample P3.	HDPE bottles: 60 mL	6/30/2022
RTI International	EQAP Round: RTI-#22-2 Matrix: Plasma #2 Date: 10/18/2022 Sample U2.	HDPE bottles: 60 mL	6/30/2022
RTI International	EQAP Round: RTI-#22-2 Matrix: Plasma #2 Date: 10/18/2022 Sample U3.	HDPE bottles: 60 mL	6/30/2022
RTI International	EQAP Round: RTI-#22-2 Matrix: Plasma #2 Date: 10/18/2022 Sample U4.	HDPE bottles: 60 mL	6/30/2022
RTI International	EQAP Round: RTI-#22-2 Matrix: Urine #1 Date: 10/18/2022 Sample U1.	HDPE bottles: 60 mL	6/30/2022
RTI International	Sample 10 Matrix: Urine	HDPE tubes: 5 mL	6/13/2022
RTI International	Sample 11 Matrix: Urine	HDPE tubes: 5 mL	6/13/2022
RTI International	Sample 7 Matrix: Urine	HDPE tubes: 5 mL	6/13/2022
RTI International	Sample 8 Matrix: Urine	HDPE tubes: 5 mL	6/13/2022
RTI International	Sample 9 Matrix: Urine	HDPE tubes: 5 mL	6/13/2022
U.S. Pharmacopeial Convention Inc	Delta-9-Tetrahydrocannabinol 1 mL (1 mg/mL)	Glass ampule: 1 mL	7/19/2022
U.S. Pharmacopeial Convention Inc	Methylphenidate Hydrochloride Erythro Isomer Solution 0.5 mL.	Amber ampule: 2 mL (sealed).	4/20/2022
WSHL	(WSHL) Chem/Endo/TDM	Amber vial: 5 mL	8/25/2022
WSHL	(WSHL) Chemistry-Waived	Amber vial: 5 mL	8/25/2022

The Assistant Administrator has found that each of the compounds, mixtures, and preparations described in Chart II, below, is not consistent with the criteria stated in 21 U.S.C. 811(g)(3)(B) and in 21 CFR 1308.23. Accordingly, the Assistant

Administrator has determined that the chemical preparations or mixtures generally described in Chart II, below, and specifically described in the application materials received by DEA, are not exempt from application of any part of the CSA or from application of

any part of the CFR, with regard to the requested exemption pursuant to 21 CFR 1308.23, as of the date that was provided in the determination letters to the individual requesters.

CHART II

Supplier	Product name	Form	Application date
Absolute Standards, Inc	Florida Total THC—Performance Test HPLC, 10–1000 ug/mL, in Acetonitrile.	Glass ampoule: 1 mL	6/23/2022
Absolute Standards, Inc	Florida Total THC—PT HPLC in Hemp Oil, 10–1000 ug/g, in Hemp Oil:Acetone:Acetonitrile (5:4:1).	Glass ampoule: 1 mL (~1 g)	6/23/2022
Cayman Chemical Company	LAMPA (exempt preparation) 100 µg/ml in Acetonitrile.	Glass ampule: 1.0 mL	5/9/2022
Cayman Chemical Company	LSD (L-hemitartrate) (exempt preparation) 100 µg/ml in Methanol.	Glass ampule: 1.0 mL	5/9/2022
Cayman Chemical Company	MiPLA (exempt preparation) 100 µg/ml in Acetonitrile.	Glass ampule: 1.0 mL	5/9/2022
LGC—Dr. Ehrenstorfer	Δ9-Tetrahydrocannabivarin 5,000 mg/L Parent stock in Methanol-PARENT STOCK SOLUTION—NOT FOR SALE.	Amber round bottom: 10 mL	6/3/2022
LGC—Dr. Ehrenstorfer	Δ9-Tetrahydrocannabivarinic acid (THCVA) 5000 ug/mL in Acetonitrile Parent stock NOT FOR SALE.	Amber round bottom: 10 mL	6/3/2022

CHART II—Continued

Supplier	Product name	Form	Application date
o2si smart solutions	Custom Pesticide Mix, 8–6843, 5,000 mg/L, 1 ml.	Amber Ampule: 1 mL	6/10/2022
o2si smart solutions	Delta-8-THC Parent Solution, 5,000 mg/L, 10 ml—NOT FOR SALE.	Amber round bottom: 10 mL	6/9/2022
o2si smart solutions	Delta-9-THC Parent Solution, 5,000 mg/L, 10 ml—PARENT.	Amber round bottom: 10 mL	6/3/2022
o2si smart solutions	Δ9-Tetrahydrocannabinolic Acid A (THCA-A) 5,000 mg/L, 10. ml-PARENT STOCK SOLUTION—NOT FOR SALE.	Amber round bottom: 10 mL	6/3/2022

Opportunity for Comment

Pursuant to 21 CFR 1308.23(e), any interested person may submit written comments on or objections to any chemical preparation in this order that has been approved or denied as exempt. If any comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which this order is based, the Assistant Administrator will immediately suspend the effectiveness of any applicable part of this order until she may reconsider the application in light of the comments and objections filed. Thereafter, the Assistant Administrator shall reinstate, revoke, or amend his original order as she determines appropriate.

Approved Exempt Chemical Preparations Are Posted on the DEA's Website

A list of all current exemptions, including those listed in this order, is available on the DEA's website at http://www.DEADiversion.usdoj.gov/schedules/exempt/exempt_chemlist.pdf. The dates of applications of all current exemptions are posted for easy reference.

Thomas Prevoznik,
Acting Assistant Administrator.

[FR Doc. 2023–10711 Filed 5–19–23; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR**Wage and Hour Division****Agency Information Collection Activities; Comment Request; Information Collections: High-Wage Components of the Labor Value Content Requirements Under the USMCA**

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension of the information collection request (ICR) titled “High-Wage Components of the Labor Value Content Requirements under the USMCA.” 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). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. A copy of the proposed information request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before July 21, 2023.

ADDRESSES: You may submit comments identified by Control Number 1235–0032, by either one of the following methods: *Email: WHDPRAComments@dol.gov; Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for Office

of Management and Budget (OMB) approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Robert Waterman, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Alternative formats are available upon request by calling 1–866–487–9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:**I. Background**

The United States-Mexico-Canada Agreement Implementation Act (the Act) implements the United States-Mexico-Canada Agreement (USMCA), an agreement between the United States of America, the United Mexican States, and Canada. Section 202A of the Act, codified at 19 U.S.C. 4532, in part implements Article 7 of the Automotive Appendix of the USMCA. The USMCA establishes labor value content (LVC) requirements for passenger vehicles, light trucks, and heavy trucks, pursuant to which an importer can only obtain preferential tariff treatment for a covered vehicle if the covered vehicle meets certain high-wage component requirements. The Act requires importers who claim preferential tariff treatment under the USMCA for goods imported into the United States from a USMCA Country, and vehicle producers whose goods are the subject of a claim for preferential tariff treatment under the USMCA, to make, keep, and, pursuant to rules and regulations promulgated by the Secretary, render for examination and inspection records and supporting documents related to the LVC requirements. See 19 U.S.C. 1508(b)(4). The Act further grants the Secretary authority, during the course of a verification, to request any records

relating to wages, hours, job responsibilities, or any other information in any plant or facility relied on by a producer of covered vehicles to demonstrate that the production of those vehicles meets the high-wage components of the LVC requirements. See 19 U.S.C.

4532(e)(4)(B). The Act grants authority to the Secretary to issue regulations.

The interim final rule (IFR), *High-Wage Components of the Labor Value Content Requirements Under the United States-Mexico-Canada Agreement Implementation Act*, 85 FR 39782, implemented the Act's requirements and established procedures for producers concerning the high-wage components of the LVC requirements.

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. The Department obtains OMB approval for this information collection under Control Number 1235-0032.

OMB authorization for an ICR cannot be for more than 3 years without renewal, and the current approval for this collection will expire on January 31, 2024. The Department seeks to extend PRA authorization for this information collection for 3 more years, without any change to existing requirements. The Department notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review.

Interested parties are encouraged to send comments to the Department at the address shown in the **ADDRESSES** section within 60 days of publication of this notice in the **Federal Register**. To help ensure appropriate consideration, comments should mention OMB Control Number 1235-0032.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Enhance the quality, utility, and clarity of the information to be collected;

- 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;

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks an approval for the extension of this information collection in order to ensure effective administration of the High-Wage Components of the Labor Value Content Requirements under the USMCA.

Type of Review: Extension.

Agency: Wage and Hour Division.

Title: High-Wage Components of the Labor Value Content Requirements under the USMCA.

OMB Control Number: 1235-0032.

Affected Public: Business or other for-profit.

Total Respondents: 9,090.

Total Annual Responses: 6,001,660.

Estimated Total Burden Hours: 212,266.

Estimated Time per Response: Varies with type of request (2 minutes-2 hours).

Frequency: On occasion.

Total Burden Costs: \$8,204,081.

Total Burden Cost (capital/startup): \$0.

Total Burden Cost (operation/maintenance): \$0.

Dated: May 16, 2023.

Amy Hunter,

Director, Division of Regulations, Legislation, and Interpretation.

[FR Doc. 2023-10797 Filed 5-19-23; 8:45 am]

BILLING CODE 4510-27-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 23-055]

NASA Advisory Council; Aeronautics 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 Aeronautics Committee of the NASA Advisory Council (NAC). This meeting will be held for the purpose of soliciting, from the aeronautics community and other persons, research, and technical information relevant to program planning.

DATES: Tuesday, June 6, 2023, 10:15 a.m.-4:30 p.m., Eastern Time.

ADDRESSES: Meeting will be virtual for the public.

FOR FURTHER INFORMATION CONTACT: Ms. Irma Rodriguez, Designated Federal Officer, Aeronautics Research Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358-0984, or irma.c.rodriguez@nasa.gov.

SUPPLEMENTARY INFORMATION: This meeting will be available to the public online via MS Teams. Dial-in audio teleconference and webcast details to watch the meeting remotely will be available on the NASA Advisory Council Aeronautics Committee website at: <https://www.nasa.gov/aeroresearch/aero-nac-committee>. Enter as a guest and type your name and affiliation. *Note:* If dialing in, please "mute" your telephone. The agenda for the meeting includes the following topics:

—Future of Flight

—Future of Vehicle Technology Development

—NASA Support to Certification

It is imperative that the meeting be held on these dates to the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2023-10856 Filed 5-19-23; 8:45 am]

BILLING CODE 7510-13-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–445, 50–446, 72–74, 50–334, 50–412, 72–1043, 50–346, 72–14, 50–440, and 72–69; NRC–2023–0100]

Vistra Operations Company LLC and Energy Harbor Nuclear Corp.; Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Beaver Valley Power Station, Unit Nos. 1 and 2; Davis-Besse Nuclear Power Station, Unit No. 1; Perry Nuclear Power Plant, Unit No. 1; and the Associated Independent Spent Fuel Storage Installations; Consideration of Approval of Transfer of Licenses and Conforming Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for direct and indirect transfer of licenses; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC, the Commission) received and is considering approval of an application filed by Vistra Operations Company LLC (VistraOps) and Energy Harbor Nuclear Corp. (collectively, the applicants) on April 14, 2023, as supplemented by letter dated April 20, 2023. The application seeks NRC approval of the indirect transfer of control of Facility Operating License Nos. NFP–87 and NFP–89 for Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2 (Comanche Peak), respectively, and its generally licensed independent spent fuel storage installation (ISFSI); the indirect transfer of control of Renewed Facility Operating License Nos. DPR–66, NPF–73, and NPF–3 for Beaver Valley Power Station, Unit Nos. 1 and 2 (Beaver Valley), and Davis-Besse Nuclear Power Station, Unit No. 1 (Davis-Besse), respectively, and Facility Operating License No. NPF–58 for the Perry Nuclear Power Plant, Unit No. 1 (Perry), and their associated generally licensed ISFSIs (collectively, the EH Facilities); and the direct transfer of the operating authority for the EH Facilities to VistraOps. The NRC is also considering amending the licenses for administrative purposes to reflect the proposed transfer. The application contains sensitive unclassified non-safeguards information (SUNSI).

DATES: Submit comments by June 21, 2023. A request for a hearing must be filed by June 12, 2023. Any potential party as defined in § 2.4 of title 10 of the Code of Federal Regulations (10 CFR), who believes access to SUNSI is necessary to respond to this notice must

follow the instructions in Section VI of the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2023–0100. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Robert Kuntz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3733; email: Robert.Kuntz@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2023–0100 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2023–0100.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to PDR.Resource@nrc.gov. The license transfer application dated April 14, 2023, and supplemental letter dated April 20, 2023, are available in ADAMS under Accession Nos. ML23104A423 and ML23110A788, respectively.

- *NRC’s PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC’s PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2023–0100 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering the issuance of an order under 10 CFR 50.80 approving the transfer of control of the NRC licenses for Comanche Peak, Beaver Valley, Davis-Besse, and Perry and their associated general ISFSI licenses. Specifically, according to the application, under the proposed transaction, VistraOps would become an indirect owner and the licensed operator of Beaver Valley, Davis-Besse, and Perry. Comanche Peak Power Company LLC would remain the licensed owner of Comanche Peak and VistraOps would remain the licensed operator of Comanche Peak; however, for business and tax purposes, the transaction would also create new indirect subsidiaries of VistraOps, resulting in an indirect transfer of control of the Comanche Peak licenses. The NRC is also considering amending

the licenses for administrative purposes to reflect the proposed transfer.

No physical changes to the facilities or operational changes are being proposed in the application.

The NRC's regulations at 10 CFR 50.80 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the direct transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission. The Commission will approve an application for the indirect transfer of a license if the Commission determines that the proposed transfer will not affect the qualifications of the licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility that does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

III. Opportunity To Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 20 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 20 days from the date of publication of this notice in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 20 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053>) and on the NRC's public website at <https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate>.

V. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative

filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the "Guidance for Electronic Submissions to the NRC" (ADAMS Accession No. ML13031A056) and on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at Hearing.Docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)-(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal**

Register and served on the parties to the hearing.

For further details with respect to this application, see the application dated April 14, 2023 (ADAMS Accession No. ML23104A423), as supplemented by letter dated April 20, 2023 (ADAMS Accession No. ML23110A788).

VI. Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Any person who desires access to proprietary, confidential commercial information that has been redacted from the application should contact the applicants by telephoning Jack Hicks, (254) 897-6725, and Phil Lashley, (330) 696-7208, for the purpose of negotiating a confidentiality agreement or a proposed protective order with the applicant. If no agreement can be reached, persons who desire access to this information may file a motion with the Secretary and addressed to the Commission that requests the issuance of a protective order.

Dated: May 17, 2023.

For the Nuclear Regulatory Commission.

Robert F. Kuntz,

Senior Project Manager, Plant Licensing Branch III, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2023-10875 Filed 5-19-23; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97513; File No. SR-CboeBZX-2023-033]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

May 16, 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, Cboe BZX Exchange, Inc. ("Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the "Exchange" or "BZX") proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform ("BZX Equities") by: (1) introducing a new Add Volume Tier; (2) introducing a new Non-Displayed Add Volume Tier; (3) eliminating Step-Up Tiers 1 and 4 and the Non-Displayed Step Up Tier; and (4) reducing the enhanced rebates associated with certain fee codes. The Exchange proposes to implement these changes effective May 1, 2023.³

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Securities Exchange Act of 1934 (the "Act"), to

³ The Exchange initially filed the proposed fee changes on May 1, 2023 (SR-CboeBZX-2023-032). On May 1, 2023, the Exchange withdrew that filing and submitted this proposal.

which market participants may direct their order flow. Based on publicly available information,⁴ no single registered equities exchange has more than 16% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a “Maker-Taker” model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity. The Exchange’s Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above \$1.00, the Exchange provides a standard rebate of \$0.00160 per share for orders that add liquidity and assesses a fee of \$0.0030 per share for orders that remove liquidity.⁵ For orders in securities priced below \$1.00, the Exchange provides a standard rebate of \$0.00009 per share for orders that add liquidity and assesses a fee of 0.30% of the total dollar value for orders that remove liquidity.⁶ Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Add/Remove Volume Tiers

Under footnote 1 of the Fee Schedule, the Exchange currently offers various Add/Remove Volume Tiers. In particular, the Exchange offers six Add Volume Tiers, that each provide an enhanced rebate for Members’ qualifying orders yielding fee codes B,⁷ V,⁸ or Y,⁹ where a Member reaches certain add volume-based criteria. The Exchange now proposes to introduce a seventh Add Volume Tier. The proposed criteria of Add Volume Tier 7 is as follows:

- Proposed Tier 7 will provide a rebate of \$0.0031 per share for securities

⁴ See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (April 21, 2023), available at https://www.cboe.com/us/equities/market_statistics/.

⁵ See BZX Equities Fee Schedule, Standard Rates.

⁶ *Id.*

⁷ Fee code B is appended to displayed orders adding liquidity to BZX in Tape B securities.

⁸ Fee code V is appended to displayed orders adding liquidity to BZX in Tape A securities.

⁹ Fee code Y is appended to displayed orders adding liquidity to BZX in Tape C securities.

priced above \$1.00 to qualifying orders (*i.e.*, orders yielding fee codes B, V, or Y) where a Member has an ADAV¹⁰ as a percentage of TCV¹¹ $\geq 0.40\%$; and Member adds an ADV¹² $\geq 0.05\%$ of the TCV for Non-Displayed orders that yield fee codes HB,¹³ HI,¹⁴ HV¹⁵ or HY;¹⁶ and Member has a Tape B ADAV $\geq 0.65\%$ of the Tape B TCV.

Also under footnote 1 of the Fee Schedule, the Exchange currently offers five Non-Displayed Add Volume Tiers, that each provide an enhanced rebate for Members’ qualifying orders yielding fee codes HB, HV or HY, where a Member reaches certain non-displayed add volume-based criteria. The Exchange now proposes to add a sixth Non-Displayed Add Volume Tier. The proposed criteria of Non-Displayed Add Volume Tier 6 is as follows:

- Proposed Non-Displayed Add Volume Tier 6 will provide a rebate of \$0.0025 per share for securities priced above \$1.00 to qualifying orders (*i.e.*, orders yielding fee codes HB, HV or HY) where a Member has an ADAV as a percentage of TCV $\geq 0.40\%$; and Member adds an ADV $\geq 0.05\%$ of the TCV for Non-Displayed orders that yield fee codes HB, HI, HV or HY; and Member has a Tape B ADAV $\geq 0.65\%$ of the Tape B TCV.

The Exchange notes that its proposal to introduce a new Add Volume Tier 7 and a new Non-Displayed Add Volume Tier 6 is designed to provide Members with additional ways in which to receive an enhanced rebate if certain criteria are satisfied. The Exchange believes that by introducing proposed Add Volume Tier 7 and Non-Displayed Add Volume Tier 6, Members are incentivized to add both displayed and non-displayed volume on the Exchange, thereby contributing to a deeper and more liquid market, which benefits all market participants and provides greater execution opportunities on the Exchange.

¹⁰ “ADAV” means average daily added volume calculated as the number of shares added per day. ADAV is calculated on a monthly basis.

¹¹ “TCV” means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

¹² “ADV” means average daily volume calculated as the number of shares added or removed, combined, per day. ADV is calculated on a monthly basis.

¹³ Fee code HB is appended to non-displayed orders adding liquidity to BZX in Tape B securities.

¹⁴ Fee code HI is appended to non-displayed orders adding liquidity to BZX that receive price improvement.

¹⁵ Fee code HV is appended to non-displayed orders adding liquidity to BZX in Tape A securities.

¹⁶ Fee code HY is appended to non-displayed orders adding liquidity to BZX in Tape C securities.

Step-Up Tiers

Under footnote 2 of the Fee Schedule, the Exchange currently offers four Step-Up Tiers that each provide an enhanced rebate for Members’ qualifying orders yielding fee codes B, V, and Y, where a Member reaches certain add volume-based criteria, including “growing” its volume over a certain baseline month. The Exchange is proposing to discontinue Step-Up Tiers 1 and 4, as no Members have satisfied the criteria within the past six months and the Exchange no longer wishes to, nor is required to, maintain such tier. More specifically, the proposed change removes these tiers as the Exchange would rather redirect future resources and funding into other programs and tiers intended to incentivize increased order flow.

Also under footnote 2 of the Fee Schedule, the Exchange currently offers a Non-Displayed Step Up tier that provides an enhanced rebate for Members’ qualifying orders yielding fee codes HB, HV, and HY, where a Member reaches certain non-displayed add volume-based criteria, including “growing” its volume over a certain baseline month. The Exchange is proposing to discontinue the Non-Displayed Step Up Tier, as no Members have satisfied the criteria since its introduction and the Exchange no longer wishes to, nor is required to, maintain such tier. More specifically, the proposed change removes this tier as the Exchange would rather redirect future resources and funding into other programs and tiers intended to incentivize increased order flow.

Fee Codes and Associated Fees

Currently, fee codes HB, HV, and HY are appended to non-displayed orders that add liquidity and receive an enhanced rebate of \$0.00100 per share. The Exchange now proposes to reduce the amount of the enhanced rebate from \$0.00100 per share to \$0.00080 per share for orders appended with fee codes HB, HV, or HY. The purpose of lowering the rebate associated with orders appended with fee codes HB, HV, or HY is for business and competitive reasons, as the Exchange believes that reducing such rebate as proposed would decrease the Exchange’s expenditures with respect to transaction pricing in a manner that is still consistent with the Exchange’s overall pricing philosophy of encouraging added liquidity. The Exchange notes that despite the modest decrease of the rebate associated with fee codes HB, HV, and HY, the lower rebate remains competitive and is in-line with the enhanced rebate paid to

non-displayed orders adding liquidity on other exchanges, including the Exchange's affiliate exchange.¹⁷

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.¹⁸ Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)¹⁹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)²⁰ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as section 6(b)(4)²¹ as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposal to adopt Add Volume Tier 7 and Non-Displayed Add Volume Tier 6 reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members. Additionally, the Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,²² including the Exchange,²³ and are reasonable, equitable and non-discriminatory because they are open to

all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Competing equity exchanges offer similar tiered pricing structures, including schedules of rebates and fees that apply based upon members achieving certain volume and/or growth thresholds, as well as assess similar fees or rebates for similar types of orders, to that of the Exchange.

In particular, the Exchange believes its proposal to adopt Add Volume Tier 7 and Non-Displayed Add Volume Tier 6 is reasonable because the revised tiers will be available to all Members and provide all Members with an additional opportunity to receive an enhanced rebate or a reduced fee. The Exchange further believes the proposed Add Volume Tier 7 and Non-Displayed Add Volume Tier 6 will provide a reasonable means to encourage liquidity adding displayed orders and liquidity adding non-displayed orders, respectively, in Members' order flow to the Exchange and to incentivize Members to continue to provide liquidity adding volume to the Exchange by offering them an additional opportunity to receive an enhanced rebate or reduced fee on qualifying orders. An overall increase in activity would deepen the Exchange's liquidity pool, offers additional cost savings, support the quality of price discovery, promote market transparency and improve market quality, for all investors.

The Exchange believes that its proposal to eliminate Step-Up Tiers 1 and 4 and the Non-Displayed Step Up Tier is reasonable because the Exchange is not required to maintain these tiers or provide Members an opportunity to receive enhanced rebates. The Exchange believes the proposal to eliminate these tiers is also equitable and not unfairly discriminatory because it applies to all Members (*i.e.*, the tiers will not be available for any Member). The Exchange notes that no Members have satisfied the criteria of Step-Up Volume Tier 4 in any of the past six months. While certain Members have recently satisfied the criteria of Step-Up Volume Tier 1 and the Non-Displayed Step Up Tier, the Exchange believes these Members will have the opportunity to receive enhanced rebates under other tiers offered by the Exchange. The Exchange also notes that the proposed rule change to remove these tiers merely results in Members not receiving an enhanced rebate, which, as noted above,

the Exchange is not required to offer or maintain.

The Exchange believes that the proposed introduction of Add Volume Tier 7 and Non-Displayed Add Volume Tier 6 are reasonable as they do not represent a significant departure from the criteria currently offered in the Fee Schedule. The Exchange also believes that the proposal represents an equitable allocation of fees and rebates and is not unfairly discriminatory because all Members will be eligible for the proposed new tiers and have the opportunity to meet the tiers' criteria and receive the corresponding enhanced rebate if such criteria is met. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any Members qualifying the new proposed tiers. While the Exchange has no way of predicting with certainty how the proposed changes will impact Member activity, based on the prior months volume, the Exchange anticipates that at least one Member will be able to satisfy proposed Add Volume Tier 7 and at least two Members will be able to satisfy proposed Non-Displayed Add Volume Tier 6. The Exchange also notes that proposed changes will not adversely impact any Member's ability to qualify for enhanced rebates offered under other tiers. Should a Member not meet the proposed new criteria, the Member will merely not receive that corresponding enhanced rebate. Furthermore, the proposed rule change to eliminate Step-Up Tier 4 enables the Exchange to redirect resources and funding into other programs and tiers intended to incentivize increased order flow.

In addition, the Exchange believes that its proposal to reduce the enhanced rebate associated with fee codes HB, HV, and HY is reasonable, equitable, and consistent with the Act because such change is designed to decrease the Exchange's expenditures with respect to transaction pricing in order to offset some of the costs associated with the Exchange's current pricing structure, which provides various rebates for liquidity-adding orders, and the Exchange's operations generally, in a manner that is consistent with the Exchange's overall pricing philosophy of encouraging adding liquidity. The proposed lower enhanced rebate (\$0.00080 per share) is reasonable and appropriate because it represents only a modest decrease from the current enhanced rebate (\$0.00100 per share) and remains competitive with rebates offered by other exchanges, including

¹⁷ See *e.g.*, EDGX Equities Fee Schedule, Fee Codes and Associated Fees.

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

²⁰ *Id.*

²¹ 15 U.S.C. 78f(b)(4).

²² See *e.g.*, EDGX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

²³ See *e.g.*, BZX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

the Exchange's affiliate exchange.²⁴ The Exchange further believes that the proposed reduction of the enhanced rebate associated with fee codes HB, HV, and HY is not unfairly discriminatory because it applies to all Members equally, in that all Members will receive the lower rebate if their orders are appended with fee code HB, HV, or HY.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."

The Exchange believes the proposed rule changes do not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed introduction of Add Volume Tier 7 and Non-Displayed Add Volume Tier 6 will apply to all Members equally in that all Members are eligible for each of the Tiers, have a reasonable opportunity to meet the Tiers' criteria and will receive the enhanced rebate on their qualifying orders if such criteria are met. In addition, the proposed change to eliminate Step-Up Tiers 1 and 4 and the Non-Displayed Step Up Tier and the proposed reduction of the enhanced rebate associated with fee codes HB, HV, and HY will not impose any burden on intramarket competition because the changes apply to all Members uniformly, as in, the tiers will no longer be available to any Member and all Members will be subject to the lower enhanced rebate for orders appended with fee code HB, HV, or HY. The Exchange does not believe the proposed changes burden competition, but rather, enhances competition as it is intended to increase the competitiveness of BZX by adopting pricing incentives in order to attract order flow and incentivize

participants to increase their participation on the Exchange, providing for additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Next, the Exchange believes the proposed rule changes does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 16% of the market share.²⁵ Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."²⁶ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its

market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . .".²⁷ Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act²⁸ and paragraph (f) of Rule 19b-4²⁹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2023-033 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.

²⁷ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

²⁸ 15 U.S.C. 78s(b)(3)(A).

²⁹ 17 CFR 240.19b-4(f).

²⁵ *Supra* note 3.

²⁶ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²⁴ *Supra* note 16.

All submissions should refer to File Number SR–CboeBZX–2023–033. 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–CboeBZX–2023–033, and should be submitted on or before June 12, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–10813 Filed 5–19–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97514; File No. PCAOB–2023–01]

Public Company Accounting Oversight Board; Order Granting Approval of Proposed Amendments To Conform PCAOB Rule 6100 to the Consolidated Appropriations Act, 2023

I. Introduction

On March 29, 2023, the Public Company Accounting Oversight Board (the “Board” or the “PCAOB”) filed with the Securities and Exchange

Commission (the “Commission”), pursuant to section 107(b)¹ of the Sarbanes-Oxley Act of 2002 (“SOX”) and section 19(b)² of the Securities Exchange Act of 1934 (the “Exchange Act”), a proposal to adopt amendments (the “Proposed Amendments”) to existing PCAOB Rule 6100 to align with recent changes to SOX that relate to Board determinations under the Holding Foreign Companies Accountable Act (the “HFCAA”).³ The Proposed Amendments were published for comment in the **Federal Register** on April 4, 2023.⁴ We received no comment letters in response to the notice. This order approves the Proposed Amendments, which we find to be consistent with the requirements of SOX and the securities laws and necessary or appropriate in the public interest or for the protection of investors.

II. Description of the Proposed Amendments

On March 28, 2023, the PCAOB adopted the Proposed Amendments.⁵ The Proposed Amendments would amend existing PCAOB Rule 6100 to align the rule with recent changes to section 104(i)(2)(A)(ii) of SOX enacted by the Consolidated Appropriations Act, 2023.⁶ These amendments would allow the Board to make a determination regarding its inability to inspect or investigate completely a registered public accounting firm based on positions taken by authorities in any foreign jurisdiction, not just the foreign jurisdiction in which the firm is headquartered or has an office.

III. Effective Date

The Proposed Amendments would be effective immediately upon Commission approval.

¹ 5 U.S.C. 7217(b).

² 15 U.S.C. 78s(b).

³ The HFCAA requirements were amended by the Consolidated Appropriations Act, 2023 (Pub. L. 117–328, 136 Stat. 4459 (Dec. 29, 2022)).

⁴ See *Public Company Accounting Oversight Board; Notice of Filing of Proposed Rules on Amendments to Board Rule Governing Determinations Under the Holding Foreign Companies Accountable Act*, Release No. 34–97223 (Mar. 30, 2023) [88 FR 20002 (Apr. 4, 2023)], available at <https://www.sec.gov/rules/pcaob/2023/34-97223.pdf>.

⁵ See *Amendments to Board Rule Governing Determinations Under the Holding Foreign Companies Accountable Act*, PCAOB Release No. 2023–002 (Mar. 28, 2023), available at https://assets.pcaob.us/pcaob-dev/docs/default-source/rulemaking/docket-050/pcaob-release-no.-2023-002--rule-6100-amendments.pdf?sfvrsn=c4c270d0_4.

⁶ Public Law 117–328, 136 Stat. 4459 (Dec. 29, 2022).

IV. Comment Letters

The comment period on the Proposed Amendments ended on April 25, 2023. We received no comment letters in response to this notice.

V. Effect on Emerging Growth Companies

Pursuant to section 103(a)(3)(C) of SOX, the rules and related amendments to PCAOB standards are subject to a separate determination by the Commission regarding their applicability to audits of emerging growth companies (as defined in section 3(a)(80) of the Exchange Act). The Commission would approve such rules only if it makes a determination that the application of such additional requirements is necessary or appropriate in the public interest after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.⁷ The PCAOB concluded that section 103(a)(3)(C) of SOX does not apply to this rulemaking because the Amendments neither require “mandatory audit firm rotation or a supplement to the auditor’s report in which the auditor would be required to provide additional information about the audit firm and the financial statements” of issuers nor do they impose any “additional requirements” on audits of emerging growth companies. We agree with the PCAOB’s conclusion that section 103(a)(3)(C) of SOX does not apply to this rulemaking.

While we agree with the Board’s conclusion that section 103(a)(3)(C) of SOX does not apply to the Proposed Amendments and thus do not need to make the additional determination described above, we nonetheless believe the Proposed Amendments are necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation. Specifically, all firms, including auditors of EGCs, and investors will benefit from the clarification regarding the Board’s determinations set forth in the Proposed Amendments.

VI. Conclusion

The Commission has carefully reviewed and considered the Proposed Amendments and the information submitted therewith by the PCAOB.

In connection with the PCAOB’s filing and the Commission’s review, the Commission finds that:

A. The Proposed Amendments are consistent with the requirements of SOX

⁷ See Section 103(a)(3)(C) of SOX.

³⁰ 17 CFR 200.30–3(a)(12).

and the securities laws and are necessary or appropriate in the public interest or for the protection of investors; and

B. Section 103(a)(3)(C) of SOX does not apply to the Proposed Amendments.

It is therefore ordered, pursuant to section 107 of SOX and section 19(b)(2) of the Exchange Act, that the Proposed Amendments (File No. PCAOB-2023-01) be and hereby are approved.

By the Commission.

Dated: May 16, 2023.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2023-10812 Filed 5-19-23; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, May 25, 2023.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.sec.gov>.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory,

examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Authority: 5 U.S.C. 552b.

Dated: May 18, 2023.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2023-10972 Filed 5-18-23; 4:15 pm]

BILLING CODE 8011-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 33 (Sub-No. 351X)]

Union Pacific Railroad Company— Abandonment Exemption—in Weber and Davis Counties, Utah

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon service over the portion of the Hill Field Industrial Lead extending from milepost 0.6 to milepost 6.8, a total distance of 6.2 miles, in Weber and Davis Counties, Utah (the Line). The Line traverses U.S. Postal Service Zip Codes 84405, 84067, 84015, and 84056.

UP has certified that: (1) no local freight traffic has moved over the Line during the past two years; (2) no overhead traffic has moved over the Line during the past two years, and therefore there is no need to reroute any overhead traffic; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government on behalf of such user) regarding cessation of service over the Line is pending with either the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(b) and 1105.8(c) (notice of environmental and historic reports), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial

assistance (OFA) has been received,¹ this exemption will be effective on June 21, 2023, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 1, 2023.³ Petitions to reopen and requests for public use conditions under 49 CFR 1152.28 must be filed by June 12, 2023.

All pleadings, referring to Docket No. AB 33 (Sub-No. 351X), must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on UP's representative, Whitney C. Larkin, 1400 Douglas Street MS 1580, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void ab initio.

UP has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by May 26, 2023. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0294. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245. Comments on environmental or historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If

¹ Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.*, subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(2)(i).

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Serv. Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

³ Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

consummation has not been effected by UP's filing of a notice of consummation by May 22, 2024, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at www.stb.gov.

Decided: May 17, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Regena Smith-Bernard,
Clearance Clerk.

[FR Doc. 2023-10873 Filed 5-19-23; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2023-0029 (Notice No. 2023-07)]

Hazardous Materials: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on six Office of Management and Budget (OMB) control numbers pertaining to hazardous materials transportation. PHMSA intends to request renewal for these six control numbers from OMB.

DATES: Interested persons are invited to submit comments on or before July 21, 2023.

ADDRESSES: You may submit comments identified by the Docket Number PHMSA-2023-0029 (Notice No. 2023-07) by any of the following methods:

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

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, Routing Symbol M-30, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* To the Docket Management System; Room W12-140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and Docket Number (PHMSA-2023-0029) for this

notice at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide.

Requests for a copy of an information collection should be directed to Steven Andrews or T. Glenn Foster, Standards and Rulemaking Division, (202) 366-8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

Docket: For access to the dockets to read background documents or comments received, go to <http://www.regulations.gov> or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public 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.

Confidential Business Info: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as "CBI." Please mark each page of your submission containing CBI as "PROPIN." PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Steven Andrews or Glenn Foster, Standards and Rulemaking Division and addressed to the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Any commentary that PHMSA receives which is not specifically designated as CBI will be placed in the public docket for this notice.

FOR FURTHER INFORMATION CONTACT: Steven Andrews or T. Glenn Foster, Standards and Rulemaking Division,

(202) 366-8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), title 5, Code of Federal Regulations (CFR) requires the Pipeline and Hazardous Materials Safety Administration (PHMSA) to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection requests that PHMSA will be submitting to the Office of Management and Budget (OMB) for renewal and extension. These information collections are contained in 49 CFR 171.6 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180). PHMSA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in proposed or final rules published since the information collections were last approved. The following information is provided for each information collection: (1) title of the information collection, including former title if a change is being made; (2) OMB control number; (3) summary of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a 3-year term of approval for each information collection activity and will publish a notice in the **Federal Register** alerting the public upon OMB's approval.

PHMSA requests comments on the following information collections:

Title: Inspection and Testing of Portable Tanks and Intermediate Bulk Containers.

OMB Control Number: 2137-0018.

Summary: This OMB control number describes the information collections in parts 173, 178, and 180 of the HMR pertaining to the documenting qualifications, inspections, tests, and approvals pertaining to the manufacture and use of portable tanks and intermediate bulk containers (IBCs) under various provisions of the HMR. Information collections under this OMB control number include:

(1) *Design Qualification Testing for IBCs:* This information collection consists of the minimum requirements for testing procedures to ensure that IBCs containing hazardous materials can withstand normal conditions of transportation. Each packaging must pass the prescribed tests and conform to § 173.24 while in transportation. The

testing requirements in § 178.801(d) ensure that the packaging manufacturer achieves successful test results for the design qualification testing at the start of production of each new or different IBC design type.

(2) *Periodic Design Requalification Testing of IBCs:* This information collection consists of the requirements for periodic design re-qualification of each qualified IBC design type to maintain authorization for continued production. IBC manufacturers must conduct successful tests at sufficient frequency to ensure each packaging produced is capable of passing the design qualification tests, which must be conducted at least once every 12 months.

(3) *Applications for Approval of Equivalent Packaging:* This information collection consists of the requirements for approval of equivalent packaging applications submitted by the regulated community to PHMSA, which allows the use of an IBC differing from the standards outlined in the HMR if it is shown to be equally effective and if the testing methods used are equivalent.

(4) *Reporting Requirements for Retest and Inspection of IBCs:* This information collection consists of the requirements for the continuing qualification, maintenance, or periodic retesting of an IBC by any person responsible for it. Each IBC constructed in accordance with a United Nations (UN) standard for which a test or inspection is required may not be filled and offered for transportation or transported until the testing and inspection have been successfully

completed. The information collection also reflects the creation of a report that identifies the testing and inspection of IBCs.

(5) *Recordkeeping for IBC Testing:* This information collection consists of the recordkeeping requirements associated with IBC testing in §§ 178.801 and 180.352. The IBC owner or lessee must keep records of periodic retests, initial and periodic inspections, and test performance on the IBC if it has been repaired. Records must be kept for each packaging at each location where periodic tests are conducted and must be available for inspection by a DOT representative upon request.

(6) *Manufacturers Data Report (ASME) for Portable Tanks:* This information collection consists of the requirements for tanks designed and constructed in accordance with, and that fulfill all the requirements of, the American Society of Mechanical Engineers (ASME) Code. In addition to the markings required by the ASME Code, every tank must bear permanent marks that include the information specified in § 178.255–14, which must be stamped into the metal near the center of one of the tank heads or stamped into a plate permanently attached to the tank by means of brazing or welding or other suitable means.

(7) *Approval Applications for Specification UN Portable Tank Design:* This information collection requires an owner or manufacturer of a portable tank to apply for an approval to a designated approval agency authorized to approve new portable tanks designs.

(8) *Applications for Modifications to Portable Tank Designs:* This information

collection requires an owner or manufacturer of a portable tank to apply for an approval to a designated approval agency authorized to approve the modifications to portable tanks designs.

(9) *Portable Tanks—Approval Agency Retention of Documents:* This information collection consists of the requirement for approval agencies to review all drawings and calculations to ensure that the design is compliant with the relevant specification. The approval agency must maintain the drawings and approval records for as long as the portable tank remains in service and provide this information to the DOT upon request.

(10) *Portable Tanks—Manufacturers Retention of Documents:* This information collection requires that qualification records for specification portable tanks be retained for at least 5 years by the tank manufacturer and made available to duly identified representatives of the DOT or the owner of the tank.

(11) *Recordkeeping for the Testing of Portable Tank:* This information collection requires that the owner of the portable tank or his/her authorized agent will retain a written record indicating the date and results of all required tests, as well as the name and address of the tester, until the next retest has been satisfactorily completed and recorded. This information must be provided to the DOT upon request.

The following is a list of the information collections and burden estimates associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Design Qualification Testing for IBCs—Applications for the Certification Mark	13	494	3	1,482
Periodic Design Requalification Testing of IBCs—Submission of Changes to Test Frequency to the Associate Administrator	13	494	3	1,482
Applications for Approval of Equivalent Packaging—IBCs	5	5	3	15
Reporting Requirements for Retest and Inspection of IBCs	1,000	100,000	0.25	25,000
Recordkeeping for IBC Testing	150	150	0.25	38
Manufacturers Data Report (ASME) for Portable Tanks	50	50,000	0.25	12,500
Approval Applications for Specification UN Portable Tank Design	13	494	3	1,482
Applications for Modifications to Portable Tank Designs	13	494	3	1,482
Portable Tanks—Approval Agency Retention of Documents	13	494	0.25	124
Portable Tanks—Manufacturers Retention of Documents	50	50,000	0.25	12,500
Recordkeeping for the Testing of Portable Tanks	150	150	0.25	38

Affected Public: Manufacturers and owners of portable tanks and intermediate bulk containers.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 1,470.

Total Annual Responses: 202,775.

Total Annual Burden Hours: 56,143.

Frequency of Collection: On occasion.

Title: Hazardous Materials Shipping Papers & Emergency Response Information.

OMB Control Number: 2137–0034.

Summary: This OMB control number describes the information collections in parts 172, 173, 174, 175, 176 and 177 of

the HMR pertaining to the requirement to provide a shipping paper and emergency response information with shipments of hazardous materials. Shipping papers are considered to be a basic communication tool relative to the transportation of hazardous materials. The definition of a shipping paper in 49

CFR 171.8 includes a shipping order, bill of lading, manifest, or other shipping document serving a similar purpose and containing the information required by §§ 172.202, 172.203, and 172.204 of the HMR. A shipping paper with emergency response information must accompany most hazardous materials shipments and be readily available at all times during transportation.

Shipping papers serve as the principal source of information regarding the presence of hazardous materials, identification, quantity, and emergency response procedures. They also serve as the source of information for compliance with other requirements, such as the placement of rail cars containing different hazardous materials in trains; prevent the loading of poisons with foodstuffs; maintain the separation of incompatible hazardous materials; and limit the amount of radioactive materials that may be transported in a vehicle or aircraft. Shipping papers and emergency response information also serve as a means of notifying transport workers that hazardous materials are

present. Most importantly, shipping papers serve as a principal means of identifying hazardous materials during transportation emergencies. Firefighters, police, and other emergency response personnel are trained to obtain the DOT shipping papers and emergency response information when responding to hazardous materials transportation emergencies. The availability of accurate information concerning hazardous materials being transported significantly improves response efforts in these types of emergencies. In addition to the shipping paper and emergency response information, this OMB control number also includes the following information collections:

(1) *Notice of Pilot in Command*: This information collection consists of the additional time required for the pilot-in-command to complete the confirmation process for the loading of hazardous materials on aircraft. The confirmation process includes obtaining a signature or other appropriate indication from the person responsible for loading the aircraft and from the pilot-in-command.

(2) *Lithium Battery Test Summary Document*: This information collection requires the creation of a lithium battery test summary document for lithium cells and batteries manufactured after January 1, 2008. This information collection includes both a reporting and recordkeeping component.

(3) *Air Transportation Discrepancy Reports*: This information collection requires that each person who discovers an improperly described, certified, labeled, marked, or packaged hazardous material during air transportation, including passenger baggage (known as a passenger (PAX) discrepancy), must notify the nearest Federal Aviation Administration (FAA) Regional Office by telephone or electronically. Electronic notifications may be submitted by email or through the Safety Assurance System (SAS) External Portal.

The following is a list of the information collections and burden estimates associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Hazardous Materials Shipping Papers & Emergency Response Information	260,000	175,262,735	.03	4,599,426
Notice of Pilot in Command	150	2,004,717	.003	5,961
Lithium Battery Test Summary—Reporting	73	2,336	0.5	1,168
Lithium Battery Test Summary—Recordkeeping	5,790	19,596	0.116	2,286
Air Transportation Discrepancy Reports	58	15,529	.0833	1,294

Affected Public: Shippers and carriers of hazardous materials in commerce.

Annual Reporting and Recordkeeping Burden:

Total Number of Respondents: 266,071.

Total Annual Responses: 177,304,913.

Total Annual Burden Hours: 4,610,135.

Frequency of Collection: On occasion.
Title: Approval for Hazardous Materials.

OMB Control Number: 2137-0557.

Summary: This OMB control number describes the information collections in parts 107, 173, 175, 176, 178, and 180 of the HMR pertaining to approvals issued by the Office of Hazardous Materials Safety (OHMS) within PHMSA. Without these requirements there is no means to: (1) Determine whether applicants who apply to become designated approval agencies are qualified to evaluate package design, test packages, classify hazardous materials, etc.; (2) verify that various containers and special loading requirements for vessels meet the requirements of the HMR; and (3) assure that regulated hazardous materials pose

no danger to life and property during transportation.

There are several approval provisions contained in the HMR and associated procedural regulations. Responses to these collections of information are required to obtain benefits, such as becoming an approval or certification agency, or to obtain a variance from packaging or handling requirements based on information provided by the respondent. These benefits and variances involve areas, for example, such as UN third-party certification; authorization to examine and test lighters; authorization to examine and test explosives; and authorization to re-qualify DOT cylinders. Specifically, the information collections under this OMB control number include:

(1) *Designated approval agencies, independent cylinder testing agencies, and prospective foreign manufacturers of cylinders*: This information collection consists of the requirement for parties to obtain approval from the Associate Administrator in order to become designated approval agencies, independent cylinder testing agencies,

or prospective foreign manufacturers of cylinders. These designated approval agencies evaluate the design of packagings used for the shipments of hazardous materials.

(2) *Approval of Cylinder and Pressure Receptacle Requalifiers*: This information collection concerns the requirement for approval by the Associate Administrator to inspect, test, certify, repair, or rebuild a DOT specification cylinder or a UN pressure receptacle under certain circumstances. These circumstances include a special permit issued under this part or a cylinder manufactured in accordance with Transport Canada's Transportation of Dangerous Good (TDG) Regulations.

(3) *M-Numbers*: This information collection consists of assigning M-numbers to companies involved in the manufacturing, reconditioning, repairing, or testing of DOT specification containers or cylinders used for transporting hazardous materials.

(4) *RIN Approval for Cylinders (International Shipments)*: This information collection consists of an

application that RIN holders can submit under § 107.805(f)(2), which includes required information and certifications related to the inspection and requalification of certain cylinder specifications.

(5) *Competent Authority Approvals:* This information collection consists of additional approval and classification requirements for transporting certain hazardous materials, such as tear gas devices and certain organic peroxides. Tear gas devices require extra approval for transport in closed environments, while certain organic peroxides require special refrigeration and PHMSA approval to prevent self-accelerated decomposition.

(6) *Lithium Battery State of Charge Approval:* This information collection consists of an approval process that allows for the transportation of lithium-ion cells and batteries on cargo aircraft with a state of charge exceeding 30 percent of their rated capacity. This is in contrast to the general requirement that such transportation must occur

with a state of charge not exceeding 30 percent of their rated capacity.

(7) *Alternative Packagings or Test Methods:* This information collection consists of an approval process that allows a person to offer a hazardous material in transportation with alternative packaging or test methods, which are not currently authorized in the HMR. The approvals provide flexibility to the industry by allowing packagings that are not constructed as per the HMR and permitting specific testing, test methods, and intervals.

(8) *Infectious Substances:* This information collection consists of a requirement to obtain approval for the transportation of live animals containing or contaminated with genetically modified micro-organisms, including those that also meet the Division 6.2 material definition, to comply with approved terms and conditions set by the Associate Administrator for Hazardous Materials Safety.

(9) *Testing and Assignment of the Classification of Explosive Materials:*

This information collection consists of an approval process for the testing and assignment of hazard classifications for the transportation of explosives and explosive devices, including fireworks, which pose significant technical difficulties and hazards. Proper hazard classification is crucial for the safe packaging and handling of these materials during transportation via all modes, as an incorrect classification could result in improper packaging or handling and cause damage to property, loss of life, or both.

(10) *Packaging Exception/Exceptions for Division 1.4G Consumer Fireworks:* This information collection consists of an application process for manufacturers of consumer fireworks to obtain approval and classification of their products. The process requires the submission of a complete application containing all relevant information, test results, and certifications.

The following is a list of the information collections and burden estimates associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Designated approval agencies, independent cylinder testing agencies, and prospective foreign manufacturers of cylinders	15	15	4.75	71
Approval of Cylinder and Pressure Receptacle Requalifiers	3,000	3,000	1.105	3,315
M Numbers (New Application)	30	30	4.75	143
M Numbers (Modifications/Renewals)	150	150	1	150
RIN Approval for Cylinders (International Shipments)	3,500	3,500	0.852	2,982
Competent Authority Approvals—Safety Determinations as to the Adequacy of the Packagings for Materials with Special Hazards (New Applications)	50	250	4.75	1,188
Competent Authority Approvals—Safety Determinations as to the Adequacy of the Packagings for Materials with Special Hazards—(Renewals/Modifications/Corrections)	120	480	1	480
Lithium Battery State of Charge Approval	10	10	40	400
Alternative Packagings or Test Methods	24	24	4.75	114
Infectious Substances	5	5	4.75	24
Testing and Assignment of the Classification of Explosive Materials—New Applications	330	330	4.75	1,568
Testing and Assignment of the Classification of Explosive Materials—Modifications	700	700	1	700
Packaging Exception/Exceptions for Division 1.4G Consumer Fireworks	3,200	6,400	4.75	30,400

Affected Public: Business and other entities who must meet the approval requirements in the HMR.

Annual Reporting and Recordkeeping Burden:

Total Number of Respondents: 11,134.

Total Annual Responses: 14,894.

Total Annual Burden Hours: 41,535.

Frequency of Collection: On occasion.

Title: Rail Carrier and Tank Car Tanks Requirements, Rail Tank Car Tanks—Transportation of Hazardous Materials by Rail.

OMB Control Number: 2137–0559.

Summary: This information collection consolidates and describes the information provisions in parts 172, 173, 174, 179, and 180 of the HMR

pertaining to the transportation of hazardous materials by rail and the manufacture, qualification, maintenance, and use of tank cars. The types of information collected include:

(1) *Tank Car Approvals:* This information collection consists of special provisions that mandate the approval of the Associate Administrator or the Association of American Railroads (AAR) Committee on Tank Cars before certain hazardous material packaging or packaging components can be used for transportation of hazardous materials by rail.

(2) *AAR approval required when a tank car is proposed for commodity*

service other than specified on a certificate of construction: This information collection consists of requirements for obtaining AAR Tank Car Committee approval for the use of a tank car for commodities other than those specified in part 173 and the certificate of construction. It also includes requirements for AAR approval of tank car design, materials, construction, conversion, alteration, or construction to a new specification. This information is used to ensure that tank cars are suitable for transporting specific commodities and that tank car design, construction, and modification comply with the relevant regulations.

(3) *Annual tank car owner progress report to FRA*: This information collection consists of the requirement for tank car owners to submit progress reports to the Federal Railroad Administration (FRA) if their tank cars need to be modified to meet the requirements specified in § 173.31. The FRA uses this information to track progress and ensure that all affected tank cars are modified before the regulatory compliance date.

(4) *Compressed Gases and Cryogenic Liquids in Tank Cars and Multi Unit Tank Cars Reporting*: This information collection requires the shipper to notify the FRA whenever a tank car transporting hydrogen chloride, refrigerated liquids, or vinyl fluoride, stabilized is not received by the consignee within 20 days from the date of shipment.

(5) *Reporting to the Bureau of Explosives regarding any restrictions over any portion of its lines*: This information collection requires each rail carrier to report to the Bureau of Explosives (BOE), for publication, all information as to any restrictions which it imposes against the acceptance, delivery, or transportation of any

hazardous materials, over any portion of its lines.

(6) *Nonconforming bulk packages must be repaired or approved from movement by the FRA*: This information collection requires that a bulk packaging, such as a tank car tank, that no longer conforms to applicable HMR requirements may not be forwarded by rail unless repaired or approved for movement by the Associate Administrator for Safety, FRA. Notification and approval must be furnished in writing or through telephonic or electronic means, with subsequent written confirmation provided within two weeks.

(7) *FRA Approval for transportation of bulk packages containing a hazardous material in COFC or TOFC service*: This information collection requires that the Associate Administrator for Safety, FRA approve the transportation of bulk packages, such as portable tanks and cargo tanks, containing a hazardous material in container-on-flatcar (COFC) or trailer-on-flatcar (TOFC) service if not otherwise authorized for transportation.

(8) *Division 1.1 or 1.2 explosive material inspection and Car Certificate requirements*: This information

collection requires that before a Division 1.1 or 1.2 explosive materials may be loaded into a rail car, the car must have been inspected and certified to be in compliance with the requirements of § 174.104(b) by a qualified person designated under 49 CFR 215.11.

(9) *Initial marking, requalification marking, and requalification reporting requirements*: This information collection consist of the requirements for the detail marking of a newly manufactured tank car, requalification tank car marking requirements, and reporting of details for a requalified tank car.

(10) *Quality Assurance Program*: This information collection requires facilities that build, repair, and ensure the structural integrity of tank cars are required to develop and implement a quality assurance program. This information is used by the facility and DOT compliance personnel to ensure that each tank car is constructed or repaired in accordance with the applicable requirements.

The following is a list of the information collections and burden estimates associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Tank Car Approvals	2	2	6.5	13
AAR approval required when a tank car is proposed for commodity service other than specified on a certificate of construction	25	1,200	0.167	200
Annual tank car owner progress report to FRA	100	100	1	100
Compressed Gases and Cryogenic Liquids in Tank Cars and Multi Unit Tank Cars Reporting	6	141	0.25	35
Reporting to the Bureau of Explosives regarding any restrictions over any portion of its lines	34	51	0.333	17
Nonconforming bulk packages must be repaired or approved from movement by the FRA	388	4,308	0.4	1,695
FRA Approval for transportation of bulk packages containing a hazardous material in COFC or TOFC service	6	6	0.5	3
Division 1.1 or 1.2 explosive material inspection and Car Certificate requirements	25	600	0.333	200
Record when a car seal is changed when the car is placarded with Division 1.1 or 1.2 explosive materials	34	170	0.166	28
Initial marking, requalification marking, and requalification reporting requirements	100	15,000	0.116	1,768
Quality assurance program	75	75	5.5	413

Affected Public: Manufacturers, owners, and rail carriers of tank. *Annual Reporting and Recordkeeping Burden*:

Total Number of Respondents: 795.
Total Annual Responses: 21,653.
Total Annual Burden Hours: 4,472.
Frequency of Collection: Annually.
Title: Testing Requirements for Non-Bulk Packaging.

OMB Control Number: 2137-0572.
Summary: These OMB control number describes the information collections in parts 173 and 180 of the

HMR pertaining to the testing requirements for non-bulk packagings. This OMB control number covers performance-oriented packaging standards and allows packaging manufacturers and shippers more flexibility in selecting more economical packagings for their products. These information collections also allow customizing the design of packagings to better suit the transportation environment that they will encounter and encourages technological

innovations, decreases packaging costs, and significantly reduces the need for special permits. These information collections specifically include:

(1) *Testing Requirements for Non-Bulk Packaging (Reporting)*: This information collection consists of various testing requirements that must be met by non-bulk packaging, depending on the type of material it will contain. These include thermal resistance tests for packaging transporting oxygen cylinders,

leakproofness tests for liquid hazardous materials, hydrostatic pressure tests for metal, plastic, and composite containers, cooperage tests for bung-type wooden barrels, and additional testing for packaging intended to contain infectious substances. The specific tests required may vary based on the outer and inner packaging material used.

(2) *Additional Test Reports (Reporting)*: This information collection consists of the requirement to prepare and maintain a test report after each design qualification test or periodic retest of a packaging. The test report must be available to the user of the packaging or a representative of the DOT upon request and includes details such as the date, name, and address of

the testing facility, packaging design type, maximum capacity, characteristics of test contents, and test descriptions and results.

(3) *Test Reports (Recordkeeping)*: This information collection requires that test report must be made available to a user of a packaging or a representative of the DOT, upon request. The test report includes information such as: the date, name, and address of the testing facility; a description of the packaging design type; the maximum capacity; characteristics of test contents; and test descriptions and results.

(4) *Closure Instructions (Reporting)*: This information collection consists of the requirement for the manufacturer or certifier of non-bulk packaging to create closure instructions, in accordance with § 178.2(c). These instructions indicate

the means of closure with which the package was tested and ensure that any subsequent shipper maintains the same level of safety when the package is closed for transportation of hazardous materials.

(5) *Closure Instructions (Recordkeeping)*: This information collection requires that the manufacturer or other person certifying compliance, along each subsequent distributor of the packaging, provide closure instructions to each person to whom the packaging is transferred, as well as any representative of the DOT, for inspection.

The following is a list of the information collections and burden estimates associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Testing Requirements for Non-Bulk Packaging—Reporting	5,000	15,000	2.016	30,250
Additional Test Reports—Reporting	10	30	2	60
Test Reports—Recordkeeping	100	1,000	0.1	100
Closure Instructions—Reporting	500	500	2	1,000
Closure Instructions—Recordkeeping	16,080	16,080	0.083	1,340

Affected Public: Each non-bulk packaging manufacturer that tests packagings to ensure compliance with the HMR.

Annual Reporting and Recordkeeping Burden:

Total Number of Respondents: 21,690.

Total Annual Responses: 32,610.

Total Annual Burden Hours: 32,750.

Frequency of Collection: On occasion.

Title: Hazardous Materials Public Sector Training and Planning Grants.

OMB Control Number: 2137–0586.

Summary: This OMB control number describes the information collections in parts 110 of the HMR pertaining to the procedures for reimbursable grants for public sector planning and training in support of the emergency planning and training efforts of States, Indian tribes, and local communities to manage

hazardous materials emergencies, particularly those involving transportation. Sections in this part address information collection and recordkeeping with regard to applying for grants, monitoring expenditures, and reporting and requesting modifications.

The following is a list of the information collections and burden estimates associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Hazardous Materials Grants Applications	62	62	83.23	5,162

Affected Public: State and local governments, Indian tribes.

Annual Reporting and Recordkeeping Burden:

Total Annual Respondents: 62.

Annual Responses: 62.

Annual Burden Hours: 5,162.

Frequency of collection: On occasion.

Issued in Washington, DC, on May 17, 2023.

T. Glenn Foster,

Chief, Regulatory Review and Reinvention Branch, Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2023–10857 Filed 5–19–23; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Notice of Rate To Be Used for Federal Debt Collection, and Discount and Rebate Evaluation

AGENCY: Bureau of the Fiscal Service, Fiscal Service, Treasury.

ACTION: Notice of rate to be used for Federal debt collection, and discount and rebate evaluation.

SUMMARY: The Secretary of the Treasury is responsible for computing and publishing the percentage rate that is used in assessing interest charges for outstanding debts owed to the Government (The Debt Collection Act of

1982, as amended). This rate is also used by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. In addition, this rate is used in determining when agencies should pay purchase card invoices when the card issuer offers a rebate. The percentage rate generally is calculated on an annual, calendar year basis; however, quarterly adjustments are made to the rate if the annual average of the method used to calculate it results in a change of 2 percent or more. Notice is hereby given that such an adjustment is being implemented, and the applicable rate for April through December 2023 is 3.00 percent.

DATES: April 1, 2023, through December 31, 2023.

FOR FURTHER INFORMATION CONTACT:

Department of the Treasury, Bureau of the Fiscal Service, Disbursing and Debt Management, E-Commerce Division (LC-RM 349B), 3201 Pennsy Drive, Building E, Landover, MD 20785 (Telephone: 202-874-9428).

SUPPLEMENTARY INFORMATION: The rate reflects the Current Value of Funds to the Treasury for use in connection with Federal Cash Management systems and is based on investment rates set for purposes of Public Law 95-147, 91 Stat.1227 (October 28, 1977). The Treasury Office of Debt Management provides the annual Interest Rate Factors used in determining the Current Value of Funds Rate, which are based on weekly average of the Effective Federal Funds Rate, less 25 basis points for the 12-month period ending every September 30. The Current Value of Funds Rate is rounded to the nearest whole percentage and becomes effective each January 1.

Quarterly revisions are made if the annual average, on a moving basis, changes by 2 percentage points or more. The previous notice of rate to be used for Federal debt collection, and discount and rebate evaluation, dated November 21, 2022, announced the rate of 1.00 percent for calendar year 2023. However, with the quarter ending March 30, 2023, the 12-month moving average investment rate increased by 2 percent. Therefore, Treasury is revising the Current Value of Funds Rate for the remainder of calendar year 2023.

The percentage rate to be applied during the period April 1, 2023, through December 31, 2023, is 3.00 percent.

Authority: 31 U.S.C. 3717.

Linda Claire Chero,

Assistant Commissioner, Disbursing and Debt Management and Chief Disbursing Officer.

[FR Doc. 2023-10814 Filed 5-19-23; 8:45 am]

BILLING CODE 4810-AS-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Revenue Procedure 2014-49**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information

collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Disaster Relief.

DATES: Written comments should be received on or before July 21, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include "OMB Number 1545-2237-Disaster Relief" in the subject line of the message.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317-5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at Martha.R.Brinson@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Disaster Relief.

OMB Number: 1545-2237.

Revenue Procedure Number: 2014-49.

Abstract: This revenue procedure establishes a procedure for temporary relief from certain requirements of § 42 of the Internal Revenue Code for owners of low-income buildings (Owners) and housing credit agencies of States or possessions of the United States (Agencies) affected by major disaster areas declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (Stafford Act).

Current Actions: There are no changes in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and households.

Estimated Number of Respondents: 3,500.

Estimated Time per Respondent: 30 mins.

Estimated Total Annual Burden Hours: 1,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 12, 2023.

Martha R. Brinson,
Tax Analyst.

[FR Doc. 2023-10865 Filed 5-19-23; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****Proposed Collection; Comment Request for Regulation Project**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Requirements for Investments to Qualify under section 936(d)(4) as Investments in Qualified Caribbean Basin Countries.

DATES: Written comments should be received on or before July 21, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include "OMB Number 1545-1138-Requirements for Investments to Qualify under section 936(d)(4) as Investments in Qualified Caribbean Basin Countries" in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be

directed to Martha R. Brinson, at (202) 317-5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at Martha.R.Brinson@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Requirements for Investments to Qualify under section 936(d)(4) as Investments in Qualified Caribbean Basin Countries.

OMB Number: 1545-1138.

Regulation Project Number: TD 8350.

Abstract: This document contains final regulations that provide guidance relating to the requirements that must be met for an investment to qualify under Internal Revenue code section 936(d)(4) as an investment in qualified Caribbean Basin countries. The collection of information is required by the Internal Revenue Service to verify that an investment qualifies under IRC section 936(d)(4). The respondents will be possession corporations, certain financial institutions located in Puerto Rico, and borrowers of funds covered by this regulation.

Current Actions: There are no changes in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time per Respondent: 30 hrs.

Estimated Total Annual Burden

Hours: 1,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 12, 2023.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2023-10864 Filed 5-19-23; 8:45 am]

BILLING CODE 4830-01-P



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Part II

Postal Service

39 CFR Part 111

Domestic Competitive Products Pricing and Mailing Standards Changes;
Final Rule

POSTAL SERVICE**39 CFR Part 111****Domestic Competitive Products Pricing and Mailing Standards Changes**

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is amending *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®), to reflect changes to prices and mailing standards for competitive products.

DATES: Effective July 9, 2023.

FOR FURTHER INFORMATION CONTACT: Steven Jarboe at (202) 268–7690, Margaret Pepe (202) 268–3078, or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION: This final rule describes new prices and product features for competitive products, by class of mail, established by the Governors of the United States Postal Service®. New prices are available under Docket Number CP2023–151 on the Postal Regulatory Commission PRC website at <http://www.prc.gov>, and on the Postal Explorer® website at <http://pe.usps.com>.

The Postal Service will revise *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), to reflect changes to certain prices and mailing standards for the following competitive products:

- Priority Mail Express®.
- Priority Mail®.
- USPS Ground Advantage™ (formerly First-Class Package Service®).
- Parcel Select®.
- Extra Services.
- Return Services.
- Mailer Services.
- Recipient Services.
- Other.

Competitive product prices and changes are identified by product as follows:

Priority Mail Express

There are no Priority Mail Express retail or commercial price, or structural changes scheduled for July 9, 2023.

Priority Mail

There are no Priority Mail retail or commercial price, or structural changes scheduled for July 9, 2023.

USPS Ground Advantage (Formerly First-Class Package Service)

First-Class Package Service Rebranded as USPS Ground Advantage

USPS Ground Advantage is a rebranding of First-Class Package

Service that will consolidate USPS Retail Ground® and Parcel Select Ground into the respective retail and commercial price categories. The USPS Ground Advantage—Retail and USPS Ground Advantage—Commercial features are as follows:

USPS Ground Advantage—Retail

- Weight: 1 ounce to 70 pounds (ounce pricing will be in 4 oz., 8 oz., 12 oz., and 15.999 oz., increments for USPS Ground Advantage—Retail).
- Dimensions: Pieces up to 130 inches in length and girth (oversized price).
- USPS Ground Advantage—Limited Overland Route (LOR) prices.
- Dimensional weight (DIM) will apply to USPS Ground Advantage—Retail and USPS Ground Advantage—LOR.
- Nonstandard Fees will apply to USPS Ground Advantage—Retail and USPS Ground Advantage—LOR.
- Sealed against inspection.
- \$100 of insurance included with USPS Ground Advantage—Retail and USPS Ground Advantage—LOR (see “*USPS Ground Advantage Insurance*” below).
- USPS Click-N-Ship added as a payment method.
- Extra Services: Certified Mail® and Certificate of Mailing will no longer be offered.

USPS Ground Advantage—Commercial

- Weight: 1 ounce to 70 pounds (ounce pricing will be in 4 oz., 8 oz., 12 oz., and 15.999 oz., increments).
- Dimensions: Pieces up to 130 inches in length and girth (oversized price).
- USPS Ground Advantage—Cubic prices.
- Dimensional weight (DIM) will apply to USPS Ground Advantage—Commercial.
- Nonstandard Fees will apply to USPS Ground Advantage—Commercial.
- Not Sealed against inspection.
- \$100 of insurance included with USPS Ground Advantage—Commercial and USPS Ground Advantage—Cubic (see “*USPS Ground Advantage Insurance*” below).
- USPS Click-N-Ship added as a payment method.
- Extra Services: Certified Mail and Certificate of Mailing will no longer be offered.

Prices

Overall, USPS Ground Advantage prices will decrease 1.4 percent.

USPS Ground Advantage—Retail prices will decrease 3.2 percent.

USPS Ground Advantage—Commercial prices will decrease 0.7 percent.

USPS Ground Advantage Insurance

The Postal Service is including \$100 of insurance with USPS Ground Advantage—Retail and USPS Ground Advantage—Commercial product offerings. See **Federal Register** notice, *New Mailing Standards for Domestic Mailing Services Products*, (87 FR 21601–21603) for additional information.

Parcel Select*Prices*

The prices for Parcel Select Destination Entry will increase an average of 2.1 percent. The prices for Parcel Select Lightweight® will decrease an average of 0.1 percent. The prices for USPS Connect® Local will remain the same.

Parcel Select Destination Entry Pricing

The Postal Service is revising the Parcel Select Destination Entry pricing structure to eliminate the nonmachinable price table and have one price table that will include price increments for weights from 1 pound through 70 pounds and oversized.

Parcel Select Destination Entry and Parcel Select Lightweight Pricing Component Restructuring

The Postal Service is revising the pricing components of Parcel Select Destination Entry and Parcel Select Lightweight for consistency within the products. Both products will now have four pricing components, Destination Delivery Unit (DDU), Destination Hub (DHub), Destination Sectional Center Facility (DSCF), and Destination Network Distribution Center (DNDC). This revision of pricing components will now make Parcel Select Lightweight consistent with Parcel Select Destination Entry. Additionally, Parcel Select Lightweight will be priced at the 4 ounce, 8 ounce, 12 ounce, and 15.999 ounce increments.

Parcel Select Ground Discontinued

As a result of the rebranding and enhancement of the USPS Ground Advantage—Commercial product, the Postal Service has decided to discontinue the Parcel Select Ground price category offering.

USPS Retail Ground*USPS Retail Ground Discontinued*

As a result of the rebranding and enhancement of the USPS Ground Advantage—Retail product, the Postal

Service has decided to discontinue the USPS Retail Ground product offering.

Return Services

USPS Returns

Priority Mail Express Return Service

The Postal Service is adding Priority Mail Express Return Service to the suite of USPS Returns services. Priority Mail Express standards will apply to Priority Mail Express Return service pieces.

USPS Ground Advantage Return Service (Formerly First-Class Package Return Service)

The Postal Service is rebranding First-Class Package Return Service as USPS Ground Advantage Return Service.

USPS Ground Advantage Return Service Insurance

The Postal Service is including \$100.00 of insurance with USPS Ground Advantage Return service pieces. See **Federal Register** notice, *New Mailing Standards for Domestic Mailing Services Products*, (87 FR 21601–21603) for additional information.

Ground Return Service Discontinued

As a result of the rebranding and enhancement to the USPS Ground Advantage—Commercial product and the Postal Service discontinuing the Parcel Select Ground price category offering, the Postal Service is discontinuing the Ground Return Service (Parcel Select Ground) USPS Returns product offering.

Mailer Services

Pickup on Demand Service

The Pickup on Demand® service fee will remain the same.

USPS Tracking Plus Service

The USPS Premium Tracking Service™ prices will remain the same.

USPS Label Delivery Service

The USPS Label Delivery Service™ prices will remain the same.

Recipient Services

Post Office Box Service

The competitive Post Office Box™ service prices will remain the same.

Premium Forwarding Service

Premium Forwarding Service® (PFS®) prices will remain the same.

USPS Package Intercept

The USPS Package Intercept® fee will remain the same.

Other

Address Enhancement Service

Address Enhancement Service competitive product prices will remain the same.

Small Parcel Forwarding Fee

The small parcel forwarding fee will remain the same.

Physical Standards for Parcels

The Postal Service is revising the maximum dimensions and weight for machinable parcels. The maximum dimensions for a machinable parcel are 22 inches x 18 inches x 15 inches. The maximum weight for a machinable parcel is 25 pounds.

Resources

The Postal Service provides additional resources to assist customers with this price change for competitive products. These tools include price lists, downloadable price files, and **Federal Register** Notices, which may be found on the Postal Explorer® website at <http://pe.usps.com>.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

- 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

- 2. Revise *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

100 Retail Mail Letters, Cards, Flats, and Parcels

101 Physical Standards

* * * * *

3.0 Physical Standards for Parcels

* * * * *

3.2 Maximum Weight and Size

[Revise the third sentence and add a new fourth sentence of 3.2 to read as follows:]

* * * No mailpiece may weigh more than 70 pounds. Except for USPS Ground Advantage—Retail, which may not measure more than 130 inches in length and girth combined no mailpiece may measure more than 108 inches in length and girth combined. ***

* * * * *

[Revise the heading of 6.0 to read as follows:]

6.0 Additional Physical Standards for First-Class Mail and USPS Ground Advantage—Retail

6.1 Maximum Weight

[Revise the text of 6.1 by creating a 6.1.1 and 6.1.2 to read as follows:]

6.1.1 First-Class Mail

First-Class Mail (letters and flats) cannot exceed 13 ounces.

6.1.2 USPS Ground Advantage—Retail

USPS Ground Advantage—Retail cannot exceed 70 pounds.

* * * * *

6.4 Parcels

[Revise the introductory text of 6.4 to read as follows:]

USPS Ground Advantage—Retail parcels are eligible for USPS Tracking and Signature Confirmation service. A USPS Ground Advantage—Retail parcel is:

* * * * *

[Revise the text of item d to read as follows:]

d. A mailpiece that does not exceed 130 inches in combined length and girth.

[Delete 7.0, *Additional Physical Standards for USPS Retail Ground*, in its entirety and renumber 8.0 as 7.0.]

* * * * *

102 Elements on the Face of a Mailpiece

* * * * *

3.0 Placement and Content of Mail Markings

* * * * *

[Revise the heading of 3.3 to read as follows:]

3.3 First-Class Mail and USPS Ground Advantage—Retail Markings

[Revise the first sentence of 3.3 to read as follows:]

Each single-piece price First-Class Mail and USPS Ground Advantage—Retail piece must have a delivery

address but is not required to bear a price marking. * * *

[Revise the heading of 3.4 to read as follows:]

3.4 Media Mail and Library Mail Markings

[Revise the first sentence in the introductory text of 3.4 to read as follows:]

Mailers must print the basic required Package Services subclass marking—"Media Mail," or "Library Mail" on each piece claimed at the respective price. * * *

[Revise the text of item a to read as follows:]

a. The service icon that will identify all Package Services subclasses will be a 1-inch solid black square. If the service icon is used, it must appear in the upper left corner of the shipping label.

[Revise the second sentence of item b to read as follows:]

b. * * * If the service banner is used, the appropriate Package Services subclass marking (e.g., "MEDIA MAIL," "LIBRARY MAIL") must be preceded by the text "USPS" and must be printed in minimum 20-point bold sans serif typeface, uppercase letters, centered within the banner, and bordered above and below by minimum 1-point separator lines. * * *

[Revise the heading of Exhibit 3.4 to read as follows:]

Exhibit 3.4 Package Services Indicator Examples

[Rename the class of mail in the first example in Exhibit 3.4 "USPS Library Mail".]

* * * * *

[Revise the heading of 130 to read as follows:]

130 Retail Mail First-Class Mail and USPS Ground Advantage—Retail

133 Prices and Eligibility

1.0 Prices and Fees

[Revise the heading and introductory text of 1.1 to read as follows:]

1.1 First-Class Mail Single-Piece and USPS Ground Advantage—Retail Price Application

The single-piece prices (see Notice 123—Price List) are applied as follows:

* * * * *

[Revise the text of item d to read as follows:]

The USPS Ground Advantage—Retail parcel price applies to parcel-size pieces under 101.3.0 and to flat-size pieces that do not meet the standards in 101.2.0.

[Revise the heading and introductory text of 1.2 to read as follows:]

1.2 Price Computation for First-Class Mail and USPS Ground Advantage—Retail

First-Class Mail and USPS Ground Advantage—Retail prices are charged as follows:

* * * * *

[Revise the text of item b to read as follows:]

b. USPS Ground Advantage—Retail—Based on weight and zone and is charged as follows:

1. Ounce pricing charged at the 4-ounce, 8-ounce, 12-ounce, and 15.999-ounce increments. Any fraction of an ounce over the 4-ounce, 8-ounce, 12-ounce, and 15.999-ounce increments is rounded to the next price increment. For example, if an item weighs 4.1 ounces, the next weight (price) increment is 8 ounces, if an item weighs 12.1 ounces, the next weight (price) increment is 15.999.

2. Per pound from more than 1 pound through 70 pounds. Any fraction of a pound is considered a whole pound. For example, if an item weighs 1.25 pounds, the weight (price) increment is 2 pounds.

[Renummer 1.3 through 1.6 as 1.5 through 1.8 and add new 1.3 and 1.4 to read as follows:]

1.3 USPS Ground Advantage—Retail—Limited Overland Routes Prices

USPS Ground Advantage—Retail—LOR retail prices are only available when mailing eligible items within Alaska for pieces delivered to or from the eligible intra-Alaska ZIP Codes not connected by overland routes in Exhibit 1.3. USPS Ground Advantage—Retail—LOR retail prices are not available through online or commercial postage payment.

Exhibit 1.3 USPS Ground Advantage—Retail—LOR Eligible Intra-Alaska ZIP Codes

USPS Ground Advantage—Retail—LOR eligible intra-Alaska ZIP Codes are as follows:

- 99545, 99546, 99547, 99548, 99549, 99550, 99551, 99552, 99553, 99554, 99555, 99557, 99558, 99559, 99561, 99563, 99564, 99565, 99569, 99571, 99574, 99575, 99576, 99578, 99579, 99580, 99581, 99583, 99585, 99589, 99590, 99591, 99602, 99604, 99606, 99607, 99608, 99609, 99612, 99613, 99614, 99615, 99619, 99620, 99621, 99622, 99624, 99625, 99626, 99627, 99628, 99630, 99632, 99633, 99634, 99636, 99637, 99638, 99640, 99641, 99643, 99644, 99647, 99648, 99649, 99650, 99651, 99653, 99655, 99656, 99657, 99658, 99659, 99660, 99661, 99662, 99663, 99665, 99666, 99667,

- 99668, 99670, 99671, 99675, 99677, 99678, 99679, 99680, 99681, 99682, 99684, 99685, 99689, 99690, 99691, 99692, 99695, 99697, 99720, 99721, 99722, 99723, 99724, 99726, 99727, 99730, 99732, 99733, 99734, 99736, 99738, 99739, 99740, 99741, 99742, 99745, 99746, 99747, 99748, 99749, 99750, 99751, 99752, 99753, 99754, 99756, 99757, 99758, 99759, 99761, 99762, 99763, 99765, 99766, 99767, 99768, 99769, 99770, 99771, 99772, 99773, 99774, 99777, 99778, 99781, 99782, 99783, 99784, 99785, 99786, 99788, 99789, 99790, 99791, 99801, 99802, 99803, 99811, 99812, 99820, 99821, 99824, 99825, 99826, 99827, 99829, 99830, 99832, 99833, 99835, 99836, 99840, 99841, 99850, 99901, 99903, 99918, 99919, 99921, 99922, 99923, 99925, 99926, 99927, 99928, 99929, 99950.

1.4 Dimensional Weight Price for Low-Density Parcels

Postage for USPS Ground Advantage parcels addressed for delivery to zones 1–9 and USPS Ground Advantage—LOR parcels, exceeding 1 cubic foot (1,728 cubic inches) is based on the actual weight or the dimensional weight (as calculated in 1.4.1 or 1.4.2), whichever is greater.

1.4.1 Determining Dimensional Weight for Rectangular Parcels

Follow these steps to determine the dimensional weight for a rectangular parcel:

a. Measure the length, width, and height in inches. Round off (see 604.7.0) each measurement to the nearest whole inch.

b. Multiply the length by the width and then that total by the height.

c. If the result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.

d. If the dimensional weight exceeds 70 pounds, the customer pays the 70-pound price.

1.4.2 Determining Dimensional Weight for Nonrectangular Parcels

Follow these steps to determine the dimensional weight for a nonrectangular parcel:

a. Measure the length, width, and height in inches at their extreme dimensions. Round off (see 604.7.0) each measurement to the nearest whole inch.

b. Multiply the length by the width and then that total by the height.

c. Multiply the result by an adjustment factor of 0.785.

d. If the final result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.

e. If the dimensional weight exceeds 70 pounds, the customer pays the 70-pound price.

* * * * *

1.8 Nonstandard Fees

[Revise the introductory text of renumbered 1.8 to read as follows:]

A USPS Ground Advantage—Retail and USPS Ground Advantage—LOR piece is subject to a nonstandard fee (see Notice 123—Price List) as follows:

* * * * *

[Revise the heading of 2.0 to read as follows:]

2.0 Basic Eligibility Standards for First-Class Mail and USPS Ground Advantage—Retail

2.1 Description of Service

[Revise the text of 2.1 to read as follows:]

First-Class Mail and USPS Ground Advantage—Retail receive expeditious handling and transportation. The USPS does not guarantee the delivery of First-Class Mail and USPS Ground Advantage—Retail within a specified time. Certain USPS Ground Advantage—Retail pieces may receive deferred handling.

2.2 Defining Characteristics

2.2.1 Inspection of Contents

[Revise the text of 2.2.1 to read as follows:]

First-Class Mail and USPS Ground Advantage—Retail are sealed against postal inspection.

2.2.2 Forwarding and Return Service

[Revise the text of 2.2.2 to read as follows:]

The price of First-Class Mail and USPS Ground Advantage—Retail include forwarding service to a new address for up to 12 months and return service if the mailpiece is undeliverable.

2.2.3 Extra Services

[Revise the text of 2.2.3 to read as follows:]

First-Class Mail and USPS Ground Advantage—Retail are eligible to receive the following extra services (See information regarding additional extra services in 503):

a. First Class Mail—Registered Mail services and Certified Mail services.

b. USPS Ground Advantage—Retail—Registered Mail services.

3.0 Content Standards

3.1 General Eligibility

[Revise the text of 3.1 to read as follows:]

With the exception of restricted material as described in 601.8.0, any mailable item may be mailed as First-Class Mail and USPS Ground Advantage—Retail.

3.2 Bills and Statements of Account

[Revise the introductory text of 3.2 to read as follows:]

Bills and statements of account must be mailed as First-Class Mail, USPS Ground Advantage—Retail, Priority Mail, or Priority Mail Express and are defined as follows:

* * * * *

3.3 Personal Information

[Revise the text of 3.3 to read as follows:]

Mail containing personal information must be mailed as First-Class Mail, USPS Ground Advantage—Retail, Priority Mail, or Priority Mail Express. Personal information is any information specific to the addressee.

3.4 Handwritten and Typewritten Material

[Revise the text of 3.4 to read as follows:]

Mail containing handwritten or typewritten material must be mailed as First-Class Mail, USPS Ground Advantage—Retail, Priority Mail, or Priority Mail Express.

* * * * *

3.6 Prohibited Air Transportation

[Revise the text of 3.6 to read as follows:]

All First-Class Mail and USPS Ground Advantage—Retail are subject to limitations for air transportation in 601.8.0.

134 Postage Payment Methods

[Revise the heading of 1.0 to read as follows:]

1.0 Postage Payment Methods for First-Class Mail and USPS Ground Advantage—Retail

1.1 Payment Method

[Delete the heading 1.1.1 General and move the text under 1.1 to read as follows:]

Postage for single-piece First-Class Mail and USPS Ground Advantage—Retail must be paid as follows:

a. First-Class Mail—with affixed postage stamps (604.1.0), postage evidencing system postage (604.4.0), or precanceled stamps (604.3.0).

b. USPS Ground Advantage—Retail—In addition to the payment methods in 1.1a USPS Ground Advantage may be paid with USPS Click-N-Ship.

[Delete 1.1.2 in its entirety.]

* * * * *

1.3 More Than One Mailer

[Revise the first sentence of 1.3 to read as follows:]

When two or more individuals or organizations, or a party acting as their agent, mail in one package the bills, statements of account, or other letters of the individuals or organizations, to an addressee in common, First-Class Mail or USPS Ground Advantage—Retail postage may be paid on the weight of the entire package of aggregated mail.

* * *

1.4 More Than One Letter

[Revise the introductory text of 1.4 to read as follows:]

An individual or organization may mail in one package more than one of the mailer's own letters and pay First-Class Mail or USPS Ground Advantage—Retail postage on the weight of the entire package of letters if:

* * * * *

1.5 Agent

[Revise the text of 1.5 to read as follows:]

Any agent of a licensing authority may forward completed applications in one envelope to an office of the licensing authority and pay First-Class Mail or USPS Ground Advantage—Retail postage on the weight of the piece.

135 Mail Preparation

[Revise the heading and text of 1.0 to read as follows:]

1.0 Preparation for First-Class Mail and USPS Ground Advantage—Retail

The following standards apply to retail single-piece First-Class Mail and USPS Ground Advantage—Retail:

a. Each piece of First-Class Mail or USPS Ground Advantage—Retail must have a delivery address but is not required to bear a price marking.

b. There are no sorting requirements for retail single-piece First-Class Mail or USPS Ground Advantage—Retail.

136 Deposit

[Revise the heading and introductory text of 1.0 to read as follows:]

1.0 Deposit for First-Class Mail and USPS Ground Advantage—Retail

Retail First-Class Mail (letters, cards, flats) and USPS Ground Advantage—Retail must be deposited as follows:

* * * * *

[Delete Chapter 150, USPS Retail Ground, in its entirety.]

* * * * *

200 Commercial Mail Letters, Flats, and Parcels

* * * * *

201 Physical Standards

* * * * *

7.0 Physical Standards for Parcels

* * * * *

7.3 Maximum Weight and Size

[Revise the text of 7.3 to read as follows:]

No mailpiece may weigh more than 70 pounds. Lower weight limits apply to parcels mailed at Priority Mail cubic, USPS Ground Advantage—Commercial cubic, USPS Marketing Mail, and Bound Printed Matter prices. Except for USPS Ground Advantage—Commercial and Parcel Select, pieces may not measure more than 108 inches in length and girth combined. USPS Marketing Mail Marketing parcels (see 8.4) may not be larger than 12 inches long, 9 inches high, and 2 inches thick. USPS Ground Advantage—Commercial and Parcel Select parcels may not measure more than 130 inches in length and girth combined. For parcels, length is the distance of the longest dimension and girth is the distance around the thickest part. Lower size or weight standards apply to mail addressed to some APOs and FPOs subject to 703.2.0 and 703.4.0 and for Department of State mail, subject to 703.3.0.

* * * * *

7.5 Machinable Parcels

7.5.1 Criteria

A machinable parcel is any piece that is not a letter or a flat and that is (see Exhibit 7.5.1b):

* * * * *

[Revise the text of item b to read as follows:]

b. Not more than 22 inches long, or 18 inches high, or 15 inches thick. Parcels cannot weigh more than 25 pounds.

* * * * *

Exhibit 7.5.1b Machinable Parcel Dimensions

[Revise the maximum dimensions shown in the graphic in Exhibit 7.5.1b to be 22" × 18" × 15".]

* * * * *

8.0 Additional Physical Standards by Class of Mail

* * * * *

[Revise the heading of 8.3 to read as follows:]

8.3 USPS Ground Advantage—Commercial Parcels

8.3.1 Weight

[Revise the text of 8.3.1 to read as follows:]

USPS Ground Advantage—Commercial parcels must not weigh more than 70 pounds.

8.3.2 Size

[Revise the second sentence of the introductory text under 8.3.2 to read as follows:]

* * * A USPS Ground Advantage—Commercial parcel is:

* * * * *

[Revise the text of item d to read as follows:]

d. A mailpiece that does not exceed 130 inches in combined length and girth.

* * * * *

202 Elements on the Face of a Mailpiece

* * * * *

3.0 Placement and Content of Mail Markings

* * * * *

[Revise the heading and text of 3.6 to read as follows:]

3.6 USPS Ground Advantage—Commercial Markings

3.6.1 Basic Markings

The basic required marking "USPS Ground Advantage" must be printed as part of, directly below, or to the left of the postage on all parcels. Optionally, the basic required price marking may be printed on a shipping address label as a service indicator composed of a service icon and service banner.

3.6.2 USPS Ground Advantage—Commercial Cubic Markings

USPS Ground Advantage—Commercial pieces claiming the cubic price must be marked as provided under 3.6.1 and bear the applicable marking that reflects the correct price tier printed on the piece or produced as part of the postage indicia. The cubic tiers are determined by the cubic measurement

of each mailpiece up to the defined threshold, (for example, measurements from .01 up to .10 for "Cubic .10" and from .101 up to .20 for "Cubic .20"). Place the marking directly above, directly below, or to the left of the postage. Approved markings are as follows:

- a. "Cubic .10"
- b. "Cubic .20"
- c. "Cubic .30"
- d. "Cubic .40"
- e. "Cubic .50"
- f. "Cubic .60"
- g. "Cubic .70"
- h. "Cubic .80"
- i. "Cubic .90"
- j. "Cubic 1.00"

3.6.3 Price Marking—Permit Imprint

USPS Ground Advantage—Commercial permit imprint pieces claiming the cubic price must be marked as provided under 3.6.1 and bear the "cubic" marking printed on the piece or produced as part of the permit imprint indicia. Place the marking directly above, directly below, or to the left of the postage. The approved marking is "Cubic" (or "CUBIC," or "cubic").

3.6.4 Soft Pack and Padded Envelope Markings

Regardless of the postage payment method used, soft pack and padded envelopes must be marked as provided under 3.6.1 in addition to the tier price markings in 3.6.2 and the dimensions (length and width) of the original packaging. Place the markings directly above, directly below, or to the left of the postage.

3.7 Parcel Select, Bound Printed Matter, Media Mail, and Library Mail Markings

* * * * *

3.7.2 Parcel Select Markings

[Revise the introductory text of 3.7.2 by deleting the third sentence referencing "USPS Retail Ground."]

* * * * *

[Delete item b and renumber items c and d as b and c.]

* * * * *

[Delete 3.8, Parcel Select Ground Cubic Markings, in its entirety and renumber 3.9 and 3.10 as 3.8 and 3.9.]

* * * * *

203 Basic Postage Statement, Documentation, and Preparation Standards

* * * * *

5.0 Letter and Flat Trays

* * * * *

5.12 Line 2 (Content Line)

Line 2 (content line) must meet these standards:

* * * * *

b. Codes: The codes shown below must be used as appropriate on Line 2 of tray, sack, and pallet labels.

[Delete the “First-Class Package Service—Commercial entry from the list of codes.]

* * * * *

204 Barcode Standards

1.0 Standards for Intelligent Mail Barcodes

* * * * *

1.3 Reflectance

1.3.1 Background Reflectance

A background reflectance of at least 50% in the red portion and 45% in the green portion of the optical spectrum must be produced in the following locations when measured with a USPS or USPS-licensed envelope reflectance meter:

* * * * *

[Revise the text of item b to read as follows:]

b. The area surrounding the barcode (within 1/8 inch of the leftmost and rightmost bars and 1/25 inch above and below the barcode) of a card-size, letter-size, or flat-size piece barcoded in the address block and of a flat-size piece barcoded elsewhere.

* * * * *

1.3.4 Dark Fibers and Background Patterns

Dark fibers or background patterns that produce a print contrast ratio of more than 15% when measured in the red and green portions of the optical spectrum are prohibited in these locations:

* * * * *

[Revise the text of item b to read as follows:]

b. The area of the address block or the area of the mailpiece where the barcode appears on a flat-size piece in an automation mailing.

* * * * *

207 Periodicals

* * * * *

3.0 Physical Characteristics and Content Eligibility

* * * * *

3.4 Impermissible Mailpiece Components

* * * * *

3.4.3 Products

[Revise the last sentence of 3.4.3 to read as follows:]

* * * Package Services, or Parcel Select mail pieces may not be combined with a Periodicals publication.

* * * * *

4.0 Basic Eligibility Standards

* * * * *

4.7 Eligible Formats

4.7.1 Complete Copies

[Revise the last sentence of 4.7.1 to read as follows:]

* * * Incomplete copies (for example, those lacking pages or parts of pages) are subject to the applicable First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, USPS Marketing Mail, or Package Services prices.

* * * * *

4.10 Back Issues and Reprints

[Revise the last sentence of 4.10 to read as follows:]

* * * Other mailings of back issues or reprint copies, including permanently bound back issues or reprint copies, are subject to the applicable Priority Mail Express, Priority Mail, First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, USPS Marketing Mail, or Package Services prices.

* * * * *

5.0 Applying for Periodicals Authorization

* * * * *

5.2 Mailing While Application Pending

* * * * *

5.2.2 Pending Prices

* * * Postage may be paid until final action is taken on the application as follows:

* * * * *

[Revise the text of item b to read as follows:]

b. For a refund after the application is approved, at USPS Marketing Mail, Bound Printed Matter, and Parcel Select prices or at single-piece Priority Mail, First-Class Mail, and USPS Ground Advantage—Retail prices under the exception in 5.3.6e.

* * * * *

5.2.3 Pending Postage

* * * * *

Exhibit 5.2.3 Pending Postage

[Rename the “First-Class Package Service—R” line item as “USPS Ground Advantage—R” to read as follows:]

Pending class of mail	PCT.
USPS Ground Advantage—R	%

* * * * *

5.3 Decision on Application

* * * * *

5.3.6 No Refund

No refund is made for:

* * * * *

[Revise the text of item e to read as follows:]

e. Postage paid at Priority Mail Express, Priority Mail, First-Class Mail, USPS Ground Advantage—Retail, or USPS Ground Advantage—Commercial prices. *Exception:* For a mailing presorted and prepared as Periodicals mail that is less than 200 pieces or 50 pounds, a refund may be authorized when postage is paid at single-piece Priority Mail, First-Class Mail, or USPS Ground Advantage—Retail prices as provided on the applicable postage statement.

* * * * *

6.0 Qualification Categories

* * * * *

6.7 News Agent Registry

* * * * *

6.7.4 Parts Returned

[Revise the text of 6.7.4 to read as follows:]

Parts of publications returned to publishers to show that copies have not been sold are subject to the applicable USPS Marketing Mail, USPS Ground Advantage—Retail, or Package Services prices.

* * * * *

10.0 Preferred Periodicals

* * * * *

10.6 Mailing While Application Pending

10.6.1 Mailing Before Approval

[Revise the text of 10.6.1 to read as follows:]

A publisher or news agent may not mail at a Periodicals Preferred price until the PCSC manager approves the application. Until approval is given, postage must be paid at the Outside-County prices (for authorized Periodicals publications), or at the First-Class Mail, USPS Ground Advantage—

Retail, USPS Ground Advantage—Commercial, USPS Marketing Mail, or Package Services prices (if the publication is in a pending status for Periodicals mailing privileges).

10.6.2 Record of Deposits

[Revise the last sentence of 10.6.2 to read as follows:]

* * * No record is kept if First-Class Mail, USPS Ground Advantage—Retail, or USPS Ground Advantage—Commercial, postage is paid or if postage is not paid by advance deposit account.

10.7 Decision on Application

* * * * *

10.7.5 No Refund

No refund is made for:

* * * * *

[Revise the text of item f to read as follows:]

f. Postage paid at Priority Mail Express, First-Class Mail or USPS Ground Advantage—Retail prices.

* * * * *

11.0 Basic Eligibility

* * * * *

11.5 Copies Mailed by Public

[Revise the Text of 11.5 to read as follows:]

The single-piece Priority Mail Express, Priority Mail, First-Class Mail, USPS Ground Advantage—Retail, or Package Services price is charged on copies of publications mailed by the general public and on copies returned to publishers or news agents.

* * * * *

210 Commercial Mail Priority Mail Express

213 Prices and Eligibility

1.0 Prices and Fees

* * * * *

1.8 Nonstandard Fees

[Revise the introductory text of 1.8 to read as follows:]

Except for Priority Mail Express Return Service, a Priority Mail Express piece is subject to a nonstandard fee (see Notice 123—Price List) as follows:

* * * * *

230 Commercial Mail First-Class Mail

233 Prices and Eligibility

* * * * *

2.0 Content Standards for First-Class Mail

* * * * *

[Delete 2.6 in its entirety and renumber 2.7 and 2.8 as 2.6 and 2.7.]

* * * * *

240 Commercial Mail USPS Marketing Mail

243 Prices and Eligibility

1.0 Prices and Fees

* * * * *

1.4 Fees

* * * * *

1.4.2 Weighted Fee

[Revise the text of 1.4.2 to read as follows:]

For return of pieces bearing the ancillary service markings “Address Service Requested” and “Forwarding Service Requested.” Weighted fee equals single-piece First-Class Mail, or USPS Ground Advantage—Retail, price multiplied by 2.472.

* * * * *

3.0 Basic Eligibility Standards for USPS Marketing Mail

* * * * *

[Revise the heading and text of 3.7 to read as follows:]

3.7 Residual Mail Subject to First-Class Mail or USPS Ground Advantage—Retail Prices

Pieces prepared as USPS Marketing Mail (i.e., that bear USPS Marketing Mail price markings, ACS codes, etc.) that do not qualify for Enhanced Carrier Route, automation, or Presorted USPS Marketing Mail prices are subject to the single-piece First-Class Mail or USPS Ground Advantage—Retail prices as applicable for the weight of the mailpiece. Metered pieces weighing over 13 ounces but less than 16 ounces that do not qualify for USPS Marketing Mail prices and any pieces that do not qualify for USPS Marketing Mail prices for which First-Class Mail or USPS Ground Advantage—Retail service is desired must be re-enveloped or otherwise prepared so that they do not bear USPS Marketing Mail markings, endorsements, and ACS codes and must bear the proper First-Class Mail or USPS Ground Advantage—Retail price markings and ACS codes. Mailers who have pieces (other than metered pieces weighing over 13 ounces but less than 16 ounces) that do not qualify for USPS Marketing Mail prices but that are prepared as USPS Marketing Mail and who do not desire to receive First-Class Mail or USPS Ground Advantage—Retail service for those pieces may enter their mailpieces “as is” (i.e., bearing the USPS Marketing Mail markings and

endorsements), provided the requirements in 244.1.0, are met.

* * * * *

244 Postage Payment and Documentation

* * * * *

5.0 Residual Pieces

[Revise the heading and introductory text of 5.1 to read as follows:]

5.1 Residual USPS Marketing Mail Subject to First-Class Mail or USPS Ground Advantage Prices

Mailers who have pieces weighing 13 ounces or less that do not qualify for USPS Marketing Mail prices but that are prepared as USPS Marketing Mail must pay single-piece First-Class Mail or USPS Ground Advantage—Retail postage for such pieces. If mailers do not desire to receive First-Class Mail or USPS Ground Advantage—Retail service for such pieces they may enter the mailpieces “as is” (i.e., bearing the USPS Marketing Mail markings and endorsements), under the following conditions:

* * * * *

[Revise the first sentence of item b to read as follows:]

b. Mail bearing metered or precanceled stamp postage must pay the difference between the postage affixed at the USPS Marketing Mail prices and the single-piece First-Class Mail or USPS Ground Advantage—Retail prices by means of an advance deposit account or by affixing a meter stamp for the appropriate amount to Form 3600—FCM.

* * *

[Revise the first sentence of item c to read as follows:]

c. Mail bearing permit imprints must pay the appropriate single-piece First-Class Mail or USPS Ground Advantage—Retail prices by completing Form 3600—FCM. * * *

[Revise the heading and introductory text of 5.2 to read as follows:]

5.2 Residual USPS Marketing Mail Subject to USPS Ground Advantage—Retail Prices

Mailers who have permit imprint pieces weighing over 13 ounces but less than 16 ounces that do not qualify for USPS Marketing Mail prices but that are prepared as USPS Marketing Mail must pay the USPS Ground Advantage—Retail postage for such pieces. Mailpieces paid with meters or permit imprints must re-envelope or otherwise prepare the pieces so that when mailed they bear only the appropriate USPS Ground Advantage markings, ancillary service endorsements, and ACS codes and do not bear USPS Marketing Mail

markings, endorsements, or ACS codes. Mailpieces paid with permit imprints for which mailers do not desire to receive USPS Ground Advantage service may enter the mailpieces “as is” (*i.e.*, bearing the USPS Marketing Mail markings and endorsements), under the following conditions:

* * * * *

[Revise the first sentence of item b to read as follows:]

b. The appropriate USPS Ground Advantage—Retail prices must be paid by completing the appropriate part of Form 3600—FCM on the line titled “Pieces From USPS Marketing Mail mailing” in the postage calculation section. ***

* * * * *

245 Mail Preparation

* * * * *

6.0 Preparing Enhanced Carrier Route Letters

* * * * *

6.3 Residual Pieces

[Revise the text of 6.3 to read as follows:]

Pieces not sorted as a carrier route mailing must be prepared as a separate mailing at USPS Marketing Mail automation or Presorted prices or at the applicable single-piece First-Class Mail or USPS Ground Advantage—Retail prices.

* * * * *

8.0 Preparing Nonautomation Flats

* * * * *

8.10 Residual Pieces

[Revise the first sentence in the introductory text of 8.10 to read as follows:]

Mailers entering USPS Marketing Mail residual pieces that do not qualify for USPS Marketing Mail prices, and paying the applicable single-piece First-Class Mail or USPS Ground Advantage—Retail prices (but prepared “as is” under 244.5.0), must separately bundle and sack residual pieces from the automation and presort pieces.

* * * * *

* * * * *

9.0 Preparing Enhanced Carrier Route Flats

* * * * *

9.2 Residual Pieces

[Revise the text of 9.2 to read as follows:]

Pieces not sorted as a carrier route mailing must be prepared as a separate mailing at USPS Marketing Mail automation or Presorted prices or at the

applicable single-piece First-Class Mail or USPS Ground Advantage—Retail prices.

* * * * *

250 Commercial Mail Parcel Select

253 Prices and Eligibility

1.0 Pricing

* * * * *

1.1.2 Price Categories

The price categories for Parcel Select are as follows:

[Revise the text of item a to read as follows:]

a. Destination entry including destination entry network distribution center (DNDC), destination entry sectional center facility (DSCF), destination hub (DHub), and destination entry delivery unit (DDU).

[Delete item b and renumber items c and d as items b and c.]

[Revise renumbered item b to read as follows:]

b. Lightweight includes DNDC, DSCF, DHub, and DDU.

* * * * *

1.1.3 Price Application

The following price applications apply:

[Revise the first sentence of item a to read as follows:]

a. Prices for Destination Entry DNDC are based on the weight increment and the entry of each addressed piece. ***

* * * * *

[Delete item d and renumber item e as item d. Revise the text of renumbered item d to read as follows:]

d. Prices for Parcel Select Lightweight are based on the weight increment and the entry of each addressed piece. The price is charged at the 4-ounce, 8-ounce, 12 ounce, and 15.999-ounce increments. Any fraction of an ounce over the 4-ounce, 8-ounce, 12-ounce and 15.999-ounce increments is rounded to the next price increment. For example, if an item weighs 4.1 ounces, the next weight (price) increment is 8 ounces, if an item weighs 12.1 ounces, the next weight (price) increment is 15.999 ounces.

* * * * *

[Delete 1.2, Parcel Select Ground Cubic, in its entirety and renumber items 1.3 through 1.9 as items 1.2 through 1.8.]

* * * * *

1.2 Dimensional Weight Price for Low-Density Parcels to Zones 1–9

[Revise the text of renumbered 1.2 to read as follows:]

Postage for Destination Entry parcels addressed for delivery to Zones 1–9 and

exceeding 1 cubic foot (1,728 cubic inches) is based on the actual weight or the dimensional weight (as calculated in 1.2.1 or 1.2.2), whichever is greater.

* * * * *

1.7 Nonstandard Fees

[Revise the introductory text of renumbered 1.7 to read as follows:]

A Parcel Select Destination Entry, Parcel Select Lightweight, or USPS Connect Local mailpiece is subject to a nonstandard fee (see Notice 123—Price List) as follows:

* * * * *

4.0 Price Eligibility for Parcel Select and Parcel Select Lightweight

4.1 Destination Entry Price Eligibility

4.1.1 Definition

* * * For this standard, the following destination facility definitions apply:

* * * * *

[Renumber item c as item d and add new item c to read as follows:]

c. A destination hub (DHub) includes all facilities in L014. See 4.1.4 for more information.

[Revise the heading and introductory text of 4.1.4 to read as follows:]

4.1.4 DSCF, DHub, and DDU Prices

For DSCF, DHub, and DDU prices, pieces must meet the applicable standards in 3.0 and the following criteria:

* * * * *

[Renumber item b as item c and add new item b to read as follows:]

b. For DHub prices, be part of a Parcel Select destination entry mailing of parcels deposited at an DHub in L014. Mailers must not prepare mail on pallets or pallet boxes if the delivery facility is unable to handle pallets. See 255.4.2 and 255.6.0 for preparation requirements.

* * * * *

[Delete 4.2, Parcel Select Ground Price Eligibility, in its entirety and renumber 4.3 through 4.6 as 4.2 through 4.5.]

4.2 Parcel Select Lightweight

* * * * *

4.2.2 Price Application

[Revise the text of renumbered 4.2.2 to read as follows:]

Prices for Parcel Select Lightweight apply to parcels that meet the eligibility standards in 2.0 and 4.2 and the preparation standards in 255.6.0, 705.6.0, or 705.8.0. When pieces are combined under 705.6.0, pieces are eligible for the applicable prices when the combined total meets the eligibility

standards. For example, when there are 10 pounds of combined machinable parcels and irregular parcels in a 5-digit sack, all pieces are eligible for the applicable prices.

4.2.3 Prices for Machinable Parcels

The following prices apply to Parcel Select Lightweight machinable parcels: [Revise the introductory text of item a to read as follows:]

a. DDU Price; the DDU price applies to qualifying machinable parcels that are dropshipped to a DDU and presented:

[Revise the text of item a1 to read as follows:]

1. In a 5-digit/scheme (L606) sack containing at least 10 pounds of pieces.

[Renumber item a2 as item a3 and add new item a2 to read as follows:]

2. On a 5-digit/scheme (L606) pallet, according to standards in 705.8.10.

* * * * *

[Renumber items b through d as items c through e and add new item b to read as follows:]

b. Hub Price; the Hub price applies to machinable parcels that are dropshipped and presented to a Hub:

1. In a 5-digit/scheme (L606) sack containing at least 10 pounds of pieces.

2. On a 5-digit/scheme (L606) pallet, according to standards in 705.8.10.

[Revise the introductory text of renumbered item c to read as follows:]

c. DSCF Price; the DSCF price applies to machinable parcels that are dropshipped and presented to a DSCF:

[Renumber items c1 and c2 as items c3 and c4 and add new items c1 and c2 to read as follows:]

1. In a 5-digit/scheme (L606) sack containing at least 10 pounds of pieces.

2. On a 5-digit/scheme (L606) pallet, according to standards in 705.8.10.

* * * * *

[Revise the introductory text of renumbered item d to read as follows:]

d. DNDC Price; the DNDC price applies to qualifying machinable parcels that are dropshipped and presented to an NDC as follows:

[Renumber items 1 through 3 as items 5 through 7 and add new items 1 through 4 to read as follows:]

1. In a 5-digit/scheme (L606) sack containing at least 10 pounds of pieces.

2. On a 5-digit/scheme (L606) pallet, according to standards in 705.8.10.

3. In an SCF sack containing at least 10 pounds of parcels.

4. On an SCF pallet, according to 705.8.10.

[Revise the text of renumbered item d5 to read as follows:]

5. In an ASF or NDC sack containing at least 10 pounds of parcels; or on an

ASF or NDC pallet, according to standards in 705.8.10; or in an NDC/ASF container prepared under 705.21.0.

[Delete renumbered item 6 and renumber item 7 as item 6.]

* * * * *

[Delete renumbered item e in its entirety.]

4.2.4 Prices for Irregular Parcels

The following prices apply to Parcel Select Lightweight irregular parcels:

a. DDU Price; the DDU price applies to irregular parcels that are dropshipped to a DDU and presented:

* * * * *

[Renumber items b through d as items c through e and add new item b to read as follows:]

b. Hub Price; the Hub price applies to irregular parcels that are dropshipped and presented to a Hub:

1. In a 5-digit/scheme (L606) sack containing at least 10 pounds of pieces.

2. On a 5-digit/scheme (L606) pallet, according to standards in 705.8.10.

[Revise the introductory text of renumbered item c to read as follows:]

c. DSCF Price; the DSCF price applies to irregular parcels that are dropshipped and presented to a DSCF:

[Renumber items c1 through c3 as items c3 through c5 and add new items c1 and c2 to read as follows:]

1. In a 5-digit/scheme (L606) sack containing at least 10 pounds of pieces.

2. On a 5-digit/scheme (L606) pallet, according to standards in 705.8.10.

* * * * *

[Revise the introductory text of renumbered item d to read as follows:]

d. DNDC Price; the DNDC price applies to qualifying irregular parcels that are dropshipped and presented to an NDC as follows:

[Renumber items 1 and 2 as items 5 and 6 and add new items 1 through 4 to read as follows:]

1. In a 5-digit/scheme (L606) sack containing at least 10 pounds of pieces.

2. On a 5-digit/scheme (L606) pallet, according to standards in 705.8.10.

3. In an SCF sack containing at least 10 pounds of parcels.

4. On an SCF pallet, according to 705.8.10.

[Revise the text of renumbered item 5 to read as follows:]

5. In an ASF or NDC sack containing at least 10 pounds of parcels; or on an ASF or NDC pallet, according to standards in 705.8.10; or in an NDC/ASF container prepared under 705.21.0.

[Delete renumbered item 6 in its entirety and add new item 6 to read as follows:]

6. DNDC prices are not available for ZIP Code ranges 006–009, 967–969, and

995–999, as indicated in labeling list L601.

* * * * *

[Delete renumbered item e in its entirety.]

* * * * *

4.5 Hold For Pickup

[Revise the text of renumbered 4.5 to read as follows:]

Parcel Select Lightweight parcels are eligible for Hold For Pickup service under 507.3.0.

* * * * *

254 Postage Payment and Documentation

1.0 Basic Standards for Postage Payment

1.1 Postage Payment Options

[Revise the heading of 1.1.1 to read as follows:]

1.1.1 Parcel Select Destination Entry

[Revise the introductory text of 1.1.1 to read as follows:]

Parcel Select destination entry may be paid as follows:

[Revise item a to read as follows:]

a. Metered postage may be used on pieces as provided under 1.1.1c and 604.4.

[Delete items a1 and a2.]

* * * * *

255 Mail Preparation

1.0 General Information for Mail Preparation

* * * * *

[Delete 1.6 and 1.7 in their entirety and renumber 1.8 as 1.6.]

1.6 Parcel Select Markings

[Delete the last sentence of renumbered 1.6.]

* * * * *

4.0 Preparing Destination Entry Parcel Select

* * * * *

[Renumber 4.2 and 4.3 as 4.3 and 4.4 and add new 4.2 to read as follows:]

4.2 Preparing Destination Hub (DHub) Parcel Select

4.2.1 Definition

A destination Hub (DHub) includes all facilities in L014.

4.2.2 Basic Standards

Pieces must meet the applicable standards in 4.0 and the following criteria:

a. Must be part of a mailing of at least 50 Parcel Select pieces.

b. DHub pieces must be for the same Hub area under L014.

c. Sorted to optional 5-digit scheme destinations under L606, Column B, 5-digit destinations, either in sacks or directly on pallets or in pallet boxes. Mailers must enter the pieces at the designated Hub, under L014 that serves the 5-digit ZIP Code destinations of the pieces. The DHub price is not available for palletized mail for facilities that are unable to handle palletized mailings. Refer to the Drop Shipment Product available at the USPS FAST website: <https://fast.usps.com> to determine if the facility serving the 5-digit destination can handle pallets.

4.2.3 Sacking and Labeling

Sacking requirements for DHub entry:
a. Only 5-digit scheme and 5-digit sacks are permitted.

b. Each 5-digit scheme and 5-digit sack must contain a minimum of seven pieces. Machinable and nonmachinable pieces may be combined in the same sack to meet this requirement. One overflow sack per 5-digit ZIP Code is permitted (no piece minimum).

c. 5-digit scheme sack labeling: Line 1, use L606, Column B; for Line 2, "PSVC PARCELS 5D SCH."

d. 5-digit sack labeling: Line 1, use city, state, and 5-digit ZIP Code on mail (see 203.5.11 for overseas military mail); for Line 2, "PSVC PARCELS 5D."

* * * * *

5.0 Preparing Machinable Parcels

* * * * *

5.3 Sacking and Labeling

* * * * *

5.3.1 Sack Preparation

Sack size, preparation sequence, and Line 1 labeling:

* * * * *

[Delete item f in its entirety.]

5.3.2 Sack Line 2

Line 2:

* * * * *

[Delete item f in its entirety.]

6.0 Preparing Parcel Select Lightweight

6.2.1 Sacking

[Revise the first sentence of 6.3.1 to read as follows:]

Mailers may prepare 5-digit sacks only for parcels that will be dropshipped to a DNDC (or ASF when claiming DNDC prices), DHub, DSCF, or DDU. * * *

* * * * *

6.2.2 Sacking and Labeling

Preparation sequence, sack size, and labeling:

[Revise the introductory text of item a to read as follows:]

a. 5-digit/scheme (optional), see definition in 1.4.; allowed only for mail deposited at DNDC (or ASF when claiming DNDC prices), DHub, DSCF, or DDU. Sacks must contain a 10-pound minimum except at DDU entry which has no minimum; labeling:

* * * * *

[Delete items e and f in their entirety.]

6.3 Preparing Irregular Parcels

6.3.1 Sacking

[Revise the first sentence of 6.3.1 to read as follows:]

Mailers may prepare 5-digit sacks only for parcels that will be dropshipped to a DNDC (or ASF when claiming DNDC prices), DHub, DSCF, or DDU. See 6.3.3 for restrictions on SCF, ASF, and NDC sacks. * * *

* * * * *

6.3.3 Sacking and Labeling

Preparation sequence, sack size, and labeling:

[Revise the introductory text of item a to read as follows:]

a. 5-digit/scheme (optional), see definition in 1.4.; allowed only for mail deposited at DNDC (or ASF when claiming DNDC prices), DHub, DSCF, or DDU. Sacks must contain a 10-pound minimum except at DDU entry which has no minimum; labeling:

* * * * *

[Delete items e and f in their entirety.]

* * * * *

[Delete 8.0, Preparing a Cubic Mailing, in its entirety.]

256 Enter and Deposit

* * * * *

2.0 Deposit

* * * * *

2.2 Containers

[Revise the introductory text and item a of 2.2 to read as follows:]

DNDC mailings (if not bedloaded), DDU mailings (if not bedloaded), and all DHub, and DSCF mailings must be prepared as follows:

a. Machinable parcels for which a DNDC, DSCF, DHub, or DDU price is claimed must be sacked under 255.4.0 or prepared on pallets under 705.8.0.

* * * * *

[Revise the text of 2.2 by adding a new item g to read as follows:]

g. For DHub, 5-digit scheme and 5-digit sacks may be bedloaded or be

placed on DHub pallets that are labeled and otherwise prepared under 705.8.0.

* * * * *

2.5 Mail Separation and Presentation of Destination Entry Mailings

* * * Mailers presenting destination entry mailings to the Postal Service must meet the following requirements:

* * * * *

[Revise the text of item a to read as follows:]

a. Mark each DNDC, DSCF, DHub, or DDU Parcel Select piece as "Parcel Select," according to 202.3.7.2. If eVS is used, include the marking "eVS" on each piece as described in 604.5.0.

[Delete item b and renumber items c through f as items b through e.]

* * * * *

2.11 Deposit Conditions

Deposit of mail also is subject to these conditions:

[Revise the text of item a to read as follows:]

a. Destination facilities may refuse mailings that are unscheduled or late (i.e., if vehicles arrive more than 2 hours after the scheduled appointment at ASFs, NDCs, SCFs, or DHubs, and more than 20 minutes late at delivery units). If a mailing is refused, a mailer is permitted to make a new appointment.

* * * * *

2.13 Vehicle Unloading

Unloading of destination entry mailings is subject to these conditions:

[Revise the first sentence of item a to read as follows:]

a. Properly prepared containerized loads (e.g., pallets) are unloaded by the USPS at NDCs, ASFs, SCFs, and Hubs.

* * *

[Revise the first sentence of item b to read as follows:]

b. The driver must unload bedloaded shipments within 8 hours of arrival at NDCs, ASFs, SCFs, and Hubs. * * *

* * * * *

[Revise the heading of 280 to read as follows:]

280 Commercial Mail USPS Ground Advantage—Commercial

283 Prices and Eligibility

1.0 Prices and Fees

1.1 Price Application

[Revise the text of 1.1 to read as follows:]

Except under items 1.1c and 1.1d, postage is based on the price (see Notice 123—Price List) that applies to the weight and zone of each addressed piece as follows:

a. The price is charged at the 4-ounce, 8-ounce, 12-ounce, and 15.999-ounce

increments. Any fraction of an ounce over the 4-ounce, 8-ounce, 12-ounce and 15.999-ounce increments is rounded to the next price increment. For example, if an item weighs 4.1 ounces, the next weight (price) increment is 8 ounces, if an item weighs 12.1 ounces, the next weight (price) increment is 15.999 pound.

b. Per pound from 1 pound through 70 pounds. Any fraction of a pound is considered a whole pound. For example, if an item weighs 1.25 pounds, the weight (postage) increment is 2 pounds.

c. The oversized price is based on the zone and applies to pieces that measure over 108 inches but not more than 130 inches in combined length and girth.

d. Cubic prices are based on the zone and cubic measurement (Tier) of the mailpiece with any fraction of a measurement rounded down to the nearest 1/4 inch. For example, if a dimension of a cubic piece measures 12 3/8 inches, it is rounded down to 12 1/4 inches.

1.2 Commercial Prices

Commercial prices are available when paid by one of the following methods:

* * * * *

[Revise the text of item d to read as follows:]

d. USPS Returns service used by permit holders for USPS Ground Advantage—Commercial packages when all requirements are met under 505.3.0).

[Delete 1.3, Surcharge, and renumber 1.4 as 1.6, and add new 1.3, 1.4, and 1.5 to read as follows:]

1.3 USPS Ground Advantage—Commercial Cubic

1.3.1 Eligibility

Cubic prices are available to eligible USPS Ground Advantage—Commercial customers including USPS Ground Advantage Return service under 505.3.0. Each cubic mailpiece, including soft packs and padded envelopes under 1.3.4, must measure 1 cubic foot or less, weigh 20 pounds or less, and the longest dimension may not exceed 18 inches. Cubic-priced mailpieces may not be rolls or tubes.

1.3.2 Tiers

Cubic prices consist of the following ten tiers:

- a. Tier 0.10—mailpieces measuring up to .10 cubic foot
- b. Tier 0.20—mailpieces measuring more than .10 up to .20 cubic foot
- c. Tier 0.30—mailpieces measuring more than .20 up to .30 cubic foot
- d. Tier 0.40—mailpieces measuring more than .30 up to .40 cubic foot
- e. Tier 0.50—mailpieces measuring more than .40 up to .50 cubic foot
- f. Tier 0.60—mailpieces measuring more than .50 up to .60 cubic foot
- g. Tier 0.70—mailpieces measuring more than .60 up to .70 cubic foot
- h. Tier 0.80—mailpieces measuring more than .70 up to .80 cubic foot
- i. Tier 0.90—mailpieces measuring more than .80 up to .90 cubic foot
- j. Tier 1.00—mailpieces measuring more than .90 up to 1.00 cubic foot

1.3.3 Determining Cubic Tier Measurements for Rectangular and Nonrectangular Parcels

Follow these steps to determine the cubic tier measurement for rectangular and nonrectangular parcels:

a. Measure the length, width, and height at each dimension’s maximum point, in inches. Round down (see 604.7.0) each measurement to the nearest 1/4 inch. For example, 6 1/8” × 5 7/8” × 6 3/8” is rounded down to 6” × 5 3/4” × 6 1/4”.

b. Multiply the length by the width by the height and divide by 1728. For example: 6” × 5 3/4” × 6 1/4” = 215.6 divided by 1728 = 0.125 (This piece exceeds 0.10—Tier 1 threshold). It is calculated at Tier 2—0.101 to 0.20.

1.3.4 Determining Cubic Tier Measurement for Soft Pack and Padded Envelopes

Cubic tier measurements for soft pack (poly, plastic, cloth, or similar soft packaging) and padded envelopes are based on the outside dimensions of length plus width, in inches, of the original packaging material. Mailpieces that are pleated (e.g., expandable) must follow the measurement guidelines in 1.3.3 to be eligible for cubic pricing. Determine cubic tier measurements as follows:

- a. Measure the length and width separately in inches.
- b. Round down (see 604.7.0) each measurement to the nearest 1/4 inch. For example, 10 1/8 inches is rounded down to 10 inches.
- c. Add the two measurements together. The maximum total of length plus width cannot exceed 36 inches. See Exhibit 1.3.4 for corresponding price tiers.

Exhibit 1.3.4 Cubic Pricing Tiers for Soft Pack & Padded Envelopes

Cubic price tiers	Length plus width
0.10	Mailpieces measuring from 0” up to 16”.
0.20	Mailpieces measuring more than 16” up to 21”.
0.30	Mailpieces measuring more than 21” up to 24”.
0.40	Mailpieces measuring more than 24” up to 26”.
0.50	Mailpieces measuring more than 26” up to 28”.
0.60	Mailpieces measuring more than 28” up to 30”.
0.70	Mailpieces measuring more than 30” up to 32”.
0.80	Mailpieces measuring more than 32” up to 34”.
0.90	Mailpieces measuring more than 34” up to 35”.
1.00	Mailpieces measuring more than 35” up to 36”.

1.4 Dimensional Weight Price for Low-Density Parcels to Zones 1–9

Postage for USPS Ground Advantage—Commercial parcels addressed for delivery to Zones 1–9 and exceeding 1 cubic foot (1,728 cubic inches) is based on the actual weight or the dimensional weight (as calculated in 1.4.1 or 1.4.2), whichever is greater.

1.4.1 Determining Dimensional Weight for Rectangular Parcels

Follow these steps to determine the dimensional weight for a rectangular parcel:

- a. Measure the length, width, and height in inches. Round off (see 604.7.0) each measurement to the nearest whole inch.

b. Multiply the length by the width by the height.

c. If the result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.

d. If the dimensional weight exceeds 70 pounds, the customer pays the 70-pound price.

1.4.2 Determining Dimensional Weight for Nonrectangular Parcels

Follow these steps to determine the dimensional weight for a nonrectangular parcel:

- a. Measure the length, width, and height in inches at their extreme dimensions. Round off (see 604.7.0) each measurement to the nearest whole inch.
- b. Multiply the length by the width by the height.
- c. Multiply the result by an adjustment factor of 0.785.
- d. If the final result exceeds 1,728 cubic inches, divide the result by 166 and round up (see 604.7.0) to the next whole number to determine the dimensional weight in pounds.
- e. If the dimensional weight exceeds 70 pounds, the customer pays the 70-pound price.

1.4.3 Dimensional Weight Dimension Standard

Shipping Services file manifests or other approved electronic documentation must include the accurate dimensions (length, width, height) of all pieces that exceed 1 cubic foot. Mailers of pieces exceeding 1 cubic foot and with Shipping Services file manifests, or other approved electronic documentation, that do not meet the requirement to include the piece's accurate dimensions will be assessed a dimension-noncompliance fee under 1.8.

1.5 Computing Postage

1.5.1 Determining Single-Piece Weight

To determine single-piece weight in any mailing of nonidentical-weight pieces, weigh each piece individually. To determine single-piece weight in a mailing of identical-weight pieces, weigh a sample group of at least 10 randomly selected pieces and divide the total sample weight by the number of pieces in the sample. Except for mailers using eVS, when determining single-piece weight for USPS Ground Advantage mailpieces, express all weights in decimal pounds rounded off to two decimal places. Mailers using eVS may round off to four decimals, and eVS will automatically round to the appropriate decimal place. If a customer is using a manifest mailing system, the manifest weight field must be properly completed by adhering to the rules relative to the specific manifest.

1.5.2 Computing Postage for Affixed Postage

For each piece, affix correct postage for the weight (including any surcharges) and, if applicable, the zone

to which the piece is addressed, as shown in 1.2 through 1.4. To calculate the total postage for the mailing, add all of the affixed postage amounts for each piece.

1.5.3 Computing Postage for Permit Imprint

To compute the total postage for a mailing, for each weight increment, multiply the number of pieces by the applicable price per piece. Round each product off to four decimal places. Add the products and round up the total postage to the nearest whole cent.

1.6 eVS Unmanifested Fee

[Revise the text of renumbered 1.6 to read as follows:]

Eligible eVS USPS Ground Advantage—Commercial pieces omitted from the eVS manifest are subject to the eVS unmanifested fee (see Notice 123—Price List), unless the piece is subject to the IMpb noncompliance fee specified in 3.4.

[Add new 1.7 and 1.8 to read as follows:]

1.7 Nonstandard Fees

A USPS Ground Advantage—Commercial mailpiece is subject to a nonstandard fee (see Notice 123—Price List) as follows:

- a. A piece measures more than 22 inches up to 30 inches long.
- b. A piece measures more than 30 inches long.
- c. A piece measures more than 2 cubic feet (3,456 cubic inches). Dimensions for rectangular pieces are determined by measuring the length, width, and height in inches, rounding off (see 604.7.0) each measurement to the nearest whole inch and multiplying the length by the width by the height. Dimensions for nonrectangular pieces are calculated as above and the result multiplied by an adjustment factor of 0.785. If either calculation exceeds 3,456 cubic inches, the piece is subject to the nonstandard fee.

d. A piece may be subject to both a length (1.8a, 1.8b) and a cube (1.8c) nonstandard fee.

e. Shipping Services file manifests or other approved electronic documentation must include the accurate dimensions (length, width, height) of all pieces that exceed 22 inches.

f. Mailers of pieces exceeding 22 inches and with Shipping Services file manifests, or other approved electronic documentation, that do not meet the requirement to include the piece's accurate dimensions will be assessed a dimension-noncompliance fee under 1.8.

1.8 Dimension-Noncompliance Fee

Mailers of USPS Ground Advantage—Commercial mailpieces required to include the mailpiece's dimensions (length, width, height) in the Shipping Services file manifest or other approved electronic documentation under 1.4.3 or 1.7 will be charged a dimension-noncompliance fee (see Notice 123—Price List) if the piece's dimensions are omitted or inaccurate in the Shipping Services file manifest or other approved electronic documentation. A mailpiece is subject to only one dimension-noncompliance fee.

[Revise the heading of 2.0 to read as follows:]

2.0 Content Standards for USPS Ground Advantage—Commercial Parcels

2.1 General

[Revise the text of 2.1 to read as follows:]

In addition to restricted material described in 601.8.0, parcels mailed at USPS Ground Advantage—Commercial prices may not contain documents or personal correspondence, except that such parcels may contain invoices, receipts, incidental advertising, and other documents that relate in all substantial respects to merchandise contained in the parcels.

* * * * *

[Revise the heading of 3.0 to read as follows:]

3.0 Basic Eligibility Standards for USPS Ground Advantage—Commercial

3.1 Description of Service

[Revise the text of 3.1 to read as follows:]

USPS Ground Advantage—Commercial parcels receive expeditious handling and transportation. The USPS does not guarantee the delivery of USPS Ground Advantage—Commercial within a specified time. Certain USPS Ground Advantage—Commercial mailpieces might receive deferred service.

3.2 Defining Characteristics

3.2.1 Inspection of Contents

[Revise the text of 3.2.1 to read as follows:]

Articles mailed at USPS Ground Advantage—Commercial prices are not sealed against postal inspection. Regardless of physical closure, the mailing of articles at USPS Ground Advantage—Commercial prices constitutes consent by the mailer to postal inspection of the contents.

3.2.2 Forwarding and Return Service

[Revise the text of 3.2.2 to read as follows:]

The postage price of USPS Ground Advantage—Commercial parcels includes forwarding service to a new address for up to 12 months and return of undeliverable parcels to the sender.

3.2.3 Additional and Extra Services

[Revise the text of 3.2.3 to read as follows:]

Extra services are available for USPS Ground Advantage—Commercial parcels under 503 and for Hold for Pickup service under 507.3.0.

3.3 Additional Basic Standards

[Revise the introductory text of 3.3 to read as follows:]

All USPS Ground Advantage—Commercial parcels must:

* * * * *

[Revise the text of 3.3 by adding a new item c to read as follows:]

c. Bear a return address.

3.4 IMpb Standards

[Revise the first sentence of 3.4 to read as follows:]

All USPS Ground Advantage—Commercial parcels must bear an Intelligent Mail package barcode (IMpb) prepared under 204.2.0. * * *

[Revise the heading of 4.0 to read as follows:]

4.0 Price Eligibility for USPS Ground Advantage—Commercial

* * * * *

284 Postage Payment and Documentation

1.0 Basic Standards for Postage Payment

[Revise the first sentence of 1.0 to read as follows:]

Postage for USPS Ground Advantage—Commercial parcels must be paid with postage evidencing system postage or permit imprint as specified below. * * *

[Revise the heading of 2.0 to read as follows:]

2.0 Postage Payment for USPS Ground Advantage—Commercial

2.1 Permit Imprint Postage

[Revise the first sentence of 2.1 to read as follows:]

All USPS Ground Advantage—Commercial parcels may bear permit imprint postage under 604.5.0. * * *

[Revise the heading and text of 2.2 to read as follows:]

2.2 Affixed Postage for USPS Retail Ground—Commercial

Each USPS Retail Ground—Commercial parcel bearing postage evidencing system indicia (IBI Meter or PC Postage) must bear the full numerical value of postage at the USPS Retail Ground—Commercial price for which it qualifies.

285 Mail Preparation

[Revise the heading and introductory text of 1.0 to read as follows:]

1.0 Preparation for USPS Ground Advantage—Commercial

The following standards apply to single-piece USPS Ground Advantage—Commercial:

* * * * *

[Revise the text of item b to read as follows:]

b. There are no sorting requirements for single-piece USPS Ground Advantage—Commercial parcels paid with postage evidencing system postage.

* * * * *

[Delete 3.0, Optional ADC Presort, and add new 3.0 and 4.0 to read as follows:]

3.0 Preparing a Cubic Mailing

Cubic mailpieces for multiple price tiers may be combined in the same container.

* * * * *

4.0 Pickup on Demand Service

Pickup on Demand service (507.7.0) is available for a fee only from designated ZIP Codes and can be requested online at www.usps.com.

286 Enter and Deposit

1.0 Deposit

1.1 Time and Location of Deposit

[Revise the text of 1.1 to read as follows:]

Mailers may deposit USPS Ground Advantage—Commercial with parcels postage evidencing indicia at any Postal Service facility, preferably near the customer’s local Post Office. USPS Ground Advantage—Commercial parcels bearing a permit imprint must be deposited under 604.5.0 and 705.

1.2 Approved Collections

[Revise the introductory text of 1.2 to read as follows:]

The USPS may collect USPS Ground Advantage—Commercial parcels at a mailer’s facility if part of an approved collection service for other classes of mail; space is available on the transportation; and:

* * * * *

500 Additional Mailing Services

503 Extra Services

1.0 Basic Standards for All Extra Services

* * * * *

1.4.1 Eligibility—Domestic Mail

* * * * *

Exhibit 1.4.1 Eligibility—Domestic Mail

Extra service	Eligible mail	Additional combined extra services
---------------	---------------	------------------------------------

[Revise Exhibit 1.4.1 under the “Eligible Mail” column by removing “USPS Retail Ground” in the Insurance, Certificate of Mailing, Certificate of Bulk Mailing, Return Receipt, Signature Confirmation, Signature Confirmation Restricted Delivery, and COD, line items.]

* * * * *

Registered Mail

[Revise “Register Mail” services by replacing First-Class Package Service—Commercial with USPS Ground Advantage—Commercial and First-

Class Package—Retail with USPS Ground Advantage—Retail under the “Eligible Mail” column.]

* * * * *

Certified Mail

[Revise 1.4.1 “Certified Mail” services by deleting First-Class Package Service—Commercial and First-Class Package—Retail under the “Eligible Mail” column.]

* * * * *

Insurance

[Revise “Insurance” services by replacing First-Class Package Service—

Commercial with USPS Ground Advantage—Commercial and First-Class Package—Retail with USPS Ground Advantage—Retail under the “Eligible Mail” column.]

* * * * *

Certificate of Mailing

[Revise “Certificate of Mailing” services by deleting First-Class Package Service—Commercial and First-Class Package—Retail under the “Eligible Mail” column.]

* * * * *

Certificate of Bulk Mailing

[Revise “Certificate of Bulk Mailing” services by deleting First-Class Package Service—Commercial and First-Class Package—Retail under the “Eligible Mail” column.]

* * * * *

Return Receipt

[Revise “Return Receipt” services by replacing First-Class Package Service—Commercial with USPS Ground Advantage—Commercial and First-Class Package—Retail with USPS Ground Advantage—Retail under the “Eligible Mail” column.]

* * * * *

Signature Confirmation

[Revise “Signature Confirmation” service by replacing First-Class Package Service—Commercial with USPS Ground Advantage—Commercial and First-Class Package—Retail with USPS

Ground Advantage—Retail under the “Eligible Mail” column.]

* * * * *

Signature Confirmation Restricted Delivery

[Revise “Signature Confirmation Restricted Delivery” service by replacing First-Class Package Service—Commercial with USPS Ground Advantage—Commercial and First-Class Package—Retail with USPS Ground Advantage—Retail under the “Eligible Mail” column.]

* * * * *

Adult Signature Required

[Revise “Adult Signature Required” services by replacing First-Class Package Service—Commercial with USPS Ground Advantage—Commercial under the “Eligible Mail” column.]

* * * * *

Collect on Delivery (COD)

[Revise “Collect on Delivery” services by replacing First-Class Package Service—Commercial with USPS Ground Advantage—Commercial and First-Class Package—Retail with USPS Ground Advantage—Retail under the “Eligible Mail” column.]

* * * * *

1.4.3 Eligibility—Domestic Returns

* * * * *

Exhibit 1.4.3 Eligibility—Domestic Returns

* * * * *

Exhibit 1.4.3 Eligibility—Domestic Returns

[Revise Exhibit 1.4.3 by adding a new line item “Priority Mail Express Return Service” at the top of the table to read as follows:]

Return services	Eligible extra services (paid by EPS account or by permit holder)	
	Insurance \$500 or less	Insurance more than \$500
USPS Returns:		
Priority Mail Express Return Service	1	1, 2, 3

* * * * *

[Revise the “First-Class Package Return Service” line item by renaming as “USPS Ground Advantage Return Service”.]

[Delete the “Ground Return Service” line item in its entirety.]

* * * * *

[Revise the text of footnote #1 in Exhibit 1.4.3 to read as follows:]

1. Insurance, up to a maximum of \$100.00, is included for Priority Mail Express Return Service, Priority Mail Return Service, and USPS Ground Advantage Return Service.

* * * * *

4.0 Insured Mail

* * * * *

4.3 Basic Standards

* * * * *

4.3.2 Ineligible Matter

The following types of mail may not be insured:

* * * * *

[Revise the text of item e to read as follows:]

e. First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, and Priority Mail may be insured, if it contains matter that is eligible to be mailed at

USPS Marketing Mail, or Package Services prices.

* * * * *

7.0 USPS Tracking

7.1 Basic Standards

* * * * *

7.1.3 Additional Physical Standards

[Revise the last sentence in the introductory text of 7.1.3 to read as follows:]

* * * In addition to the applicable standards in 101 and 201 and the purposes of USPS Tracking with Media Mail, Library Mail, Bound Printed Matter, or Parcel Select, the parcel must meet these additional requirements:

* * * * *

8.0 USPS Signature Services

8.1 Basic Standards

* * * * *

8.1.2 Standards for Signature Confirmation

[Revise the introductory text of 8.1.2 to read as follows:]

For Signature Confirmation with Media Mail, Library Mail, Bound Printed Matter, or Parcel Select pieces meeting the physical standards under

201.7.0, the parcel must meet these additional requirements:

* * * * *

505 Return Services

1.0 Business Reply Mail (BRM)

1.1 BRM Postage and Fees

1.1.1 Basic BRM

[Revise the first and second sentence of 1.1.1 to read as follows:]

For basic BRM, a permit holder is required to pay an annual permit fee as provided under 1.2 and a per-piece fee under 1.1.7 in addition to the applicable Retail First-Class Mail (stamped for letters), USPS Ground Advantage—Retail, or Priority Mail postage for each returned piece. For USPS Ground Advantage—Retail, or Priority Mail BRM pieces exceeding 13 ounces in weight, if the zone cannot be determined from a return address or cancellation, then the permit holder is charged zone 4 postage based on the weight of the piece. * * *

* * * * *

1.1.5 Bulk Weight Averaged Nonletter-Size BRM

[Revise the text of 1.1.5 to read as follows:]

In addition to an annual permit fee (which will apply under 1.2.3 for the return of any flat-size pieces), per piece

fee and the applicable Retail First-Class Mail, USPS Ground Advantage—Retail, or Priority Mail postage, permit holders participating in bulk weight averaged nonletter-size BRM under 1.8 must pay an annual account maintenance fee, and a monthly maintenance fee.

* * * * *

1.3 Basic Standards

1.3.1 Description

[Revise the first and second sentence of 1.3.1 to read as follows:]

Business Reply Mail (BRM) service enables a permit holder to receive First-Class Mail, USPS Ground Advantage—Retail, and Priority Mail back from customers. The permit holder guarantees payment of the applicable Retail First-Class Mail, USPS Ground Advantage—Retail, or Priority Mail postage, plus a per piece fee, on all returned BRM which includes any incomplete, blank, or empty BRM cards and envelopes and any mailable matter with a BRM label affixed. BRM cards, envelopes, self-mailers, cartons, and labels may be distributed by a BRM permit holder in any quantity for return to any Post Office in the United States and its territories and possessions, including military Post Offices overseas.

* * * * *

3.0 USPS Returns Service

3.1 Basic Standards

3.1.1 Description

[Revise the introductory text of 3.1.1 to read as follows:]

USPS Returns service allows an authorized account holder to pay the postage and fees on single-piece priced commercial Priority Mail Express, Priority Mail, or USPS Ground Advantage—Commercial, packages returned to the account holder by senders (mailers) via a return label, meeting the standards in 3.1.4, produced by the account holder. Unless otherwise restricted, any mailable matter may be mailed using any of the USPS Returns service options (Priority Mail Express Return Service, Priority Mail Return Service, USPS Ground Advantage Return Service). Any content that constitutes First-Class Mail matter may only be mailed using Priority Mail Express Return Service or Priority Mail Return Service. USPS Returns service is subject to the following conditions:

* * * * *

3.1.3 Postage and Prices

Postage and prices are subject to the following:

[Revise the first sentence of item a to read as follows:]

a. Postage is calculated based on the weight of the return package and zone associated with the point of origin and delivery ZIP Code subject to the eligibility for commercial prices and fees based on the class of mail under 220 and 280, except that postage for USPS Returns in flat-rate packaging is based on the packaging type used and the associated Universal Product Code (UPC) on the packaging.

[Revise the introductory text of item b to read as follows:]

b. Prices for Priority Mail Express Return Service, Priority Mail Return Service and USPS Ground Advantage Return Service packages are charged as follows:

[Renumber items b1 through b3 as items b2 through b4, and add new item b1 to read as follows:]

1. Priority Mail Express commercial prices are available for account holders using Priority Mail Express Return Service, when all applicable requirements are met.

* * * * *

[Revise the text of renumbered b3 to read as follows:]

2. USPS Ground Advantage—Commercial prices are available for USPS Ground Advantage Return Service packages when all applicable requirements are met.

[Delete renumbered item b4 in its entirety.]

* * * * *

c. The account holder or mailer may obtain extra and additional services as follows:

[Revise the text of item c1 to read as follows:]

1. Insurance is available for USPS Returns service (see 503.4). Insurance is included with the postage for Priority Mail Express Return service, Priority Mail Return service, and USPS Ground Advantage Return service (see 503.4.2). Additional insurance for Priority Mail Express Return service, Priority Mail Return service, and USPS Ground Advantage Return service is available to the account holder for a fee on packages that have the applicable STC imbedded into the IMpb on the label, and for which the account holder has provided electronic data that supports the value of the merchandise (see 503.4.3.1a). Only the account holder may file a claim (see 609). Mailers returning a USPS Returns service package may not obtain insurance at their own expense.

* * * * *

3.1.5 Noncompliant Labels

[Revise the second sentence of 3.1.5 to read as follows:]

* * * When noncompliant labels, including discontinued labels, are affixed to USPS Returns service packages, the permit holder will be assessed the appropriate USPS Ground Advantage—Retail price calculated from the package’s initial entry point (first physical scan) in the USPS network to its delivery address.

* * * * *

3.1.6 Enter and Deposit

The following standards apply:

a. The EPS account holder’s customers may mail the USPS Returns service package via the following:

* * * * *

[Revise the text of item a3 to read as follows:]

3. In any collection receptacle (e.g., collection box, lobby package drop unit) as permitted by each receptacle’s limitations (see 3.1.6b for USPS Returns service packages with extra services);

* * * * *

3.2 Additional Standards

Additional mailing standards applicable to each service option are as follows:

[Renumber items a through c as items b through d and add new item a to read as follows:]

a. Priority Mail Express Return service may contain any mailable matter meeting the standards in 201.8.0 and 213.2.0. APO/FPO/DPO mail is subject to standards in 703.2.0 and 703.4.0, and Department of State mail is subject to standards in 703.3.0. Priority Mail Express Return service receives expeditious handling and transportation, with service standards in accordance with Priority Mail Express. Priority Mail Express Return service mailed under a specific customer agreement is charged postage according to the individual agreement.

* * * * *

[Revise the text of renumbered item c to read as follows:]

c. USPS Ground Advantage Return service may contain mailable matter meeting the standards in 201.8.0 and 283.2.0. USPS Ground Advantage Return service handling, transportation, and eligibility of contents are the same as for outbound USPS Ground Advantage—Commercial parcels under standards in 283.0. USPS Ground Advantage Return service packages may not contain documents or personal correspondence, except that such packages may contain invoices, receipts, incidental advertising, and other documents that relate in all substantial respects to merchandise contained in the package.

[Delete renumbered Item d in its entirety.]

* * * * *

507 Mailer Services

1.0 Treatment of Mail

* * * * *

1.4.5 Extra Services

Mail with extra services is treated according to the charts for each class of mail in 1.5, except that:

[Revise the text of items a and b to read as follows:]

a. Undeliverable-as-addressed Certified Mail is treated as First-Class Mail and USPS Ground Advantage—Retail.

b. All insured First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, and Priority Mail, pieces are forwarded and returned at no additional charge. All insured USPS Marketing Mail, Package Services, and Parcel Select pieces are forwarded or returned.

* * * * *

1.5 Treatment for Ancillary Services by Class of Mail

1.5.1 First-Class Mail, First-Class Package Service—Retail, First-Class Package Service—Commercial, and Priority Mail

[Revise the introductory text of 1.5.1 to read as follows:]

Undeliverable-as-addressed First-Class Mail (including postcards), USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, and Priority Mail pieces are treated under Exhibit 1.5.1, with these additional conditions:

* * * * *

[Revise the last sentence of item b to read as follows:]

b. * * * Undeliverable First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, or Priority Mail pieces with any alternative addressing format are returned with the reason for nondelivery attached, only if the address is incorrect or incomplete or the mail is undeliverable for another reason as shown in Exhibit 1.4.1; however, if such mail is endorsed Change Service Requested, piece is disposed of and an ACS record is provided for the same reasons.

* * * * *

[Revise the text of item d to read as follows:]

d. First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, or Priority Mail pieces bearing USPS Marketing

Mail markings and endorsements under 202 and 244.5.1 for letters, flats, and parcels, receives forwarding, return, and address correction services for USPS Marketing Mail under 1.5.3.

e. “Change Service Requested” is not permitted for the following:

* * * * *

[Revise the text of items e2 and e3 to read as follows:]

2. First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, or Priority Mail pieces containing hazardous materials under 601.8.0.

3. First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial or Priority Mail pieces with an extra service other than USPS Tracking or Signature Confirmation.

[Revise the introductory text of item f to read as follows:]

f. Address Change Service under 4.0 is available for First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, and Priority Mail pieces with the ACS participant code for an authorized ACS participant and a valid ancillary service endorsement. Mailers participating in OneCode ACS under 4.2.6 may print an Intelligent Mail barcode on First-Class Mail automation letters instead of a participant code and endorsement. The only endorsements permitted on First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial and Priority Mail valid ACS pieces are “Address Service Requested”, “Change Service Requested” or “Electronic Service Requested” subject to the following:

* * * * *

[Revise the heading of Exhibit 1.5.1 to read as follows:]

Exhibit 1.5.1 Treatment of Undeliverable First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial and Priority Mail

* * * * *

“Change Service Requested”

* * * * *

Restrictions (for Options 1 and 2)

[Revise the text of item 1 under “Restrictions (for Options 1 and 2)” to read as follows:]

(1) This endorsement is limited to use on valid mailpieces bearing a proper ACS participant code and only for: (a) Priority Mail containing perishable matter (other than live animals) and the marking “Perishable” and; (b) First-Class Mail, USPS Ground Advantage—Retail, and USPS Ground Advantage—

Commercial (excluding hazardous materials).

* * * * *

1.5.2 Periodicals

Undeliverable-as-addressed (UAA) Periodicals publications (including publications pending Periodicals authorization) are treated as described in Exhibit 1.5.2, with these additional conditions:

* * * * *

[Revise the third sentence of item e to read as follows:]

e. * * * Each returned piece is charged the single-piece First-Class Mail or USPS Ground Advantage—Retail price for the weight and shape of the piece, and the letter-size nonmachinable surcharge if applicable. * * *

* * * * *

Exhibit 1.5.2 Treatment of Undeliverable Periodicals

* * * * *

“Address Service Requested”

If no change-of-address order on file:

[Revise the text under “Address Service Requested”, If no change-of-address order on file., to read as follows:]

Piece returned with reason for nondelivery attached (only return postage charged at First-Class Mail or USPS Ground Advantage—Retail single-piece price as appropriate for weight of piece).

If change-of-address order on file:

* * * * *

[Revise the second bullet under “Address Service Requested”, If change-of-address order on file., to read as follows:]

■ After 60-day period: Piece returned with new address or reason for nondelivery attached (in either case, only return postage charged at First-Class Mail or USPS Ground Advantage—Retail single-piece price as appropriate for weight of piece).

* * * * *

1.5.3 USPS Marketing Mail and Parcel Select Lightweight

Undeliverable-as-addressed (UAA) USPS Marketing Mail and Parcel Select Lightweight pieces are treated as described in Exhibit 1.5.3, with these additional conditions:

* * * * *

[Revise the text of item h to read as follows:]

h. A returned piece endorsed “Return Service Requested” is charged the applicable single-piece First-Class Mail or USPS Ground Advantage—Retail price for the weight and shape of the

piece, and the nonmachinable surcharge if applicable.

* * * * *

Exhibit 1.5.3 Treatment of Undeliverable USPS Marketing Mail and Parcel Select Lightweight

* * * * *

“Address Service Requested” (Shipper Paid Forwarding/Return participants via ACS only)

* * * * *

Shipper Paid Forwarding/Return Option 2

If no change-of-address order on file: [Revise the text under “Address Service Requested” (Shipper Paid Forwarding/Return Option 2), If no change-of-address order on file:, to read as follows:]

Piece returned with reason for nondelivery attached; postage due charged as follows: at applicable First-Class Mail, or USPS Ground Advantage—Retail single-piece price for the weight of the piece. Separate notice provided (electronic ACS fee is charged).

If change-of-address order on file: [Revise the first bullet under “Address Service Requested” (Shipper Paid Forwarding/Return Option 2), If change-of-address order on file:, to read as follows:]

Months 1 through 12: Piece forwarded. Forwarding postage is charged to the mailer as follows: at applicable First-Class Mail, or USPS Ground Advantage—Retail single-piece price for the weight of the piece. Separate notice of new address provided (electronic ACS fee charged).

* * * * *

Shipper Paid Forwarding/Return Option 3

If no change-of-address order on file: [Revise the text under “Address Service Requested” (Shipper Paid Forwarding/Return Option 3), If no change-of-address order on file:, to read as follows:]

Piece returned with reason for nondelivery attached; postage due charged as follows: at applicable First-Class Mail, or USPS Ground Advantage—Retail single-piece price for the weight of the piece. Separate notice provided (electronic ACS fee is charged).

If change-of-address order on file: [Revise the bullets under “Address Service Requested” (Shipper Paid Forwarding/Return Option 3), If change-of-address order on file:, to read as follows:]

Months 1 through 12: Piece forwarded. Forwarding postage is charged to the mailer as follows: at

applicable First-Class Mail, or USPS Ground Advantage—Retail single-piece price for the weight of the piece. Separate notice of new address provided (electronic ACS fee charged).

Months 13 through 18: Piece returned with new address attached; return postage is charged to mailer as follows: at applicable First-Class Mail, or USPS Ground Advantage—Retail single-piece price for the weight of the piece. Separate notice of new address provided (electronic ACS fee is charged).

After month 18: Piece returned with reason for nondelivery; return postage is charged to mailer as follows: at applicable First-Class Mail, USPS Ground Advantage—Retail single-piece price for the weight of the piece. Separate notice of reason for nondelivery provided (electronic ACS fee is charged).

“Address Service Requested—BPRS” (BPRS participants only)

* * * * *

If change-of-address order on file: [Revise the first bullet under “Address Service Requested” (BPRS participants only), If change-of-address order on file:, to read as follows:]

Months 1 through 12: Piece forwarded (no charge to addressee); separate ACS notice of new address provided (ACS address correction fee and forwarding postage charged at First-Class Mail, or USPS Ground Advantage—Retail, single-piece price as appropriate for weight of piece, via mailer’s ACS participant code).

* * * * *

“Return Service Requested” (Except for BPRS participants)

Option 1

[Revise the text under “Return Service Requested” (Except for BPRS participants) Option 1, to read as follows:]

Piece returned with new address or reason for nondelivery attached. In either case, only return postage is charged at First-Class Mail, or USPS Retail Ground—Retail single-piece price, as appropriate for weight of piece.

Option 2 (Available via ACS only)

* * * * *

In all cases (regardless of whether a change-of-address order is on file): [Revise the text under “Return Service Requested” (Except for BPRS participants) Option 2, In all cases (regardless of whether a change-of-address order is on file), to read as follows:]

Piece returned with new address or reason for non-delivery attached and separate ACS notice of reason for nondelivery provided. In either case,

both the address correction fee is charged, and return postage is charged at First-Class Mail, or USPS Ground Advantage—Retail single-piece price, as appropriate for weight of piece.

* * * * *

“Change Service Requested” (Shipper Paid Forwarding participants via ACS only)

* * * * *

If change-of-address order on file: [Revise the first bullet under “Change Service Requested” (Shipper Paid Forwarding participants via ACS only) to read as follows:]

Months 1 through 12: Piece forwarded; postage due charged to the mailer as follows; at applicable First-Class Mail, or USPS Ground Advantage—Retail single-piece price for the weight of the piece; separate notice of new address provided (electronic ACS fee charged).

* * * * *

[Revise footnote #2 to read as follows:]

2. The weighted (per piece) fee is the First-Class Mail, or USPS Ground Advantage—Retail single-piece price and any nonmachinable surcharge (see 133.1.0), multiplied by 2.472, rounding any fractions to the next whole cent.

* * * * *

[Revise the heading and introductory text of 1.5.4 to read as follows:]

1.5.4 Package Services and Parcel Select

Undeliverable-as-addressed (UAA) Package Services and Parcel Select (see 1.5.3 for Parcel Select Lightweight) mailpieces are treated as described in Exhibit 1.5.4, with these additional conditions:

[Revise the text of item a to read as follows:]

a. Package Services and Parcel Select mail is forwarded only to domestic addressees.

[Revise the third sentence of item b to read as follows:]

b. * * * Undeliverable Parcel Select, Media Mail, and Library Mail with this address format are returned with the reason for nondelivery attached only if the address is incorrect or incomplete, or the mail is undeliverable for another address-related reason. ***

[Revise the text of items c, d, and e, to read as follows:]

c. The endorsement “Change Service Requested” is not permitted for Package Services or Parcel Select mailpieces containing hazardous materials under 601.8.0.

d. If a Package Services (except for unendorsed Bound Printed Matter) or Parcel Select mailpiece and any attachment are not opened by the

addressee, the addressee may refuse delivery of the piece and have it returned to the sender without affixing postage. Pieces endorsed "Change Service Requested" are not returned to sender. If a Package Services or Parcel Select piece or any attachment to that piece is opened by the addressee, the addressee must affix the applicable postage to return the piece to the sender.

e. An undeliverable Package Services (except for unendorsed Bound Printed Matter) or a Parcel Select mailpiece that bears postage with a postage evidencing imprint and that has an illegible (or no) return address is returned to the meter licensee or PC Postage customer upon payment of the return postage. The reason for nondelivery is attached, with no address correction fee. All Package Services (except unendorsed Bound Printed Matter) and Parcel Select pieces must have a legible return address.

* * * * *

[Revise the heading of Exhibit 1.5.4 to read as follows:]

Exhibit 1.5.4 Treatment of Undeliverable Package Services, and Parcel Select

Mailer Endorsement ..	USPS Treatment of UAA Pieces.
-----------------------	-------------------------------

* * * * *

"Address Service Requested"¹
(Except for Shipper Paid Forwarding participants)

If no change-of-address order on file: Piece is returned with reason for nondelivery attached (only return postage charged) as follows:

[Revise the two bullets under "Address Service Requested," "If no change-of-address order on file:" to read as follows:]

- Parcel Select: at the USPS Ground Advantage—Commercial price plus the additional service fee.
- Package Services: at the appropriate single-piece price for the specific class of mail.

If change-of-address order on file: [Revise the first bullet and items a and b under "Address Service Requested," "If change-of-address order on file:" to read as follows:]

- Months 1 through 12: Package Services forwarded postage due at the single-piece price for the class of mail. Parcel Select forwarded as postage due to addressee at the USPS Ground Advantage—Commercial price plus the additional service fee. In both cases, separate notice of new address is provided (address correction fee charged). If addressee refuses to pay postage due, piece is returned with reason for nondelivery attached and postage charged as follows:

a. Parcel Select: at the USPS Ground Advantage—Commercial price plus the additional service fee.

b. Package Services: at the single-piece price for the class of mail.

* * * * *

"Address Service Requested" Shipper Paid Forwarding/Return Option 1 (Shipper Paid Forwarding/Return participants via ACS only)

If no change-of-address order on file: [Revise the text under "Address Service Requested," Shipper Paid Forwarding/Return Option 1 (Shipper Paid Forwarding/Return participants via ACS only) "If no change-of-address order on file:" to read as follows:]

Parcel returned with reason for nondelivery attached; postage due charged as follows: at the applicable Package Services single-piece price or the USPS Ground Advantage—Commercial price plus the additional service fee.

If change-of-address order on file: [Revise the first bullet under "Address Service Requested," Shipper Paid Forwarding/Return Option 1 (Shipper Paid Forwarding/Return participants via ACS only) "If change-of-address order on file:" to read as follows:]

- Months 1 through 12: Parcel forwarded. Forwarding postage is charged to the mailer as follows; at the applicable Package Services single-piece price or the USPS Ground Advantage—Commercial price plus the ACS & Shipper Paid Forward/Return additional service fee. Separate notice of new address provided (electronic ACS fee charged).

* * * * *

Shipper Paid Forwarding/Return Option 2

If no change-of-address order on file: [Revise the text under "Address Service Requested," Shipper Paid Forwarding/Return Option 2 "If no change-of-address order on file:" to read as follows:]

Piece returned with reason for nondelivery attached; Postage due charged as follows: at the applicable Package Services single-piece price or the USPS Ground Advantage—Commercial price plus the additional service fee. Separate notice provided (electronic ACS fee is charged).

If change-of-address order on file: [Revise the first bullet under "Address Service Requested," Shipper Paid Forwarding/Return Option 2 "If change-of-address order on file:" to read as follows:]

- Months 1 through 12: Parcel forwarded. Forwarding postage is charged to the mailer as follows; at the applicable Package Services single-piece

price or the USPS Ground Advantage—Commercial price plus the ACS & Shipper Paid Forward/Return additional service fee. Separate notice of new address provided (electronic ACS fee charged).

* * * * *

Shipper Paid Forwarding/Return Option 3

If no change-of-address order on file: [Revise the text under "Address Service Requested," Shipper Paid Forwarding/Return Option 3 "If no change-of-address order on file:" to read as follows:]

Piece returned with reason for nondelivery attached; Return postage is charged to the mailer as follows: at the Package Services single-piece price, or the USPS Ground Advantage—Commercial price plus the ACS & Shipper Paid Forward/Return additional service fee. Separate notice provided (electronic ACS fee is charged).

If change-of-address order on file: [Revise the first bullet under "Address Service Requested," Shipper Paid Forwarding/Return Option 3 "If change-of-address order on file:" to read as follows:]

- Months 1 through 12: Parcel forwarded. Forwarding postage is charged to the mailer as follows: at the Package Services single-piece price or the USPS Ground Advantage—Commercial price plus the ACS & Shipper Paid Forward/Return additional service fee. Separate notice of new address provided (electronic ACS fee is charged).

* * * * *

"Forwarding Service Requested"²

If no change-of-address order on file: [Revise the text under "Forwarding Service Requested," "If no change-of-address order on file:" to read as follows:]

Piece returned with reason for nondelivery attached; return postage charged as follows at the applicable Package Services single-piece price or the USPS Ground Advantage—Commercial price plus the additional service fee.

If change-of-address order on file: [Revise the first bullet under "Forwarding Service Requested," "If change-of-address order on file:" to read as follows:]

- Months 1 through 12: Package Services forwarded postage due at the single-piece price for the class of mail. Parcel Select forwarded as postage due to addressee at the USPS Ground Advantage—Commercial price plus the additional service fee. If addressee refuses to pay postage due, piece is returned with reason for nondelivery

attached; postage charged as follows: at the applicable Package Services single-piece price or the USPS Ground Advantage—Commercial price plus the additional service fee.

* * * * *

“Return Service Requested” Option 1

In all cases (regardless of whether a change-of-address order is on file):

[Revise the text under “Return Service Requested,” Option 1 “In all cases (regardless of whether a change-of-address order is on file):” to read as follows:]

Piece returned with new address or reason for nondelivery attached. In either case, only return postage is charged as follows: at the Package Services single-piece price or the USPS Ground Advantage—Commercial price plus the additional service fee.

Option 2 (Available via ACS only)

In all cases (regardless of whether a change-of-address order is on file):

[Revise the text under “Return Service Requested,” Option 2 (Available via ACS only) “In all cases (regardless of whether a change-of-address order is on file):” to read as follows:]

Piece returned with new address or reason for non-delivery attached, return postage is charged as follows: at the applicable Package Services single-piece price or the USPS Ground Advantage—Commercial price plus the additional service fee. Separate ACS notice of reason for nondelivery provided (electronic ACS fee charged).

“Change Service Requested”³ Option 1 (Valid for all pieces, including ACS participating pieces)

If no change-of-address order on file, or if change-of-address order is on file:

* * * * *

Restrictions:

The following restrictions apply:

* * * * *

[Revise the text of item 2 to read as follows:]

(2) This endorsement is not permitted for Package Services containing hazardous materials.

* * * * *

“Change Service Requested” (For Shipper Paid Forwarding/Return participants via ACS only)

* * * * *

If change-of-address order on file:

[Revise the first bullet under “Change Service Requested,” (For Shipper Paid Forwarding/Return participants via ACS only) “If change-of-address order on file:” to read as follows:]

- Months 1 through 12: Parcel forwarded; postage due charged to the mailer as follows: at the Package Services single-piece price for the specific class of mail or the USPS

Ground Advantage—Commercial price plus the ACS & Shipper Paid Forward/Return additional service fee; separate notice of new address provided (electronic ACS fee charged).

* * * * *

Restrictions:

The following restrictions apply:

* * * * *

[Revise the text of item 2 to read as follows:]

(2) This endorsement is not permitted for Package Services containing hazardous materials.

* * * * *

1.6 Attachments and Enclosures

1.6.1 Periodicals

[Revise the first sentence of 1.6.1 to read as follows:]

Undeliverable Periodicals (including publications pending Periodicals authorization) with a nonincidental First-Class Mail attachment or enclosure are returned at the single-piece First-Class Mail price for the weight and shape of the piece, and the nonmachinable surcharge if applicable, or USPS Ground Advantage—Retail price for the weight and destination of the piece. * * *

1.6.2 USPS Marketing Mail

[Revise the first sentence of 1.6.2 to read as follows:]

Undeliverable, unendorsed USPS Marketing Mail with a nonincidental First-Class Mail attachment or enclosure is returned at the single-piece First-Class Mail price for the weight and shape of the piece or USPS Ground Advantage—Retail price for the weight and destination of the piece. * * *

1.6.3 Package Services and Parcel Select

Undeliverable, unendorsed mailpieces with a First-Class Mail attachment or enclosure are forwarded or returned as follows:

[Revise the text of item a to read as follows:]

a. Parcel Select at the USPS Ground Advantage—Commercial price plus the additional service fee.

* * * * *

1.7 Mixed Classes

* * * * *

1.7.4 Parcel

[Revise the text of 1.7.4 to read as follows:]

A combination parcel containing Media Mail and Bound Printed Matter is charged postage at the USPS Ground

Advantage—Retail price when forwarded or returned.

* * * * *

1.8 Returning Mail

* * * * *

[Revise the heading of 1.8.3 to read as follows:]

1.8.3 Priority Mail Express, Priority Mail, First-Class Mail, USPS Ground Advantage—Retail, and USPS Ground Advantage—Commercial

[Revise the introductory text of 1.8.3 to read as follows:]

Mailpieces sent as Priority Mail Express, Priority Mail, First-Class Mail, USPS Ground Advantage—Retail, or USPS Ground Advantage—Commercial that cannot be delivered as addressed or forwarded to a new address, unless otherwise requested by the sender, are returned to the sender at no additional charge. Excluding pieces containing live animals, the following are disposed of by the USPS:

* * * * *

[Revise the text of item b to read as follows:]

b. First-Class Mail, USPS Ground Advantage—Retail, or USPS Ground Advantage—Commercial pieces with a valid ACS participant code and endorsed “Change Service Requested.”

* * * * *

1.9 Dead Mail

1.9.1 Basic Information

* * * The disposition of dead mail items is as follows:

* * * * *

[Revise the text of item e to read as follows:]

e. Except for unendorsed USPS Marketing Mail, undeliverable USPS Marketing Mail, Package Services, and insured First-Class Mail, USPS Ground Advantage—Retail, or USPS Ground Advantage—Commercial pieces containing USPS Marketing Mail, or Package Services enclosures, that cannot be returned because of an incorrect, incomplete, illegible, or missing return address is opened and examined to identify the sender or addressee.

* * * * *

2.0 Forwarding

* * * * *

2.2 Forwardable Mail

* * * * *

2.2.3 Discontinued Post Office

[Revise the text of 2.2.3 to read as follows:]

All Priority Mail Express, Priority Mail, First-Class Mail, USPS Ground

Advantage—Retail, USPS Ground Advantage—Commercial, Periodicals, and Package Services pieces addressed to a discontinued Post Office may be forwarded without added charge to a Post Office that the addressee designates as more convenient than the office to which the USPS ordered the mail sent.

2.2.4 Rural Delivery

[Revise the text of 2.2.4 to read as follows:]

When rural delivery service is established or changed, a customer of any office receiving mail from the rural carrier of another office may have all Priority Mail Express, Priority Mail, First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, Periodicals, and Package Services pieces forwarded to the latter office for delivery without added charge, if the customer files a written request with the postmaster at the former office.

* * * * *

2.2.6 Mail for Military Personnel

[Revise the first sentence of 2.2.6 to read as follows:]

All Priority Mail Express, First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, Periodicals, and Package Services mailpieces addressed to persons in the U.S. Armed Forces (including civilian employees) serving where U.S. mail service operates is forwarded at no added charge when the change of address is caused by official orders.

* * *

* * * * *

2.3 Postage for Forwarding

* * * * *

[Revise the heading and text of 2.3.3 to read as follows:]

2.3.3 Priority Mail, First-Class Mail, USPS Ground Advantage—Retail, and USPS Ground Advantage—Commercial

Priority Mail, First-Class Mail (including postcards), USPS Ground Advantage—Retail, and USPS Ground Advantage—Commercial mailpieces are forwarded without charge when postage is fully prepaid by the sender.

* * * * *

2.3.5 USPS Marketing Mail and Parcel Select Lightweight

[Revise the second sentence of 2.3.5 to read as follows:]

* * * Shipper Paid Forwarding/ Return (under 4.2.9) provides mailers of USPS Marketing Mail and Parcel Select Lightweight parcels an option of paying forwarding postage on those parcels, or return postage if undeliverable, at the

applicable single-piece First-Class Mail, or USPS Ground Advantage—Retail price, instead of the addressee paying postage due charges. * * *

[Revise the heading of 2.3.6 to read as follows:]

2.3.6 Package Services, and Parcel Select

[Revise the first and third sentence of 2.3.6 to read as follows:]

Package Services, and Parcel Select pieces are subject to the collection of additional postage at the applicable price for forwarding; Parcel Select at the USPS Ground Advantage—Commercial price plus the additional service fee and Package Services at the single-piece price for the specific class of mail.

* * * * * The addressee may refuse any piece of Package Services or Parcel Select that has been forwarded. * * *

* * * * *

3.0 Hold For Pickup

* * * * *

3.2 Basic Information

* * * * *

3.2.2 Basic Eligibility

[Revise the introductory text of 3.2.2 to read as follows:]

Hold For Pickup service is available at retail Post Office locations for Priority Mail Express presented under 113.4.2 or 113.4.3, with or without COD service, Priority Mail, First-Class Mail, Library Mail, and Media Mail, with COD service, and for Priority Mail Express, Priority Mail, and USPS Ground Advantage—Retail, using USPS Click-N-Ship. It is also available with commercial mailings of Priority Mail Express presented under 213.4.2 or 213.4.3, Priority Mail, USPS Ground Advantage—Commercial, Parcel Select Lightweight, and Bound Printed Matter parcels, when:

* * * * *

3.2.3 Additional Eligibility Standards

Parcels must meet these additional physical requirements:

* * * * *

[Revise the text of item b to read as follows:]

b. Except as provided in 3.2.3c, Parcel Select Lightweight parcels must be greater than 3/4 inch thick at the thickest point.

* * * * *

3.3 Preparation Definitions and Instructions

[Revise the introductory text of 3.3 to read as follows:]

When using Hold For Pickup service, except for Priority Mail Express Hold

For Pickup with or without COD service, First-Class Mail, USPS Ground Advantage—Retail, Library Mail, and Media Mail, with COD service presented at retail Post Office locations, mailers or their agents must prepare mailpieces with the “Hold For Pickup” label as follows:

* * * * *

4.0 Address Correction Services

4.1 Address Correction Service

* * * * *

4.1.3 Invalid Endorsement

[Revise the last sentence “Exception:” to read as follows:]

* * * Exception: Undeliverable Media Mail, Library Mail, and Parcel Select pieces that bear invalid or conflicting ancillary service endorsements are treated as if endorsed “Forwarding Service Requested.”

* * * * *

4.1.5 Other Classes

[Revise the first sentence of 4.1.5 to read as follows:]

When possible, “on-piece” address correction is provided for Priority Mail Express, Priority Mail, First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, USPS Marketing Mail, Package Services, and Parcel Select pieces. * * *

* * * * *

5.0 Package Intercept

5.1 Description of Service

* * * * *

5.1.2 Eligibility

[Revise the first sentence of 5.1.2 to read as follows:]

Except under 5.1.3, Package Intercept service is available for Priority Mail Express, Priority Mail, First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, Parcel Select, Bound Printed Matter, Media Mail, or Library Mail mailpieces with a tracking barcode (excluding COD Hold For Pickup mailpieces), addressed to, from, or between domestic destinations (608.2.0) that do not require a customs declarations label, and measuring not more than 108 inches in length and girth combined. * * *

* * * * *

5.2 Postage and Fees

[Revise the second and third sentences in the introductory text of 5.2 to read as follows:]

* * * Priority Mail Express, Priority Mail, First-Class Mail, USPS Ground Advantage—Retail, and USPS Ground Advantage—Commercial pieces being

redirected to the sender are not relabeled or subject to additional postage. Intercepted Parcel Select, Bound Printed Matter, Media Mail or Library Mail pieces that are redirected to the sender, and all intercepted mailpieces that are redirected to a new delivery address or a Post Office as Hold For Pickup (3.0), are relabeled and handled as a new Priority Mail piece.

7.0 Pickup on Demand Service

7.2 Basic Standards

7.2.1 Availability

Incidental amounts of other postage-affixed, full-price mail also may be collected when Pickup on Demand service is provided for:

[Revise items c and d to read as follows:]

- c. USPS Ground Advantage—Retail.
d. USPS Ground Advantage—Commercial.

[Delete item e and renumber items f through n as items e through m.]

[Delete renumbered item g, USPS Retail Ground, and renumber items h through m as items g through l.]

11.0 USPS Tracking Plus Service

11.2 Scan Data Retention

USPS Tracking Plus service is available for scan data retention on mailpieces shipped via the following products:

[Revise the text of item d to read as follows:]

- d. USPS Ground Advantage Service.

12.0 USPS Label Delivery Service

12.2 Eligibility

USPS Label Delivery Service is available for the following:

[Revise the text of items b and c to read as follows:]

- b. USPS Ground Advantage—Retail.
c. USPS Ground Advantage—Commercial.

[Delete items d and e and renumber item f as item d.]

508 Recipient Services

1.0 Recipient Options

1.8 Commercial Mail Receiving Agencies

1.8.4 Addressee and CMRA Agreement

In delivery of the mail to the CMRA, the addressee and the CMRA agree that:

[Revise the sixth sentence of item b to read as follows:]

b. At the end of the 6-month remail period the CMRA may return to the Post Office only First-Class Mail, USPS Ground Advantage—Retail, Priority Mail, Priority Mail Express, or accountable mail, received for the former addressee (customer).

[Revise the third sentence of item c to read as follows:]

c. Upon approval, the CMRA may return to the Post Office only First-Class Mail, USPS Ground Advantage—Retail, Priority Mail, Priority Mail Express, and accountable mail, received for the former customer.

7.0 Premium Forwarding Services

7.2 Premium Forwarding Service Residential

7.2.6 Weekly Priority Mail Shipments

Regardless of any mailer's ancillary service endorsement on a mailpiece, and provided it fits within the shipment container, all mail is included in the weekly Priority Mail shipment, except as follows:

b. Mailpieces that do not fit in the shipment container, or that require a scan or signature at delivery, are scanned (when applicable) and then rerouted separately to the temporary address, subject to the following:

[Revise the text of items b1 through b3 to read as follows:]

1. Priority Mail Express, Priority Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial pieces and Periodicals parcels are rerouted separately at no additional charge.

2. USPS Marketing Mail parcels and Parcel Select Lightweight pieces are rerouted separately and charged postage due at the appropriate USPS Ground Advantage—Retail price.

3. Bound Printed Matter, Media Mail, Library Mail, and Parcel Select pieces are rerouted separately and charged postage due at the appropriate single-piece price for the class or subclass of mail in which the piece was originally shipped.

d. Any mailpiece arriving postage due at the Post Office serving a customer's primary address is not included in the weekly Priority Mail shipment and will be rerouted separately as follows:

[Revise the text of items d1 and d2 to read as follows:]

1. First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, and Priority Mail pieces are charged only for the original postage due amount.

2. Bound Printed Matter, Media Mail, Library Mail, and Parcel Select pieces are rerouted postage due at the appropriate single-piece price for the class, or subclass, of mail the mailpiece was originally shipped plus the postage due amount already indicated on the mailpiece.

7.3 Premium Forwarding Service Commercial

7.3.3 Conditions

Only the authorized recipient (or legal agent) of the business' (or organization's) mail may activate the request for PFS-Commercial service. PFS-Commercial service is subject to these conditions:

[Revise the text of item e to read as follows:]

e. Except under 7.3.3g, the following products may be included in a PFS-Commercial service container: Priority Mail, First-Class Mail, USPS Ground Advantage—Retail, and USPS Ground Advantage—Commercial pieces.

600 Basic Standards for All Mailing Services

602 Addressing

1.0 Elements of Addressing

1.3 Address Elements

All mail not bearing a simplified address must bear a delivery address that contains at least the following elements in this order from the top line:

[Revise the text of item e to read as follows:]

e. ZIP Codes are required on Priority Mail Express, commercial First-Class Mail, Periodicals, USPS Marketing Mail, Package Services and Parcel Select mailpieces, all mail sent to military addresses within the United States and to APO and FPO addresses, official mail, Business Reply Mail, and USPS Returns service packages.

* * * * *

1.5 Return Addresses

* * * * *

1.5.3 Required Use of Return Addresses

The sender's domestic return address must appear legibly on:

* * * * *

[Revise the text of item g to read as follows:]

g. USPS Ground Advantage—Retail and USPS Ground Advantage—Commercial.

* * * * *

3.0 Use of Alternative Addressing

3.1 General Information

* * * * *

3.1.2 Prohibited Use

Alternative addressing formats may not be used on:

* * * * *

[Revise the text of item b to read as follows:]

b. Mail with any ancillary service endorsement under 507.1.1 through 507.1.8, except as allowed for First-Class Mail, USPS Ground Advantage—Commercial parcels, or Priority Mail under 507.1.5.1b.

* * * * *

3.1.3 Treatment

[Revise the last sentence of 3.1.3 to read as follows:]

* * * Undeliverable mail with any alternative addressing format is disposed of as waste under 507.1.9.1, except for First-Class Mail, USPS Ground Advantage—Commercial parcels, and Priority Mail under 507.1.5.1b.

* * * * *

4.0 Detached Address Labels (DALs) and Detached Marketing Labels (DMLs)

* * * * *

4.5 Disposition of Excess or Undeliverable Material

* * * The mailer must choose one of the following options for each DAL or DML mailing and the items:

* * * * *

[Revise the last sentence of item d to read as follows:]

d. * * * Additional material must be sent prepaid to the delivery Post Office as First-Class Mail, USPS Ground Advantage—Retail, Priority Mail, or Priority Mail Express.

* * * * *

4.6 Postage

* * * * *

4.6.3 Returns

[Revise the first sentence of 4.6.3 to read as follows:]

Postage for excess or undeliverable DALs or DMLs that are properly endorsed or for items being returned is computed at the single-piece price (First-Class Mail, USPS Ground Advantage—Retail, Priority Mail, or Package Services) applicable to the combined weight of the DAL or DML, and the accompanying item, regardless of whether both are returned. * * *

* * * * *

604 Postage Payment Methods and Refunds

* * * * *

4.0 Postage Meters and PC Postage Products (“Postage Evidencing Systems”)

* * * * *

4.6 Mailings

4.6.1 Mailing Date Format

* * * The mailing date format used in the indicia is also subject to the following conditions.

a. Complete Date. Mailers must use a complete date for the following:

[Revise the text of item a1 to read as follows:]

1. All Priority Mail Express, Priority Mail, First-Class Mail, USPS Ground Advantage—Retail, and USPS Ground Advantage—Commercial pieces.

* * * * *

4.6.3 Deposit of Mail

Mailers must deposit or enter mailpieces with metered or PC Postage indicia according to the following conditions:

[Revise the first sentence of item a to read as follows:]

a. Mailers may deposit Priority Mail Express (including Flat Rate), Priority Mail (including Flat Rate), retail First-Class Mail, USPS Ground Advantage—Retail, retail Media Mail, and Library Mail, with a postage evidencing indicia at any Postal Service facility, preferably near the customers' local Post Office. * * *

* * * * *

5.0 Permit Imprint (Indicia)

5.1 General Standards

5.1.1 Definition

[Revise the second sentence of 5.1.1 to read as follows:]

* * * This payment method may be used for postage and extra service fees for Priority Mail Express (“eVS” only), Priority Mail, First-Class Mail, USPS Ground Advantage—Commercial, USPS Marketing Mail, Package Services, and Parcel Select mailpieces. * * *

5.1.2 Minimum Volume

Permit imprint mailings must contain at least 200 pieces or 50 pounds of mail, except:

* * * * *

[Revise the text of item f to read as follows:]

f. A mailing containing 50 or more pieces for Parcel Select destination entry under 253.4.1.2.

[Revise the second sentence of item g to read as follows:]

g. * * * Mailers may include any combination of the following products under this provision: Priority Mail Express (eVS only), Priority Mail, USPS Ground Advantage—Commercial parcels, nonpresorted Bound Printed Matter parcels, and single-piece Media Mail and Library Mail parcels. * * *

* * * * *

5.3 Indicia Design, Placement, and Content

* * * * *

[Revise the heading and introductory text of 5.3.6 to read as follows:]

5.3.6 Priority Mail Express, Priority Mail, First-Class Mail, and USPS Ground Advantage—Commercial Format

A permit imprint indicia on Priority Mail Express, Priority Mail, First-Class Mail, or USPS Ground Advantage—Commercial mailpieces must be formatted as follows:

[Revise the first sentence of item a to read as follows:]

a. Except under items 5.3.6b through 5.3.6d, the permit imprint indicia must show the basic price markings “Priority Mail Express,” “Priority Mail” (or “Priority”), “First-Class Mail,” or “USPS Ground Advantage” as applicable; “U.S. Postage Paid”; city and state; and permit number. * * *

* * * * *

[Revise the text of item c to read as follows:]

c. The “Priority Mail Express,” “Priority Mail” (or “Priority”), “First-Class Mail, or “USPS Ground Advantage” basic price marking may be

omitted when using shipping address labels under 202.3.0.

* * * * *

8.0 Insufficient or Omitted Postage

8.1 Insufficient Postage

* * * * *

8.1.2 Undeliverable and Refused Mail

Mail with insufficient postage that is refused by the addressee or otherwise undeliverable is:

* * * * *

[Revise the text of item b to read as follows:]

b. Returned to the sender and delivered when the sender pays the total deficient postage and additional postage for forwarding or return if other than First-Class Mail or USPS Ground Advantage—Retail, and with a return address.

* * * * *

8.1.6 Registered Mail With Insufficient Postage

[Revise the first sentence of 8.1.6 to read as follows:]

If shortpaid Registered Mail is found in ordinary mail, with only the First-Class Mail or USPS Ground Advantage—Retail, price of postage paid, the piece is delivered to the addressee as ordinary First-Class Mail or USPS Ground Advantage—Retail.

* * * * *

8.3 Mailable Matter Without Postage in or on Mail Receptacles

* * * * *

8.3.4 Partial Distribution

[Revise the text of 8.3.4 to read as follows:]

If there is a distribution of pieces to some, but not all, addresses on a route, pieces are returned to the delivery unit for use in computing the postage due. First-Class Mail or USPS Ground Advantage—Retail prices are applied to matter that would require First-Class Mail or USPS Ground Advantage—Retail postage if mailed. For other matter, if the piece weighs less than 16 ounces, the applicable single-piece First-Class Mail or USPS Ground Advantage—Retail, price based on the weight of the piece is applied, or an applicable Package Services price is applied, whichever is lower. If the piece weighs 16 ounces or more, the USPS Ground Advantage—Retail or applicable Package Services price is applied.

* * * * *

9.0 Exchanges and Refunds

* * * * *

9.2 Postage and Fee Refunds

* * * * *

9.2.3 Full Refund

A full refund (100%) may be made when:

* * * * *

[Revise the first sentence of item 1 to read as follows:]

1. If a First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, or Package Services mailpiece is torn or defaced during USPS handling so that the addressee or intended delivery point cannot be identified.

* * * * *

608 Postal Information and Resources

* * * * *

7.0 Trademarks and Copyrights of the USPS

7.1 USPS Trademarks

* * * Depending on the trademark, the TM or ® symbol may be used after these marks. Information on USPS trademarks can be found on USPS.com or by contacting General Counsel, USPS Headquarters (see 8.1 for address).

* * * * *

[Revise the list of trademarks by deleting “First-Class Package” and “First-Class Package Service”, and “USPS Retail Ground”.]

[Revise the list of trademarks by adding “USPS Ground Advantage” alphabetically.]

* * * * *

9.0 Postal Zones

* * * * *

9.2 Application

Zones are used to compute postage on zoned mail sent between 3-digit ZIP Code areas, including Military Post Offices (MPOs), as follows:

a. For the purposes of computing postal zone information, except for items 9.2b and 9.2c, the following table applies to MPOs listed in L002 Column A.

[Revise the footnote under item a to read as follows:]

* Chicago IL 606 serves Priority Mail and USPS Ground Advantage mail destined to these ZIP Codes.

* * * * *

609 Filing Indemnity Claims for Loss or Damage

1.0 General Filing Instructions

* * * * *

1.4 When To File

File claims as follows:

* * * * *

b. Lost Articles: customers must file a claim within the time limits in the chart below.

MAIL TYPE OR SERVICE

* * * * *

[Revise the “APO/FPO/DPO Insured Mail and registered Mail” line item to read as follows:]

APO/FPO/DPO Insured Mail and registered Mail (Priority Mail, First-Class Mail, USPS Ground Advantage—Retail, SAM, or PAL)

* * * * *

700 Special Standards

703 Nonprofit USPS Marketing Mail and Other Unique Eligibility

1.0 Nonprofit USPS Marketing Mail

* * * * *

1.9 Mailing While Application Pending

* * * * *

1.9.2 Postage Record

[Revise the text of 1.9.2 to read as follows:]

While an application or confirmation of authorization is pending, postage must be paid at the applicable USPS Marketing Mail prices to qualify for a refund. The USPS records the difference between postage paid at regular USPS Marketing Mail prices and the postage that would have been paid at Nonprofit USPS Marketing Mail prices.

1.9.3 Refund

* * * No refund is made:

* * * * *

[Revise the text of item b to read as follows:]

b. If postage was paid at any eligible price other than USPS Marketing Mail.

* * * * *

2.0 Overseas Military and Diplomatic Post Office Mail

* * * * *

2.4 Military Ordinary Mail (MOM)

[Revise the first sentence in the introductory text of 2.4 to read as follows:]

Military ordinary mail (MOM) is DOD official mail sent at USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, Periodicals, USPS Marketing Mail, Parcel Select, or Package Services prices that requires faster service than sealift transportation to, from, and between military Post Offices.

* * * * *

2.5 Parcel Airlift (PAL)

* * * * *

2.5.2 Availability

[Revise the text of 2.5.2 to read as follows:]

PAL is available for USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, Package Services, or Parcel Select pieces that do not exceed 30 pounds in weight or 60 inches in length and girth combined, when mailed at or addressed to any overseas military Post Office outside the 48 contiguous states.

* * * * *

3.0 Department of State Mail

* * * * *

3.2 Conditions for Authorized Mail

* * * * *

3.2.3 Weight and Size Limits

Maximum weight or size dimensions may not exceed any of the following:

* * * * *

[Revise the text of items e and f to read as follows:]

e. Combined length and girth: 108 inches for all mail classes other than USPS Ground Advantage—Retail.

f. Combined length and girth: 130 inches for USPS Ground Advantage—Retail.

* * * * *

9.0 Mixed Classes

* * * * *

9.12 Postage Payment for Combined Mailings of Media Mail and Bound Printed Matter

* * * * *

9.12.4 Rating of Unmarked Parcel

[Revise the introductory text of 9.12.4 to read as follows:]

A parcel containing Media Mail and Bound Printed Matter is charged postage at USPS Ground Advantage—Commercial prices if it:

* * * * *

705 Advanced Preparation and Special Postage Payment Systems

* * * * *

6.0 Combining Mailings of USPS Marketing Mail, Package Services, and Parcel Select Parcels

* * * * *

6.2 Combining Parcels—DNDC Entry

* * * * *

6.2.1 Eligible Prices

[Revise the first sentence of 6.2.1 to read as follows:]

Combined parcels may be eligible for USPS Marketing Mail, Parcel Select Lightweight, Parcel Select DNDC/ASF, single-piece and Presorted Media Mail, single-piece and Presorted Library Mail, Bound Printed Matter DNDC, and Nonpresorted and Presorted Bound Printed Matter prices. * * *

* * * * *

8.0 Preparing Pallets

* * * * *

8.6 Pallet Labels

* * * * *

8.6.5 Line 2 (Content Line)

Line 2 (content line) must meet these standards:

* * * * *

b. Codes. The codes shown below must be used as appropriate on Line 2 of sack, tray, and pallet labels.

Content Type	Code

* * * * *

[Revise the Line 2 “Content Type” and “Code” by deleting the First-Class Package Service—Commercial entry in its entirety.]

* * * * *

16.0 Plant Load Mailings

16.1 Basic Information

16.1.1 Purpose

* * * The USPS selects the appropriate mode of transportation and determines responsibility as shown below.

* * * * *

[Revise the text of footnote #3 to read as follows:]

3, Priority Mail Express and Priority Mail only.

* * * * *

18.0 Priority Mail Express Open and Distribute and Priority Mail Open and Distribute

* * * * *

18.3 Additional Standards for Priority Mail Express Open and Distribute

* * * * *

18.3.2 Extra Services

No extra services may be added to the Priority Mail Express segment of a Priority Mail Express Open and Distribute shipment, and the enclosed mail may receive only the following extra services:

[Revise the text of item a to read as follows:]

a. First-Class Mail pieces may be sent with Certified Mail service.

* * * * *

[Revise the text of item d to read as follows:]

d. Parcel Select and Package Services parcels mail may be sent with USPS Tracking or Signature Confirmation service.

18.4 Additional Standards for Priority Mail Open and Distribute

* * * * *

18.4.2 Extra Services

No extra services are available for Priority Mail Open and Distribute containers.

Only the following services may be added for mail in the enclosed container:

[Revise the text of items a through c to read as follows:]

a. First-Class Mail pieces may be sent with Certified Mail service.

b. USPS Marketing Mail parcels (except Customized MarketMail pieces) may be sent with electronic option USPS Tracking service.

c. Parcel Select and Package Services parcels may be sent with USPS Tracking or Signature Confirmation service.

* * * * *

Index

* * * * *

B

* * * * *

[Delete the “balloon price” entry in its entirety.]

* * * * *

C

* * * * *

Commercial Mail (Letters, Flats, Parcels)

* * * * *

[Delete the “First-Class Package Service—Commercial, 280” entry under “Commercial Mail”.]

* * * * *

[Add “USPS Ground Advantage—Commercial 280” alphabetically under “Commercial Mail.”]

* * * * *

Computing Postage

[Revise the “computing postage” entry by deleting the “USPS Retail Ground” line item.]

* * * * *

D

* * * * *

Deposit

* * * * *

commercial parcels

[Revise the “First-Class Package Service—Commercial, 286” line item under “deposit”, “commercial parcels”, by replacing it with USPS Ground Advantage—Commercial 286.]

* * * * *

[Revise the “deposit”, “retail mail” entry by deleting the “USPS Retail Ground” line item.]

* * * * *

E

* * * * *

Entry

* * * * *

commercial parcels

[Revise the “First-Class Package Service—Commercial, 286” line item under “Entry”, “commercial parcels”, by replacing it with USPS Ground Advantage—Commercial 286.]

* * * * *

F

* * * * *

[Delete the “First-Class Package Service—Commercial parcels” line item and in its entirety.]

* * * * *

H

* * * * *

Handwriting

* * * * *

commercial parcels

[Revise the “First-Class Package Service—Commercial, 283” line item under “handwriting”, “commercial parcels”, by replacing it with USPS Ground Advantage—Commercial 283.]

* * * * *

M

* * * * *

Mail Preparation

* * * * *

commercial parcels

[Revise the “First-Class Package Service—Commercial, 285” line item under “mail Preparation”, “commercial parcels”, by replacing it with USPS Ground Advantage—Commercial 285.]

[Revise the “mail preparation”, “commercial parcels” entry by deleting the “USPS Retail Ground” line item.]

* * * * *

Mixed Classes, 703.9.0

[Revise the “mixed classes” entry by deleting the “USPS Retail Ground” line item.]

* * * * *

N

* * * * *

Network Distribution Center (NDC) Acceptance

retail mail

[Revise the “Network Distribution Center (NDC) acceptance” entry by deleting the “USPS Retail Ground” line item.]

* * * * *

O

* * * * *

Oversized Price Eligibility

[Revise the “oversized price eligibility” entry by replacing the “USPS Retail Ground” line item with USPS Ground Advantage.]

* * * * *

P

* * * * *

Parcel Select

[Revise the “Parcel Select” entry by deleting the “cubic 253.2.1” line item.]

* * * * *

Plant-Verified Drop Shipment (PVDS), 705.17.0

[Revise the “plant-verified drop shipment (PVDS)” entry by deleting the “USPS Retail Ground” line item.]

* * * * *

Postage Payment

* * * * *

commercial parcels

[Revise the “First-Class Package Service—Commercial, 284” line item under “postage payment”, “commercial parcels”, by replacing it with USPS Ground Advantage—Commercial 284.]

* * * * *

retail mail

[Revise the “postage payment”, “retail mail” entry by deleting the “USPS Retail Ground” line item.]

* * * * *

Postage Statement

* * * * *

commercial parcels

[Revise the “First-Class Package Service—Commercial, 284.3.0” line item under “postage statement”,

“commercial parcels”, by replacing it with USPS Ground Advantage—Commercial 284.3.0.]

* * * * *

Postal Inspection

* * * * *

commercial parcels

[Revise the “First-Class Package Service—Commercial, 284.3.2.0” line item under “postage statement”, “commercial parcels”, by replacing it with USPS Ground Advantage—Commercial 284.3.2.0.]

* * * * *

retail mail

[Revise the “postal inspection”, “retail mail” entry by deleting the “USPS Retail Ground” line item.]

* * * * *

U

* * * * *

[Add a “USPS Ground Advantage—Commercial parcels” line item to read as follows:]

USPS Ground Advantage—Commercial Parcels

- computing postage, 283.1.1
- content standards, 283.2.0
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- price eligibility, 283.4.0
- size, 201.8.3
- surcharge, 283.1.3
- undeliverable mail, 507.1.5.1
- weight, 201.8.3.1

* * * * *

[Delete the “USPS Retail Ground” entry in its entirety.]

* * * * *

V

* * * * *

Volume Requirements

* * * * *

commercial parcels

[Revise the “First-Class Package Service—Commercial, 284.4.0” line item under “volume requirements”, “commercial parcels”, by replacing it with USPS Ground Advantage—Commercial 284.4.0.]

* * * * *

Z

* * * * *

ZIP Code Accuracy

* * * * *

commercial parcels

[Revise the “First-Class Package Service—Commercial, 283.3.0” line item under “volume requirements”, “commercial parcels”, by replacing it with USPS Ground Advantage—Commercial 283.3.0.]

* * * * *

Notice 123 (Price List)

[Revise competitive prices as applicable.]

* * * * *

Tram T. Pham,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2023–10353 Filed 5–19–23; 8:45 am]

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Part III

Environmental Protection Agency

40 CFR Part 98

Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule; Proposed Rule

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Part 98

[EPA-HQ-OAR-2019-0424; FRL-7230-03-OAR]

RIN 2060-AU35

**Revisions and Confidentiality
Determinations for Data Elements
Under the Greenhouse Gas Reporting
Rule**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The EPA is issuing this supplemental proposal that would amend specific provisions in the Greenhouse Gas Reporting Rule to improve the quality and consistency of the rule by providing for the collection of improved data that would better inform and be relevant to a wide variety of Clean Air Act provisions that the EPA carries out. The EPA recently evaluated the requirements of the Greenhouse Gas Reporting Rule to identify areas of improvement, including updates to the existing calculation, recordkeeping, and reporting requirements, and requested information for collection of additional data to understand new source categories in a proposed rule (June 21, 2022). In this notification, the EPA is proposing additional amendments to the Greenhouse Gas Reporting Rule, including updates to the General Provisions to reflect revised global warming potentials, and is proposing to require reporting of greenhouse gas data from additional sectors—specifically energy consumption; coke calcining; ceramics production; calcium carbide production; and caprolactam, glyoxal, and glyoxylic acid production. The EPA is also proposing additional revisions that would improve implementation of the Greenhouse Gas Reporting Rule, such as updates to emissions calculation methodologies; revisions to reporting requirements to improve verification of reported data and the accuracy of the data collected; and other minor technical amendments, corrections, or clarifications. The EPA intends to consider the information received in response to this supplemental proposal prior to finalizing the amendments to the Greenhouse Gas Reporting Rule proposed on June 21, 2022. This action also proposes to establish and amend confidentiality determinations for the reporting of certain data elements to be added or substantially revised in these proposed amendments.

DATES:

Comments. Comments must be received on or before July 21, 2023. Comments on the information collection provisions submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) are best assured of consideration by OMB if OMB receives a copy of your comments on or before June 21, 2023.

Public hearing. The EPA does not plan to conduct a public hearing unless requested. If anyone contacts us requesting a public hearing on or before May 30, 2023, we will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES:

Comments. You may submit comments, identified by Docket Id. No. EPA-HQ-OAR-2019-0424, by any of the following methods:

Federal eRulemaking Portal: www.regulations.gov (our preferred method). Follow the online instructions for submitting comments.

Mail: U.S. Environmental Protection Agency, EPA Docket Center, Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

Hand Delivery or Courier (by scheduled appointment only): EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays)

Instructions: All submissions received must include the Docket Id. No. for this proposed rulemaking. Comments received may be posted without change to www.regulations.gov/, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

The virtual hearing, if requested, will be held using an online meeting platform, and the EPA will provide information on its website (www.epa.gov/ghgreporting) regarding how to register and access the hearing. Refer to the **SUPPLEMENTARY INFORMATION** section for additional information.

FOR FURTHER INFORMATION CONTACT: Jennifer Bohman, Climate Change Division, Office of Atmospheric Programs (MC-6207A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 343-9548;

email address: GHGReporting@epa.gov. For technical information, please go to the Greenhouse Gas Reporting Program (GHGRP) website, www.epa.gov/ghgreporting. To submit a question, select Help Center, followed by “Contact Us.”

World wide web (WWW). In addition to being available in the docket, an electronic copy of this proposal will also be available through the WWW. Following the Administrator's signature, a copy of this proposed rule will be posted on the EPA's GHGRP website at www.epa.gov/ghgreporting.

SUPPLEMENTARY INFORMATION:

Written comments. Submit your comments, identified by Docket Id. No. EPA-HQ-OAR-2019-0424, at www.regulations.gov (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at www.regulations.gov any information you consider to be confidential business information (CBI), proprietary business information (PBI), 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). Please visit www.epa.gov/dockets/commenting-epa-dockets for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions, and general guidance on making effective comments.

Participation in virtual public hearing. To request a virtual public hearing, please contact the person listed in the following **FOR FURTHER INFORMATION CONTACT** section by May 30, 2023. If requested, the virtual hearing will be held on June 6, 2023. The hearing will convene at 9 a.m. Eastern Time (ET) and will conclude at 3 p.m. ET. The EPA may close the hearing 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will provide further information about the hearing on its website (www.epa.gov/ghgreporting) if a hearing is requested.

If a public hearing is requested, the EPA will begin pre-registering speakers

for the hearing no later than one business day after a request has been received. To register to speak at the virtual hearing, please use the online registration form available at www.epa.gov/ghgreporting or contact us by email at GHGReporting@epa.gov. The last day to pre-register to speak at the hearing will be June 5, 2023. On June 5, 2023, the EPA will post a general agenda that will list pre-registered speakers in approximate order at: www.epa.gov/ghgreporting.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 5 minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) by emailing it

to GHGReporting@epa.gov. The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at www.epa.gov/ghgreporting. While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact us by email at GHGReporting@epa.gov to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of an interpreter or special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by May 30, 2023. The EPA may not be able to arrange accommodations without advanced notice.

Regulated entities. This is a proposed regulation. If finalized, these proposed revisions would affect certain entities that must submit annual greenhouse gas (GHG) reports under the GHGRP (40 CFR part 98). These are proposed amendments to existing regulations. If finalized, these amended regulations would also affect owners or operators of certain industry sectors that are direct emitters of GHGs. Regulated categories and entities include, but are not limited to, those listed in Table 1 of this preamble:

TABLE 1—EXAMPLES OF AFFECTED ENTITIES BY CATEGORY

Category	North American Industry Classification System (NAICS)	Examples of facilities that may be subject to part 98:
Adipic Acid Production	325199	All other basic organic chemical manufacturing: Adipic acid manufacturing.
Aluminum Production	331313	Primary aluminum production facilities.
Ammonia Manufacturing	325311	Anhydrous ammonia manufacturing facilities.
Calcium Carbide Production	325180	Other basic inorganic chemical manufacturing: calcium carbide manufacturing.
Carbon Dioxide Enhanced Oil Recovery Projects	211120	Oil and gas extraction projects using carbon dioxide enhanced oil recovery.
Caprolactam, Glyoxal, and Glyoxylic Acid Production	325199	All other basic organic chemical manufacturing.
Cement Production	327310	Cement manufacturing.
Ceramics Manufacturing	327110	Pottery, ceramics, and plumbing fixture manufacturing.
Coke Calcining	327120	Clay building material and refractories manufacturing.
Electronics Manufacturing	299901	Coke; coke, petroleum; coke, calcined petroleum.
	334111	Microcomputers manufacturing facilities.
	334413	Semiconductor, photovoltaic (PV) (solid-state) device manufacturing facilities.
	334419	Liquid crystal display (LCD) unit screens manufacturing facilities; Microelectromechanical (MEMS) manufacturing facilities.
Electrical Equipment Manufacture or Refurbishment	33531	Power transmission and distribution switchgear and specialty transformers manufacturing facilities.
Electricity generation units that report through 40 CFR part 75	221112	Electric power generation, fossil fuel (e.g., coal, oil, gas).
Electrical Equipment Use	221121	Electric bulk power transmission and control facilities.
Electrical transmission and distribution equipment manufacture or refurbishment.	33361	Engine, Turbine, and Power Transmission Equipment Manufacturing.
Ferroalloy Production	331110	Ferroalloys manufacturing.
Fluorinated Greenhouse Gas Production	325120	Industrial gases manufacturing facilities.
Geologic Sequestration	NA	CO ₂ geologic sequestration sites.
Glass Production	327211	Flat glass manufacturing facilities.
	327213	Glass container manufacturing facilities.
	327212	Other pressed and blown glass and glassware manufacturing facilities.
HCFC–22 Production	325120	Industrial gas manufacturing: Hydrochlorofluorocarbon (HCFC) gases manufacturing.
HFC–23 destruction processes that are not collocated with a HCFC–22 production facility and that destroy more than 2.14 metric tons of HFC–23 per year.	325120	Industrial gas manufacturing: Hydrofluorocarbon (HFC) gases manufacturing.
Hydrogen Production	325120	Hydrogen manufacturing facilities.
Industrial Waste Landfill	562212	Solid waste landfill.
Industrial Wastewater Treatment	221310	Water treatment plants.
Injection of Carbon Dioxide	211	Oil and gas extraction.
Iron and Steel Production	333110	Integrated iron and steel mills, steel companies, sinter plants, blast furnaces, basic oxygen process furnace (BOPF) shops.
Lead Production	331	Primary metal manufacturing.
Lime Manufacturing	327410	Lime production.
Magnesium Production	331410	Nonferrous metal (except aluminum) smelting and refining: Magnesium refining, primary.
Nitric Acid Production	325311	Nitrogenous fertilizer manufacturing: Nitric acid manufacturing.
Petroleum and Natural Gas Systems	486210	Pipeline transportation of natural gas.

TABLE 1—EXAMPLES OF AFFECTED ENTITIES BY CATEGORY—Continued

Category	North American Industry Classification System (NAICS)	Examples of facilities that may be subject to part 98:
Petrochemical Production	221210	Natural gas distribution facilities.
Petroleum Refineries	211120	Crude petroleum extraction.
Phosphoric Acid Production	211130	Natural gas extraction.
Pulp and Paper Manufacturing	324110	Petrochemicals made in petroleum refineries.
	324110	Petroleum refineries.
	325312	Phosphatic fertilizer manufacturing.
	322110	Pulp mills.
	322120	Paper mills.
	322130	Paperboard mills.
Miscellaneous Uses of Carbonate	Facilities included elsewhere	
Municipal Solid Waste Landfills	562212	Solid waste landfills.
Silicon Carbide Production	221320	Sewage treatment facilities.
Soda Ash Production	327910	Silicon carbide abrasives manufacturing.
	325180	Other basic inorganic chemical manufacturing: Soda ash manufacturing.
Suppliers of Carbon Dioxide	325120	Industrial gas manufacturing facilities.
Suppliers of Industrial Greenhouse Gases	325120	Industrial greenhouse gas manufacturing facilities.
Titanium Dioxide Production	325180	Other basic inorganic chemical manufacturing: Titanium dioxide manufacturing.
Underground Coal Mines	212115	Underground coal mining.
Zinc Production	331410	Nonferrous metal (except aluminum) smelting and refining: Zinc refining, primary.
Importers and Exporters of Pre-charged Equipment and Closed-Cell Foams.	423730	Air-conditioning equipment (except room units) merchant wholesalers.
	333415	Air-conditioning equipment (except motor vehicle) manufacturing.
	423620	Air-conditioners, room, merchant wholesalers.
	449210	Electronics and Appliance retailers.
	326150	Polyurethane foam products manufacturing.
	335313	Circuit breakers, power, manufacturing.
	423610	Circuit breakers and related equipment merchant wholesalers.

Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding facilities likely to be affected by this proposed action. This table lists the types of facilities that the EPA is now aware could potentially be affected by this action. Other types of facilities than those listed in the table could also be subject to reporting requirements. To determine whether you would be affected by this proposed action, you should carefully examine the applicability criteria found in 40 CFR part 98, subpart A (General Provisions) and each source category. Many facilities that are affected by 40 CFR part 98 have greenhouse gas emissions from multiple source categories listed in Table 1 of this preamble. If you have questions regarding the applicability of this action to a particular facility, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

- AGA American Gas Association
- AIM American Innovation and Manufacturing Act of 2020
- ANSI American National Standards Institute
- API American Petroleum Institute
- AR5 Fifth Assessment Report
- AR6 Sixth Assessment Report

- ASME American Society of Mechanical Engineers
- ASTM American Society for Testing and Materials
- BACT best available control technology
- BAMM best available monitoring methods
- BCFC bromochlorofluorocarbons
- BFC bromofluorocarbons
- BOPF basic oxygen process furnace
- CAA Clean Air Act
- CAS Chemical Abstract Service
- CBI confidential business information
- CBP U.S. Customs and Border Protection
- CCUS carbon capture, utilization, and sequestration
- CDC Centers for Disease Control and Prevention
- CEMS continuous emission monitoring system
- CFC chlorofluorocarbons
- CFR Code of Federal Regulations
- CGA cylinder gas audit
- CF₄ perfluoromethane
- CH₄ methane
- CHP combined heat and power
- CMA Conference of the Parties serving as the meeting of the Parties to the Paris Agreement
- CO₂ carbon dioxide
- CO_{2e} carbon dioxide equivalent
- COVID-19 Coronavirus 2019
- CSA CSA Group
- DOC degradable organic carbon
- DOE Department of Energy
- DRE destruction and removal efficiency
- EGU electricity generating unit
- e-GGRT electronic Greenhouse Gas Reporting Tool

- eGRID Emissions & Generation Resource Database
- EF emission factor
- EG emission guidelines
- EIA Energy Information Administration
- EOR enhanced oil recovery
- EPA U.S. Environmental Protection Agency
- ET Eastern time
- FAQ frequently asked question
- FR Federal Register
- F-GHG fluorinated greenhouse gas
- F-HTFs fluorinated heat transfer fluids
- GHG greenhouse gas
- GHGRP Greenhouse Gas Reporting Program
- GWP global warming potential
- HAWK HFC and ODS Allowance Tracking
- HBCFC hydrobromochlorofluorocarbons
- HBFC hydrobromofluorocarbons
- HCFC hydrochlorofluorocarbons
- HCFE hydrochlorofluoroethers
- HFC hydrofluorocarbons
- HFE hydrofluoroethers
- HTF heat transfer fluid
- HTS Harmonized Tariff System
- ICR Information Collection Request
- IPCC Intergovernmental Panel on Climate Change
- ISBN International Standard Book Number
- ISO International Standards Organization
- IVT Inputs Verification Tool
- k first order decay rate
- kWh kilowatt hour
- LDC local distribution company
- MECS Manufacturing and Energy Consumption Survey
- MEMP Metered Energy Monitoring Plan
- mmBtu million British thermal units

MRV monitoring, reporting, and verification plan
 mt metric tons
 mtCO₂e metric tons carbon dioxide equivalent
 MWh megawatt-hour
 MSW municipal solid waste
 N₂O nitrous oxide
 NAICS North American Industry Classification System
 NIST National Institute of Standards and Technology
 NSPS new source performance standards
 OMB Office of Management and Budget
 PBI proprietary business information
 PFC perfluorocarbon
 POX partial oxidation
 ppm parts per million
 PRA Paperwork Reduction Act
 PSA pressure swing adsorption
 PSD prevention of significant deterioration
 QA/QC quality assurance/quality control
 RFA Regulatory Flexibility Act
 REC renewable energy credit
 RY reporting year
 SAR Second Assessment Report
 SDI Strategic Defense Initiative
 SF6 sulfur hexafluoride
 SMR steam methane reforming
 TRL technology readiness level
 TSD technical support document
 UIC underground injection control
 U.S. United States
 UMRA Unfunded Mandates Reform Act of 1995
 UNFCCC United Nations Framework Convention on Climate Change
 WGS water gas shift
 WWW World Wide Web

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I. Background

A. How is this preamble organized?

Section I of this preamble contains background information on the June 21, 2022 proposed rule (87 FR 36920, hereinafter referred to as “2022 Data Quality Improvements Proposal”) and how the EPA identified additional information to support further revisions to improve the GHGRP that are included in this supplemental proposal. This section also discusses the EPA’s legal authority under the Clean Air Act (CAA)

to promulgate (including subsequent amendments to) the GHG Reporting Rule, codified at 40 CFR part 98 (hereinafter referred to as “part 98”), and the EPA’s legal authority to make confidentiality determinations for new or revised data elements required by these amendments or for existing data elements for which a confidentiality determination has not previously been proposed. Section II of this preamble describes the types of amendments included in this proposed rule and includes the rationale for each type of proposed change. Section III of this preamble is organized by existing part 98 subpart and contains detailed information on the proposed revisions and the rationale for the proposed amendments in each section. Section IV of this preamble describes five newly proposed part 98 subparts and contains detailed information and rationale for the requirements for each proposed source category. Section V of this preamble discusses the proposed schedule for implementing these revisions to part 98. Section VI of this preamble discusses the proposed confidentiality determinations for new or substantially revised (*i.e.*, requiring additional or different data to be reported) data reporting elements, as well as for certain existing data elements for which the EPA is proposing a new determination. Section VII of this preamble discusses the impacts of the proposed amendments. Section VIII of this preamble describes the statutory and Executive order requirements applicable to this action.

B. Background on This Supplemental Proposed Rule

In the 2022 Data Quality Improvements Proposal, the EPA proposed amendments to specific provisions of the GHGRP where we identified opportunities for improvement, such as where the rule may be modified to reflect the EPA’s current understanding of U.S. GHG emission trends, or to improve data collection and reporting where additional data may be necessary to better understand emissions from specific sectors or inform future policy decisions (87 FR 36920, June 21, 2022). The 2022 Data Quality Improvements Proposal included updates to emission factors and refinements to existing emissions estimation methodologies to reflect an improved understanding of emission sources and end uses of GHGs. Additionally, it proposed to collect additional data to understand new source categories or new emission sources for specific sectors; to improve the EPA’s understanding of the sector-

specific processes or other factors that influence GHG emission rates; to improve verification of collected data; and to provide additional data to complement or inform other EPA programs. In other cases, we proposed revisions to resolve gaps in the current coverage of the GHGRP that leave out potentially significant sources of GHG emissions or end uses. For example, the proposed revisions included new reporting of direct air capture as a carbon capture option for suppliers of carbon dioxide; addition of a new subpart for quantifying geologic sequestration in association with enhanced oil recovery operations; and an updated calculation methodology to estimate emissions from large, atypical release events at oil and gas facilities. The EPA also proposed revisions that clarify or update provisions that may be unclear, or where we identified specific provisions in part 98 that would streamline calculation, monitoring, or reporting to provide flexibility or increase the efficiency of data collection. Finally, the EPA also solicited comment on expanding the GHGRP to include several new source categories that could improve the EPA's understanding of GHGs, including energy consumption; ceramics production; calcium carbide production; caprolactam, glyoxal, and glyoxylic acid production; coke calcining; and CO₂ utilization (see section IV of the 2022 Data Quality Improvements Proposal at 87 FR 37016), as well as requesting comment on potential future amendments to add new calculation, monitoring, and reporting requirements.

As stated in the 2022 Data Quality Improvements Proposal, the data collected under part 98 are used to inform the EPA's understanding of the relative emissions and distribution of emissions from specific industries, the factors that influence GHG emission rates, and to inform policy options and potential regulations. Since publishing the proposed amendments, the EPA has received or identified new information to further improve the data collected under the GHGRP, and has subsequently identified additional amendments that the EPA is putting forward in this supplemental proposal. Some of the additional amendments are informed by a review of comments raised by stakeholders on the 2022 Data Quality Improvements Proposal (*e.g.*, see sections III.J and III.P of this preamble). Other proposed changes are based on additional data gaps the EPA has observed in collected data, either where additional data would improve verification of data reported to the

GHGRP (see section II.D of this preamble) or where additional data is needed to help our understanding of changing industry emission trends (see sections II.B and II.C of this preamble). Based on review of this information, the EPA is proposing additional amendments to part 98, described in sections II through IV of this preamble, that build on and improve the amendments proposed in the 2022 Data Quality Improvements Proposal or that would further enhance the quality of part 98 and implementation of the GHGRP.

In some cases, the EPA has identified updated guidance on GHG estimation methods or advances in the scientific literature. For example, through this notification, the EPA is proposing a comprehensive update to the global warming potentials (GWPs) in Table A-1 to subpart A of part 98, in part to ensure that the GWPs used in the GHGRP are consistent with those recently agreed upon by the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) for purposes of GHG reporting. The Parties specified the agreed-on GWPs in November 2021 (see section III.A.1 of this preamble), which was too late to allow the EPA to consider proposing a comprehensive GWP update in the 2022 Data Quality Improvement Proposal.¹ We have subsequently reviewed and are proposing to include updated GWPs in this proposed rule.

In other cases, we have identified new data supporting additional improvements to the calculation, monitoring, and recordkeeping requirements, including revisions and clarifications not previously proposed, that would address potential data gaps and improve the quality of the data collected in the GHGRP. For example, the EPA is proposing to incorporate additional revisions to the Municipal Solid Waste (MSW) landfill source category in light of recent aerial studies that indicate that methane emissions from landfills may be considerably higher than the methane emissions currently reported under subpart HH of part 98 (Municipal Solid Waste Landfills). The proposed amendments incorporate an updated emissions estimation methodology that would

improve the accuracy and coverage of the greenhouse gas data from landfills. These data would be used to inform the EPA's understanding of methane emissions from MSW landfills and future policy decisions under the CAA. For example, the current equations account for fugitive methane emissions passing through intact cover systems. Collecting surface emissions data under the proposed revisions would inform the EPA's understanding of the degree to which breakdown in cover materials is occurring and the impacts on methane emission rates.

This supplemental proposal also incorporates consideration of information received in response to our request for comment on certain topics in the 2022 Data Quality Improvement Proposal. In that proposal, we requested comment on potential future amendments to improve the coverage of U.S. GHG emissions and supply captured by the GHGRP. The EPA has reviewed comments received in response to the call for information, along with additional data that the EPA has collected, and is proposing to establish new subparts with specific reporting provisions under part 98 for the source categories of energy consumption; coke calciners; ceramics production; calcium carbide production; and caprolactam, glyoxal, and glyoxylic acid production. The proposed revisions would improve the data collected under the GHGRP by better capturing the changing landscape of greenhouse gas emissions, providing for more complete coverage of U.S. GHG emission sources, and providing a more comprehensive approach to understanding GHG emissions.

For other revisions, we are proposing to clarify or correct specific proposed provisions of the 2022 Data Quality Improvements Proposal. For instance, we are proposing to clarify the applicability requirements of proposed subpart VV of part 98 (Geologic Sequestration of Carbon Dioxide With Enhanced Oil Recovery Using ISO 27916), a new subpart for quantifying geologic sequestration in association with enhanced oil recovery (EOR) operations, which was included in the 2022 Data Quality Improvements Proposal. Following the initial proposal, we received feedback from stakeholders highlighting ambiguity in the applicability of the proposed source category and questioning whether EOR operators electing to use the International Standards Organization (ISO) standard designated as CSA Group (CSA)/American National Standards Institute (ANSI) ISO 27916:2019, *Carbon Dioxide Capture, Transportation*

¹ Although we proposed changes to certain chemical specific and default global warming potentials in Table A-1 to subpart A of part 98 in the 2022 Data Quality Improvements Proposal, these were limited updates to GWPs of fluorinated GHGs that are not required to be reported under the UNFCCC because they are not hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or nitrogen trifluoride.

and Geological Storage—Carbon Dioxide Storage Using Enhanced Oil Recovery (CO₂-EOR) (hereafter referred to as “CSA/ANSI ISO 27916:2019”), must mandatorily report under the new proposed subpart VV or would have the option to continue reporting under subpart UU (Injection of Carbon Dioxide). We are proposing the applicability of the source category in this supplemental notification to better reflect our initial intent, which was that operators electing to use CSA/ANSI ISO 27916:2019 to quantify geologic sequestration of CO₂ would be required to report under subpart VV, and proposing harmonizing revisions to subpart UU (Injection of Carbon Dioxide). This supplemental proposal provides information about these proposed updates for public review and comment.

This supplemental proposal does not address implementation of provisions of the Inflation Reduction Act which was signed into law on August 16, 2022. Section 60113 of the Inflation Reduction Act amended the CAA by adding section 136, “Methane Emissions and Waste Reduction Incentive Program for Petroleum and Natural Gas Systems.” The EPA intends to take one or more separate actions in the coming months related to implementation of the Methane Emissions and Waste Reduction Incentive Program, including a future rulemaking to propose revisions to certain requirements of subpart W of part 98 (Petroleum and Natural Gas Systems). Accordingly, the Methane Emissions and Waste Reduction Incentive Program is outside the scope of this supplemental proposed rule.

C. Legal Authority

The EPA is proposing these rule amendments under its existing CAA authority provided in CAA section 114. As stated in the preamble to the *Mandatory Reporting of Greenhouse Gases* final rule (74 FR 56260, October 30, 2009) (hereinafter referred to as “2009 Final Rule”), CAA section 114(a)(1) provides the EPA broad authority to require the information proposed to be gathered by this rule because such data would inform and are relevant to the EPA’s carrying out of a variety of CAA provisions. See the preambles to the proposed GHG Reporting Rule (74 FR 16448, April 10, 2009) (hereinafter referred to as “2009 Proposed Rule”) and the 2009 Final Rule for further information.

II. Overview and Rationale for Proposed Amendments to 40 CFR Part 98

In general, this supplemental proposal includes the following proposed revisions to better inform EPA policies and programs under the CAA:

- Revisions to Table A–1 to the General Provisions of part 98 to include updated GWPs to reflect advances in scientific knowledge and better characterize the climate impacts of certain GHGs, including agreed-upon values established by the UNFCCC, and to maintain comparability and consistency with the *Inventory of U.S. Greenhouse Gas Emissions and Sinks*² (hereafter referred to as “the Inventory”) and other analyses produced by the EPA;
- Revisions to expand source categories or add new source categories to address potential gaps in reporting of emissions data for specific sectors in order to improve the accuracy and completeness of the data provided by the GHGRP;
- Revisions to refine existing calculation methodologies to reflect an improved understanding of emissions sources and end uses of GHGs, to incorporate more recent research on GHG emissions or formation, or to improve verification of reported emissions;
- Revisions to add or modify reporting requirements to eliminate data gaps and improve verification of emissions estimates; and
- Revisions that clarify requirements that reporters have previously found vague to ensure that accurate data are being collected, and editorial corrections or harmonizing changes that would improve the public’s understanding of the rule.

Overall, the proposed changes in this supplemental notification would provide a more comprehensive, nationwide GHG emissions profile reflective of the origin and distribution of GHG emissions in the United States and would more accurately inform EPA policy options for potential regulatory or non-regulatory CAA programs. The EPA additionally uses the data from the GHGRP, which would include data from these proposed changes, to improve estimates used in the Inventory.

Sections II.A through II.E of this preamble provide additional rationale for the proposed changes. Details for the specific amendments proposed for each subpart are included in sections III and IV of this preamble. We are seeking

² The EPA’s GHG Inventory is available at <https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks>.

public comment only on the proposed revisions and issues specifically identified in this supplemental notification for the identified subparts. We expect to deem any comments received in response to this notification that address other aspects of 40 CFR part 98 to be outside of the scope of this supplemental proposed rulemaking.

A. Revisions to Global Warming Potentials

Table A–1 to subpart A of 40 CFR part 98 (“Table A–1”) is a compendium of chemical-specific and default GWP values of GHGs that are required to be reported under one or more subparts of the GHG Reporting Rule. These GWPs are used to convert tons of chemical into tons of CO₂-equivalent (CO₂e) for purposes of various calculations and reporting under the rule. The EPA is proposing revisions to Table A–1 to update the chemical-specific GWP values of certain GHGs to reflect GWPs from the IPCC Fifth Assessment Report (hereinafter referred to as “AR5”) ³ and, for certain GHGs that do not have chemical-specific GWPs listed in AR5, to adopt GWP values from the IPCC Sixth Assessment Report (hereinafter referred to as “AR6”).⁴ The EPA is also proposing to revise and expand the set of default GWPs in Table A–1, which are applied to GHGs for which peer-reviewed chemical-specific GWPs are not available. With these changes, the GWP values in Table A–1 would reflect more recent science regarding the atmospheric impacts of non-CO₂ GHGs, and the GWP values used for the GHGRP would continue to be consistent with the GWP values used for the Inventory and other EPA programs. (As

³ IPCC, 2013: Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Watanabe, eds.]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, 1535 pp. The GWPs are listed in Table 8.A.1 of Appendix 8.A: Lifetimes, Radiative Efficiencies and Metric Values, which appears on pp. 731–737 of Chapter 8, “Anthropogenic and Natural Radiative Forcing.”

⁴ Smith, C., Z.R.J. Nicholls, K. Armour, W. Collins, P. Forster, M. Meinshausen, M.D. Palmer, and M. Watanabe, 2021: The Earth’s Energy Budget, Climate Feedbacks, and Climate Sensitivity Supplementary Material. In Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, S.L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M.I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T.K. Maycock, T. Waterfield, O. Yelekçi, R. Yu, and B. Zhou (eds.)]. Available from www.ipcc.ch/ The AR6 GWPs are listed in Table 7.SM.7, which appears on page 16 of the Supplementary Material.

discussed further below, the Inventory incorporates the GWP values agreed on by the parties to the UNFCCC, who agreed to use the GWP values in AR5 beginning in 2024.)

As discussed in this section of the preamble, the GWP values currently in Table A–1 to part 98 are drawn both from the IPCC Fourth Assessment Report⁵ (hereinafter referred to as “AR4”) and, for multiple GHGs that do not have GWPs listed in AR4, from AR5. The proposed GWP values are drawn from AR5, and for multiple GHGs that do not have GWPs listed in AR5, from AR6. Consistent with our approach since the inception of the GHGRP, we are proposing to adopt the AR5 and AR6 GWPs based on a 100-year time horizon. Note that these proposed revisions are in addition to the 2022 Data Quality Improvements Proposal to add a chemical-specific GWP of 0.14 for carbonic difluoride and to expand the fluorinated greenhouse gas (F–GHG) group for several types of unsaturated compounds to include additional types of unsaturated compounds. GWPs that have been newly evaluated or reevaluated in the peer-reviewed scientific literature are periodically consolidated and published by the IPCC. Since 1990, there have been six IPCC Assessment Reports, each of which included a set of revised and expanded GWPs. For purposes of reporting their GHG emissions under the UNFCCC, the Parties to the UNFCCC have successively adopted the 100-year GWPs in three of the IPCC Assessment Reports, beginning with the SAR, advancing to AR4 and, starting in 2024, moving to AR5.

Published in 2014, AR5 includes revised GWPs for the GHGs with GWPs in AR4 as well as for multiple additional GHGs. The revised GWPs reflect advances in scientific knowledge on the radiative efficiencies, atmospheric lifetimes, and other characteristics of these GHGs and of CO₂, and they also account for the growing background concentrations of GHGs (particularly CO₂) in the atmosphere.⁶ AR5 therefore reflects an improved scientific understanding of the radiative effects⁷ of these gases in

the atmosphere. As noted in the preamble to the 2009 Final Rule, it is the EPA’s intent to periodically update Table A–1 through notice and comment rulemaking as GWPs are evaluated or re-evaluated by the scientific community (74 FR 56348; October 30, 2009). Further, as noted in the preamble to the *2013 Revisions to the Greenhouse Gas Reporting Rule and Final Confidentiality Determinations for New or Substantially Revised Data Elements* (78 FR 71904, 71911; November 29, 2013, hereafter “the 2013 Final Rule”), which updated GWPs in Table A–1, “each successive assessment provides more accurate GWP estimates as experiments and improved computational methods lead to more accurate estimates of the radiative efficiencies, atmospheric lifetimes, and indirect effects of the various gases. Additionally, the more recent assessments reflect more up-to-date background concentrations, which are necessary for accurately calculating the radiative efficiency of the different gases.” Therefore, adopting the GWP values in AR5 (and in AR6 for GHGs that do not have GWPs in AR5) would support the overall goals of the GHGRP to collect high-quality GHG data and to incorporate metrics that reflect scientific updates as they are adopted.

The proposed changes to Table A–1 would also ensure that the data collected in the GHGRP can be compared to the data collected and presented by other EPA programs and by national and international GHG inventories. The proposed changes, with a proposed effective date of January 1, 2025 (therefore applicable to data submitted for calendar year/reporting year 2024, *i.e.*, RY2024),⁸ would maintain long-term consistency between the GHGRP GWPs and the GWPs used for the Inventory, which are scheduled to change from the AR4 GWPs to the AR5 GWPs for the 1990–2022 Inventory.⁹

the difference in incoming solar radiation and outgoing infrared radiation.

⁸ As discussed in section III.A.2 of the preamble, current 40 CFR 98.3(k) provides that facilities or suppliers that first become subject to any subpart of part 98 solely due to an amendment to Table A–1 are not required to submit an annual GHG report (or, for facilities or suppliers that already report under the GHGRP, a report for the subpart to which they are newly subject) for the reporting year during which the change in GWPs is published. However, they are required to begin monitoring their emissions and supplies for the subpart(s) to which they are newly subject beginning on January 1 of the year following publication of the amendment to Table A–1.

⁹ Due to the time required to complete this proposed rule to adopt the AR5 GWPs, if this proposed rule is finalized, emissions from at least two years, 2022 and 2023, would be weighted by

The Inventory is a comprehensive assessment of U.S. GHG emissions based on national-level data and follows the reporting guidelines set by the UNFCCC.¹⁰ The United States is a party to the UNFCCC and submits the Inventory to the Secretariat of the UNFCCC as part of annual obligations under the treaty. To ensure consistency and comparability with national inventory data submitted by other UNFCCC Parties, the Inventory submitted to the UNFCCC uses internationally accepted methods and common reporting metrics agreed upon by the Parties (including the United States) to develop and characterize emission estimates.

As described in the preamble of the 2009 Proposed Rule, the GHGRP is intended to gather information that is relevant to the EPA’s carrying out a wide variety of CAA provisions, with the goal of supplementing and complementing existing U.S. Government programs related to climate policy and research, including the Inventory submitted to the UNFCCC. The GHGRP provides data that can inform analysis of potential U.S. climate policies and programs, which is also one of the uses for the data developed for the Inventory. The GHGRP complements the Inventory and other U.S. programs by providing data from certain individual facilities and suppliers, generally those above certain thresholds. Collected facility, unit, and process-level GHG data from the GHGRP are also used to develop and confirm the national statistics and emission estimates presented in the Inventory, which are calculated using aggregated national data.

Throughout the development and implementation of the GHG Reporting Rule, the EPA has proposed and finalized calculation methodologies and reporting metrics that were consistent with the international reporting standards under the UNFCCC. This approach has allowed the data collected under the GHGRP to be easily compared to the data in the Inventory and to data from other national and international programs, facilitating the analysis of potential U.S. climate policies and programs. Specifically, in the 2009 Final Rule, the EPA generally promulgated

different sets of GWPs under part 98 and the Inventory.

¹⁰ See Articles 4 and 12 of the Convention on Climate Change. Parties to the Convention, by ratifying, “shall develop, periodically update, publish and make available * * * national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, using comparable methodologies * * *.” See <https://unfccc.int/resource/docs/convkp/conveng.pdf>.

⁵ IPCC Fourth Assessment Report (AR4), 2007. Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, Pachauri, R.K and Reisinger, A. (eds.)]. IPCC, Geneva, Switzerland, 104 pp.

⁶ Increasing background concentrations of a GHG in the atmosphere can lower the impact of subsequent emissions.

⁷ Radiative forcing is the measurement of the capacity of a gas or other forcing agent to affect the balance of energy in Earth’s atmosphere based in

GWP values published in the IPCC Second Assessment Report¹¹ (hereafter referred to as “SAR GWP values”) to convert mass emissions (or supplies) of each GHG into a common unit of measure, CO₂e, for final reporting. Although the IPCC published AR4 prior to publication of the 2009 Final Rule, the UNFCCC continued to require the use of SAR GWP values for reporting in the Inventory at the time the rule was promulgated, and up until 2014.¹² In the 2013 Final Rule, the EPA revised the GHGRP’s GWP values, after consideration of a UNFCCC decision reached by UNFCCC member parties and published on March 15, 2012, to require countries submitting an annual inventory report in 2015 and beyond to use AR4 GWP values.¹³ The 2013 Final Rule adopted the IPCC AR4 GWP values in Table A–1, in part in order to maintain comparability and consistency with the updated international reporting standards under the UNFCCC and the revised requirements for official emission estimates to be reported by the United States and other parties. Following the 2013 Final Rule, the EPA published a separate rule to add GWPs to Table A–1 for a number of F–GHGs and fluorinated heat transfer fluids (F–HTFs) for which GWPs were not provided in AR4 or previous scientific assessments (79 FR 73750, December 11, 2014, hereinafter referred to as the “2014 Fluorinated GHG Final Rule”).¹⁴ The 2014 Fluorinated GHG Final Rule included chemical-specific GWPs primarily drawn from AR5, as well as default GWPs intended for F–GHGs and F–HTFs for which peer-reviewed GWPs were not available in AR4, AR5, or other sources. The default GWPs were calculated and applied to 12 fluorinated GHG groups composed of compounds

with similar chemical structures, atmospheric lifetimes, and GWPs, and were based on the average GWPs of the chemically similar fluorinated GHGs for which a chemical-specific GWP was available in Table A–1 or AR5. As such, the changes from the 2014 Fluorinated GHG Final Rule reflected the latest scientific consensus regarding F–GHGs that did not have GWPs in earlier assessments and expanded the number of compounds reflected in Table A–1, resulting in more accurate and complete estimates of GHG emissions. At the same time, the 2014 Fluorinated GHG Final Rule maintained consistency between the GHGRP and the Inventory by retaining the AR4 GWP values where those were available.

In the 2013 Final Rule, we noted “the EPA may consider adoption of AR5 GWPs or other GWP values for compounds currently listed in Table A–1 (*i.e.*, compounds for which AR4 GWPs are currently listed in Table A–1) if these values are adopted by the UNFCCC and the global community” (78 FR 71912; November 29, 2013).

In December 2018, the Parties to the UNFCCC agreed to require use of the 100-year time-horizon GWP values from AR5 in annual inventory reports submitted in 2024 and future years.¹⁵ In November 2021, the parties clarified which of the two sets of GWPs in AR5 were to be used: those in Table 8.A.1.¹⁶ Accordingly, the United States has an annual commitment to submit the Inventory for 2024 and subsequent years using the revised AR5 GWP values in Table 8.A.1. The Inventory for 2024 will contain national-level estimates of emissions for each year from 1990–2022. In order to ensure that the GHGRP continues to rely on recent scientific data and uses methods consistent with UNFCCC guidelines, as the EPA intended in the development of the 2009 Final Rule and in revisions to the GHGRP since then, we are proposing to revise the GWP values in Table A–1 of part 98 to reflect updated AR5 GWP

values, which would apply to annual reports beginning with RY2024. The proposed changes would continue to keep the reporting metrics in part 98 consistent with the updated international reporting standards followed by the Inventory and allow the GHGRP to continue to provide the additional benefit of complementing and informing the Inventory submitted to the UNFCCC.¹⁷

For GHGs that do not have GWPs in AR5 but do have GWPs in AR6, we are proposing to adopt the AR6 GWPs. Currently, default GWPs are applied to these compounds based on the fluorinated GHG group to which they belong. While the default GWPs are, on average, expected to be reasonably accurate across the fluorinated GHGs within a fluorinated GHG group, the AR6 GWP for an individual compound is expected to be more accurate for that compound than the corresponding default GWP. This is because the AR6 GWP takes into consideration the radiative efficiency and atmospheric lifetime of the individual compound. Thus, adopting the AR6 GWPs for GHGs that do not have GWPs in AR5 is expected to improve the accuracy with which the atmospheric impacts of the gases are reflected in annual reports, threshold determinations, and other calculations. The specific changes that we are proposing to Table A–1 and the rationale for the GWPs proposed to be adopted are described further in section III.A.1 of this preamble.

We recognize that some other EPA programs use the GWP values in Table A–1 to determine the applicability of their individual program requirements to direct emitters or suppliers above certain thresholds. Issues related to other EPA programs that use the GHGRP GWP values in Table A–1 are outside the scope of this proposed rule. To the extent that a Table A–1 amendment raises such questions or concerns, please work with the respective EPA office for that other EPA program. We also recognize that non-EPA programs use the GWP values in Table A–1 to part 98. Issues related to non-EPA programs that use the GHGRP GWP values in

¹⁷ The updates to Table A–1 would not affect the GWP-weighted, CO₂-equivalent totals certified by facilities or suppliers in their annual reports for reporting years before RY2023. However, to ensure that GWP-weighted totals are used in analyses and displayed to the public in a consistent manner from RY2010/2011 through RY2023 and later years, the updated GWPs would be applied to the entire time series in analyses and in EPA’s Facility Level Information on GreenHouse gases Tool (FLIGHT) at <https://ghgdata.epa.gov/ghgp/main.do>. This approach is consistent with the approach taken for previous updates of Table A–1. See, *e.g.*, 78 FR 71937.

¹¹ IPCC Second Assessment Report (SAR), 1995. Climate Change 1995: The Science of Climate Change, Contribution of Working Group I to the Second Assessment Report of the Intergovernmental Panel on Climate Change [Houghton, J.T.; Meira Filho, L.G.; Callander, B.A.; Harris, N.; Kattenberg, A.; Maskell, K. (eds.)], Cambridge University Press, Cambridge, United Kingdom, 572 pp.

¹² As discussed further in this section of this preamble, the EPA did adopt AR4 values in 2009 for GHGs that did not have SAR GWP values because doing so increased the accuracy and completeness of the GWP-weighted emissions calculated and reported under the GHGRP without introducing any inconsistency with UNFCCC reporting.

¹³ Refer to <https://unfccc.int/>. See Decision 15/CP.17, Revision of the UNFCCC reporting guidelines on annual inventories for Parties included in Annex I to the Convention.

¹⁴ As noted in the 2014 Fluorinated GHG Final Rule, the addition of GWPs for compounds that did not have GWPs in AR4 was consistent with the UNFCCC Reporting Guidelines, which “strongly encourage” Annex I Parties “to also report emissions and removals of additional GHGs” (*i.e.*, GHGs whose GWPs are not included in AR4).

¹⁵ Refer to <https://unfccc.int/>. See Annex to Decision 18/CMA.1, paragraph 37. “Each Party shall use the 100-year time-horizon global warming potential (GWP) values from the IPCC Fifth Assessment Report, or 100-year time-horizon GWP values from a subsequent IPCC assessment report as agreed upon by the [Conference of the Parties serving as the meeting of the Parties to the Paris Agreement] (CMA), to report aggregate emissions and removals of GHGs, expressed in CO₂ eq.”

¹⁶ Decision 5/CMA.3, paragraph 25 reads “the 100-year time-horizon global warming potential values referred to in decision 18/CMA.1, annex, paragraph 37, shall be those listed in Table 8.A.1 of the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, excluding the value for fossil methane.” See https://unfccc.int/sites/default/files/resource/CMA2021_L10a2E.pdf.

Table A–1 are also outside the scope of this proposed rule. As explained in this section above, this rulemaking proposes to update GWP values for the GHGRP consistent with recent science and the intent the EPA expressed at the time the GHGRP was first promulgated. Thus, under this supplemental proposal, we are seeking comments on the specific GWP values proposed in this action for the GHGRP.

B. Revisions To Expand Source Categories and Address Potential Gaps in Reporting of Emissions Data for Specific Sectors

In the 2022 Data Quality Improvements Proposal, the Agency stated that it was considering future revisions to the GHG Reporting Rule to potentially expand existing source categories or develop new source categories that would add calculation, monitoring, reporting, and recordkeeping requirements for certain sectors of the economy. Specifically, the 2022 Data Quality Improvements Proposal solicited comment on the potential addition of GHG reporting requirements related to energy consumption; CO₂ utilization; ceramics production; calcium carbide production; caprolactam, glyoxal, and glyoxylic acid production; and coke calcining. The EPA solicited comment on these six source categories where we identified that additional data from these emission sources would help eliminate data gaps, improve the coverage of the GHGRP, and better inform future EPA policy and programs under the CAA. We identified cases where certain emission sources may potentially contribute significant GHG emissions that are not currently reported, or where facilities representative of these source categories may currently report under another part 98 source category using methodologies that may not provide complete or accurate emissions. We also identified where the inclusion of potential source categories would improve the completeness of the emissions estimates presented in the Inventory, such as collection of data on ceramics production, calcium carbide production, and caprolactam, glyoxal, and glyoxylic acid production. The 2022 Data Quality Improvements Proposal also included similar amendments to add reporting of new emissions or emissions sources for certain existing sectors to address potential gaps in reporting, *e.g.*, where we proposed to add requirements for the monitoring, calculation, and reporting of F–GHGs other than SF₆ and perfluorocarbons (PFCs) under subpart DD (Electrical Equipment and Distribution Equipment Use) to account

for the introduction of alternative technologies and replacements for SF₆, including fluorinated gas mixtures such as fluoronitriles or fluoroketones mixed with carrier gases, as a replacement for dielectric insulation gases (87 FR 37000; June 21, 2022).

Following the June 21, 2022 request for comment, the EPA has reviewed information provided from stakeholders and considered additional data to further support the development of reporting requirements for five source categories. After that consideration, we are proposing to add annual reporting requirements for greenhouse gases from the following sources categories in new subparts to part 98 as follows: subpart B (Energy Consumption); subpart WW (Coke Calciners); subpart XX (Calcium Carbide Production); subpart YY (Caprolactam, Glyoxal, and Glyoxylic Acid Production); and subpart ZZ (Ceramics Production). As explained in the 2022 Data Quality Improvements Proposal, the collection of such data would continue to inform, and are relevant to, the EPA's carrying out a wide variety of CAA provisions. Additional information on the data and rationale informing the proposed definition of the source category, reporting thresholds, calculation, monitoring, quality assurance, missing data, verification, and data reporting and recordkeeping requirements for these five proposed new source categories are included in section IV of this preamble.

The EPA is also proposing amendments that would expand the coverage of the GHGRP for one subpart not included in the 2022 Data Quality Improvements Proposal. Since the publication of the proposed rule, we have identified a gap in coverage for certain emission sources, where revisions to existing applicability and reporting requirements would help the EPA to better understand and track emissions in specific sectors and better inform future EPA policy and programs under the CAA. In this supplemental proposal, we are proposing to amend the applicability of subpart P (Hydrogen Production) to expand reporting to include all hydrogen plants. The current source category definition in subpart P is limited to merchant hydrogen production facilities, including facilities that sell hydrogen and that may be located within another facility if they are not owned by, or under the direct control of, the other facility's owner and operator. The current definition inadvertently excludes non-merchant hydrogen production facilities (*i.e.*, facilities that do not sell hydrogen or captive hydrogen plants). Although

some non-merchant hydrogen production facilities may report under subpart Y (Petroleum Refineries), the EPA has identified that there may be other non-merchant or captive hydrogen plants whose emissions are not currently captured by part 98. The proposed amendments would address this gap in reporting and allow the EPA to better understand and track emissions from these facilities, which would better inform future EPA policy and programs under the CAA. Section III.G of this preamble provides additional information on the proposed amendments.

Additionally, we are proposing to amend subpart HH (Municipal Solid Waste Landfills) to expand reporting to account for methane emissions from large releases that are currently not quantified under the GHGRP. Specifically, we are proposing to revise calculation methodologies in subpart HH to account for cover system leaks to better account for large release events. The EPA has identified recent studies indicating that methane emissions from landfills may be considerably higher than what is currently reported to part 98 due to emissions from poorly operating gas collection systems or destruction devices and cover system leaks. We are proposing to revise the monitoring and calculation methodologies in subpart HH to account for these scenarios. Specifically, we note that owners or operators of landfills with gas collection systems subject to the control requirements in the new source performance standards (NSPS) as implemented in 40 CFR part 60, subparts WWW or XXX, emission guidelines (EG) as implemented in 40 CFR part 60, subparts Cc or Cf, or the Federal plan as implemented in 40 CFR part 62, subparts GGG and OOO are required to conduct surface methane concentration measurements to ensure proper operation of the gas collection system. We are proposing that subpart HH reporters with landfills for which surface methane concentration measurements are conducted under the NSPS, EG, or Federal plan would estimate emissions for cover leaks based on a count of the number of exceedances identified during the surface measurement period and the proposed revised equations HH–6, HH–7, and HH–8 to adjust reported methane emissions to account for these exceedances. Subpart HH reporters with landfills with gas collection systems that are not required to conduct surface methane concentration measurements under the NSPS, EG, or Federal plan may elect to conduct these

measurements according to the method provided in the proposal and adjust the emissions based on the number of exceedances identified. If such subpart HH reporters do not elect to conduct such measurements, the EPA is proposing that reporters with these landfills would use a surface methane collection efficiency that is 10 percent lower than for landfills with gas collection systems that are conducting surface methane concentration measurements. These proposed amendments would address a potentially large subset of emissions that are currently omitted in reporting and improve the EPA's understanding of emissions from these facilities. The improved data would subsequently better inform Agency policies and programs under the CAA.

C. Improvements to Existing Emissions Estimation Methodologies

The EPA is proposing several additional revisions to modify calculation equations to incorporate refinements to methodologies based on an improved understanding of emission sources. In the 2022 Data Quality Improvements Proposal, we identified amendments to emission estimation methodologies where there are discrepancies between assumptions in the current emission estimation methods and the processes or activities conducted at specific facilities, or where we identified more recent studies on GHG emissions or formation that reflect updates to scientific understanding of GHG emissions sources. We proposed changes that are intended to improve the quality and accuracy of the data collected under the GHGRP, increase our understanding of the relative distribution of GHGs that are emitted, and better reflect GHG end uses or where GHGs are bound in products.

Since the development of the 2022 Data Quality Improvements Proposal, we have identified several calculation provisions of part 98 that would benefit from amendments that update, clarify, or improve the calculation methodology. For example, we are proposing to revise calculation methodologies in subpart HH (Municipal Solid Waste Landfills) to more clearly delineate the calculations needed when there are multiple landfill gas recovery systems in place. During verification of subpart HH reports, we identified issues in how the electronic Greenhouse Gas Reporting Tool (e-GGRT) system calculates emissions when multiple control devices are associated with a single measurement location and when multiple measurement locations may be used for

a single recovery system. If a single recovery system is used, but an additional measurement location is added to the system in mid-year, the " $f_{Rec,c}$ " term associated with the new measurement location (currently, the fraction of annual operating hours the associated recovery system was operating) is calculated as 0.5 and assumes the recovery system operated only half the year. The current equations (equations HH-7 and HH-8) are set up with the assumption that each measurement location is associated with a single recovery system, however this is not always the case. We also found errors in determining the " f_{Dest} " term (fraction of annual hours the destruction device was operating) in equations HH-6 and HH-8 when multiple destruction devices are used for a single measurement location. If, for example, a measurement location operates continuously (8,760 hours per year), with flow from the measurement location directed to an engine (approximately 8,400 hours per year), diverted to a flare when the engine is down for maintenance (approximately 360 hours per year), and if the control devices were operating at all times gas was directed to the device, the f_{Dest} term should be 1 for each device. However, the f_{Dest} term is often calculated as the average of 0.959 (8400/8760) and 0.041 (360/8760), resulting in a value of 0.5. Therefore, we are proposing revisions to equations HH-6, HH-7, and HH-8 to more clearly define these terms, as well as to adjust the equations to be able to account for landfills with multiple gas collection systems or for a single gas collection system with multiple measurement locations. These proposed revisions would improve the quality and accuracy of the data collected under subpart HH.

We are proposing to clarify the calculation methodology for reporters whose hydrogen unit routes process emissions to a stack with CEMS, but fuel combustion emissions from the unit are routed to a different stack which is not monitored with a CEMS. The proposed rule would require reporters to calculate the CO₂ emissions from fuel combustion from the hydrogen process unit using the mass balance equations in subpart P (Hydrogen Production) considering only fuel inputs and report the sum of these emissions plus the process CO₂ emissions measured by the CEMS. The proposed amendments would clarify the reporting requirements for cases where hydrogen production process and combustion emissions are emitted through separate stacks and the process emissions are

measured with a CEMS, but the combustion emissions are not.

We are also proposing to revise subpart AA (Pulp and Paper Manufacturing) to add a calculation methodology for biogenic CO₂ emissions from the combustion of biomass other than spent liquor solids. The rule currently only includes methodologies to calculate CO₂, CH₄, and N₂O emissions from the combustion of fossil fuels, and CH₄, N₂O, and biogenic CO₂ emissions from the combustion of spent liquor solids. Therefore, we are proposing to add methodologies to calculate CH₄, N₂O, and biogenic CO₂ emissions from the combustion of biomass fuels other than spent liquor solids, as well as the combustion of biomass other than spent liquor solids with other fuels. The proposed amendments would provide a more accurate accounting of CO₂ and biogenic CO₂ for subpart AA units in this situation. See section III.I of this preamble for additional information.

D. Revisions To Reporting Requirements To Improve Verification and the Accuracy of the Data Collected

In the 2022 Data Quality Improvements Proposal, the EPA proposed several revisions to existing reporting requirements to improve the quality of the data that are currently reported, to collect more useful data to improve verification of reported data, to better characterize U.S. GHG emissions and trends, and to extend the usefulness of the GHGRP to inform and improve the EPA's ability to carry out other CAA programs. See section II.A.4 of the 2022 Data Quality Improvements Proposal for additional information. In this supplemental proposal, the EPA is proposing new revisions to reporting requirements where we have identified additional data that would further support these goals and improve the quality of the GHGRP.

In some cases, the EPA is proposing to collect additional information that would better inform the development of GHG policies and programs by providing information on GHG uses and their relative importance in specific sectors. For example, we are proposing to add reporting requirements to subpart OO (Suppliers of Industrial Greenhouse Gases) to require industrial gas suppliers to identify the end-use applications for which F-HTFs are used and the approximate quantities used in each application. The EPA recently proposed a similar requirement for N₂O, PFCs, and SF₆ in the 2022 Data Quality Improvements Proposal; this supplemental notification extends the proposed revisions to include F-HTFs

to better account for emissions from the use and distribution of F-HTFs which are not otherwise accounted for in the current source categories under part 98. See section III.K of this preamble for additional information.

The proposed revisions would also provide more useful data that would improve verification of reported data. For example, we are proposing to revise the existing reporting and recordkeeping requirements in subpart N (Glass Production) for both facilities using continuous electronic monitoring systems (CEMS) and non-CEMS facilities (*i.e.*, facilities that use a mass balance calculation method) to require reporting and recordkeeping of the annual amounts of recycled scrap glass (cullet) used as a raw material. The EPA is proposing to collect this information because the use of cullet, which contains no carbonates that can be converted to CO₂ emissions, can lead to reductions in emissions from the production of various glass types. The proposed data element would help to inform the EPA's understanding of the variations and differences in emissions estimates within this sector, improve understanding of industry trends, and improve verification of collected data. As discussed in section II of this preamble and in prior amendments, the GHGRP is intended to supplement and complement other EPA programs by advancing the understanding of emission processes and monitoring methodologies for particular source categories or sectors.

Similarly, for subpart Y (Petroleum Refineries), we are proposing to include a requirement to report the capacity of each asphalt blowing unit. Although subpart Y currently includes unit-level capacity reporting requirements for other emission units (*e.g.*, catalytic cracking units, fluid coking units, sulfur recovery plants, coke calcining units, delayed coking units), the EPA lacks data on the capacities of asphalt blowing units. Individual unit information allows the EPA to aggregate emissions according to unit type and size and provides a better understanding of the emissions from specific unit types. Therefore, the proposed revisions to subpart Y would improve emissions analysis and verification for these units.

The proposed changes to reporting requirements in this supplemental notification would further enable the EPA to obtain data that is of sufficient quality that it can be used to support a range of future climate change policies and regulations, in keeping with the EPA's CAA section 114 authorities.

E. Technical Amendments, Clarifications, and Corrections

This supplemental proposal includes several other proposed technical amendments, corrections, and clarifications that have been identified following the 2022 Data Quality Improvements Proposal and that would improve understanding of the rule. The proposed amendments include revisions that better reflect the EPA's intent and include editorial changes, revisions that resolve uncertainties in the regulatory text, and amendments that would increase the likelihood that reporters will submit accurate reports. Some of the proposed changes result from consideration of questions raised by reporters through the GHGRP Help Desk or e-GGRT. For example, we are proposing to add a definition for the term "offshore" to subpart RR (Geologic Sequestration of Carbon Dioxide) to clarify questions raised by stakeholders regarding the applicability of subpart RR to specific offshore geologic sequestration activities. Although the EPA previously noted that the source category covers both onshore and offshore injection of CO₂ in its 2010 final rule (75 FR 75060, December 1, 2010), we are aware that we have not previously provided a definition for the term "offshore." The proposed definition would clarify the boundaries of injection activities that are currently covered under the source category and improve reporting to the GHGRP.

We are proposing similar revisions to clarify definitions. For example, we are proposing to revise subpart A (General Provisions) to amend the definition of the term "Bulk" to address questions raised by certain suppliers as to whether imports or exports of GHGs in small containers are reportable to the GHGRP. The proposed revision is a clarification of the existing definition and would provide clarity regarding the size of containers that should be included in the reported supply.

Finally, the EPA is proposing minor changes such as edits to fix typos, minor clarifications such as adding a missing word, and harmonizing changes to match other proposed revisions. For example, we are clarifying the 2022 Data Quality Improvements Proposal regarding proposed destruction and removal efficiency (DRE) and gamma factors in Tables I-16 and I-18 of subpart I (Electronics Manufacturing), respectively, to correct inadvertent errors in the relevant proposed regulatory text. We are also proposing to correct subpart AA (Pulp and Paper Manufacturing) at 40 CFR 98.276 to correct a reporting requirement that

incorrectly refers to biogenic CH₄ and N₂O. All proposed minor corrections and clarifications are reflected in the draft proposed redline regulatory text in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

III. Proposed Amendments to Part 98

This section summarizes the specific substantive amendments proposed for each subpart, as generally described in section II of this preamble. The impacts of the proposed revisions are summarized in section VII of this preamble. A full discussion of the cost impacts for the proposed revisions may be found in the memorandum, *Assessment of Burden Impacts for Proposed Supplemental Revisions for the Greenhouse Gas Reporting Rule*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

A. Subpart A—General Provisions

1. Proposed Revisions to Global Warming Potentials in Table A-1

For the reasons described here and in section II.A of this preamble, we are proposing to revise Table A-1 to subpart A of part 98 (General Provisions) to update the GWP values of certain GHGs to reflect GWPs from Table 8.A.1 of AR5 and, for certain GHGs that do not have GWPs listed in AR5, to adopt GWP values from AR6. We are also proposing to add default GWPs for two new fluorinated GHG groups, to slightly modify an existing GHG group, and to update the default GWPs for all the existing fluorinated GHG groups. The chemical-specific GWP values currently in Table A-1 are drawn both from AR4 and, for multiple GHGs that do not have GWPs listed in AR4, from AR5. The current GWPs drawn from AR4 would be updated to values from AR5, while the current GWPs drawn from AR5 would remain the same. AR6 GWPs would be added for GHGs that do not have GWPs listed in AR5. Under the current rule, default GWPs are applied to GHGs that do not have GWPs listed in AR5 based on the fluorinated GHG group to which they belong.

By proposing (1) to adopt (or maintain) AR5 GWPs for GHGs that have GWPs listed in AR5, and (2) to adopt AR6 GWPs for GHGs that do not have GWPs listed in AR5, we are taking the approach to establishing and updating GWPs that we have taken since the beginning of the GHGRP. That is, for GHGs with GWPs listed in the IPCC Assessment Report that the parties to the UNFCCC have agreed to use as the source of GWPs, we are proposing to use the GWPs in the agreed-upon

Assessment Report to maintain consistency with the Inventory and other analyses. For GHGs that do not have GWPs listed in the agreed-upon Assessment Report, but that do have GWPs listed in a more recent IPCC Assessment Report, we are proposing to use the GWPs in the most recent report to increase the accuracy of the calculations and reporting under part 98. Where the UNFCCC-referenced Assessment Report does not include a GWP for a GHG, adopting the GWP from a more recent Assessment Report does not introduce inconsistency with Inventory reporting. In fact, as noted in the 2014 Fluorinated GHG Final Rule updating GWPs, adopting GWPs in the most recent Scientific Assessment Report would facilitate U.S. reporting under the UNFCCC Reporting Guidelines, which state: “Annex I Parties are strongly encouraged to also report emissions and removals of additional GHGs, such as hydrofluoroethers (HFEs), perfluoropolyethers (PFPEs), and other gases for which 100-year global warming potential values are available from the IPCC but have not yet been adopted by the [Conference of the Parties to the UNFCCC].”¹⁸

Specifically, the first set of GWPs adopted under part 98 in 2009 consisted of (1) GWPs from the SAR for GHGs that had GWPs listed in the SAR (consistent with the UNFCCC reporting guidelines in effect at the time) and (2) GWPs from AR4 (the most recent IPCC Assessment Report available at the time) for GHGs that did not have GWPs listed in the SAR.¹⁹ The second set of GWPs adopted under part 98, in 2013 and 2014, consisted of (1) GWPs from AR4 (consistent with the UNFCCC reporting guidelines going into effect at the time), and (2) GWPs from AR5 (the most recent IPCC Assessment Report available at the time) for GHGs that did not have GWPs listed in AR4.

Two decisions by the parties to the UNFCCC require countries to use the AR5 values from Table 8.A.1 for their Inventories and other reporting, beginning with the reports due in 2024. Decision 18/CMA.1, annex, paragraph 37 (December, 2018) reads, “Each Party shall use the 100-year time-horizon global warming potential (GWP) values from the IPCC Fifth Assessment Report, or 100-year time-horizon GWP values from a subsequent IPCC assessment report as agreed upon by the

[Conference of the Parties serving as the meeting of the Parties to the Paris Agreement] (CMA), to report aggregate emissions and removals of GHGs, expressed in CO₂ eq.” Decision 5/CMA.3, paragraph 25 (November, 2021) reads, “the 100-year time-horizon global warming potential values referred to in decision 18/CMA.1, annex, paragraph 37, shall be those listed in Table 8.A.1 of the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, excluding the value for fossil methane.”²⁰

The second decision, specifying that Parties must use the GWP values in Table 8.A.1 of AR5, excluding the value for “fossil methane,” was important for two reasons. First, AR5 includes two tables of GWPs. Table 8.A.1 includes GWPs that reflect the climate-carbon feedbacks of CO₂ but not the GHG whose GWP is being evaluated, while the other table includes GWPs that reflect the climate-carbon feedbacks of both CO₂ and the GHG whose GWP is being evaluated. (The same GHGs are in both tables.) Second, for methane, AR5 includes two GWP values in each table. In each table, one methane GWP accounts for the influence of CO₂ produced by the oxidation of methane (the value for “fossil” methane) and one methane GWP does not account for the influence of CO₂ produced by the oxidation of methane.

Consistent with the 2021 UNFCCC decision, we are proposing to use (1) for GHGs with GWPs in AR5, the AR5 GWP values in Table 8.A.1 (that reflect the climate-carbon feedbacks of CO₂ but not the GHG whose GWP is being evaluated), and (2) for methane, the GWP that is not the GWP for fossil methane in Table 8.A.1 (*i.e.*, the GWP for methane that does not reflect either the climate-carbon feedbacks for methane or the atmospheric CO₂ that would result from the oxidation of methane in the atmosphere). In addition to maintaining consistency with recent UNFCCC decisions, using a single GWP for methane that does not reflect the CO₂ oxidation product would be consistent with prior IPCC practice, avoid the potential for double counting, and reduce complexity in accounting.²¹

As noted above, we are also proposing to adopt AR6 GWPs for 31 GHGs that

have GWPs listed in AR6 but not AR5. All of these are fluorinated GHGs. Currently, default GWPs based on each GHG’s fluorinated GHG group are applied to these GHGs. Each default value reflects the average of the known GWPs of the GHGs in a group of chemically similar fluorinated GHGs. While the default value is expected to be an unbiased estimate of the GWPs of other fluorinated GHGs in that group, it is not expected to be as accurate as a chemical-specific GWP for any given GHG, which reflects the radiative efficiency and atmospheric lifetime of that GHG. The chemical-specific GWPs in each group vary over a range. For example, the chemical-specific AR5 GWPs in each group show relative standard deviations between 30 and 170 percent, depending on the group. Thus, using chemical-specific GWPs instead of default values would better reflect the atmospheric impacts of these gases.

The AR6 GWPs reflect the climate-carbon feedbacks for the GHG whose GWP is being evaluated, while the AR5 GWPs that we are proposing to adopt (from Table 8.A.1) do not. GWPs that reflect the climate-carbon feedbacks for the GHG whose GWP is being evaluated are slightly larger than GWPs that do not. Thus, this difference could potentially result in over-weighting the atmospheric impacts of GHGs whose GWPs are drawn from AR6 relative to GHGs whose GWPs are drawn from Table 8.A.1 of AR5. However, our analysis indicates that using chemical-specific GWPs will lead to more accurate estimates, even if there are some inconsistencies among those GWPs.²² In AR5, reflecting climate-carbon feedbacks for the GHG whose GWP is being evaluated results in an increase in the evaluated GWP of 11 to 22 percent, with the higher fractional increase being associated with shorter-lived gases with lower GWPs.²³ In contrast, using default GWPs based on AR5 rather than chemical-specific GWPs from AR6 would result in overestimating GWPs by as much as 3,000 (equivalent to a relative error of 1,200 percent) and underestimating GWPs by as much as 5,000 (equivalent to a relative error of –35 percent), with over- and underestimates averaging 1,200 and 950 respectively (and relative

²⁰ Refer to <https://unfccc.int/>.

²¹ Paragraph 52 of the annex to 18/CMA.1 encourages parties to the UNFCCC to report indirect CO₂ emissions separately: “Each Party may report indirect CO₂ from the atmospheric oxidation of CH₄, CO and NMVOCs. For Parties that decide to report indirect CO₂, the national totals shall be presented with and without indirect CO₂.” Refer to <https://unfccc.int/>. Using the fossil methane GWP, which incorporates the impact of the indirect CO₂, would double count those emissions.

²² See the memorandum, *Proposed Updates to Chemical-Specific and Default GWPs for the Greenhouse Gas Reporting Rule*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

²³ The authors of AR6 estimated smaller impacts from climate-carbon feedbacks, meaning that the difference between accounting and not accounting for them is likely smaller than 11 to 22 percent. (See AR6, Chapter 7, page 121.)

¹⁸ See Decision 24, CP.19 at <https://unfccc.int/resource/docs/2013/cop19/eng/10a03.pdf>.

¹⁹ *Mandatory Reporting of Greenhouse Gases*, proposed rule published on April 10, 2009 (74 FR 16453).

errors averaging 770 percent and – 60 percent, respectively).²⁴ Overall, these potential errors are substantially larger than the differences between GWPs that do and do not reflect climate-carbon feedbacks for the GHGs whose GWPs were evaluated.

Table 2 of this preamble lists the GHGs whose GWP values we are proposing to revise, along with the GWP values currently listed in Table A–1 and the proposed revised GWP values based on either AR5 or AR6. Additional information regarding the EPA's

rationale for the proposed GWPs may be found in the memorandum, *Proposed Updates to Chemical-Specific and Default GWPs for the Greenhouse Gas Reporting Rule*, in the docket for this rulemaking, (Docket Id. No. EPA–HQ–OAR–2019–0424).

TABLE 2—PROPOSED REVISED CHEMICAL-SPECIFIC GWPs FOR COMPOUNDS IN TABLE A–1

Name	CAS No.	Chemical formula	Current global warming potential (100 yr.)	Proposed global warming potential (100 yr.)
Chemical-Specific GWPs				
Carbon dioxide	124–38–9	CO ₂	1	1
Methane	74–82–8	CH ₄	25	28
Nitrous oxide	10024–97–2	N ₂ O	298	265
Fully Fluorinated GHGs				
Sulfur hexafluoride	2551–62–4	SF ₆	22,800	23,500
Trifluoromethyl sulphur pentafluoride	373–80–8	SF ₅ CF ₃	17,700	17,400
Nitrogen trifluoride	7783–54–2	NF ₃	17,200	16,100
PFC–14 (Perfluoromethane)	75–73–0	CF ₄	7,390	6,630
PFC–116 (Perfluoroethane)	76–16–4	C ₂ F ₆	12,200	11,100
PFC–218 (Perfluoropropane)	76–19–7	C ₃ F ₈	8,830	8,900
Perfluorocyclopropane	931–91–9	c-C ₃ F ₆	17,340	9,200
PFC–3–1–10 (Perfluorobutane)	355–25–9	C ₄ F ₁₀	8,860	9,200
PFC–318 (Perfluorocyclobutane)	115–25–3	c-C ₄ F ₈	10,300	9,540
Perfluorotetrahydrofuran	773–14–8	c-C ₄ F ₈ O	* 10,000	13,900
PFC–4–1–12 (Perfluoropentane)	678–26–2	C ₅ F ₁₂	9,160	8,550
PFC–5–1–14 (Perfluorohexane, FC–72)	355–42–0	C ₆ F ₁₄	9,300	7,910
PFC–6–1–12	335–57–9	C ₇ F ₁₆ ; CF ₃ (CF ₂) ₅ CF ₃	7,820	7,820
PFC–7–1–18	307–34–6	C ₈ F ₁₈ ; CF ₃ (CF ₂) ₆ CF ₃	7,620	7,620
PFC–9–1–18	306–94–5	C ₁₀ F ₁₈	7,500	7,190
PFPME (HT–70)	NA	CF ₃ OCF(CF ₃)CF ₂ OCF ₂ OCF ₃	10,300	9,710
Perfluorodecalin (cis)	60433–11–6	Z-C ₁₀ F ₁₈	7,236	7,240
Perfluorodecalin (trans)	60433–12–7	E-C ₁₀ F ₁₈	6,288	6,290
Perfluorotriethylamine	359–70–6	N(C ₂ F ₅) ₃	* 10,000	10,300
Perfluorotripropylamine	338–83–0	N(CF ₂ CF ₂ CF ₃) ₃	* 10,000	9,030
Perfluorotributylamine	311–89–7	N(CF ₂ CF ₂ CF ₂ CF ₃) ₃	* 10,000	8,490
Perfluorotripentylamine	338–84–1	N(CF ₂ CF ₂ CF ₂ CF ₂ CF ₃) ₃	* 10,000	7,260
Saturated Hydrofluorocarbons (HFCs) With Two or Fewer Carbon-Hydrogen Bonds				
(4s,5s)-1,1,2,2,3,3,4,5-octafluorocyclopentane	158389–18–5	trans-cyc (-CF ₂ CF ₂ CF ₂ CHFCHF-)	* 3,700	258
HFC–23	75–46–7	CHF ₃	14,800	12,400
HFC–32	75–10–5	CH ₂ F ₂	675	677
HFC–125	354–33–6	C ₂ HF ₅	3,500	3,170
HFC–134	359–35–3	C ₂ H ₂ F ₄	1,100	1,120
HFC–134a	811–97–2	CH ₂ FCF ₃	1,430	1,300
HFC–227ca	2252–84–8	CF ₃ CF ₂ CHF ₂	2,640	2,640
HFC–227ea	431–89–0	C ₃ HF ₇	3,220	3,350
HFC–236cb	677–56–5	CH ₂ FCF ₂ CF ₃	1,340	1,210
HFC–236ea	431–63–0	CHF ₂ CHF ₂ CF ₃	1,370	1,330
HFC–236fa	690–39–1	C ₃ H ₂ F ₆	9,810	8,060
HFC–329p	375–17–7	CHF ₂ CF ₂ CF ₂ CF ₃	2,360	2,360
HFC–43–10mee	138495–42–8	CF ₃ CF ₂ CF ₂ CF ₂ CF ₃	1,640	1,650
Saturated Hydrofluorocarbons (HFCs) With Three or More Carbon-Hydrogen Bonds				
1,1,2,2,3,3-hexafluorocyclopentane	123768–18–3	cyc (-CF ₂ CF ₂ CF ₂ CH ₂ CH ₂ -)	* 930	120
1,1,2,2,3,3,4-heptafluorocyclopentane	15290–77–4	cyc (-CF ₂ CF ₂ CF ₂ CHFCH ₂ -)	* 930	231
HFC–41	593–53–3	CH ₃ F	92	116
HFC–143	430–66–0	C ₂ H ₃ F ₃	353	328
HFC–143a	420–46–2	C ₂ H ₃ F ₃	4,470	4,800
HFC–152	624–72–6	CH ₂ FCH ₂ F	53	16
HFC–152a	75–37–6	CH ₃ CHF ₂	124	138
HFC–161	353–36–6	CH ₃ CH ₂ F	12	4

²⁴To avoid skewing the results with inconsequential differences, instances where the

default GWP would differ from the chemical-specific GWP by less than one were excluded from

the analysis. In all these cases, the default GWP was one.

TABLE 2—PROPOSED REVISED CHEMICAL-SPECIFIC GWPs FOR COMPOUNDS IN TABLE A-1—Continued

Name	CAS No.	Chemical formula	Current global warming potential (100 yr.)	Proposed global warming potential (100 yr.)
HFC-245ca	679-86-7	C ₃ H ₃ F ₅	693	716
HFC-245cb	1814-88-6	CF ₃ CF ₂ CH ₃	4,620	4,620
HFC-245ea	24270-66-4	CHF ₂ CHFCHF ₂	235	235
HFC-245eb	431-31-2	CH ₂ FCHF ₂ CF ₃	290	290
HFC-245fa	460-73-1	CHF ₂ CH ₂ CF ₃	1,030	858
HFC-263fb	421-07-8	CH ₃ CH ₂ CF ₃	76	76
HFC-272ca	420-45-1	CH ₃ CF ₂ CH ₃	144	144
HFC-365mfc	406-58-6	CH ₃ CF ₂ CH ₂ CF ₃	794	804
Saturated Hydrofluoroethers (HFEs) and Hydrochlorofluoroethers (HCFEs) With One Carbon-Hydrogen Bond				
HFE-125	3822-68-2	CHF ₂ OCF ₃	14,900	12,400
HFE-227ea	2356-62-9	CF ₃ CHFOCF ₃	1,540	6,450
HFE-329mcc2	134769-21-4	CF ₃ CF ₂ OCF ₂ CHF ₂	919	3,070
HFE-329me3	428454-68-6	CF ₃ CFHCF ₂ OCF ₃	4,550	4,550
1,1,1,2,2,3,3-Heptafluoro-3-(1,2,2,2-tetrafluoroethoxy)-propane.	3330-15-2	CF ₃ CF ₂ CF ₂ OCHF ₂ CF ₃	6,490	6,490
Saturated HFEs and HCFEs With Two Carbon-Hydrogen Bonds				
HFE-134 (HG-00)	1691-17-4	CHF ₂ OCHF ₂	6,320	5,560
HFE-236ca	32778-11-3	CHF ₂ OCF ₂ CHF ₂	4,240	4,240
HFE-236ca12 (HG-10)	78522-47-1	CHF ₂ OCF ₂ OCHF ₂	2,800	5,350
HFE-236ea2 (Desflurane)	57041-67-5	CHF ₂ OCHF ₂ CF ₃	989	1,790
HFE-236fa	20193-67-3	CF ₃ CH ₂ OCF ₃	487	979
HFE-338mcf2	156053-88-2	CF ₃ CF ₂ OCH ₂ CF ₃	552	929
HFE-338mmz1	26103-08-2	CHF ₂ OCH(CF ₃) ₂	380	2,620
HFE-338pcc13 (HG-01)	188690-78-0	CHF ₂ OCF ₂ CF ₂ OCHF ₂	1,500	2,910
HFE-43-10pccc (H-Galden 1040x, HG-11)	E1730133	CHF ₂ OCF ₂ OCF ₂ F ₄ OCHF ₂	1,870	2,820
HCFE-235ca2 (Enflurane)	13838-16-9	CHF ₂ OCF ₂ CHFCl	583	583
HCFE-235da2 (Isoflurane)	26675-46-7	CHF ₂ OCHClCF ₃	350	491
HG-02	205367-61-9	HF ₂ C-(OCF ₂ CF ₂) ₂ -OCF ₂ H	3,825	2,730
HG-03	173350-37-3	HF ₂ C-(OCF ₂ CF ₂) ₃ -OCF ₂ H	3,670	2,850
HG-20	249932-25-0	HF ₂ C-(OCF ₂) ₂ -OCF ₂ H	5,300	5,300
HG-21	249932-26-1	HF ₂ C-OCF ₂ CF ₂ OCF ₂ OCF ₂ O-CF ₂ H	3,890	3,890
HG-30	188690-77-9	HF ₂ C-(OCF ₂) ₃ -OCF ₂ H	7,330	7,330
1,1,3,3,4,4,6,6,7,7,9,9,10,10,12,12,13,13,15,15-eicosafuoro-2,5,8,11,14-Pentaoxapentadecane.	173350-38-4	HCF ₂ O(CF ₂ CF ₂ O) ₄ CF ₂ H	3,630	3,630
1,1,2-Trifluoro-2-(trifluoromethoxy)-ethane	84011-06-3	CHF ₂ CHFOCF ₃	1,240	1,240
Trifluoro(fluoromethoxy)methane	2261-01-0	CH ₂ FOCF ₃	751	751
Saturated HFEs and HCFEs With Three or More Carbon-Hydrogen Bonds				
HFE-143a	421-14-7	CH ₃ OCF ₃	756	523
HFE-245cb2	22410-44-2	CH ₃ OCF ₂ CF ₃	708	654
HFE-245fa1	84011-15-4	CHF ₂ CH ₂ OCF ₃	286	828
HFE-245fa2	1885-48-9	CHF ₂ OCH ₂ CF ₃	659	812
HFE-254cb2	425-88-7	CH ₃ OCF ₂ CHF ₂	359	301
HFE-263fb2	460-43-5	CF ₃ CH ₂ OCH ₃	11	1
HFE-263m1; R-E-143a	690-22-2	CF ₃ OCH ₂ CH ₃	29	29
HFE-347mcc3 (HFE-7000)	375-03-1	CH ₃ OCF ₂ CF ₂ CF ₃	575	530
HFE-347mcf2	171182-95-9	CF ₃ CF ₂ OCH ₂ CHF ₂	374	854
HFE-347mmy1	22052-84-2	CH ₃ OCF(CF ₃) ₂	343	363
HFE-347mmz1 (Sevoflurane)	28523-86-6	(CF ₃) ₂ CHOCH ₂ F	216	216
HFE-347pcf2	406-78-0	CHF ₂ CF ₂ OCH ₂ CF ₃	580	889
HFE-356mec3	382-34-3	CH ₃ OCF ₂ CHF ₂ CF ₃	101	387
HFE-356mff2	333-36-8	CF ₃ CH ₂ OCH ₂ CF ₃	17	17
HFE-356mmz1	13171-18-1	(CF ₃) ₂ CHOCH ₃	27	14
HFE-356pcc3	160620-20-2	CH ₃ OCF ₂ CF ₂ CHF ₂	110	413
HFE-356pcf2	50807-77-7	CHF ₂ CH ₂ OCF ₂ CHF ₂	265	719
HFE-356pcf3	35042-99-0	CHF ₂ OCH ₂ CF ₂ CHF ₂	502	446
HFE-365mcf2	22052-81-9	CF ₃ CF ₂ OCH ₂ CH ₃	58	58
HFE-365mcf3	378-16-5	CF ₃ CF ₂ CH ₂ OCH ₃	11	0.99
HFE-374pc2	512-51-6	CH ₃ CH ₂ OCF ₂ CHF ₂	557	627
HFE-449s1 (HFE-7100) Chemical blend	163702-07-6	C ₄ F ₉ OCH ₃	297	421
	163702-08-7	(CF ₃) ₂ CF ₂ OCF ₂ OCH ₃		
HFE-569sf2 (HFE-7200) Chemical blend	163702-05-4	C ₄ F ₉ OC ₂ H ₅	59	57
	163702-06-5	(CF ₃) ₂ CF ₂ OCF ₂ OC ₂ H ₅		
HFE-7300	132182-92-4	(CF ₃) ₂ CF ₂ FOCF ₂ H ₅ CF ₂ CF ₂ CF ₃	*270	405

TABLE 2—PROPOSED REVISED CHEMICAL-SPECIFIC GWPS FOR COMPOUNDS IN TABLE A-1—Continued

Name	CAS No.	Chemical formula	Current global warming potential (100 yr.)	Proposed global warming potential (100 yr.)
HFE-7500	297730-93-9	n-C ₃ F ₇ CFOC ₂ H ₅ CF(CF ₃) ₂	* 270	13
HG'-01	73287-23-7	CH ₃ OCF ₂ CF ₂ OCH ₃	222	222
HG'-02	485399-46-0	CH ₃ O(CF ₂ CF ₂ O) ₂ CH ₃	236	236
HG'-03	485399-48-2	CH ₃ O(CF ₂ CF ₂ O) ₃ CH ₃	221	221
Difluoro(methoxy)methane	359-15-9	CH ₃ OCHF ₂	144	144
2-Chloro-1,1,2-trifluoro-1-methoxyethane	425-87-6	CH ₃ OCF ₂ CHCl	122	122
1-Ethoxy-1,1,2,2,3,3,3-heptafluoropropane	22052-86-4	CF ₃ CF ₂ CF ₂ OCH ₂ CH ₃	61	61
2-Ethoxy-3,3,4,4,5-pentafluorotetrahydro-2,5-bis[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]-furan.	920979-28-8	C ₁₂ H ₅ F ₁₉ O ₂	56	56
1-Ethoxy-1,1,2,3,3,3-hexafluoropropane	380-34-7	CF ₃ CHFCF ₂ OCH ₂ CH ₃	23	23
Fluoro(methoxy)methane	460-22-0	CH ₃ OCH ₂ F	13	13
1,1,2,2-Tetrafluoro-3-methoxy-propane; Methyl 2,2,3,3-tetrafluoropropyl ether.	60598-17-6	CHF ₂ CF ₂ CH ₂ OCH ₃	0.5	0.49
1,1,2,2-Tetrafluoro-1-(fluoromethoxy)ethane	37031-31-5	CH ₂ FOCF ₂ CF ₂ H	871	871
Difluoro(fluoromethoxy)methane	461-63-2	CH ₂ FOCHF ₂	617	617
Fluoro(fluoromethoxy)methane	462-51-1	CH ₂ FOCH ₂ F	130	130
Saturated Chlorofluorocarbons (CFCs)				
E-R316c	3832-15-3	trans-cyc (-CCIFCF ₂ CF ₂ CCIF-)	* 2000	4,230
Z-R316c	3934-26-7	cis-cyc (-CCIFCF ₂ CF ₂ CCIF-)	* 2000	5,660
Fluorinated Formates				
Trifluoromethyl formate	85358-65-2	HCOOCF ₃	588	588
Perfluoroethyl formate	313064-40-3	HCOOCF ₂ CF ₃	580	580
1,2,2,2-Tetrafluoroethyl formate	481631-19-0	HCOOCHFCF ₃	470	470
Perfluorobutyl formate	197218-56-7	HCOOCF ₂ CF ₂ CF ₂ CF ₃	392	392
Perfluoropropyl formate	271257-42-2	HCOOCF ₂ CF ₂ CF ₃	376	376
1,1,1,3,3,3-Hexafluoropropan-2-yl formate	856766-70-6	HCOOCH(CF ₃) ₂	333	333
2,2,2-Trifluoroethyl formate	32042-38-9	HCOOCH ₂ CF ₃	33	33
3,3,3-Trifluoropropyl formate	1344118-09-7	HCOOCH ₂ CH ₂ CF ₃	17	17
Fluorinated Acetates				
Methyl 2,2,2-trifluoroacetate	431-47-0	CF ₃ COOCH ₃	52	52
1,1-Difluoroethyl 2,2,2-trifluoroacetate	1344118-13-3	CF ₃ COOCF ₂ CH ₃	31	31
Difluoromethyl 2,2,2-trifluoroacetate	2024-86-4	CF ₃ COOCHF ₂	27	27
2,2,2-Trifluoroethyl 2,2,2-trifluoroacetate	407-38-5	CF ₃ COOCH ₂ CF ₃	7	7
Methyl 2,2-difluoroacetate	433-53-4	HCF ₂ COOCH ₃	3	3
Perfluoroethyl acetate	343269-97-6	CH ₃ COOCF ₂ CF ₃	2.1	2
Trifluoromethyl acetate	74123-20-9	CH ₃ COOCF ₃	2.0	2
Perfluoropropyl acetate	1344118-10-0	CH ₃ COOCF ₂ CF ₂ CF ₃	1.8	2
Perfluorobutyl acetate	209597-28-4	CH ₃ COOCF ₂ CF ₂ CF ₂ CF ₃	1.6	2
Ethyl 2,2,2-trifluoroacetate	383-63-1	CF ₃ COOCH ₂ CH ₃	1.3	1
Carbonofluoridates				
Methyl carbonofluoridate	1538-06-3	FCOOCH ₃	95	95
1,1-Difluoroethyl carbonofluoridate	1344118-11-1	FCOOCF ₂ CH ₃	27	27
Fluorinated Alcohols Other Than Fluorotelomer Alcohols				
Bis(trifluoromethyl)-methanol	920-66-1	(CF ₃) ₂ CHOH	195	182
2,2,3,3,4,4,5,5-Octafluorocyclopentanol	16621-87-7	cyc -(CF ₂) ₄ CH(OH)-	73	13
2,2,3,3,3-Pentafluoropropanol	422-05-9	CF ₃ CF ₂ CH ₂ OH	42	19
2,2,3,3,4,4,4-Heptafluorobutan-1-ol	375-01-9	C ₃ F ₇ CH ₂ OH	25	34
2,2,2-Trifluoroethanol	75-89-8	CF ₃ CH ₂ OH	20	20
2,2,3,4,4,4-Hexafluoro-1-butanol	382-31-0	CF ₃ CHFCF ₂ CH ₂ OH	17	17
2,2,3,3-Tetrafluoro-1-propanol	76-37-9	CHF ₂ CF ₂ CH ₂ OH	13	13
2,2-Difluoroethanol	359-13-7	CHF ₂ CH ₂ OH	3	3
2-Fluoroethanol	371-62-0	CH ₂ FCH ₂ OH	1.1	1.1
4,4,4-Trifluorobutan-1-ol	461-18-7	CF ₃ (CH ₂) ₂ CH ₂ OH	0.05	0.05
Non-Cyclic, Unsaturated Perfluorocarbons (PFCs)				
PFC-1114; TFE	116-14-3	CF ₂ =CF ₂ ; C ₂ F ₄	0.004	0.004
PFC-1216; Dyneon HFP	116-15-4	C ₃ F ₆ ; CF ₃ CF=CF ₂	0.05	0.05

TABLE 2—PROPOSED REVISED CHEMICAL-SPECIFIC GWPs FOR COMPOUNDS IN TABLE A-1—Continued

Name	CAS No.	Chemical formula	Current global warming potential (100 yr.)	Proposed global warming potential (100 yr.)
Perfluorobut-2-ene	360–89–4	CF ₃ CF=CFCF ₃	1.82	1.82
Perfluorobut-1-ene	357–26–6	CF ₃ CF ₂ CF=CF ₂	0.10	0.10
Perfluorobuta-1,3-diene	685–63–2	CF ₂ =CFCF=CF ₂	0.003	0.003
Non-Cyclic, Unsaturated Hydrofluorocarbons (HFCs) and Hydrochlorofluorocarbons (HCFCs)				
HFC–1132a; VF2	75–38–7	C ₂ H ₂ F ₂ , CF ₂ =CH ₂	0.04	0.04
HFC–1141; VF	75–02–5	C ₂ H ₃ F, CH ₂ =CHF	0.02	0.02
(E)-HFC–1225ye	5595–10–8	CF ₃ CF=CHF(E)	0.06	0.06
(Z)-HFC–1225ye	5528–43–8	CF ₃ CF=CHF(Z)	0.22	0.22
Solstice 1233zd(E)	102687–65–0	C ₃ H ₂ ClF ₃ ; CHCl=CHCF ₃	1.34	1.34
HCFO–1233zd(Z)	99728–16–2	(Z)-CF ₃ CH=CHCl	* 1	0.45
HFC–1234yf; HFO–1234yf	754–12–1	C ₃ H ₂ F ₄ ; CF ₃ CF=CH ₂	0.31	0.31
HFC–1234ze(E)	1645–83–6	C ₃ H ₂ F ₄ ; trans-CF ₃ CH=CHF	0.97	0.97
HFC–1234ze(Z)	29118–25–0	C ₃ H ₂ F ₄ ; cis-CF ₃ CH=CHF; CF ₃ CH=CHF	0.29	0.29
HFC–1243zf; TFP	677–21–4	C ₃ H ₃ F ₃ , CF ₃ CH=CH ₂	0.12	0.12
(Z)-HFC–1336	692–49–9	CF ₃ CH=CHCF ₃ (Z)	1.58	1.58
HFO–1336mzz(E)	66711–86–2	(E)-CF ₃ CH=CHCF ₃	* 1	18
HFC–1345zfc	374–27–6	C ₂ F ₅ CH=CH ₂	0.09	0.09
HFO–1123	359–11–5	CHF=CF ₂	* 1	0.005
HFO–1438ezy(E)	14149–41–8	(E)-(CF ₃) ₂ CFCH=CHF	* 1	8.2
HFO–1447fz	355–08–8	CF ₃ (CF ₂) ₂ CH=CH ₂	* 1	0.24
Capstone 42-U	19430–93–4	C ₆ H ₃ F ₉ , CF ₃ (CF ₂) ₃ CH=CH ₂	0.16	0.16
Capstone 62-U	25291–17–2	C ₈ H ₃ F ₁₃ , CF ₃ (CF ₂) ₅ CH=CH ₂	0.11	0.11
Capstone 82-U	21652–58–4	C ₁₀ H ₃ F ₁₇ , CF ₃ (CF ₂) ₇ CH=CH ₂	0.09	0.09
(e)-1-chloro-2-fluoroethene	460–16–2	(E)-CHCl=CHF	* 1	0.004
3,3,3-trifluoro-2-(trifluoromethyl)prop-1-ene	382–10–5	(CF ₃) ₂ C=CH ₂	* 1	0.38
Non-Cyclic, Unsaturated CFCs				
CFC–1112	598–88–9	CClF=CClF	* 1	0.13
CFC–1112a	79–35–6	CCl ₂ =CF ₂	* 1	0.021
Non-Cyclic, Unsaturated Halogenated Ethers				
PMVE; HFE–216	1187–93–5	CF ₃ OCF=CF ₂	0.17	0.17
Fluoroxene	406–90–6	CF ₃ CH ₂ OCH=CH ₂	0.05	0.05
Methyl-perfluoroheptene-ethers	N/A	CH ₃ OC ₇ F ₁₃	* 1	15
Non-Cyclic, Unsaturated Halogenated Esters				
Ethenyl 2,2,2-trifluoroacetate	433–28–3	CF ₃ COOCH=CH ₂	* 1	0.008
Prop-2-enyl 2,2,2-trifluoroacetate	383–67–5	CF ₃ COOCH ₂ CH=CH ₂	* 1	0.007
Cyclic, Unsaturated HFCs and PFCs				
PFC C–1418	559–40–0	c-C ₅ F ₈	1.97	2
Hexafluorocyclobutene	697–11–0	cyc (-CF=CFCF ₂ CF ₂ -)	* 1	126
1,3,3,4,4,5,5-heptafluorocyclopentene	1892–03–1	cyc (-CF ₂ CF ₂ CF ₂ CF=CH-)	* 1	45
1,3,3,4,4-pentafluorocyclobutene	374–31–2	cyc (-CH=CFCF ₂ CF ₂ -)	* 1	92
3,3,4,4-tetrafluorocyclobutene	2714–38–7	cyc (-CH=CHCF ₂ CF ₂ -)	* 1	26
Fluorinated Aldehydes				
3,3,3-Trifluoro-propanal	460–40–2	CF ₃ CH ₂ CHO	0.01	0.01
Fluorinated Ketones				
Novac 1230 (perfluoro (2-methyl-3-pentanone)) ...	756–13–8	CF ₃ CF ₂ C(O)CF(CF ₃) ₂	0.1	0.1
1,1,1-trifluoropropan-2-one	421–50–1	CF ₃ COCH ₃	* 1	0.09
1,1,1-trifluorobutan-2-one	381–88–4	CF ₃ COCH ₂ CH ₃	* 1	0.095
Fluorotelomer Alcohols				
3,3,4,4,5,5,6,6,7,7,7-Undecafluoroheptan-1-ol	185689–57–0	CF ₃ (CF ₂) ₄ CH ₂ CH ₂ OH	0.43	0.43
3,3,3-Trifluoropropan-1-ol	2240–88–2	CF ₃ CH ₂ CH ₂ OH	0.35	0.35
3,3,4,4,5,5,6,6,7,7,8,8,9,9,9-Pentadecafluorononan-1-ol	755–02–2	CF ₃ (CF ₂) ₆ CH ₂ CH ₂ OH	0.33	0.33

TABLE 2—PROPOSED REVISED CHEMICAL-SPECIFIC GWPs FOR COMPOUNDS IN TABLE A-1—Continued

Name	CAS No.	Chemical formula	Current global warming potential (100 yr.)	Proposed global warming potential (100 yr.)
3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,11-Nonadecafluoroundecan-1-ol.	87017–97–8	CF ₃ (CF ₂) ₈ CH ₂ CH ₂ OH	0.19	0.19
Fluorinated GHGs With Carbon-Iodine Bond(s)				
Trifluoriodomethane	2314–97–8	CF ₃ I	0.4	0.4
Remaining Fluorinated GHGs With Chemical-Specific GWPs				
Dibromodifluoromethane (Halon 1202)	75–61–6	CBr ₂ F ₂	231	231
2-Bromo-2-chloro-1,1,1-trifluoroethane (Halon-2311/Halothane).	151–67–7	CHBrClCF ₃	41	41
Heptafluoroisobutyronitrile	42532–60–5	(CF ₃) ₂ CFCN	*2000	2,750
Carbonyl fluoride	353–50–4	COF ₂	*2000	**0.14

* Table A-1 does not include a chemical-specific value for this GHG; the value shown is the current default GWP for the fluorinated GHG group of which the GHG is currently a member.

** Proposed in 2022 Data Quality Improvements Proposal.

We are also proposing to revise the default GWPs in Table A-1 by adding two new fluorinated GHG groups, modifying an existing group, and updating the existing default values to reflect the chemical-specific GWPs that we are proposing to adopt from AR5 and AR6.²⁵ The two new groups that we are proposing to add are for saturated chlorofluorocarbons (CFCs) and for cyclic forms of unsaturated halogenated compounds. We have not previously included a group for saturated CFCs because the GHGRP does not require reporting of most CFCs. The GHGRP definition of “fluorinated greenhouse gas” (that is itself referenced in the GHGRP definition of “greenhouse gas”) at 40 CFR 98.6, includes “sulfur hexafluoride (SF₆), nitrogen trifluoride (NF₃), and any fluorocarbon except for controlled substances as defined at 40 CFR part 82, subpart A and substances with vapor pressures of less than 1 mm of Hg absolute at 25 degrees C.” Although CFCs are fluorocarbons, most CFCs are defined as “controlled substances” under the EPA’s ozone protection regulations at 40 CFR part 82, excluding them from GHGRP coverage. However, some CFCs are not defined as “controlled substances” under part 82 and are therefore reportable under the GHGRP. These include two saturated CFCs ((E)-1,2-dichlorohexafluoro cyclobutane and (Z)-1,2-

dichlorohexafluorocyclobutane) and two unsaturated CFCs (CFC 1112 and CFC 1112a) for which GWPs are provided in AR6. In the 2022 Data Quality Improvements Proposal, we have proposed to include unsaturated CFCs with unsaturated HFCs and PFCs in the current ninth fluorinated GHG group, which is assigned a default GWP of 1. (The unsaturated CFCs both have GWPs below 1.) The saturated CFCs have GWPs of 4,230 and 5,660 respectively, placing their proposed default GWP (4,900) between the updated default GWPs proposed for saturated HFCs with two or fewer carbon-hydrogen bonds (3,000) and for saturated HFEs and HCFEs with one carbon-hydrogen bond (6,600). Given the numerical differences between the GWP for the saturated CFC group and the GWPs for the other groups, as well as the chemical differences between CFCs, HFCs, and HFEs, we are proposing a separate group and separate default GWP for saturated CFCs.

We are also proposing to establish a separate group for cyclic unsaturated halogenated compounds, specifically, for the cyclic forms of the following: unsaturated PFCs, unsaturated HFCs, unsaturated CFCs, unsaturated hydrochlorofluorocarbons (HCFCs), unsaturated bromofluorocarbons (BFCs), unsaturated bromochlorofluorocarbons (BCFCs), unsaturated hydrobromofluorocarbons (HBFCs),

unsaturated hydrobromochlorofluoro carbons (HBCFCs), unsaturated halogenated ethers, and unsaturated halogenated esters. AR6 includes GWPs for five members of this set (all unsaturated HFCs or PFCs), ranging from 25.6 to 126. These GWPs are markedly larger than the GWPs for the non-cyclic unsaturated halogenated compounds currently in the ninth fluorinated GHG group, most of which are less than 1.²⁶ The default GWP proposed for the new group is 58, far higher than the value of 1 currently in effect for the unsaturated halogenated compounds in the ninth fluorinated GHG group. The new group would affect how the cyclic unsaturated halogenated compounds are classified for reporting under subparts A and L (Fluorinated Gas Production), and the corresponding default GWP would be applied to cyclic unsaturated halogenated compounds that do not have chemical-specific GWPs listed in AR5 or AR6. One cyclic unsaturated PFC that is currently included in the unsaturated group with the default GWP of 1, perfluorocyclopentene, would be moved into the new group for purposes of classification and calculation of the default GWP of the group.²⁷

The proposed new and revised fluorinated GHG groups and their proposed new and revised GWPs are listed in Table 3 of this preamble.

²⁵ In the 2014 Fluorinated GHG Final Rule, we established 12 default GWPs intended for fluorinated GHGs and fluorinated HTFs for which peer-reviewed GWPs were not available in AR4, AR5, or other sources. The default GWPs were calculated based on the average of the chemical-specific GWPs of the compounds in each

fluorinated GHG group. Each fluorinated GHG group is composed of compounds with similar chemical structures, which have similar atmospheric lifetimes and GWPs.

²⁶ This is true for both the AR5 and AR6 GWP values for the non-cyclic unsaturated halogenated compounds. Twenty-six of the 32 AR6 GWP values for these

compounds fall under 1 while six fall above 1, with a maximum value of 18.

²⁷ Perfluorocyclopentene is assigned GWP values of 2 and 78 in AR5 and AR6 respectively. The AR5 value was used in the calculation of the proposed default value for the cyclic unsaturated halogenated compounds.

TABLE 3—PROPOSED FLUORINATED GHG GROUPS AND DEFAULT GWPS

Fluorinated GHG group	Current global warming potential (100 yr.)	Proposed global warming potential (100 yr.)
Fully fluorinated GHGs	10,000	9,200
Saturated hydrofluorocarbons (HFCs) with two or fewer carbon-hydrogen bonds	3,700	3,000
Saturated HFCs with three or more carbon-hydrogen bonds	930	840
Saturated hydrofluoroethers (HFEs) and hydrochlorofluoroethers (HCFEs) with one carbon-hydrogen bond	5,700	6,600
Saturated HFEs and HCFEs with two carbon-hydrogen bonds	2,600	2,900
Saturated HFEs and HCFEs with three or more carbon-hydrogen bonds	270	320
Saturated chlorofluorocarbons (CFCs)	*2,000	4,900
Fluorinated formates	350	350
Cyclic forms of the following: unsaturated perfluorocarbons (PFCs), unsaturated HFCs, unsaturated CFCs, unsaturated hydrochlorofluorocarbons (HCFCs), unsaturated bromofluorocarbons (BFCs), unsaturated bromochlorofluorocarbons (BCFCs), unsaturated hydrobromofluorocarbons (HBFCs), unsaturated hydrobromochlorofluorocarbons (HBCFCs), unsaturated halogenated ethers, and unsaturated halogenated esters	** 1	58
Fluorinated acetates, carbonofluoridates, and fluorinated alcohols other than fluorotelomer alcohols	30	25
Fluorinated aldehydes, fluorinated ketones, and non-cyclic forms of the following: unsaturated PFCs, unsaturated HFCs, unsaturated CFCs, unsaturated HCFCs, unsaturated BFCs, unsaturated BCFCs, unsaturated HBFCs, unsaturated HBCFCs, unsaturated halogenated ethers, and unsaturated halogenated esters	1	1
Fluorotelomer alcohols	1	1
Fluorinated GHGs with carbon-iodine bond(s)	1	1
Remaining fluorinated GHGs	2,000	1,800

*Based on current classification as “Other fluorinated GHGs.”

**Based on current classification as “Unsaturated perfluorocarbons (PFCs), unsaturated HFCs, unsaturated hydrochlorofluorocarbons (HCFCs), unsaturated halogenated ethers, unsaturated halogenated esters.”

2. Additional Proposed Revisions To Improve the Quality of Data Collected for Subpart A

The EPA is proposing several revisions to subpart A to align with the proposed addition of subparts B (Energy Consumption), WW (Coke Calciners), XX (Calcium Carbide Production), YY (Caprolactam, Glyoxal, and Glyoxylic Acid Production), and ZZ (Ceramics Manufacturing), as described in sections II.B and IV of this preamble. First, we are proposing to revise 40 CFR 98.2(a)(1) through (3) to clarify that (1) direct emitters required to report under any source category listed in Tables A–3 or A–4 to subpart A of part 98 or stationary fuel combustion sources that meet the requirements of 40 CFR 98.2(a)(3), or required to resume reporting under §§ 98.2(i)(1), (2), or (3); and (2) that are not eligible to discontinue reporting under the provisions of 40 CFR 98.2(i)(1) through (3), would be required to cover metered purchased energy consumption (proposed subpart B) in their annual GHG report. As described in section IV.A of this preamble, direct emitters subject to part 98 would be required to report the annual quantity of electricity purchased and the annual quantity of thermal energy products purchased. Specifically, we are proposing to revise paragraphs 98.2(a)(1) through (3) to add that the annual GHG report must cover “energy consumption (subpart B of this part)” for facilities that are subject to direct emitter subparts. Additionally, we are proposing to revise the reporting requirements for the annual GHG report in 40 CFR 98.3(c)(4) to add a

requirement for facilities to report the annual quantities of electricity purchased and the annual quantities of thermal energy products purchased. The proposed requirements ensure that facilities that report emissions of GHGs include total energy consumption data with the annual report. Additional information on proposed subpart B may be found in section IV.A of this preamble.

Similarly, we are proposing to revise Table A–3 and Table A–4 to part 98 to clarify the reporting applicability for facilities included in the proposed new source categories described in sections IV.B through E of this preamble. Currently, a facility included in a source category listed in Table A–3 to subpart A of part 98 is subject to reporting under part 98. Source categories in Table A–3 are referred to as “all-in” source categories because reporting applies regardless of other source category or stationary fuel combustion emissions at the facility. The EPA’s “all-in” approach generally applies for industries for which all facilities are emitters of a similar quantity, or where the EPA has determined it requires more data on certain industries to identify the parameters that influence GHG emissions from the source category. A facility that contains a source category listed in Table A–4 to subpart A of part 98 must report only if estimated annual emissions from all applicable source categories in Tables A–3 and Table A–4 of part 98 are 25,000 metric tons carbon dioxide equivalents (mtCO_{2e}) or more. Source categories in Table A–4 are referred to as “threshold” source

categories. The EPA’s “threshold” approach generally applies when a source category contains emitters with a range in emissions quantity and the EPA wants to collect information from those facilities within the source category with larger total emissions from multiple process units or collocated source categories that emit larger levels of GHGs collectively, and not burden smaller emitters with a reporting obligation.

We are proposing to revise Table A–3 to subpart A of part 98 to include new source categories for coke calciners (subpart WW), calcium carbide production (subpart XX), and caprolactam, glyoxal, and glyoxylic acid production (subpart YY). For coke calciners (subpart WW), as discussed in section IV.B of this preamble, we are proposing to include the source category as an “all-in” source category in Table A–3; based on the threshold analysis, most coke calciners are large emission sources that would be expected to exceed all of the thresholds considered, with no significant differences in the coverage of reporting facilities or the total U.S. emissions covered. As described in section IV.C of this preamble, we determined in a threshold analysis for the calcium carbide production source category that there is a single producer of calcium carbide in the United States whose known emissions would well exceed the 25,000 mtCO_{2e} threshold currently referenced in 40 CFR 98.2(a)(2). Therefore, we are proposing to require that all facilities report in this source category, which would capture all U.S. emissions and

avoid the need for the facility to calculate whether GHG emissions exceed the threshold value. The threshold analysis for the caprolactam, glyoxal, and glyoxylic acid production source category, as described in detail in section IV.D of this preamble, identified and estimated emissions for six facilities and concluded that setting a threshold of 25,000 mtCO₂e would cover only half of the identified facilities but result in only a small difference in the total U.S. emissions that would be covered. After considering this information, we are proposing to add the caprolactam, glyoxal, and glyoxylic acid production source category as an “all-in” source category to Table A–3 to subpart A of part 98 to gather information from all applicable facilities, in order to account for the uncertainty in the data and assumptions used in the threshold analysis (see section IV.D.4 of this preamble for additional information). The proposed revisions to Table A–3 specify that new subparts WW, XX, and YY would become applicable in RY2025 (see section V of this preamble for additional details).²⁸

We are proposing to revise Table A–4 to subpart A of part 98 to include a new source category for ceramics production (subpart ZZ). As described in sections IV.E of this preamble, we conducted a threshold analysis for the ceramics production source category and determined the facilities in this source category have a broader range in emissions quantity. In order to collect information from those facilities within the source category with larger total emissions from multiple process units, or collocated source categories that emit larger levels of GHGs collectively, we are proposing to assign a threshold of 25,000 mtCO₂e. For ceramics production (subpart ZZ), we are proposing that part 98 would apply to certain ceramics production processes that exceed a minimum production level (*i.e.*, annually consume at least 2,000 tons of carbonates or 20,000 tons of clay heated to a temperature sufficient to allow the calcination reaction to occur) and that exceed the 25,000 mtCO₂e threshold. The proposed requirements would ensure coverage of large ceramics production facilities, while reducing the reporting burden for facilities with collocated source categories that may have already met

GHGRP reporting thresholds under a different subpart of part 98 but may only have a small artisan-level ceramics process on site. We are proposing to revise Table A–4 such that new subpart ZZ would become applicable in RY2025. See section V of this preamble for additional details on the anticipated schedule for the proposed amendments.

In keeping with the proposed revisions discussed in section II.A.1 of this preamble, we are proposing minor clarifications to the reporting and special provisions for best available monitoring methods in 40 CFR 98.3(k) and (l), which apply to owners or operators of facilities or suppliers that first become subject to any subpart of part 98 due to amendment to Table A–1 to subpart A. The current provisions, which were incorporated in the 2014 Fluorinated Gas Final Rule, require that these facilities or suppliers must start monitoring and collecting GHG data in compliance with the applicable subparts of part 98 to which the facility is subject “starting on January 1 of the year after the year during which the change in GWPs is published,” and provide for the use of best available monitoring methods, as applicable, for a period of three months “of the year after the year during which the change in GWPs is published.” Specifically, we are proposing to revise the term “published” to add “in the **Federal Register** as a final rulemaking.” The proposed changes would clarify the EPA’s intent that the requirements apply to facilities or supplies that are first subject to the GHGRP in the year after the year the GWP is published as part of a final rule.

For the reasons described in section II.E of this preamble, the EPA is proposing amendments to several defined terms in the General Provisions. First, we are proposing to revise the definition of “bulk” to provide clarity to the regulated community. Under 40 CFR 98.6 “bulk” is currently defined as “with respect to industrial GHG suppliers and CO₂ suppliers, [bulk] means the transfer of a product inside containers, including, but not limited to tanks, cylinders, drums, and pressure vessels.” Importers of industrial GHGs have had questions regarding this definition, particularly whether imports of motor vehicle air conditioner charging kits would fall within this definition given that the gas is in small cans in this case. The EPA notes that the current definition does not include any limit or restriction based on the size of the vessel in which the industrial GHG or CO₂ is transferred. Therefore, we maintain that the imports of industrial GHGs and CO₂ in small cans, such as

motor vehicle air conditioner charging kits, would be reportable under subpart OO (Suppliers of Industrial Greenhouse Gases) based on our current definition of bulk. However, to improve clarity, the EPA is proposing to revise the definition of bulk to read that “*Bulk*, with respect to industrial GHG suppliers and CO₂ suppliers, means a transfer of gas in any amount that is in a container for the transportation or storage of that substance such as cylinders, drums, ISO tanks, and small cans. An industrial gas or CO₂ that must first be transferred from a container to another container, vessel, or piece of equipment in order to realize its intended use is a bulk substance. An industrial GHG or CO₂ that is contained in a manufactured product such as electrical equipment, appliances, aerosol cans, or foams is not a bulk substance.”

The revised definition would provide clarity to the regulated community regarding whether the import or export of gas in small containers would be considered “bulk.” The definition also provides additional details for suppliers to determine whether different types of imports or exports would fall within the definition. For example, this definition makes it clear that imports of motor vehicle air conditioner charging kits would qualify as imports of bulk substances, because the gas must first be transferred from a container (*i.e.*, the kit) to another container, vessel, or piece of equipment (*i.e.*, the motor vehicle) in order to realize its intended use (*i.e.*, comfort cooling). In addition, the revised definition makes it clear that gas contained in pre-charged equipment, appliances, foams, or aerosol cans would not qualify as bulk substances. This is consistent with the EPA’s consideration of bulk in the past. In response to comments on the 2009 Final Rule (see “Mandatory Greenhouse Gas Reporting Rule: EPA’s Response to Public Comments Volume No.: 40 Subpart OO—Suppliers of Industrial Greenhouse Gases, September 2009”), we stated that the “term ‘bulk’ is intended to distinguish imports and exports in containers (cylinders, drums, etc.) from imports and exports in products; it is not intended to establish a minimum container or shipment size below which reporting would not be required.” After considering comments, the EPA did include provisions in the industrial gas supply reporting requirements (40 CFR 98.416) that exempt small shipments (those including less than 25 kilograms) from the import and export reporting requirements. However, a minimum

²⁸The proposed revisions to Table A–3 to subpart A also include the proposed source category for Geologic Sequestration of Carbon Dioxide with Enhanced Oil Recovery Using ISO 27916, proposed as subpart VV of part 98 in the 2022 Data Quality Improvements Proposal. Under this supplemental proposal, we are now proposing this rule, if finalized, would be applicable in RY2025.

shipment size does not imply a minimum container size.

Finally, the revised definition would align the definition of “bulk” for industrial GHGs and CO₂ under the GHG Reporting Rule (40 CFR part 98) with the definition of “bulk” under the regulations to phasedown hydrofluorocarbons (40 CFR part 84). We recognize that some importers and exporters of industrial gases would be covered under both programs, and that a consistent definition would promote efficiency and clarity for implementation of both programs. For example, we anticipate that importers and exporters may use the data entered in the EPA’s HFC and ODS Allowance Tracking (HAWK) system to generate draft reporting forms that could be reviewed and submitted to the EPA’s e-GGRT annual reporting system under subpart OO of 40 CFR part 98. A consistent set of definitions between the two programs would simplify reporting. Relatedly, we seek comment on whether this definition of bulk would be useful for suppliers of carbon dioxide (subpart PP of part 98).

Next, the EPA is proposing to revise the definition of “greenhouse gas or GHG” to clarify the treatment of fluorinated greenhouse gases. The definition of “greenhouse gas or GHG” currently includes both a reference to the definition of “fluorinated greenhouse gas” and a partial list of the fluorinated GHGs that are encompassed by the definition of “fluorinated greenhouse gas.” To simplify and clarify the definition of “greenhouse gas or GHG,” we are proposing to remove the partial list of fluorinated GHGs currently included in the definition and to simply refer to the definition of “fluorinated greenhouse gas (GHGs).” We are also proposing to explicitly include the acronym “(GHGs)” after the term “fluorinated greenhouse gas” both in the definition of “greenhouse gas or GHG” and in the definition of “fluorinated greenhouse gas.” This change would not affect the scope of substances that are considered GHGs under part 98 but would avoid redundancy and potential confusion between the definitions of “greenhouse gas” and “fluorinated greenhouse gas.” With this revision, the definition of “Greenhouse gas or GHG” would read: “Greenhouse gas or GHG means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and fluorinated greenhouse gases (GHGs) as defined in this section.”

Consistent with our proposed revisions of the fluorinated GHG groups used to assign default GWPs, discussed in section III.A.1 of this preamble, the EPA is also proposing to add seven

definitions and to revise two definitions of fluorinated GHG groups or of compound types or molecular structures within those groups. Specifically, we are proposing to add definitions of “unsaturated chlorofluorocarbons (CFCs),” “saturated chlorofluorocarbons (CFCs),” “unsaturated bromofluorocarbons (BFCs),” “unsaturated bromochlorofluorocarbons (BCFCs),” “unsaturated hydrobromofluorocarbons (HBFCs),” and “unsaturated hydrobromochlorofluorocarbons (HBCFCs).” In addition, we are proposing to add a definition of “cyclic” as it applies to molecular structures of various fluorinated GHGs. We are also proposing to revise the definition of “fluorinated greenhouse (GHG) group” to include the new and revised groups.

We are also proposing to revise the term “other fluorinated GHGs,” which is the name of the last of the twelve fluorinated GHG groups that are used to assign default GWPs to compounds that do not have chemical-specific GWPs in Table A–1 to subpart A of part 98. The term “other fluorinated GHGs” is intended to encompass fluorinated GHGs that are not included in any of the first eleven fluorinated GHG groups that are specified based on their molecular compositions and structures. However, the phrase “other fluorinated GHGs” is also used in other contexts in part 98, potentially leading to confusion. For example, the phrase “other fluorinated GHGs” occurs but is not intended to mean the twelfth fluorinated GHG group in subpart L of part 98 (Fluorinated Gas Production) at 40 CFR 98.122(d), 98.124(g)(1)(iv), 98.124(g)(4), and 98.126(a)(4)(ii). We are therefore proposing to revise the term “other fluorinated GHGs” to “remaining fluorinated GHGs” to avoid such confusion.²⁹ In addition, we are proposing to revise the definition of the term to reflect the new and revised fluorinated GHG groups discussed in section III.A.1 of this preamble.

We are proposing to revise the definition of “fluorinated heat transfer fluids” and to move it from 40 CFR 98.98 to 40 CFR 98.6 to harmonize with proposed changes to subpart OO of part 98 (Suppliers of Industrial Greenhouse Gases), as discussed in section III.K of this preamble. Fluorinated compounds

²⁹ As discussed in section II.A.1 of this preamble regarding the update of global warming potentials, we are proposing to add two new fluorinated GHG groups in this notification. If these two new fluorinated GHG groups are added and the term “other fluorinated GHGs” is revised to “remaining fluorinated GHGs” in the final rule, then the group “remaining fluorinated GHGs” would become the fourteenth fluorinated GHG group.

used as F–HTFs include, but are not limited to, perfluoropolyethers (including PFPME), perfluoroalkylamines, perfluoroalkylmorpholines, perfluoroalkanes, perfluoroethers, perfluorocyclic ethers, and hydrofluoroethers. Many of these compounds have GWPs near 10,000 and atmospheric lifetimes near 1,000 years. Currently, the term “fluorinated heat transfer fluids” is defined under subpart I of part 98 (Electronics Manufacturing) in the context of electronics manufacturing, but we have become aware of uses of F–HTFs that are chemically similar to those listed above in industries other than electronics. For this reason, we are proposing to require suppliers of F–HTFs that report under subpart OO to identify the end uses for which the heat transfer fluid is used and the aggregated annual quantities of each F–HTF transferred to each end use. To clarify that the supplier reporting requirement would apply to F–HTFs that are used outside of the electronics industry, we are proposing to move the definition of “fluorinated heat transfer fluids” to subpart A and to revise the definition (1) to explicitly include industries other than electronics manufacturing, and (2) to exclude most hydrofluorocarbons (HFCs), which are widely used as heat transfer fluids outside of electronics manufacturing (in household, mobile, commercial, and industrial air conditioning and refrigeration) and are regulated under the American Innovation and Manufacturing Act of 2020 (AIM) regulations at 40 CFR part 84.³⁰ Including all HFCs in the definition of “fluorinated heat transfer fluids” would expand the definition, and the associated reporting requirements, far beyond our intent, which is to gather information on supplies and end uses of F–HTFs used in electronics manufacturing and in similar specialized applications. The one HFC that would remain in the definition is HFC–43–10mee, which is used as an F–HTF in electronics manufacturing and which, like most other F–HTFs used in electronics manufacturing (and unlike most HFCs used as refrigerants), is a liquid at room temperature and pressure. With these changes, the proposed definition of “fluorinated heat transfer fluids” would read:

Fluorinated heat transfer fluids means fluorinated GHGs used for temperature control, device testing, cleaning substrate surfaces and other parts, other solvent

³⁰ Hydrofluorocarbons would continue to be considered “fluorinated greenhouse gases” and therefore reportable under other provisions of part 98.

applications, and soldering in certain types of electronics manufacturing production processes and in other industries. Fluorinated heat transfer fluids do not include fluorinated GHGs used as lubricants or surfactants in electronics manufacturing. For fluorinated heat transfer fluids, the lower vapor pressure limit of 1 mm Hg in absolute at 25 °C in the definition of “fluorinated greenhouse gas” in § 98.6 shall not apply. Fluorinated heat transfer fluids include, but are not limited to, perfluoropolyethers (including PFPMIE), perfluoroalkylamines, perfluoroalkylmorpholines, perfluoroalkanes, perfluoroethers, perfluorocyclic ethers, and hydrofluoroethers. Fluorinated heat transfer fluids include HFC-43-10mee but do not include other hydrofluorocarbons.

We request comment on the proposed definition. We also request comment on other options to avoid requiring suppliers to report uses of HFCs (and potentially other F-GHG) used in most air-conditioning and refrigeration applications, including the option of revising the definition to explicitly include only fluorinated GHGs that are liquid at room temperature (*e.g.*, that have boiling points below 27 degrees C [about 81 degrees F] at one atmosphere, which is a few degrees below the boiling point of the F-GHG with the lowest boiling point that is marketed for use as an HTF, 3M™ Fluorinert™ FC-87.).

In addition, the EPA is proposing to update 40 CFR 98.7 *What standardized methods are incorporated by reference into this part?* To reflect harmonizing changes based on the proposed addition of subparts B (Energy Consumption), WW (Coke Calciners), and XX (Calcium Carbide Production) to part 98, as well as the proposed revisions to subpart Y of part 98 (Petroleum Refineries). The proposed revisions surrounding these subparts include test methods. Specifically, the proposed revisions to subparts B and XX add one test method to 40 CFR 98.24(b), and two test methods to 40 CFR 98.504(b), respectively. The proposed revisions to remove coke calciners from subpart Y and add them to new subpart WW require not only the removal of monitoring requirements and associated test methods for coke calciners from subpart Y, but also reflect the latest versions of those test methods.

As described in section IV.A of this preamble, under newly proposed subpart B, facilities would need to develop a written Metered Energy Monitoring Plan (MEMP). In that MEMP, facilities would be required to specify recordkeeping activities for electric meters, including an indication of whether the meter conforms to American National Standards Institute (ANSI) standard C12.1-2022 *Electric Meters—Code for Electricity Metering* or

another, similar consensus standard with accuracy specifications at least as stringent as one of the cited ANSI standards. We are proposing to incorporate by reference this ANSI test method as indicated in 40 CFR 98.24(b) and 40 CFR 98.7(a).

Per section IV.C of this preamble, calcium carbide production facilities would be required to analyze carbon content at least annually using standard ASTM methods that are currently used in similar source categories under part 98, including the American Society for Testing and Materials (ASTM) D5373-08 *Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Laboratory Samples of Coal* or ASTM C25-06, *Standard Test Methods for Chemical Analysis of Limestone, Quicklime, and Hydrated Lime*. We are proposing to revise paragraphs 40 CFR 98.7(e)(1) and (27) to add a reference to proposed 40 CFR 98.504(b) to clarify these methods are incorporated by reference for the calcium carbide production source category.

As described in section III.H of this preamble, the EPA is proposing to remove coke calciners from subpart Y. Instead of reporting coke calcining unit emissions under subpart Y, facilities with coke calciners are proposed to report those emissions in the new proposed subpart WW. Subpart Y at 40 CFR 98.254(h) currently requires the determination of the mass of petroleum coke using *Specifications, Tolerances, and Other Technical Requirements For Weighing and Measuring Devices*, National Institute of Standards and Technology (NIST) Handbook 44 (2009) and the calibration of the measurement device according to the procedures specified in the same handbook. Those requirements are proposed to be removed from subpart Y and the updated version, *Specifications, Tolerances, and Other Technical Requirements For Weighing and Measuring Devices*, NIST Handbook 44 (2022), is proposed for subpart WW. These changes are reflected in subparts A, Y, and WW. Likewise, three methods used to help determine the carbon content of petroleum coke are proposed to be removed from subpart Y (40 CFR 98.254(i)) and updated versions of those same methods are proposed for new subpart WW. Those methods are (1) ASTM D3176-15 *Standard Practice for Ultimate Analysis of Coal and Coke*, (2) ASTM D5291-16 *Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Petroleum Products and Lubricants*, and (3) ASTM D5373-21 *Standard Test Methods for Determination of Carbon,*

Hydrogen, and Nitrogen in Analysis Samples of Coal and Carbon in Analysis Samples of Coal and Coke.

In the 2022 Data Quality Improvements Proposal, we proposed to add subpart VV to part 98 (Geologic Sequestration of Carbon Dioxide With Enhanced Oil Recovery Using ISO 27916). It is likely that many reporters that would be subject to the new proposed subpart VV would have previously been subject to subpart UU of part 98 (Injection of Carbon Dioxide). We received comments saying that the applicability of proposed subpart VV was unclear. Therefore, as described in sections III.O and III.P of this preamble, the EPA is now proposing to revise section 98.470 of subpart UU of part 98 and sections 98.480 and 98.481 of proposed subpart VV to clarify the applicability of each subpart when a facility chooses to quantify their geologic sequestration of CO₂ in association with EOR operations through the use of the CSA/ANSI ISO 27916:2019 method. The proposed changes also would clarify how CO₂-EOR projects that may transition to use of the CSA/ANSI ISO 27916:2019 method during a reporting year would be required to report for the portion of the reporting year before they began using CSA/ANSI ISO 27916:2019 (under subpart UU) and for the portion after they began using CSA/ANSI ISO 27916:2019 (under proposed subpart VV). Additionally, we previously proposed to incorporate by reference the CSA/ANSI ISO 27916:2019 test method in the 2022 Data Quality Improvements Proposal. In light of these supplemental proposed revisions, we are proposing to modify the proposed incorporation by reference regulatory text at 40 CFR 98.7(g) consistent with these proposed revisions, such that the regulatory text would also reference paragraphs 40 CFR 98.470(c) and 98.481(c).

B. Subpart C—General Stationary Fuel Combustion

For the reasons described in section II.D of this preamble, we are proposing to add requirements for facilities under subpart C of part 98 (General Stationary Fuel Combustion) to report whether the unit is an electricity generating unit (EGU) for each configuration that reports emissions under either the individual unit provisions at 40 CFR 98.36(b) or the multi-unit provisions at 40 CFR 98.36(c). Additionally, for multi-unit reporting configurations, we are proposing to add requirements for facilities to report an estimated decimal fraction of total emissions from the group that are attributable to EGU(s) included in the group.

Under the current subpart C reporting requirements, the EPA cannot determine the quantity of EGU emissions included in the reported total emissions for the subpart. The proposed changes would allow the EPA to estimate the EGU emissions included in the subpart C emission totals. Understanding subpart C EGU GHG emissions is important to ensure more accurate data analysis, to understand attribution of GHG emissions to the power plant sector, and to inform policy goals under the CAA. For example, the EPA's current data publication products attribute subpart C emissions to the power plant sector based on the reported NAICS code for the facility. However, some manufacturing facilities, such as petroleum refineries and pulp and paper manufacturers, operate stationary combustion sources that generate electricity. Reporting of an EGU indicator for these units would allow the EPA to assign the emissions from any electricity generating units at the facility more appropriately to the power plant sector. Similarly, data analyses, including those used for policy development, would be able to use the EGU indicator to ensure a more comprehensive EGU data set was used.

We do not anticipate that the proposed data elements would require any additional monitoring or data collection by reporters, because the only added data elements would be whether any subpart C unit(s) included in the report are EGU(s), and, for multi-unit configurations, an estimated fraction of total emissions from the group that are attributable to EGU(s) included in the group. I proposed changes would result in minimal additional burden to reporters because the reporter knows if the unit is an EGU and, if so, the estimated fraction of total emissions attributable to the EGU can be determined by engineering estimates. We are also proposing related confidentiality determinations for the additional data elements, as discussed in section VI of this preamble.

C. Subpart F—Aluminum Production

For the reasons described in section II.D of this preamble, we are proposing to revise the reporting requirements of subpart F of part 98 (Aluminum Production). We are proposing to revise the reporting requirements at 40 CFR 98.66(a) and (g) to require that facilities report the facility's annual production capacity and annual days of operation for each potline. The capacity of the facility and capacity utilization would provide useful information for understanding variations in annual emissions, to understand trends across

the sector and to support analysis of this source. We often contact facilities seeking to understand yearly variations in the facility emissions, and facilities explain that the variation was due to a smelter not operating for a particular time period. Currently it is difficult to determine without correspondence with the facility whether variations in emissions are due to changes in yearly production or efforts to improve operations to decrease emissions. If data on the production capacity and annual days of operation for each potline are included in the annual report, it could explain the variation and eliminate the need for correspondence with facilities. We are also proposing related confidentiality determinations for the additional data elements, as discussed in section VI of this preamble.

D. Subpart G—Ammonia Manufacturing

For the reasons described in section II.D of this preamble, we are proposing a revision to the reporting requirements of subpart G of part 98 (Ammonia Manufacturing) to enhance the quality and accuracy of the data collected under the GHGRP. As discussed in section III.G of this preamble, to increase the GHGRP's coverage of facilities in the hydrogen production sector we are proposing to amend the applicability of subpart P (Hydrogen Production) to include all facilities that produce hydrogen gas as a product regardless of whether the product is sold, with exemptions for any process unit for which emissions are reported under another subpart of part 98, including ammonia production units that report emissions under subpart G. However, we are proposing to amend subpart G in this action to include a reporting requirement for facilities to report the annual quantity of excess hydrogen produced that is not consumed through the production of ammonia. This change would ensure that revisions to subpart P to exclude reporting from facilities that are subject to subpart G would not result in the exclusion of reporting of any excess hydrogen production at facilities that are subject to subpart G from the GHGRP. The proposed revision would also help the EPA to understand facilities that engage in captive hydrogen production and better inform our knowledge of industry emissions and trends. We are also proposing related confidentiality determinations for the additional data element, as discussed in section VI of this preamble.

E. Subpart I—Electronics Manufacturing

We are clarifying a proposed revision to Table I-16 to subpart I of part 98 (Electronics Manufacturing) to correct a

typographical error in the 2022 Data Quality Improvements Proposal. The June 21, 2022 proposed rule's amendatory text shows the current DRE for NF_3 of 88 percent instead of the DRE proposed of 96 percent. The DRE calculated for NF_3 is 96 percent based on data submitted to the EPA, as shown in the supplemental material "combined DRE data sets.xlsx" in the docket for the proposed rule. For more information on the how the DREs were calculated, see the preamble to the 2022 Data Quality Improvements Proposal and the memorandum, *Revised Technical Support for Revisions to Subpart I: Electronics Manufacturing*, available in the docket for this rulemaking, Docket Id. No. EPA-HQ-OAR-2019-0424.

We are also proposing revisions to Table I-18 to subpart I of part 98 to correct the proposed gamma factors to estimate by-products for NF_3 used in remote plasma cleaning for facilities manufacturing both wafers \leq 200 mm and 300 mm or greater. The by-product gamma for CHF_3 , CH_2F_2 and CH_3F for facilities manufacturing both wafer sizes should be equal to the by-product gamma factor for 300 mm and not an average of the 200 mm gamma (which is zero) and the 300 mm gamma. More information can be found in the revised technical support document (TSD), *Revised Technical Support for Revisions to Subpart I: Electronics Manufacturing*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

F. Subpart N—Glass Production

For the reasons described in section II.D of this preamble, we are proposing revisions to the recordkeeping and reporting requirements of subpart N of part 98 (Glass Production) to enhance the quality and accuracy of the data collected under the GHGRP. We are proposing to revise the existing reporting and recordkeeping requirements for both CEMS and non-CEMS facilities to require that they report and maintain records of recycled scrap glass (cullet) used as a raw material. Specifically, we are proposing to add provisions to 40 CFR 98.146 to require reporting of the annual quantity of cullet used (in tons) in each continuous glass melting furnace and in all furnaces combined by glass type (e.g., container, flat glass, fiber glass, or specialty glass). This quantity would include both recycled glass that was brought in from other facilities or purchased from external sources (e.g., recycling programs) and glass that has been produced at the facility and then added back into the production process (sometimes referred to as "run-

around”). We are also proposing to add provisions to 40 CFR 98.147 to require recordkeeping of the monthly quantity of cullet used (in tons) in each continuous glass melting furnace by product type (e.g., container, flat glass, fiber glass, or specialty glass), and the number of times in the reporting year that missing data procedures were used to measure monthly quantities of cullet used.

Although there are variations in the types of carbonates used at different facilities and some facilities use other carbonate raw materials in much smaller quantities, the major raw materials (*i.e.*, fluxes and stabilizers) that emit process-related CO₂ emissions in glass production are limestone, dolomite, and soda ash. In general, the composition profile of raw materials is relatively consistent among individual glass types, however, some facilities use cullet in their production process. Unlike carbonate-based raw materials, cullet does not produce process GHG emissions when used in the glass production process. Therefore, differences in the quantities of cullet used can lead to variations in emissions from the production of different glass types. Furthermore, the production of some glass types (e.g., container, flat glass, fiber glass, specialty glass) consumes more cullet than others. The amount of cullet used at individual facilities can also vary from year to year, which can cause related changes in emissions. Additionally, due to its lower melting temperature, mixing cullet with other raw materials can reduce the amount of energy required to produce glass and thus also reduce combustion emissions related to glass production.

The annual quantities of cullet used would provide a useful metric for understanding variations and differences in emissions estimates that may not be apparent in the existing data collected, improve our understanding of industry trends, and improve verification for the GHGRP. The proposed data elements would also provide useful information to improve analysis of this sector in the Inventory. As noted in the 2019 Inventory report,³¹ the EPA reviews the GHGRP data during the development of inventory estimates for this sector to help understand the completeness of emission estimates and for quality control. Including cullet use would increase the transparency and accuracy of the data set produced by the

Inventory. Additionally, collecting more detailed data on raw materials would improve analysis of this sector by other EPA programs.

While we are proposing to collect the sum of both externally-sourced recycled glass and facility “run-around” recycled glass, we seek comment on the degree to which each of these types of recycled glass are tracked by facilities, and/or what kinds of cullet use data are readily available. Furthermore, we seek comment on the degree to which recycled glass use is tracked by produced glass type, and whether it is common for a glass melting furnace to be used to produce more than one glass type in a reporting year. We do not anticipate that the proposed data elements would require any additional monitoring or data collection by reporters, as cullet use data are likely available in existing company records. The proposed changes would therefore result in minimal additional burden to reporters. We are also proposing related confidentiality determinations for the additional data elements, as discussed in section VI of this preamble.

G. Subpart P—Hydrogen Production

The EPA is proposing several amendments to subpart P of part 98 (Hydrogen Production) that include expanding the source category to include non-merchant hydrogen production facilities, as well as clarifications and additions to the reporting elements resulting in enhanced unit-level reporting for facilities in the hydrogen production sector. As discussed in sections II.B and II.D of this preamble, these amendments would address potential gaps in applicability and reporting, allowing the EPA to better understand and track facilities and emissions. These data would inform future policy considerations under the CAA, and additionally could inform future policy considerations like those set forth by other Government programs.

Currently, section 98.160 states, “A hydrogen production source category consists of facilities that produce hydrogen gas sold as a product to other entities.” This provision notably limits applicability to so-called “merchant” plants that sell hydrogen produced as a product. Based on requirements in subpart Y of part 98 (Petroleum Refineries), hydrogen production units at petroleum refineries are required to report hydrogen production GHG emissions under subpart P even though they do not sell the hydrogen gas to other entities. Similarly, subpart G of part 98 (Ammonia Manufacturing) essentially provides calculation

methodologies analogous to subpart P to account for GHG emissions from ammonia production, which entails the use of captive hydrogen production. However, through external analysis and communications with facilities reporting to the GHGRP, we understand that there are other facilities that produce hydrogen and consume it onsite (*i.e.*, captive plants), that are not required to report their hydrogen production GHG emissions under subpart P or any other GHGRP subpart. To increase the GHGRP’s coverage of facilities in the hydrogen production sector, we are proposing to amend the source category definition in 40 CFR 98.160 to include all facilities that produce hydrogen gas as a product regardless of whether the product is sold. We are also proposing to categorically exempt any process unit for which emissions are reported under another subpart of part 98. This includes, but is not necessarily limited to, ammonia production units that report emissions under subpart G of part 98, catalytic reforming units located at petroleum refineries that produce hydrogen as a by-product for which emissions are reported under subpart Y of part 98, and petrochemical production units that report emissions under subpart X of part 98 (Petrochemical Production). We are also proposing to exempt process units that only separate out diatomic hydrogen from a gaseous mixture and are not associated with a unit that produces diatomic hydrogen created by transformation of one or more feedstocks, which would codify the existing interpretation currently included in FAQ #695.³² We note that the EPA is also proposing to amend subpart G of part 98 in this action to include a reporting requirement for facilities to report the annual quantity of excess hydrogen produced that is not consumed through the production of ammonia (see section III.C of the preamble for additional details).

Additionally, the EPA is proposing to amend the source category definition to clarify that stationary combustion sources that are part of the hydrogen production unit (e.g., the reforming furnace and hydrogen production process unit heater) are part of the hydrogen production source category and that their emissions are to be reported under subpart P. Depending on the configuration of the hydrogen production unit, the exhaust gases from

³¹ See Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2017 (2019), available at www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks-1990-2017.

³² See GHGRP FAQ #695 “What is a hydrogen production process unit?” Available at: <https://ccdsupport.com/confluence/pages/viewpage.action?pageId=173080687>.

the combustion of fuel used to raise the temperature of the feedstocks and supply energy needed for the transformation reaction may be emitted through the same stack as the “process” emissions (*i.e.*, CO₂ produced from the transformation of feedstocks) or through separate stacks. Currently, 40 CFR 98.162 requires reporting of GHG emissions “from each hydrogen production process unit” under subpart P and reporting of GHG emissions from “each stationary combustion unit other than hydrogen production process units” under subpart C of part 98 (General Stationary Fuel Combustion Sources). This has led to some confusion regarding whether hydrogen production unit furnaces or process heaters that exhaust through a separate stack than the process emissions should be reported under subpart P or subpart C of this part. This proposed amendment to the source category definition seeks to clarify that these furnaces or process heaters are part of the hydrogen production process unit regardless of where the emissions are exhausted. We are also proposing to clarify that, if a hydrogen production unit with separate stacks for “process” emissions and “combustion” emission uses a CEMS for the process emissions stack, reporters must calculate and report the CO₂ emissions from the hydrogen production unit’s fuel combustion using the mass balance equations in subpart P (equations P–1 through P–3) in addition to the CO₂ emissions measured by the CEMS. Although this circumstance is expected to be rare, these amendments are necessary to clarify the reporting requirements for cases where hydrogen production process and combustion emissions are emitted through separate stacks. These amendments also allow for a more direct comparison of the GHG emission intensities for hydrogen production units using single versus dual stack configurations.

Hydrogen production can be achieved through a variety of chemical processes including the use of steam methane reforming (SMR), SMR followed by water gas shift (WGS) reaction, partial oxidation (POX), POX followed by WGS, and water or brine electrolysis. Each chemical production process has different yields of hydrogen and, depending on the desired product, the product stream may require purification. There are different purification processes that most commonly include pressure swing adsorption (PSA), amine adsorption, or membrane separation. Similar to the

purification process may yield products of different hydrogen purity and have different energy requirements. It is also worth noting that some hydrogen plants may perform purification of hydrogen that is included in the feedstock entering the plant. An example would be a refinery that directs the exhaust gas from a process unit that has elevated levels of hydrogen to its hydrogen plant. In this case, the hydrogen plant acts to both “produce hydrogen” (by reforming, gasification, oxidation, reaction, or other feedstock transformations) and “purify hydrogen” that exists in the feedstock to the plant. That is, the total quantity of hydrogen exiting the hydrogen plant may consist of hydrogen chemically produced (and subsequently purified) within the unit as well as hydrogen merely purified by the unit.

For the reasons described in section II.D of this preamble, in order to best understand the reported data, we are proposing to add requirements for facilities to the report the process type for each hydrogen production unit (*i.e.*, SMR, SMR–WGS, POX, POX–WGS, Water Electrolysis, Brine Electrolysis, or Other (specify)), the purification type for each hydrogen production unit (*i.e.*, PSA, Amine Adsorption, Membrane Separation, Other (specify), or none), and the annual quantity of hydrogen that is only purified by each hydrogen production unit. We note that subpart P currently requires reporting of the quantity of hydrogen that is produced by each hydrogen production unit. We intended this quantity to only include that quantity of hydrogen produced in the unit by reforming, gasification, oxidation, reaction, or other transformations of feedstocks. Through verification efforts, we identified some facilities that were reporting the total quantity of hydrogen exiting the hydrogen production unit, not just the quantity of hydrogen produced within the unit via reforming, gasification, oxidation, reaction, or other transformations of feedstocks. We could identify these facilities because the ratio of hydrogen produced to feedstock consumed was outside of the expected range. We developed and posted a frequently asked question (FAQ #698)³³ to clarify this reporting element, but some reporters may still be reporting their combined quantity of hydrogen produced plus the quantity of hydrogen merely purified. In addition to proposing to add the annual quantity of hydrogen that is only purified by each

hydrogen production unit, we are also proposing to clarify that the current reporting requirement is the annual quantity of hydrogen that is produced “. . . by reforming, gasification, oxidation, reaction, or other transformations of feedstocks.”

We are also proposing to amend the current reporting requirement in 40 CFR 98.166(c) regarding the facility-level quantity of CO₂ that is collected and transferred offsite to require the quantity of CO₂ collected and transferred offsite to be reported on a unit-level. This is consistent with other revisions proposed in subpart P in the 2022 Data Quality Improvements Proposal (*e.g.*, mass of non-CO₂ carbon (excluding methanol) collected and transferred offsite) and would allow the EPA to perform unit-level analyses. We are also proposing to require reporting of the annual net quantity of steam consumed by the unit, which would be a positive quantity if the hydrogen production unit is a net steam user (*i.e.*, uses more steam than it produces) and a negative quantity if the hydrogen production unit is a net steam producer (*i.e.*, produces more steam than it uses). Together, these proposed additional, amended, and clarified reporting requirements would enable us to perform benchmarking across process types at the unit-level, conduct more rigorous verification of the reported data, better understand production quantities, and collect more comprehensive and accurate data to inform future policy decisions.

Because we are proposing to require all data elements be reported at the unit level, we are also proposing to reorganize and consolidate all of the reporting elements reported at the unit level under 40 CFR 98.166(b) regardless of the calculation method (*i.e.*, mass balance or CEMS). We are also proposing reporters provide the emissions calculation method used (CEMS for single hydrogen production unit; CEMS on a common stack for multiple hydrogen production units; CEMS on a common stack with hydrogen production unit(s) and other sources; CEMS measuring process emissions alone plus mass balance for hydrogen production unit fuel combustion using equations P–1 through P–3; mass balance using equations P–1 through P–3 only; mass balance using equations P–1 through P–4). If a common stack CEMS is used, either for multiple hydrogen production units or that includes emissions from other sources, we are proposing to require that the estimated fraction of CO₂ emissions attributable to each hydrogen production unit be reported so

³³ See GHGRP FAQ #698 “How do I determine the quantity of hydrogen produced?” Available at: <https://ccdsupport.com/confluence/pages/viewpage.action?pageId=173080692>.

we can estimate unit-level CO₂ emissions for each hydrogen production unit. The revisions in 40 CFR 98.166(b) also require a proposed revision to 40 CFR 98.167(b) to broaden the recordkeeping requirements related to elements reported under 40 CFR 98.166(b).

We are also proposing to remove and reserve the recordkeeping requirements in 40 CFR 98.167(c). We determined that these recordkeeping requirements at 40 CFR 98.167(c)(1) are redundant to the general requirements already specified in 40 CFR 98.3(g) and that the requirements at 40 CFR 98.167(c)(2) and (3) are not applicable to hydrogen production units using the calculation method in 40 CFR 98.163(b).

We anticipate that the proposed data elements would require some additional monitoring or data collection by reporters. First, we are proposing to add several reporting elements to better characterize the type of hydrogen production unit and the type of associated purification process used. This information is readily available by hydrogen production unit owners or operators, so the data collection effort would be minimal and would not require any additional monitoring. We are also proposing to require reporting of emission and activity on a process unit basis, some of which was previously required only at the facility level. For reporters with multiple hydrogen production units, this may lead to a slight increase in the data collected by reporters. Finally, by proposing to broaden the source category to include captive hydrogen production units, there may be new reporters under subpart P. We expect that the number of new reporters would be small, because captive hydrogen production units at petroleum refineries were already required to report under subpart P due to requirements in subpart Y. However, there may be additional captive hydrogen production units that would newly have to report under subpart P and these reporters would have additional monitoring or data collection requirements. The proposed changes would therefore result in minimal additional burden to current subpart P reporters and more substantive additional burden to new reporters to subpart P. We are also proposing related confidentiality determinations for the additional data elements, as discussed in section VI of this preamble.

Due to the expected importance of hydrogen in future energy supply, the EPA is considering additional revisions to subpart P. The first revision would be to make subpart P an “all-in” subpart,

such that any facility meeting the definition of the hydrogen production source category at 40 CFR 98.160 would be required to report under the GHGRP. This would entail moving subpart P from Table A–4 to Table A–3 so that it would no longer be subject to the 25,000 mtCO₂e applicability threshold at 40 CFR 98.2(a)(2). The purpose of this potential revision would be to collect information on hydrogen production facilities that use electrolysis or other production methods that may have small direct emissions but use relatively large quantities of offsite energy to power the process. So, although the emissions occurring onsite at these hydrogen production facilities may fall below the current applicability threshold, the combined direct emissions (*i.e.*, “scope 1” emissions) and emissions attributable to energy consumption (*i.e.*, “scope 2” emissions)³⁴ could be significant. These considerations are especially important in understanding hydrogen as a fuel source. The EPA is aware of two concerns with this potential revision. First, it may be burdensome to small hydrogen producers. Second, even if small producers were exempted, the remaining newly applicable facilities (*i.e.*, those that have small direct emissions but use large quantities of offsite energy) may be eligible to cease reporting after three to five years, resulting in a limited data set.

To address the first concern, the EPA is considering including a minimum annual hydrogen production quantity within the subpart P source category definition to limit the applicability of the subpart to larger hydrogen production facilities. The current 25,000 mtCO₂e threshold for subpart P translates to the production of approximately 2,500 metric tons (mt) of hydrogen for a steam methane reformer, a process which typically produces approximately 10 mt CO₂ per mt of hydrogen produced. We request comment on updating the subpart P source category definition to require reporting from hydrogen production processes that exceed a 2,500 mt hydrogen production threshold or other metric rather than a production threshold. We request comment on the appropriate production threshold and other approaches for revising the source category definition while also excluding small producers.

Regarding the second concern, 40 CFR 98.2(i) enables reporters to “off-ramp” (stop reporting) after three years if their

emissions are under 15,000 mtCO₂e or after five years if their emissions are between 15,000 and 25,000 mtCO₂e. As discussed above, EPA anticipates that hydrogen production facilities that use electrolysis or other production methods that may have smaller direct emissions (*i.e.*, scope 1 emissions) would likely qualify to cease reporting after three to five years. We are seeking comment on potential options for how we could require continued reporting for the newly applicable subpart P reporters when a reporter would normally be eligible to stop reporting, to enable collection of a more comprehensive data set over time. Two examples of how this could be accomplished would be to exempt subpart P reporters from the provisions at 40 CFR 98.2(i) or develop a subpart P-specific off-ramp provision tied to hydrogen production levels consistent with the potential revised source category definition.

Finally, the EPA is considering revising subpart P to require hydrogen production facilities to report the quantity of hydrogen provided to each end-user (including both onsite use and delivered hydrogen) and, if the end-user reports to GHGRP, the GHGRP ID for that customer. Because hydrogen production can be GHG intensive, we consider it important to understand the demand for and use of hydrogen for carrying out a wide variety of CAA provisions. We request comment on the approach to collecting this sales information and the burden such a requirement may impose. One potential option would be to limit the reporting requirement to bulk hydrogen sales, and we request comment on the quantity of hydrogen that should qualify as bulk under this scenario. In addition, the EPA anticipates that some facilities may deliver hydrogen to a pipeline and may not know the end customers for these deliveries. However, the EPA anticipates that this situation could be mitigated by only requiring facilities to report information on sales where the customers are known to the facility.

H. Subpart Y—Petroleum Refineries

We are proposing several amendments to subpart Y of part 98 (Petroleum Refineries) that would provide clarification and consistency to the rule requirements.

First, for the reasons described in section II.B of this preamble, we are proposing to delete reference to non-merchant hydrogen production plants in paragraph 40 CFR 98.250(c) and to delete and reserve paragraphs 40 CFR 98.252(i), 98.255(d), and 98.256(b). We are proposing these deletions because of

³⁴ See section IV.A.1 of this preamble for additional information on the EPA’s collection of data related to energy consumption.

the proposed revisions to subpart P of part 98 (Hydrogen Production) that broaden the applicability of subpart P beyond merchant hydrogen production units. Hydrogen production units collocated at petroleum refineries would continue to have their emissions reported under subpart P, but subpart Y would no longer have to specifically require the non-merchant hydrogen production units to be reported under subpart P because subpart P would directly apply to these units.

Second, we are proposing to delete reference to coke calcining units in paragraphs 40 CFR 98.250(c) and 98.257(b)(16) through (19) and to remove and reserve paragraphs 40 CFR 98.252(e), 98.253(g), 98.254(h), 98.254(i), 98.256(i), and 98.257(b)(27) through (31). We are proposing these removals because of the proposed addition of subpart WW to part 98 (Coke Calciners) (see section IV.B of this preamble for additional information). With the addition of subpart WW, these provisions would no longer be necessary in subpart Y. Facilities with coke calciners would report their coke calcining unit emissions in the new proposed subpart WW, therefore maintaining these requirements in subpart Y would be duplicative.

Third, for the reasons described in section II.D of this preamble, we are proposing to include a requirement to report the capacity of each asphalt blowing unit. Unlike other emission units subject to reporting in subpart Y, asphalt blowing units currently do not have a reporting requirement for the unit-level capacity. Consistent with the existing reporting requirements for other emissions units under subpart Y, we are proposing to include a requirement for the maximum rated unit-level capacity of the asphalt blowing unit, measured in mt of asphalt per day, in 40 CFR 98.256(j)(2). These data would be used by the EPA for emissions analysis, data normalization, benchmarking, and emissions verification.

We do not anticipate that the proposed data elements would require any additional monitoring or data collection by reporters, because the only added data element is the capacity of each asphalt blowing unit, which is expected to be readily available on the equipment or in the operating permit for the unit. The proposed changes would therefore result in minimal additional burden to reporters. We are also proposing related confidentiality determinations for the additional data element, as discussed in section VI of this preamble.

I. Subpart AA—Pulp and Paper Manufacturing

For the reasons described in section II.C of this preamble, the EPA is proposing to amend specific provisions in the GHG Reporting Rule to require additional calculation requirements under subpart AA of part 98 (Pulp and Paper Manufacturing). We are proposing to revise 40 CFR 98.273 to include calculation requirements for the combustion of biomass fuels from Table C–1 to subpart C of part 98 (General Stationary Fuel Combustion Sources) and for the combustion of biomass with other fuels for each reported unit-type. For the units reported under this subpart, the rule currently includes methodologies to calculate CO₂, CH₄ and N₂O emissions from the combustion of fossil fuels, and CH₄, N₂O and biogenic CO₂ emissions from the combustion of spent liquor solids. However, there is no calculation methodology provided for a scenario in which biomass other than spent liquor solids are fired within a unit or co-fired or blended with fossil fuels. Therefore, we are proposing to revise 40 CFR 98.273 to include methodologies to calculate CH₄, N₂O and biogenic CO₂ emissions from the combustion of biomass fuels other than spent liquor solids, as well as the combustion of biomass other than spent liquor solids with other fuels, according to the applicable methodology from the provisions for stationary combustion sources found at 40 CFR 98.33(a), 40 CFR 98.33(c), and 40 CFR 98.33(e).

For the reasons described in section II.E of this preamble, we are also proposing to revise the subpart AA reporting requirements at 40 CFR 98.276(a) to remove references to biogenic CH₄ and biogenic N₂O. These terms have no meaning in the rule as CH₄ and N₂O are treated the same whether from biomass or fossil fuel combustion. This change aligns subpart AA with the terminology used for stationary combustion sources in subpart C and other combustion emissions throughout the rule.

Lastly, we are proposing to correct a typographical error at 40 CFR 98.277(d) by revising “detemining” to “determining”.

J. Subpart HH—Municipal Solid Waste Landfills

For the reasons described in sections II.B and II.C of this preamble, we are proposing several revisions to subpart HH of part 98 (Municipal Solid Waste Landfills) to improve the quality of data collected under the GHGRP. First, for the reasons described in section II.B of

this preamble, we are proposing to account for methane emissions from large release events that are currently not quantified under the GHGRP. In light of recent aerial studies indicating that methane emissions from landfills may be considerably higher than methane emissions quantified/reported under subpart HH,³⁵ the EPA reviewed the current subpart HH equations and available literature³⁶ to determine methods by which the subpart HH calculation methodologies could be modified or improved to account for these high emission events, particularly for landfills with gas collection systems. The following three likely reasons for high emission events were identified: (1) a poorly operating or non-operating gas collection system; (2) a poorly operating or non-operating destruction device; and (3) a leaking cover system due to cracks, fissures, or gaps around protruding wells. With respect to a poorly operating or non-operating gas collection system, equations HH–7 and HH–8 account for this in the “f_{Rec}” term (*i.e.*, the fraction of annual operating hours the associated recovery system was operating). In reviewing equations HH–7 and HH–8, we realized that the equations suggest that the f_{Rec} term is a function of the measurement location. For the reasons described in section II.C of this preamble, we are proposing revisions to equations HH–7 and HH–8 to more clearly indicate that the f_{Rec} term is dependent on the gas collection system. This proposed revision clarifies how the equation should apply to landfills that may have more than one gas collection system and may have multiple measurement locations associated with a single gas collection system. For the reasons discussed in section II.B of this preamble, we are also proposing that recovery system operating hours would only include those hours when the system is operating normally. We are proposing that facilities would not include hours when the system is shut down or when the system is poorly operating (*i.e.*, not operating as intended). We anticipate that poorly operating systems could be identified when pressure, temperature, or other parameters indicative of system performance are outside of normal variances for a significant portion of the system’s gas collection wells. We are

³⁵ Duren, R.M., et al. 2019. “California’s methane super-emitters.” *Nature* 575, 180–184. 7 November 2019. Available at: <https://doi.org/10.1038/s41586-019-1720-3>.

³⁶ See *Technical Support for Supplemental Revisions to Subpart HH: Municipal Solid Waste Landfills*, available in the docket for this rulemaking (Docket Id. No. EPA–HQ–OAR–2019–0424).

seeking comment on what set of parameters should be used to identify these poorly operating periods and whether a threshold on the proportion of wells operating outside of their normal operating variance should be included in the definition of the f_{Rec} term to define these periods of poor performance, which we are proposing to exclude from the “normal” operating hours. With respect to a poorly operating or non-operating destruction device, equations HH-6, HH-7 and HH-8 account for this in the “ f_{Dest} ” term (*i.e.*, the fraction of annual hours the destruction device was operating). We are also proposing revisions to f_{Dest} to clarify that the destruction device operating hours exclude periods when the destruction device is poorly operating. We are proposing that facilities should only include those periods when flow was sent to the destruction device and the destruction device was operating at its intended temperature or other parameter that is indicative of effective operation. For flares, we are proposing that periods when there is no pilot flame would be considered a poorly operating period that is excluded from destruction device operating hours. The proposed revisions would ensure that the equations account for emissions from periods in which the gas collection systems or destruction devices are poorly operating or non-operating.

With respect to emissions from leaking cover systems due to cracks, fissures, or gaps around protruding wells, these issues would reduce the landfill gas collection efficiency and would also reduce the fraction of methane oxidized near the surface of the landfill. We found that equations HH-6, HH-7, and HH-8 do not directly account for periods where surface issues reduce the gas collection efficiency and/or reduce the fraction of methane oxidized. Owners or operators of landfills with gas collection systems subject to the control requirements in the NSPS as implemented in 40 CFR part 60, subpart WWW or XXX, EG in 40 CFR part 60, subparts Cc or Cf as implemented in approved state plans, or Federal plans as implemented at 40 CFR part 62, subparts GGG or OOO must operate the gas collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To demonstrate compliance with this requirement, landfill owners or operators must monitor surface concentrations of methane along the entire perimeter of the collection area and along a pattern that traverses the

landfill at 30-meter intervals for each collection area on a quarterly basis using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the rule’s specifications. The probe inlet must be placed within 5 to 10 centimeters of the ground. Any reading of 500 parts per million or more above background at any location must be recorded as a monitored exceedance and corrective actions must be taken.

Considering the applicability of the landfill NSPS (40 CFR part 60, subpart WWW or XXX), state plans implementing the EG (40 CFR part 60, subparts Cc or Cf), or Fplans (40 CFR part 62, subparts GGG or OOO), we estimate that more than 70 percent of landfills with gas collection systems must make these surface measurements. Data presented by Heroux, et al.,³⁷ suggests that the methane flux is proportional to the measured methane concentration at 6 centimeters above the ground. We are proposing to add a term to equations HH-6, HH-7, and HH-8 based on this correlation to adjust the estimated methane emissions for monitoring exceedances. We are proposing to add surface methane concentration monitoring methods at 40 CFR 98.344(g) commensurate with the monitoring requirements in the landfill NSPS, EG, or Federal plans. We are proposing to require landfill owners and operators that must already conduct these surface measurements to conduct the measurements as specified in 40 CFR 98.344(g), provide a count of the number of exceedances identified during the required surface measurement period, including exceedances when re-monitoring (if re-monitoring is conducted), and use an additional equation term to adjust the reported methane emissions to account for these exceedances. For more information on the assessment of landfills subject to the NSPS, state plans implementing the EG, or Federal plan and the development of the additional equation term, see *Technical Support for Supplemental Revisions to Subpart HH: Municipal Solid Waste Landfills*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

Comments received on the 2022 Data Quality Improvements Proposal cited a Maryland study in which the collection efficiencies for non-regulated landfills were 20 percent lower, on average, than for regulated landfills (*i.e.*, subject to

NSPS, state plans implementing EG, or Federal plan).³⁸ These results make sense because the objective of the surface methane concentration measurements are to ensure proper gas collection and non-regulated landfills that do not conduct these measurements would not necessarily have such checks in place and may be expected to have higher emissions. However, the landfill gas collection efficiency for a given landfill depends on numerous factors. Specifically, the subpart HH calculation methodology will yield different average gas collection efficiencies based on the relative area of the landfill affected by the gas collection system and the type of soil cover used in those areas affected by the gas collection system, as provided in Table HH-3 to subpart HH of part 98. Therefore, we reviewed the Maryland study data and compared the Maryland study data results with the collection efficiencies reported under subpart HH (for Maryland landfills also reporting to the GHGRP). For the subset of Maryland landfills also reporting to the GHGRP, the Maryland study gas collection efficiencies for non-regulated landfills was 20 percent lower than for regulated landfills, which is consistent with the findings using the full set of Maryland landfills. However, the GHGRP reported gas collection efficiencies for non-regulated landfills in Maryland were 10 percent lower than for regulated landfills. Thus, it appears that some of the observed differences in the gas collection efficiencies for the Maryland landfills may already be accounted for by the subpart HH calculation methodology. If the default gas collection efficiencies provided in Table HH-3 were 10 percent lower than the existing values for non-regulated landfills, the GHGRP calculated collection efficiencies would agree with the 20 percent overall differences observed in the Maryland study. For more detail regarding our review of the Maryland study data, see *Technical Support for Supplemental Revisions to Subpart HH: Municipal Solid Waste Landfills*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

Based on our review of the Maryland study data along with the existing methodologies in subpart HH, we are proposing to include a new set of gas collection efficiency values in Table HH-3 that are applicable to landfills that do not conduct surface methane

³⁷ Heroux, M., C. Guy, and D. Millette. 2010. “A Statistical Model for Landfill Surface Emissions.” *Journal of the Air & Waste Management Association*, 60:2, 219–228. <https://doi.org/10.3155/1047-3289.60.2.219>.

³⁸ Environmental Integrity Project. Public Comments on Docket Id. No. EPA-HQ-OAR-2019-0424, Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule, Proposed Rule, 87 FR 36920 (June 21, 2022).

concentration measurements (*i.e.*, facilities that are not subject to the landfill NSPS, EG, or Federal plan or that do not elect to monitor their landfill cover according to the landfill rule requirements at 40 CFR 98.344(g)(7)). These new factors are 10 percent lower than the current values in Table HH-3. We are proposing to also retain the current set of collection efficiencies, but to modify the provision such that these values would only be applicable for landfills that are conducting surface methane concentration measurements according to the landfills rule requirements. We are proposing that facilities that are not subject to the landfill NSPS (40 CFR part 60, subpart WWW or XXX), state plans implementing the EG (40 CFR part 60, subparts Cc or Cf), or Federal plans (40 CFR part 62, subparts GGG or OOO) must either: (1) use the proposed lower gas collection efficiency values; or (2) monitor their landfill cover and use the current set of collection efficiency values. We are also proposing to add surface methane concentration monitoring methods at 40 CFR 98.344, which would require landfill owners and operators that elect to conduct these surface measurements to conduct the measurements using the methods in NSPS 40 CFR part 60, subpart XXX; provide a count of the number of locations with concentration above 500 parts per million above background identified during the surface measurement period; and to use the proposed equation term to adjust the reported methane emissions to account for these occurrences.

We are requesting comment on the new set of proposed collection efficiencies for landfills with gas collection systems that do not conduct surface methane concentration measurements. Specifically, we request comment on our selection of 10 percent lower collection efficiencies for landfills that are not monitored for surface methane rather than selecting a 20 percent lower value as suggested by commenters that referenced the Maryland study data. We also request comment along with supporting data on whether the EPA should select an alternative collection efficiency value than the proposed 10 percent difference or the 20 percent difference we considered in response to comment.

The EPA is also proposing to revise the reporting requirements for landfills with gas collection systems consistent with the proposed revisions in the methodology. We are proposing to separately require reporting for each gas collection systems and for each measurement location within a gas

collection system. We are also proposing that, for each measurement location that measures gas to an on-site destruction device, certain information be reported about the destruction device, including: type of destruction device; the annual hours gas was sent to the destruction device; the annual operating hours where active gas flow was sent to the destruction device and the destruction device was operating at its intended temperature or other parameter indicative of effective operation; and the fraction of the recovered methane reported for the measurement location directed to the destruction device. Note, for sites that have a single measurement location that subsequently sends gas to multiple destruction devices, we realize the hours gas is sent to each device and the fraction of recovered methane sent to each device would have to be estimated based on best available data or engineering judgement. We are also proposing to require reporting of identifying information for each gas collection system, each measurement location within a gas collection system, and each destruction device.

These reporting requirements are similar to those currently included in subpart HH but have been restructured to more clearly identify reporting elements associated with each gas collection system, each measurement location within a gas collection system, and each control device associated with a measurement location.

We are also adding reporting requirements for landfills with gas collection systems to indicate the applicability of Federal rules or state and Federal implementation plans that require quarterly surface monitoring, an indication of whether surface methane concentration monitoring is conducted, the frequency of monitoring, and the information for each instance surface methane concentrations exceeded 500 parts per million above background, including re-monitoring exceedances. These additional reporting elements are being proposed to better understand the applicability of the NSPS (40 CFR part 60, subpart WWW or XXX), state plans implementing the EG (40 CFR part 60, subparts Cc or Cf), and Federal plans (40 CFR part 62, subparts GGG or OOO), and to support verification of the reported emissions given the additional term added to equations HH-6, HH-7, and HH-8 and the different gas collection efficiency values.

Currently, subpart HH estimates of methane emissions from landfills are based on modeling data and methane measurement data from landfill gas collection systems. In addition to our

proposal of using methane surface emissions monitoring to better quantify subpart HH estimates, the EPA is seeking comment on how other methane monitoring technologies, *e.g.*, satellite imaging, aerial measurements, vehicle-mounted mobile measurement, or continuous sensor networks, might enhance subpart HH emissions estimates. Specifically, the EPA is seeking comment for examples of methane data collected from available monitoring methodologies and how such data might be incorporated into subpart HH for estimating annual emissions.

Finally, we are clarifying a proposed revision included in the 2022 Data Quality Improvements Proposal. As described in the preamble of that document, for Table HH-1, we proposed to revise the first order of decay rate (*k*) for bulk waste under both the “Bulk waste option” and the “Modified bulk MSW option” to 0.055 to 0.142 per year. However, we inadvertently included the current *k* value for bulk waste under the Modified bulk MSW option (0.02 to 0.057 per year) in the amendatory text of that document. Therefore, in today’s proposal, we are correcting this oversight and proposing to revise the *k* value for bulk waste under the Modified bulk MSW option in Table HH-1 to be 0.055 to 0.142 per year. For more information on the proposed *k* value for bulk waste under the Modified bulk MSW option, see the preamble to the 2022 Data Quality Improvements Proposal and the memorandum, *Multivariate analysis of data reported to the EPA’s Greenhouse Gas Reporting Program (GHGRP), Subpart HH (Municipal Solid Waste Landfills) to optimize DOC and k values*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

In addition to the proposed revisions, we are also providing notification of additional materials available for review related to proposed revisions to subpart HH included in the 2022 Data Quality Improvements Proposal (87 FR 37008; June 21, 2022). As discussed in the June 21, 2022 proposed rule, the EPA previously conducted a multivariate analysis based on 6 years of data from 355 landfills reporting under subpart HH, which we subsequently relied on to propose revised degradable organic carbon (DOC) and first order decay rate (*k*) values for the Bulk Waste and Modified Bulk Waste streams in Table HH-1. We summarized the methodology and findings of the analysis in the memorandum from Meaghan McGrath, Kate Bronstein, and Jeff Coburn, RTI International, to Rachel Schmeltz, EPA, *Multivariate analysis of data reported to*

the EPA's Greenhouse Gas Reporting Program (GHGRP), Subpart HH (Municipal Solid Waste Landfills) to Optimize DOC and k values, (June 11, 2019), available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

Following the 2022 Data Quality Improvements Proposal, we received requests from waste industry stakeholders regarding the referenced memorandum and the availability of the cohort data supporting the analysis, the input files used in the analysis, and the summary of the analysis results that were used to support the proposed revised DOC and k values. These materials are referred to within the docketed memorandum but were inadvertently not included as attachments to the document in the proposed rule docket. On recognizing this oversight, we subsequently uploaded the materials as attachments to the original memorandum on August 11, 2022, found at www.regulations.gov/document/EPA-HQ-OAR-2019-0424-0170. In this supplemental proposal, we are providing further notification that these materials are available, and we are seeking additional comment on these materials during the comment period of this supplemental proposal. Note that some of the file types supporting the analysis, including files generated by RStudio (an open source statistical programming software), are not supported by www.regulations.gov/; however, interested parties may reference the directions at www.regulations.gov/document/EPA-HQ-OAR-2019-0424-0170 to contact the EPA Docket Center Public Reading Room to request to view or receive a copy of all documents.

K. Subpart OO—Suppliers of Industrial Greenhouse Gases

For the reasons provided in section II.A of this preamble, the EPA is proposing revisions to subpart OO of part 98 (Suppliers of Industrial Greenhouse Gases) that would improve the quality of the data collected under the GHGRP and that would clarify certain provisions. To improve the quality of the data collected under the GHGRP, we are proposing to add requirements for bulk importers of F-GHGs to provide, as part of the information required for each import in the annual report, copies of the corresponding U.S. Customs and Border Protection (CBP) entry forms (e.g., CBP Form 7501), and that suppliers of F-HTFs identify the end uses for which F-HTFs are used and the quantity of each F-HTF transferred for each end use, if known. The EPA currently requires at

40 CFR 98.417(c) that bulk importers of fluorinated GHGs retain records substantiating each of the imports that they report, including: a copy of the bill of lading for the import, the invoice for the import, and the CBP entry form. Under the existing regulations, these records must be made available to the EPA upon request by the administrator (40 CFR 98.3(g)). In conducting verification reviews of the historically reported import data related to HFCs, the EPA discovered discrepancies between data reported to e-GGRT and those reported to CBP with an entry. The EPA contacted the corresponding suppliers to request substantiating documentation and found several erroneous subpart OO submissions for various suppliers and years, with some of these errors representing significant CO₂e quantities. Furthermore, the data in e-GGRT and those entry data reported to CBP are not directly comparable (due to differences in scope, HTS codes that cover broad groups of chemicals, etc.), so while this comparison can lead to the discovery of some errors, such comparison does not result in robust verification. Additionally, subpart OO imports can vary greatly from year to year for an individual supplier, so the EPA's standard verification checks (e.g., looking at outliers or changes from year to year) are not as effective at identifying errors in subpart OO reports as they are for other GHGRP subparts. Therefore, requiring that suppliers submit substantiating records (i.e., the CBP forms) as a part of the annual report would improve verification and data quality for subpart OO. The EPA would be able to review the documentation to ensure that supplier-level and national-level fluorinated gas import data are accurate. The proposed changes would add a reporting requirement to 40 CFR 98.416(c). Because the entry form is already required to be retained as a record at 40 CFR 98.417(c)(3) for each of the imports reported, it is not anticipated that this reporting requirement would cause a significant change in burden.

However, because certain information related to HFC imports is now being tracked under 40 CFR part 84 (the AIM Act phasedown of hydrofluorocarbons), we are proposing that the documentation reporting requirement would not apply to imports of HFCs that are regulated substances under 40 CFR part 84. For example, if a supplier imported both SF₆ and HFC-134a in a reporting year, the supplier would only submit the entry forms associated with the imports of SF₆ in their annual GHG report submitted under 40 CFR part 98.

As HFC-134a is a regulated substance under 40 CFR part 84, the importer would already provide substantiating information to the EPA under that part. This would reduce potential duplicative burden on the suppliers that are subject to both 40 CFR part 98 and 40 CFR part 84. We seek comment on this possible exception for AIM HFC suppliers.

Although we are proposing to collect copies of the CBP entry form for each import, we seek comment on whether other types of documentation associated with an import may be more useful, e.g., the bill of lading. We seek comment on the type of information available in these forms in practice, and which would best suit the verification goals of the GHGRP. We are also proposing a related confidentiality determination for the documentation reporting requirement, as discussed in section VI of this preamble.

Additionally, we are proposing to require at 40 CFR 98.416(k) that suppliers of F-HTFs, including but not limited to perfluoroalkylamines, perfluoroalkylmorpholines, hydrofluoroethers, and perfluoropolyethers (including PFPME), identify the end uses for which the heat transfer fluid is used and the aggregated annual quantities of each F-HTF transferred to each end use, if known. This proposed requirement, which is patterned after a similar requirement under subpart PP of part 98 (Suppliers of Carbon Dioxide), would help to inform the development of GHG policies and programs by providing information on F-HTF uses and their relative importance. This proposed requirement supplements our 2022 Data Quality Improvements Proposal to require similar information for N₂O, SF₆, and PFCs. We are proposing the requirement for F-HTFs because: (1) the GWP-weighted quantities of these compounds that are supplied annually to the U.S. economy are relatively large; and (2) the identities and magnitudes of the uses of these compounds are less well understood than those of some other industrial GHGs, such as HFCs used in traditional air-conditioning and refrigeration applications. Fluorinated HTFs are known to be used in electronics manufacturing for temperature control (process cooling), thermal shock testing of devices, cleaning substrate surfaces and other parts, and soldering, but the total quantity of F-HTFs that are emitted from electronics manufacturing has fallen significantly below the total quantity of F-HTFs supplied annually to the U.S. economy from 2011 through 2019. Discussions with F-HTF suppliers indicate that this shortfall is at least

partly attributable to substantial uses of F-HTFs outside of the electronics industry. To better understand the magnitudes and trends of these uses, we are proposing to collect information from suppliers of these compounds on how their customers use the compounds, and in what quantities. This issue is discussed further in the *Technical Support Document on Use of Fluorinated HTFs Outside of Electronics Manufacturing* included in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424). As discussed in section II.A.2 of this preamble, we are also proposing to revise the definition of “fluorinated HTF,” currently included in subpart I of part 98 (Electronics Manufacturing), and to move the definition to subpart A of part 98 (General Provisions) to harmonize with the proposed changes to subpart OO.

To inform the revision of the subpart OO electronic reporting form in the event that this proposed amendment is finalized, we request comment on the end use applications for which F-HTFs are used and their relative importance. The EPA is aware of the following end uses of F-HTFs:

The following applications within electronics manufacturing:

- temperature control;
- device testing (thermal shock testing);
- cleaning substrate surfaces and other parts; and
- soldering.

The following applications outside of electronics manufacturing:

- Temperature control within data center operations (including cryptocurrency mining);
- Immersion cooling;
- Direct-to-chip (*i.e.*, plate) cooling;
- Temperature control for military purposes, including cooling of electronics in ground and airborne radar (klystrons); avionics; missile guidance systems; ECM (Electronic Counter Measures); sonar; amphibious assault vehicles; other surveillance aircraft; lasers; SDI (Strategic Defense Initiative); stealth aircraft; and electric motors;

pharmaceutical manufacturing;

- Temperature control in medical applications;
- Solvent use outside the electronics manufacturing industry (*e.g.*, use as a deposition solvent in filter and aerospace manufacturing, use to clean medical devices);
- Coatings for adhesives; and
- Thermal shock testing outside the electronics manufacturing industry.

Finally, we are also proposing to clarify certain exceptions to the subpart

OO reporting requirements for importers and exporters. Currently, the importer reporting requirement at 40 CFR 98.416(c) reads:

“Each bulk importer[exporter] of fluorinated GHGs, fluorinated HTFs, or nitrous oxide shall submit an annual report that summarizes its imports[exports] at the corporate level, except for shipments including less than twenty-five kilograms of fluorinated GHGs, fluorinated HTFs, or nitrous oxide, transshipments, and heels that meet the conditions set forth at § 98.417(e).”

The exporter reporting requirement at 40 CFR 98.416(d) is similar, except heels are not required to meet the conditions set forth at 40 CFR 98.417(e).

We are proposing to revise 40 CFR 98.416(c) and (d) to clarify that the exceptions are voluntary, consistent with our original intent. This proposed change would also minimize the burden of reporting HFC imports and exports under subpart OO after reporting HFC imports and exports under 40 CFR part 84 (the AIM Act phasedown of hydrofluorocarbons) for reporters who are subject to both programs. Under subpart A of part 84, there are no exceptions for reporting imports or exports of shipments of less than 25 kilograms, transshipments, or heels.

To implement this change, we are proposing to insert “importers may exclude” between “except” and “for shipments” in the first sentence of paragraphs 98.416(c) and (d), deleting the “for.” We are also proposing to clarify that imports and exports of transshipments would both have to be either included or excluded for any given importer or exporter, and we are proposing a similar clarification for heels. The last two clarifications are intended to prevent the bias in the net supply estimate (the difference between imports and exports) that would occur if, for example, transshipments were counted as imports but not exports or vice versa.

Because the exceptions under subpart OO were intended to reduce burden rather than to increase data quality, we do not anticipate that data quality would be negatively affected by clarifying that the exceptions are voluntary, as long as the exceptions are treated consistently by individual reporters as described in this section. (In fact, as discussed further in this section, including heels is expected to increase data quality.) The only potential concerns that we have identified are potential inconsistencies among importers or exporters or for the same importer or exporter over time. Inconsistency among importers or

exporters could occur if some importers or exporters chose to include the excepted quantities in their reports while others did not.³⁹ Inconsistency for individual importers or exporters over time could occur if some importers or exporters who have not previously reported the excepted quantities decided to begin reporting them. However, because the quantities affected by the exceptions are expected to be small, we anticipate that these inconsistencies would also be small.

If these inconsistencies (or other data quality issues raised by commenters) did pose a concern, one way of minimizing such concerns while minimizing the burden of reporting HFC imports and exports under both subpart OO and part 84 would be to eliminate the exceptions as they apply to HFCs regulated under part 84, which would harmonize the data requirements of the two programs for importers and exporters. We request comment on this option.

We are also requesting comment on the option of specifically eliminating the exception for heels from 40 CFR 98.416(c) and (d) for importers and exporters of all industrial gases and fluorinated HTFs. A heel is the quantity of gas that remains in a container after most of the gas has been extracted.⁴⁰ Not reporting heels can result in bias in net supply estimates. This is because the exception for heels does not apply when the heel is part of the contents of a full container on its way to gas users (*e.g.*, exported), but the exception does apply when the heel is the only gas in the container being returned to producers or distributors (*e.g.*, imported). For example, in the typical scenario where a heel makes up about 10 percent of the contents of a full container, 100 percent of the gas would be reported as exported, but, if the exception for heels were used, none of the gas would be reported as imported when the container was returned, even though 10 percent of the original contents would in fact be imported. This would result in an estimate that 100 percent of the gas was permanently exported when only 90 percent of the gas was actually permanently exported. Eliminating the exception for heels would eliminate this bias, improving the quality of the data collected under the GHGRP. However, this change could also increase burden for importers and exporters reporting

³⁹This presumes that the importers and exporters are not already reading the exceptions as voluntary.

⁴⁰A heel is often left in the container because removing it would require special equipment (*e.g.*, a pump).

imports and exports of industrial gases and fluorinated HTFs other than HFCs.

L. Subpart PP—Suppliers of Carbon Dioxide

For the reasons provided in section II.D of this preamble, the EPA is proposing revisions to subpart PP of part 98 (Suppliers of Carbon Dioxide) that would improve the quality of the data collection under the GHGRP. Specifically, the EPA is proposing to add and amend certain data reporting requirements in 40 CFR 98.426(f) and (h). The proposed changes would improve our understanding of supplied CO₂ through the economy. CO₂ is captured across a range of different facilities including gas processing plants, ethanol plants, electric generating units (EGUs), and other manufacturing and processing facilities. In the future, CO₂ capture deployment is expected to expand at these types of facilities and may also be captured at other types of facilities including at direct air capture facilities. The GHGRP tracks the supply and storage of CO₂ through the economy based on data reported to subparts PP (Suppliers of Carbon Dioxide), RR (Geologic Sequestration of Carbon Dioxide), UU (Injection of Carbon Dioxide), and proposed subpart VV (Geologic Sequestration of Carbon Dioxide With Enhanced Oil Recovery Using ISO 27916) (see 87 FR 36920; June 21, 2022).

Suppliers subject to subpart PP report data on CO₂ captured. These suppliers must report the aggregated annual quantity of CO₂ in metric tons that is transferred to each of the end use applications listed at 40 CFR 98.426(f). This includes, but is not limited to, reporting the amount transferred for geologic sequestration that is covered by subpart RR (40 CFR 98.426(f)(11)). In the 2022 Data Quality Improvements Proposal, the EPA proposed to add subpart VV (Geologic Sequestration of Carbon Dioxide With Enhanced Oil Recovery Using ISO 27916). To ensure that we are adequately tracking the end use applications of supplied CO₂, the EPA is proposing to add a data element to 40 CFR 98.426(f) that would require suppliers to report the annual quantity of CO₂ in metric tons that is transferred for use in geologic sequestration with EOR subject to subpart VV. Without this change, suppliers would have otherwise been required to report this quantity under one of the other end use applications listed at 40 CFR 98.426(f). Therefore, the EPA anticipates that this new data element would result in a negligible increase in reporting burden.

The EPA is considering further expanding the list of end-use

applications reported at 40 CFR 98.426(f) to better account for and track emerging CO₂ end uses. To that end, the EPA is seeking comment on CO₂ end uses that would be appropriate to add to 40 CFR 98.426(f). Possible additions could include algal systems, chemical production, and/or mineralization processes, such as the production of cements, aggregates, or bicarbonates. The EPA seeks comment on what other end uses may be appropriate to add to 40 CFR 98.426(f) in future rulemakings.

Under 40 CFR 98.426(h), facilities that capture a CO₂ stream from an EGU that is subject to subpart D of part 98 (Electricity Generation) and transfer CO₂ to any facilities that are subject to subpart RR are currently required to report additional information including the GHGRP facility identification number associated with the subpart D facility, the GHGRP facility identification numbers for the subpart RR facilities to which the CO₂ is transferred, and the annual quantities of CO₂ transferred to each of those subpart RR facilities. The EPA believes that expanding the applicability of 40 CFR 98.426(h) to apply to sources beyond subpart D EGUs is essential to allow the EPA to fully track captured and sequestered CO₂ in the economy. Additionally, the EPA believes that expanding the paragraphs to apply to facilities that transfer CO₂ to facilities subject to subpart VV would be more comprehensive, given that proposed subpart VV would also apply to geologic sequestration.

Therefore, the EPA is proposing to amend 40 CFR 98.426(h) to apply to any facilities that capture a CO₂ stream from a facility subject to 40 CFR part 98 and supply that CO₂ stream to facilities that are subject to either subpart RR or proposed subpart VV. In other words, the revised paragraph would no longer apply only to EGUs subject to subpart D, but to any direct emitting facility that is the source of CO₂ captured and transferred to facilities subject to subparts RR or VV. The revised data elements would require that any facility that captures a CO₂ stream and transfers CO₂ to any facility subject to subpart RR or subpart VV to report the GHGRP facility identification number for the facility from which the CO₂ is captured, the GHGRP facility identification numbers for the subpart RR and subpart VV facilities to which the CO₂ is transferred, and the quantities of CO₂ supplied to each receiving facility. For 40 CFR 98.426(h)(1), which requires the facility identification number for the CO₂ source facility, the applicable facility identification number may be the same as the subpart PP facility or

may be that of a separate direct emitting facility (e.g., a subpart D EGU facility, a subpart P hydrogen production facility), depending on the facility-specific characteristics. The EPA believes the reporting burden for these revisions will be negligible because facilities already have this information readily available.

The EPA is considering further expanding the requirement at 40 CFR 98.426(h) such that facilities subject to subpart PP would report transfers of CO₂ to any facilities reporting under 40 CFR part 98, not just those subject to subparts RR and VV. This would include reporting the amount of CO₂ transferred on an annual basis as well as the relevant GHGRP facility identification numbers. The EPA understands that this information would be readily available to facilities subject to subpart PP as these facilities are aware of their customer base. In addition, subpart PP facilities already report information on a variety of end uses under 40 CFR 98.426(f). The EPA is requesting comment on whether this information would be readily available as well as other relevant information the EPA should consider regarding this potential revision.

M. Subpart QQ—Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-Charged Equipment and Closed-Cell Foams

For the reasons provided in section II.D of this preamble, we are proposing revisions to subpart QQ of part 98 (Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-Charged Equipment or Closed-Cell Foams) that would improve the quality of the data collection under the GHGRP. Specifically, we are proposing to add a requirement for importers of F-GHGs in equipment and foams to provide, as part of the information required for each import in the annual report, copies of the corresponding CBP entry forms (e.g., CBP form 7501). The EPA currently requires at 40 CFR 98.437(a) that importers retain records substantiating each of the imports that they report, including: a copy of the bill of lading for the import, the invoice for the import, and the CBP entry form. Under the existing regulations, these records must be made available to the EPA upon request by the administrator (40 CFR 98.3(g)). As discussed in section III.K of this preamble, in conducting verification reviews of the historically reported subpart OO (Suppliers of Industrial Greenhouse Gases) import data for HFCs, the EPA discovered discrepancies between data reported to e-GGRT and those entry data reported to CBP. The EPA contacted the

corresponding suppliers to request substantiating documentation and found several erroneous subpart OO submissions for various suppliers and years, with some of these errors representing significant CO₂e quantities. The EPA has so far been unable to do a similarly useful comparison for subpart QQ data, primarily because the data in e-GGRT and those in CBP are not directly comparable (due to differences in scope, differences in HTS code coverage, etc.). Therefore, the EPA has thus far been unable to screen for errors in subpart QQ data using external data sets. Additionally, subpart QQ imports can vary greatly from year to year for an individual supplier, so the EPA's standard verification checks (*e.g.*, looking at outliers or changes from year to year) are not as effective at identifying errors in subpart QQ reports as they are for other GHGRP Subparts. Therefore, requiring that suppliers submit substantiating records (*i.e.*, the CBP entry forms) as a part of the annual report would improve verification and data quality for subpart QQ. The EPA would be able to review the documentation to ensure that supplier-level and national-level fluorinated gas import data are accurate. The proposed changes would add a reporting requirement to 40 CFR 98.436(a). Because the entry form is already required to be retained as a record at 40 CFR 98.437(a)(3) for each import reported, it is not anticipated that this reporting requirement would cause a significant change in burden.

While we are proposing to collect copies of the CBP entry form for each import, we seek comment on whether other types of documentation associated with an import may be more useful, *e.g.*, the bill of lading. We seek comment on the type of information available in these forms in practice, and which would best suit the verification goals of the GHGRP. We are also proposing a related confidentiality determination for the documentation reporting requirement, as discussed in section VI of this preamble.

Additionally, we are proposing to add a requirement for importers or exporters of fluorinated GHGs contained in pre-charged equipment or closed-cell foams to include, as part of the information required for each import and export in the annual report, the Harmonized Tariff System (HTS) code (for importers) and the Schedule B codes (for exporters) used for shipping each equipment type.⁴¹ These would be new data

reporting requirements under 40 CFR 98.436(a) and 40 CFR 98.436(b). The HTS assigns 10-digit codes to identify products that are unique to U.S. markets. HTS codes start with a 6-digit code specifying a chapter, heading, and subheading, and in full include a specific 10-digit code including a subheading for duty and a statistical suffix. Commodity codes are currently collected as a data element under subpart OO, with most suppliers reporting the applicable HTS code. In the 2022 Data Quality Improvements Proposal, we proposed to revise the reporting of "commodity code" under subpart OO to clarify that reporters should submit the HTS code for each F-GHG, F-HTF, or N₂O shipment (87 FR 37012). In this supplemental proposal, we are proposing to require the reporting of HTS codes from importers under subpart QQ to be consistent with the proposed revisions to subpart OO. Reporters would enter the full 10-digit HTS code with decimals, to extend to the statistical suffix, as it was entered on related customs forms. We are proposing to require reporting of Schedule B codes for exporters. Schedule B codes determine the export classification and are required when filling out trade documents to export goods out of the United States. Suppliers subject to subpart QQ are already required to maintain records substantiating their imports and exports, such as bills of lading, invoices, and CBP entry forms. It is the understanding of the EPA that these documents would contain the HTS codes or Schedule B codes associated with the shipments. We are proposing to gather this data, which is likely already available in supplier records, to verify and compare the data submitted to the GHGRP with other available import and export data. The proposed HTS and Schedule B codes would provide a means to cross-reference the data submitted and would help to ensure the accuracy and completeness of the information reported under the GHGRP. However, we are seeking comment on whether it is reasonable to require reporting of the HTS code for both importers and exporters, and on how the use of HTS codes differs for imports and exports. We are also seeking comment on whether shippers typically use a standard set of Schedule B codes or HTS codes for exports or if the codes may change based on the recipient country.

We are also proposing related confidentiality determinations for the proposed new and revised data

elements, as discussed in section VI of this preamble.

N. Subpart RR—Geologic Sequestration of Carbon Dioxide

The Geologic Sequestration of Carbon Dioxide source category (subpart RR of part 98) provides an accounting framework for facilities to report amounts of CO₂ sequestered annually. Facilities develop an EPA-approved monitoring, reporting, and verification (MRV) plan, report on monitoring activities and use a mass balance approach to calculate amounts of carbon dioxide sequestered. Information collected under the GHGRP provides a transparent means for the EPA and the public to continue to evaluate the effectiveness of geologic sequestration.

The EPA has received questions from stakeholders regarding the applicability of subpart RR to offshore geologic sequestration activities, including on the outer continental shelf. When the EPA finalized subpart RR (75 FR 75060, December 1, 2010), we noted that the source category covered not only onshore injection of CO₂, but also offshore injection. For example, 40 CFR 98.446 specifies well identification information to be reported for wells with Underground Injection Control (UIC) permits and for offshore wells not subject to the Safe Drinking Water Act. The EPA also explained in its response to comments on the 2010 rule promulgating subpart RR that the source category covered offshore injection.⁴²

While subpart RR covers offshore activities, we observe that subpart RR does not provide a definition for the term "offshore" and that providing a definition for such term would be helpful. Therefore, the EPA is proposing to add a definition for "offshore" to 40 CFR 98.449. We propose that "offshore" means "seaward of the terrestrial borders of the United States, including waters subject to the ebb and flow of the tide, as well as adjacent bays, lakes or other normally standing waters, and extending to the outer boundaries of the jurisdiction and control of the United States under the Outer Continental Shelf Lands Act." This is the same definition of offshore that is currently provided at 40 CFR 98.238 for subpart W of part 98 (Petroleum and Natural Gas Systems).

⁴² *Mandatory Greenhouse Gas Reporting Rule: EPA's Response to Public Comments, Geologic Sequestration and Injection of Carbon Dioxide: Subparts RR and UU*, Docket Id. No. EPA-HQ-OAR-2009-0926-0834 (Response 2.1-a and Response 6.2-g), available at www.epa.gov/sites/default/files/2015-07/documents/subpart-rr-uu_rtc.pdf.

⁴¹ A complete listing of HTS codes is available at <https://hts.usitc.gov/current>. A complete listing of Schedule B codes is available at: <https://>

www.census.gov/foreign-trade/schedules/b/index.html.

O. Subpart UU—Injection of Carbon Dioxide

In the 2022 Data Quality Improvements Proposal, the EPA proposed to amend subpart UU of part 98 (Injection of Carbon Dioxide). Specifically, the EPA proposed to amend 40 CFR 98.470 by redesignating paragraph (c) as paragraph (d) and adding new paragraph (c) to read, “(c) If you report under subpart VV of this part for a well or group of wells, you are not required to report under this subpart for that well or group of wells.” Some commenters were concerned that, as written, the regulatory text under proposed subpart VV (Geologic Sequestration of Carbon Dioxide With Enhanced Oil Recovery Using ISO 27816) and subpart UU could allow for CO₂ to be reported under multiple subparts, resulting in double counting. Thus, we are proposing to revise the text in proposed paragraph 98.470(c) from “are not required to report” to “shall not report.” We are also proposing an additional sentence in paragraph 98.470(c) to clarify that CO₂-EOR projects that become subject to subpart VV during a reporting year must report under subpart UU for the portion of the reporting year before they began using CSA/ANSI ISO 27916:2019 and under subpart VV for the portion after they began using CSA/ANSI ISO 27916:2019. Facilities shall not report CO₂ under subparts VV and UU in a way that is duplicative, but it is possible that facilities would report under both subparts during the reporting year in which they transition to using CSA/ANSI ISO 27916:2019. Additionally, we are similarly proposing to revise the text in paragraph 98.470(b) from “are not required to report” to “shall not report,” to clarify that facilities should not report under both subparts UU and RR. This also ensures consistency between paragraphs (b) and (c).

P. Subpart VV—Geologic Sequestration of Carbon Dioxide With Enhanced Oil Recovery Using ISO 27916

In the 2022 Data Quality Improvements Proposal, the EPA proposed adding a new source category, subpart VV (Geologic Sequestration of Carbon Dioxide With Enhanced Oil Recovery Using ISO 27916), to part 98 (see 87 FR 36920; June 21, 2022). The proposed new source category would add calculation and reporting requirements for quantifying geologic sequestration of CO₂ in association with EOR operations. The proposed requirements would apply only to facilities that quantify the geologic sequestration of CO₂ in association with

EOR operations in conformance with the ISO standard designated as CSA/ANSI ISO 27916:2019, *Carbon Dioxide Capture, Transportation and Geological Storage—Carbon Dioxide Storage Using Enhanced Oil Recovery*. Under existing GHGRP requirements, facilities that receive CO₂ for injection at EOR operations report under subpart UU (Injection of Carbon Dioxide); however, facilities that geologically sequester CO₂ through EOR operations may instead opt-in to subpart RR (Geologic Sequestration of Carbon Dioxide).

The EPA proposed regulatory text to define the subpart VV source category and establish applicability. Specifically, proposed 40 CFR 98.480 stated that the source category pertains to CO₂ that is injected in enhanced recovery operations for oil and other hydrocarbons (CO₂-EOR) in which all of the following apply: (1) the CO₂-EOR project uses the ISO standard designated as CSA/ANSI ISO 27916:2019 (proposed to be incorporated by reference, see 40 CFR 98.7) as a method of quantifying geologic sequestration of CO₂ in association with EOR operations; (2) the CO₂-EOR project is not reporting under subpart UU of part 98; and (3) the facility is not reporting under subpart RR of part 98. In the preamble to the proposal (87 FR 37016), the EPA wrote, “. . . the EPA is proposing a new source category—subpart VV—related to the option for reporting of incidental CO₂ storage associated with EOR based on the CSA/ANSI ISO 27916:2019 standard. Specifically, facilities that conduct EOR would be required to report basic information on CO₂ received under subpart UU, or they could choose to opt-in to either subpart RR or the new subpart (VV) to quantify amounts of CO₂ that are geologically sequestered.”

The public comment period for the proposed rule closed on October 6, 2022. With respect to subpart VV, the EPA received detailed comments on proposed 40 CFR 98.480 “Definition of the Source Category.” In particular, commenters were uncertain whether the EPA intended to require facilities using CSA/ANSI ISO 27916:2019 to report under subpart VV or whether facilities that used CSA/ANSI ISO 27916:2019 would have the option to choose under which subpart they would report to: subpart RR, subpart UU, or subpart VV.

After review of the comments, the EPA recognizes that the proposed subpart VV definition of the source category and the corresponding preamble text in the 2022 Data Quality Improvements Proposal were unclear. Therefore, we are re-proposing 40 CFR 98.480 in this proposed rule to clarify

applicability of the rule and to seek comment on the re-proposed definition of the source category in subpart VV. Under this proposal, the EPA would not require that facilities quantify geologic sequestration of CO₂ in association with EOR operations through the use of the CSA/ANSI ISO 27916:2019 method; however, if the facility elects to use the CSA/ANSI ISO 27916:2019 method for quantifying geologic sequestration of CO₂ in association with EOR operations, then the facility would be required under the GHGRP to report under subpart VV (rather than reporting under subpart UU or opting into subpart RR). More specifically, the proposed rule would require facilities quantifying the mass of CO₂ geologically sequestered using CSA/ANSI ISO 27916:2019 to report the quantity of CO₂ sequestered under subpart VV and to meet all requirements of subpart VV. It is our intention that subpart VV would apply to facilities that use CSA/ANSI ISO 27916:2019 for the purpose of demonstrating secure geologic storage; in other words, facilities that use CSA/ANSI ISO 27916:2019 for that purpose would be subject to subpart VV. Subpart VV is not intended to apply to facilities that use the content of CSA/ANSI ISO 27916:2019 for a purpose other than demonstrating secure geologic storage, such as only as a reference material or for informational purposes. EOR facilities that inject a CO₂ stream into the subsurface that do not use CSA/ANSI ISO 27916:2019 and have not opted into subpart RR would continue to be required to report the quantities of CO₂ received for injection under subpart UU (Injection of Carbon Dioxide).

Additionally, to remove ambiguity and further clarify our intent in defining the subpart VV source category, the EPA in this proposed rule is removing a paragraph from proposed subpart VV (proposed as 40 CFR 98.480(a)(2) in the 2022 Data Quality Improvements Proposal). The proposed text in the 2022 Data Quality Improvements Proposal stated that the subpart VV source category applied to facilities not reporting under subpart UU. The EPA received comments that this language resulted in confusion over subpart VV applicability. We believe that removal of this text from the previously proposed “Definition of the Source Category” in 40 CFR 98.480 in this proposal provides additional clarity with respect to the EPA’s intent concerning subpart VV applicability. Relatedly, to clarify our intent with regard to facilities that transition from reporting under subpart UU to reporting under subpart VV, the EPA in this proposed rule is proposing

to add paragraph 40 CFR 98.481(c). The proposed text clarifies that CO₂-EOR projects previously reporting under subpart UU that begin using CSA/ANSI ISO 27916:2019 part-way through a reporting year must report under subpart UU for the portion of the year before CSA/ANSI ISO 27916:2019 was used and report under subpart VV for the portion of the year once CSA/ANSI ISO 27916:2019 began to be used and thereafter. After the initial transition year, these facilities would be required to report under subpart VV only, until the requirements to discontinue reporting are met.

The EPA notes that we are seeking comment on proposed subpart VV during the comment period for this supplemental proposal on only re-proposed 40 CFR 98.480 and the newly proposed 40 CFR 98.481(c). Commenters do not need to resubmit comments previously submitted on proposed 40 CFR 98.481 through 98.489. The EPA is not re-proposing or soliciting further comment on revised regulatory text or confidentiality determinations for the remaining sections of subpart VV that were originally proposed in the 2022 Data Quality Improvements Proposal (40 CFR 98.481 through 98.489). We are continuing to review and consider comments received on the 2022 Data Quality Improvements Proposal on those sections.

IV. Proposed Amendments To Add New Source Categories to Part 98

This section summarizes the specific amendments the EPA is proposing to add new subparts, as generally described in section II.B of this preamble. The impacts of the proposed revisions are summarized in section VII of this preamble. A full discussion of the cost impacts for the proposed revisions may be found in the memorandum, *Assessment of Burden Impacts for Proposed Revisions for the Greenhouse Gas Reporting Rule*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

A. Subpart B—Energy Consumption

1. Rationale for Inclusion in the GHGRP

For the reasons described in section II.B and the 2022 Data Quality Improvements Proposal, consistent with its authority under the CAA, the EPA is proposing to add a new subpart—subpart B (Energy Consumption)—to improve the completeness of the data collected under the GHGRP, add to the EPA's understanding of GHG data, and to better inform future EPA policy under

the CAA, such as informing potential future EPA actions with respect to GHGs. Once collected, such data would also be available to improve on the estimates provided in the Inventory, by providing more information on the allocation of electricity use to different end use sectors.

The GHGRP currently generally requires sources subject to part 98 to report direct emissions and supply of GHGs from large industrial sources across 41 source categories. For sources of direct emissions subject to part 98, the GHGRP currently includes requirements to monitor, calculate, and report the direct emissions of GHGs that occur onsite from sources which meet the part 98 applicability requirements. However, these direct GHG emissions do not enable a comprehensive assessment of the quantity of energy required to operate the facility because industrial operations can consume a significant amount of energy for which direct GHG emissions do not occur at the production site, primarily through purchased electricity and thermal energy products.⁴³ The purchased energy consumed is produced offsite, and the offsite energy production can result in significant GHG emissions. Because the facility's production processes are reliant on its energy consumption, the emissions associated with producing this energy are associated with the facility, and are often referred to as indirect emissions or Scope 2 emissions.⁴⁴ Energy consumption can be a significant portion of the total energy input to making products, and therefore, a significant component of a facility's overall GHG footprint (*i.e.*, a total accounting of both the direct emissions that occur onsite as well as indirect emissions that occur offsite in the production of the purchased energy that the facility consumes).

The EPA is interested in collecting data on energy consumption to gain an improved understanding of the energy intensity (*i.e.*, the amount of energy required to produce a given level of product or activity, both through onsite energy produced from fuel combustion and purchased energy) of specific facilities or sectors, and to better inform our understanding of energy needs and

the potential indirect GHG emissions associated with certain sectors. Understanding the energy intensity of facilities and sectors is critical for evaluating and identifying the most effective energy efficiency and GHG reduction programs for different industrial sectors, particularly for sectors where purchased energy accounts for a significant portion of a typical facility's onsite energy use. For example, based on the most recent Manufacturing and Energy Consumption Survey (MECS) published by the DOE Energy Information Administration (EIA) in 2018,⁴⁵ the EPA estimates that indirect GHG emissions from electricity consumption from the chemical manufacturing sector (4.8 million mtCO₂e) were approximately equal to the chemical manufacturing sector's direct emissions from natural gas combustion (5.2 million mtCO₂e). Similarly, these MECS data indicate that each of the following manufacturing sectors had indirect GHG emissions from electricity consumption approximately equal to or greater than the sector's direct GHG emissions from natural gas combustion: food, beverage, and tobacco products; textile mills; wood products; primary metals; fabricated metal products; transportation equipment; furniture and related products; chemicals; nonmetallic mineral products; and primary metals. For RY2020, more than 1,800 facilities from these manufacturing sectors reported direct GHG emissions to the GHGRP to a total of 26 subparts.

Understanding the energy intensity of the facilities and sectors reporting under the GHGRP would also allow the EPA to identify industry-specific best operating practices for increasing energy efficiency and reducing GHG emissions, and to evaluate options for expanding the use of these best practices or other potential policy options. For example, while U.S. Energy Information Administration data show that industrial U.S. electric power usage declined from 1,372 megawatt-hour (MWh) per customer in 2007 to 1,188 MWh per customer in 2019,⁴⁶ the EPA is unable to determine how individual industrial sectors contributed to the decreased electric power usage and is

⁴³ In this preamble, we refer to purchased electricity and thermal energy products such as steam, heat (in the form of hot water), and cooling (in the form of chilled water) broadly as "purchased energy" or "purchased energy products." These terms exclude purchased fuels associated with direct emissions at the facility.

⁴⁴ See, *e.g.*, the EPA's Scope 1 and Scope 2 Inventory Guidance, available at: www.epa.gov/climateleadership/scope-1-and-scope-2-inventory-guidance.

⁴⁵ See U.S. Energy Information Administration 2018 Manufacturing and Energy Consumption Survey, www.eia.gov/consumption/manufacturing/pdf/MECS%202018%20Results%20Flipbook.pdf.

⁴⁶ Please see the *Technical Support Document for Non-Fuel Energy Purchases: Supplemental Proposed Rule for Adding Energy Consumption Source Category* under 40 CFR part 98, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424) for additional information on U.S. electric power sector usage.

therefore unable to identify best practices in use. With respect to thermal energy products, one best practice involves an industrial facility contracting with an adjacent, separately owned facility for steam delivery services. Often the steam suppliers deploy relatively more efficient combined heat and power (CHP) technologies, compared to the industrial source generating its own steam.⁴⁷ Obtaining data on thermal energy product purchases would allow the EPA to better understand the use of this technology in different sectors and evaluate potential related policy options.

In this proposal, the EPA is reasserting that collecting information on purchased energy products is consistent with the EPA's existing CAA authority. As summarized in the 2009 Proposed Rule, CAA section 114(a)(1) authorizes the EPA to, *inter alia*, require certain persons on a one-time, periodic, or continuous basis to keep records, make reports, undertake monitoring, sample emissions, or provide such other information as the EPA may reasonably require. The EPA may require the submission of this information from any person who (1) owns or operates an emission source, (2) manufactures control or process equipment, (3) the EPA believes may have information necessary for the purposes set forth in this section, or (4) is subject to any requirement of the Act (except for manufacturers subject to certain title II requirements, who are subject to CAA section 208). The EPA may require this information for the purposes of developing or assisting in the development of any implementation plan, an emission standard under sections 111, 112 or 129, determining if any person is in violation of any such standard or any requirement of an implementation plan, or "carrying out any provision"⁴⁸ of the Act.

As the EPA noted in the 2022 Data Quality Improvements Proposal, in the development of the GHGRP in the 2009 rule,⁴⁹ the Agency considered its

⁴⁷ CHP systems achieve fuel use efficiencies of 65 to 80 percent, compared to separate heat and power systems (*i.e.*, purchased grid electricity from the utility and an on-site boiler), which have efficiencies of approximately 50 percent. Due to the higher efficiencies of CHP systems, they reduce the amount of fuel burned and reduce GHG emissions. See www.epa.gov/chp/chp-benefits for additional information.

⁴⁸ Except a provision of Title II of the CAA with respect to a manufacturer of new motor vehicles or new motor vehicle engines, as those provisions are covered under CAA section 208.

⁴⁹ We also note that as part of the process in selecting the original list of source categories to include in the GHG Reporting Rule in 2009, the EPA also considered the language of the

authorities under CAA sections 114 and 208 and the information that would be relevant to the EPA's "carrying out" a wide variety of CAA provisions when identifying source categories for reporting requirements. The scope of the persons potentially subject to a CAA section 114(a)(1) information request (*e.g.*, a person "who the Administrator believes may have information necessary for the purposes set forth in" CAA section 114(a)) and the reach of the phrase "carrying out any provision" of the Act are quite broad. Given the broad scope of CAA section 114, it is appropriate for the EPA to collect information on purchased energy because such information is relevant to the EPA's ability to carry out a wide variety of CAA provisions. As the EPA explained in initially promulgating the GHGRP, it is entirely appropriate for the Agency under CAA section 114 to gather such information to allow a comprehensive assessment of how to best address GHG emissions and climate change under the CAA, including both regulatory⁵⁰ and non-regulatory⁵¹ options. A firm understanding of both upstream and downstream sources provides a sounder foundation for effective research and development for potential actions under the CAA. The better the EPA's understanding of differences within and between source categories, the better the Agency's ability to identify and prioritize research and development as well as program needs under the CAA.

2. Public Comments Received in Request for Comment

In the 2009 Proposed Rule (74 FR 16479, April 10, 2009), the EPA sought comment on, but did not propose, requiring reporting related to purchased energy products. The EPA explained in the 2009 Final Rule that, while it was not then deciding to require facilities to report their electricity purchases or indirect emissions from electricity consumption, we believed that acquiring such data may be important in the future and intended to explore options for possible future data collection on electricity purchases and

Appropriations Act, which referred to reporting "in all sectors of the economy," and the accompanying explanatory statement, which directed the EPA to include "emissions from upstream production and downstream sources to the extent the Administrator deems it appropriate" (74 FR 16465, April 10, 2009).

⁵⁰ See, *e.g.*, under CAA sections 111(b) and (d).

⁵¹ See, *e.g.*, under CAA section 103(g). As explained further in the record for the 2009 Final Rule (74 FR 16448), it is entirely appropriate for the EPA to propose to gather information for purposes of carrying out CAA section 103 in this supplemental proposed rule.

indirect emissions, and the uses of such data. Comments received on the 2009 Proposed Rule, as well as the Agency's responses to those comments, are summarized in the 2009 Final rule (74 FR 56288–56289, October 30, 2009) and the 2009 response to public comments.⁵²

In section IV.F of the 2022 Data Quality Improvements Proposal, the EPA requested further comment on the potential addition of the energy consumption source category, including the following topics:

- Whether the EPA should add a source category for energy consumption;
- Information to characterize purchased energy markets (*i.e.*, regulated or de-regulated) and products (*e.g.*, renewable attributes of purchased products);
- Whether the EPA should limit reporting requirements to purchased energy or require facilities to convert their energy consumption to indirect emission estimates;
- Information on whether or not associated reporting requirements should include purchased thermal energy products and if the requirements should differentiate purchased thermal energy products from purchased electricity;
- Whether the EPA should limit the applicability to sources that are already subject to the GHGRP or consider specific industrial sectors or technologies that may not be completely represented within the GHGRP but that should be considered when evaluating the energy use performance of industrial sources;
- What measures would minimize the burden of reporting parameters related to purchased energy transactions;
- What monitoring and recordkeeping systems are currently in place for purchased energy transactions and what methodologies are recommended for monitoring and QA/QC; and
- What existing industry standards are available for assessing the accuracy of the monitoring systems used for purchased energy transactions.

This section presents a broad overview of the comments received on the request for comment in the 2022 Data Quality Improvements Proposal as well as relevant comments from the 2009 Proposed Rule's request for comment.

We note that in response to the 2009 Proposed Rule and the 2022 Data Quality Improvements Proposal requests

⁵² *Mandatory Greenhouse Gas Reporting Rule: EPA's Response to Public Comments, Volume No. 1, Selection of Source Categories to Report and Level of Reporting*. Available at Docket Id. No. EPA-HQ-OAR-2008-0508-2258.

for comment, some commenters stated that collecting information on electricity purchases was either outside the scope of the GHGRP or outside the scope of the EPA's CAA section 114 authority. However, other commenters stated that collecting purchased electricity information was within the scope of the GHGRP and the EPA's CAA section 114 authority. Certain commenters stated that such information could inform the EPA's analysis of the feasibility, cost, and efficacy of reducing emissions through electrification in various subsectors, as well as the impacts of the incidental electrification that results when sources comply with regulatory requirements premised on other control techniques.

The EPA disagrees that we should or must interpret the language of CAA section 114 as narrowly as some commenters advocate. While Congress highlighted certain potential uses of the information gathered under CAA section 114 in a portion of CAA section 114(a), Congress also explicitly listed in CAA section 114(a) the potential use of "carrying out any provision" of the Act. The EPA has a variety of duties in the CAA that extend to both regulatory and non-regulatory programs, and limiting the scope of CAA section 114 as some commenters urge would hinder the EPA's ability to implement those provisions and subvert Congressional intent. The EPA also notes that the point of gathering information under CAA section 114 is to inform decisions regarding the legal, technical, and policy viability of various options for carrying out provisions under the CAA. To require a narrowing of those options beforehand would curtail the EPA's decision making before the information is available for consideration. Collection of energy consumption information as the EPA is proposing in this action would allow the Agency to undertake a more thorough and holistic evaluation of how to utilize its authority under the CAA, both regulatory and non-regulatory, to address GHG emissions and climate change, consistent with its authority under CAA section 114.

We received several comments from stakeholders regarding how the EPA should define the energy consumption source category. Commenters discussed issues such as: (i) reporting at the facility-level versus the corporate-level; (ii) applying requirements to sources currently subject to part 98 versus sources that are not currently subject to part 98, including both purchased electricity and thermal energy products; and (iii) excluding purchased electricity consumed by power plants.

With respect to the facility-level versus corporate-level reporting issue, some commenters supporting the addition of the energy consumption source category stated that already established voluntary programs for reporting energy consumption are based on corporate-level protocols rather than the facility-level approach that is being proposed under the GHGRP. Other commenters opposing reporting of purchased energy said that electricity purchases are made at the corporate-level for some facilities. Commenters supporting the addition of energy consumption stated that the definition of the source category should apply to both current GHGRP reporters and non-reporters with energy consumption levels comparable to current reporters; these commenters suggested that energy consumption reporting requirements should be codified under subpart A of part 98 (General Provisions). Certain commenters also said that the definition should include both purchased electricity and thermal energy products, with separate reporting requirements for each.

As discussed in section IV.A.3 of this preamble, the EPA is proposing to define the energy consumption category to include direct-emitting facilities that (1) purchase metered electricity or metered thermal energy products, and (2) are currently required to report under part 98. At this time, the EPA is proposing to limit the source category to include metered, purchased energy products that are consumed at the facility in order to reduce burden for reporters, by allowing reporters to rely on existing purchase contracts for which metering and billing requirements are already in place. In determining which requirements to propose, the EPA has considered both the reporting burden that would result and the need to collect that information to inform policy under the CAA at this time. While we are proposing to require reporting at the facility-level for direct emitters, the proposed requirements do not require calculation or reporting of indirect GHG emissions. The proposed requirements are limited at this time to development of a metered energy monitoring plan and recordkeeping and reporting activities that direct-emitting facilities that currently report under part 98 may complete using information that we anticipate is readily available to them, predominantly in their energy bills. We are proposing to include reporting for both purchased electricity and purchased thermal energy products, because both forms of energy are needed to evaluate the efficiency of GHG

emitting activities within discrete sectors.

The EPA also received comments stating that indirect emissions estimates derived from energy consumption would not be useful, would be inherently inaccurate, and would lead to double counting of direct emissions. Specifically, certain commenters said that the EPA should continue to focus only on direct GHG emissions and expressed concerns that any future indirect emissions estimates (derived from energy consumption data) could be added together with direct emissions estimates for the power sector leading to overall double counting of air emissions in multisector inventories. Other commenters stated that indirect emissions estimates derived from energy consumption data are inherently inaccurate and not useful because the origin of consumed energy cannot be easily determined for all consumers.

The EPA is not proposing in this action to require reporters to develop indirect emissions estimates. The EPA disagrees with the commenters to the extent they assert or suggest that the reporting of energy consumption has no value, that it constitutes double counting, and that the Agency should not collect purchased energy data because of accounting concerns related to indirect emissions estimates. For industrial sectors that rely on fossil fuel energy conversion activities like boilers, turbines, and engines, part 98 currently provides energy efficiency analysts with sector-specific information on the fuels used and associated direct emissions. These data can be converted to the same basis as purchased energy data (*i.e.*, kilowatt-hours consumed) with standard engineering calculations. However, the EPA has determined that it is difficult to compare energy efficiencies of different facilities within the same industrial sector when looking only at facility-located fossil fuel energy conversion operations. Accordingly, in developing this proposal the EPA has determined that sector-specific energy consumption data are not only useful but are also essential for identifying the most energy efficient facilities within each sector. Additionally, the EPA disagrees with those commenters asserting that energy consumption data should not be collected based on the commenters' asserted potential accuracy and accounting concerns related to indirect emissions. As noted previously, it is not necessary to convert purchased energy data into indirect emissions estimates to compare the energy efficiency of different facilities within the same sector, as intended by the EPA in this action. For example, the EPA

could complete facility-specific analyses for the iron and steel sector (or for discrete iron and steel subsectors) by combining the reported fuel-specific direct emissions values and emissions factors to estimate the fuel use quantity, which could subsequently be converted to annual kilowatt-hours-thermal (kWhth) values using fuel-specific heating values. With the addition of purchased energy data under part 98, each facility's thermal fossil energy consumption could be added to each facility's purchased energy consumption to compare all facilities within the iron and steel sector on the same total energy consumption basis.

Finally, the commenters' concerns that analysts may use the energy consumption data in multisector analyses (e.g., analyses that double count emissions by summing power sector direct emissions with another sector's indirect emissions estimates) is inconsistent with the EPA's intent to use these data appropriately to complete facility-level, energy efficiency comparisons within discrete sectors. In response to comments on the 2009 Proposed Rule regarding the potential double counting of emissions reported by power plants and electricity purchased downstream from those power plants, the EPA noted that there is inherent and intentional double reporting of emissions in a program that includes both energy suppliers and energy users (74 FR 16479, April 10, 2009), and that both supply- and demand-side data are necessary to evaluate and identify the best policy options. However, double reporting is not inherently the same as double counting. Subparts C (General Stationary Fuel Combustion Sources) and NN (Suppliers of Natural Gas and Natural Gas Liquids) are an example in the existing GHGRP requirements of double reporting. Double counting is likely best characterized as a form of misuse or misunderstanding of two reported values, where an analyst could potentially improperly add potential emissions (calculated from the subpart NN supplier's data) to actual emissions (from the subpart C user's data) and erroneously represent the sum of these two values as the total emissions from the energy transaction. To mitigate the potential for any such double counting by users of part 98 data, the EPA designates subparts as either "direct emitter" or "supplier" subparts. Similarly, in this proposal, the EPA has proposed to include a new definition for "indirect emissions" under the proposed subpart B to distinguish any associated indirect emissions estimates

(that may be derived by users of GHGRP reported energy consumption data) from direct emissions reported in direct emitter subparts. The demand-side information proposed to be collected under this subpart would be used to understand the energy intensity of facilities and sectors.

We also received several comments regarding whether the EPA should establish a reporting threshold for the energy consumption source category. Commenters were divided on whether or not energy consumption should be considered toward the reporting threshold. Some commenters supporting the addition of the energy consumption category said that applicability should be based on direct emissions only, while others said that the reporting threshold should be broadened to also include facilities not currently subject to reporting within a part 98 sector if a facility uses comparable quantities of energy to facilities currently subject to part 98. One commenter responded to the EPA's request for comment on whether the approach of limiting applicability of an energy consumption source category to facilities that are currently subject to the GHGRP would exclude certain sectors that consume very large quantities of purchased energy. The commenter identified gas compression facilities that replace reciprocating engines with electric motors as one type of activity that would be excluded under the current thresholds.

As discussed in section IV.A.3 of this preamble, at this time the EPA is proposing to retain the current GHGRP reporting thresholds. While the EPA recognizes that some sectors may include facilities operating below the current GHGRP reporting thresholds with very large energy purchases, only one sector was identified by commenters responding to the EPA's request for comment on such excluded facilities. Refer to section IV.A.4 of the preamble for further detail on the EPA's rationale for proposing to retain the current reporting thresholds.

We received several comments on potential calculation methodologies that could be adopted for the energy consumption source category. Commenters recommended that methodologies should be consistent with ongoing rulemakings and programs by other Federal agencies with considerations for renewable energy credits (RECs) and use of location-based emission factors for indirect emissions estimates. The commenters stated that any calculation methodologies used by the EPA should be consistent with the Security and Exchange Commission's

(SEC) ongoing, corporate-level rulemaking for climate-related disclosures. Other commenters stated that calculations should be consistent with other voluntary and regulatory programs. Some commenters stated that calculations should include a location-based approach and use of retired RECs.

As previously noted, at this time the EPA is not proposing to require reporters to calculate or report indirect emissions estimates from the proposed collection of energy consumption data. In the future, if the EPA determines that the purposes of the Clean Air Act would be advanced by information gathered through a uniform methodology for estimating indirect emissions from energy consumption, the EPA may consider established protocols in other voluntary and regulatory programs, and address similarities and differences, in any such future undertaking.

We received several comments from stakeholders regarding reporting and recordkeeping procedures for the energy consumption source category. Commenters stated that the EPA is mistaken about the ease of reporting energy consumption data for some facilities that may have power purchasing agreements that do not include all required reporting elements. One commenter stated that, while individual facilities may have electricity meters, uses of electricity within a facility may not be separately metered, meaning that it would be difficult to separate the electricity purchased to be used in connection with the source subject to reporting under the GHGRP from the electricity used for purposes that do not fall into a GHGRP reporting subpart. Commenters also said that energy consumption records may be considered CBI and gathering all the energy consumption records for a large facility would impose significant burden on reporters. Other commenters suggested reporting requirements that may be useful for converting energy consumption data to indirect emissions estimates, and some reporters made recommendations for ensuring any future indirect emissions estimates developed by the EPA were clearly demarked separately from direct emissions estimates.

The EPA appreciates the commenters suggestions related to indirect emissions estimates, but, as stated previously in this preamble section, the EPA is not proposing that reporters calculate or report indirect emissions estimates. With regard to commenter concerns about potential difficulties with reporting energy consumption data, the EPA is proposing at this time to limit the energy consumption data to be

reported to data based on existing billing statements and purchasing agreements. The EPA is proposing to require a copy of a representative billing statement for each existing or new energy purchasing agreement between two counterparties. This information would ensure that all reported quantities of energy consumed are consistent with the periodic billing statements. The proposed approach for collection of energy consumption data would not require the reporting of any information that is not readily available to the reporting facility on periodic billing statements. Regarding the commenter concern about differentiating electricity use between activities supporting the industrial activities related to the source reporting direct emissions to the GHGRP versus those not related to industrial source activities, the EPA is proposing to allow the use of company records or engineering judgment to make these estimates.

3. Proposed Definition of Source Category

We are proposing to define the energy consumption source category as direct emitting facilities that: (1) purchase metered electricity or metered thermal energy products; (2) are required to report under §§ 98.2(a)(1), (2), or (3) or are required to resume reporting under §§ 98.2(i)(1), (2) or (3); and (3) are not eligible to discontinue reporting under the provisions at §§ 98.2(i)(1) (2), or (3). Under proposed 40 CFR 98.28, we are proposing definitions for the terms “metered,” “purchased electricity,” “purchasing agreement,” and “thermal energy products” and the EPA specifically requests comments on these proposed definitions. This subpart would only apply where existing meters are installed for purchased electricity or for purchasing agreements for thermal energy products. The definition of “metered” clarifies that, for thermal energy products purchasing agreements, design parameters would be used for reporting energy consumption if real-time operating meters are not required by the purchasing agreement. As proposed, this source category would not require the installation of meters; however, we are proposing that purchased electricity consumers subject

to proposed subpart B would be required, in certain specified circumstances, to request that their electricity delivery service provider ensure any installed purchased electricity meter meets minimum accuracy requirements. The proposed definition of “thermal energy products” for the purposes of part 98 subpart B would include metered steam, hot water, hot oil, chilled water, refrigerant, or any other medium used to transfer thermal energy. Only facilities that are required for that RY to report direct emissions under another subpart of the GHGRP (*i.e.*, that meet the applicability requirements for reporting direct emissions under source categories listed in 40 CFR 98.2(a)(1), (2), or (3) and are not eligible to discontinue reporting for that RY under the provisions at 40 CFR 98.2(i)(1), (2), or (3) (*i.e.*, “off-ramp”), or that are previous reporters that ceased reporting (*i.e.*, “off-ramped”) but are required to resume reporting for that RY under 40 CFR 98.2(i)(1), (2), or (3)) and purchase metered electricity or metered thermal energy products would be required to report under this subpart. Note, under the proposal, the proposed addition of subpart B would not affect the eligibility of existing reporters to off-ramp per the requirements of 40 CFR 98.2(i)(1), (2), or (3), or affect whether the facility must resume reporting under those same provisions (*i.e.*, would not factor into whether the reporting threshold to resume reporting of 25,000 mtCO₂e per year or more is met for 40 CFR 98.2(i)(1) and (2), or for whether operations resumed for 40 CFR 98.2(i)(3)). Facilities eligible to off-ramp include a relatively small subset of total GHG emissions reported to the GHGRP; therefore, our analysis at this time is that collection of energy consumption data from these sources would not provide substantial information to the program. As discussed further in section IV.A.4 of this preamble, the proposed subpart B would also not affect the calculations that certain facilities conduct for comparison to the 25,000 mtCO₂e per year applicability threshold or result in the addition of new reporters to the GHGRP.

The proposed source category does not include the purchase of fuel and the associated direct emissions from the use of fuel on site, as those are already

reported as applicable under existing part 98 subparts. The proposed source category also does not apply to the use of electricity and thermal energy products that are not subject to purchasing agreements. While such arrangements are expected to be uncommon, some geothermal and biogas energy sources may not be metered or may not be subject to purchasing agreements. In order to minimize the potential burden on reporters, at this time the EPA is proposing to require reporting of only energy consumption data that is commonly available in energy billing statements and transactional records exchanged pursuant to existing purchasing agreements.

4. Selection of Proposed Reporting Threshold

As described above, facilities that meet the applicability requirements for reporting direct emissions under another source category of the GHGRP (and not otherwise eligible to discontinue reporting for that RY under the provisions at 40 CFR 98.2(i)(1), (2), or (3)) or that are previous reporters that ceased reporting (*i.e.*, “off-ramped”) but are required to resume reporting for that RY under 40 CFR 98.2(i)(1), (2), or (3)), and that purchase metered electricity or metered thermal energy products, would be required to report under this proposed subpart.

The EPA also considered requiring reporting based on certain CO₂e thresholds. In these scenarios, the threshold would include both a facility’s total direct emissions as well as indirect emissions associated with that facility’s energy consumption (*i.e.*, resulting from purchased metered electricity or thermal energy products). Table 4 of this preamble presents the thresholds that the EPA considered for this supplemental proposal along with an estimate of the number of facilities that would be required to report under each of these scenarios and an estimate of the percent of total electricity use that would be covered under each option. Note, the EPA does not have sufficient data on thermal energy products to estimate the percent of total thermal energy products that would be included under each option.

TABLE 4—THRESHOLD ANALYSIS FOR ENERGY CONSUMPTION

Threshold level (mtCO ₂ e)	Estimated number of subpart B reporters	Percent of total electricity use covered
CO ₂ e facility-wide emissions of 100,000 metric tons or more	Approximately 2,850 (virtually all 2,850 facilities are current GHGRP reporting facilities).	4.3

TABLE 4—THRESHOLD ANALYSIS FOR ENERGY CONSUMPTION—Continued

Threshold level (mtCO ₂ e)	Estimated number of subpart B reporters	Percent of total electricity use covered
CO ₂ e facility-wide emissions of 25,000 metric tons or more	Approximately 11,850 (of which 6,450 are current GHGRP reporting facilities).	7.5
CO ₂ e facility-wide emissions of 10,000 metric tons or more	49,850 (of which 7,050 are current GHGRP reporting facilities)	14.7
CO ₂ e facility-wide emissions of 1,000 metric tons or more	74,850 (of which 7,350 are current GHGRP reporting facilities)	29.8
<i>Selected Proposed Option:</i> No Threshold; subpart applies to reporters that meet applicability requirements of other direct emitting subparts and that purchase energy products.	7,587 ⁵³ (the number of existing direct emitters reporting for RY2021).	7.4

For additional details on the analysis of these thresholds and the estimated number of facilities potentially subject to subpart B under these scenarios, please see the *Technical Support Document for Non-Fuel Energy Purchases: Supplemental Proposed Rule for Adding Energy Consumption Source Category under 40 CFR part 98*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

Following our analysis, the EPA is not proposing a certain CO₂e threshold approach. At this time, the EPA is most interested in better understanding the energy intensity of facilities and sectors that are required to report their direct emissions under the existing GHGRP subparts. For this proposal, we have determined that obtaining information on purchased metered electricity or metered thermal energy products from direct emitting facilities, which include the most energy-intensive industrial sectors, is sufficient at this time, as direct emissions currently reported to the GHGRP account for approximately 70 percent of all U.S. GHG direct emissions from stationary point sources. Adopting a threshold of 25,000, 10,000 or 1,000 mtCO₂e of combined direct and indirect emissions would at a minimum add over 4,000 reporters and at a maximum increase the number of reporters by nearly an order of magnitude. As shown in Table 4, the additional electricity data that would result from these thresholds would do little to further the objectives of the program at this time for the initial purposes of the proposed subpart B. Applying the requirements to existing GHGRP direct emitters more effectively targets large industrial emitters.

⁵³ The facility count for the proposed option includes all facilities that reported to the EPA in RY2021 under a direct emitting subpart or subpart RR (Geologic Sequestration of Carbon Dioxide). In reviewing this information for this supplemental proposal, the EPA assessed that this facility count includes many facilities that do not appear to be required to report under 40 CFR part 98. However, the EPA has included all facilities that reported to the EPA in RY2021 in this total, as it provides a conservative estimate of the number of facilities that would be affected by these proposed revisions.

Therefore, there are no proposed requirements for direct emitting facilities that meet the applicability under 40 CFR 98.2(a)(2) to consider indirect emissions from subpart B for comparison to a 25,000 mtCO₂e threshold (as currently directed, as applicable, under 40 CFR 98.2(b)), and no indirect emissions from subpart B are proposed to be reported or included in the facility’s total annual emissions as calculated under 40 CFR 98.2(c)(4)(i). As such, the proposed subpart B requirements would not add new reporters to the GHGRP.

5. Selection of Proposed Calculation Methods

As discussed in section IV.A.4 of this preamble, we are not proposing to require facilities to calculate or report indirect emissions estimates associated with purchased metered electricity or metered thermal energy products. We have proposed a definition for the term “indirect emissions” under 40 CFR 98.28 to distinguish this attribute of energy consumption from direct emissions reported under the direct emitting subparts listed in Tables A–3 and A–4 of part 98. In general, the greenhouse gases CO₂, CH₄, and N₂O are emitted during the combustion of fuels to generate electricity or during the combustion of fuels to produce thermal energy products. However, under the proposed requirements, facilities would not be required to convert their energy usage into indirect emission estimates (*i.e.*, energy-use-to-emissions conversions intended to associate offsite, energy production emissions with on-site, non-emitting energy consumption). The EPA is proposing that facilities simply report the quantity of purchased electricity and purchased thermal energy products during the reporting year because (1) these data are more readily available to facilities; and (2) the EPA does not need the energy use to be converted to emissions estimates to better understand the energy intensity of facilities and sectors reporting to the GHGRP. As previously noted, at this time the EPA is not proposing to require reporters to

calculate or report indirect emissions estimates from the proposed collection of energy consumption data.

6. Selection of Proposed Monitoring, QA/QC, and Verification Methods

The proposed monitoring and quality assurance/quality control (QA/QC) requirements would require facilities subject to the new subpart to develop a written MEMP. The MEMP would serve to document metering equipment that would be used to collect the data required to be reported under this subpart. The EPA is proposing that electricity meters subject to this subpart must conform to the accuracy specifications required by the voluntary standard for electricity metering accuracy under the ANSI standards C12.1–2022 *Electric Meters—Code for Electricity Metering*, or with another consensus standard having accuracy specifications at least as stringent as the cited ANSI standard. The ANSI standard is widely referenced in state utility commission performance standards governing the accuracy of electric meters used for billing calculations. Facilities with meter(s) that do not meet either the accuracy specifications in these ANSI standards or another, similar consensus standard with accuracy specifications at least as stringent as the cited ANSI standard would be required to request that the electricity delivery service provider install equipment that conforms with either the ANSI standard or another, similar consensus standard with accuracy specifications at least as stringent as the cited ANSI standard. This ANSI standard is available at the following web link: ANSI C12.1–2022—<https://webstore.ansi.org/standards/nema/ansic122022>.

We are proposing that thermal energy product metering systems be audited at least once every five years and meet accuracy specifications in 40 CFR 98.3(i)(2) or (3). We are seeking comment on existing industry standards for assessing the accuracy of electric and thermal energy monitoring systems, the frequency of audits of these systems, and the accuracy specification(s) used

for thermal energy product metering systems.

The EPA understands that contracts between host facilities and energy producers are governed by clear metering and billing requirements. Accordingly, we are seeking comment on our understanding that monitoring and recordkeeping systems are already in place for purchased energy transactions, and our assessment that the incremental reporting burden would be minimal.

7. Selection of Proposed Procedures for Estimating Missing Data

The EPA is proposing that reporters with missing billing statements for purchased energy products must request replacement copies of lost statements from their energy delivery service provider. In the event that the energy delivery service provider is unable to provide replacement copies of billing statements, the facility would be required to estimate the data based on the best available estimate of the energy use, based on all available data which may affect energy usage (e.g., processing rates, operating hours, etc.). The owner or operator shall document and keep records of the procedures used for all missing data estimates. For example, with respect to electricity purchases, if a facility's electrical usage varies by season, it may choose to estimate the missing usage data based on the same month in a previous year. However, if a facility's electricity usage varies more with production levels than with seasons, it would be more appropriate for that facility to estimate the missing usage data based on a time period during which the facility's production level was similar to the production level at the time of the missing data.

The EPA considered proposing more prescriptive requirements regarding procedures for estimating missing data, but ultimately concluded that each individual facility is in the best position to determine the most appropriate approach for determining the period of similar operations. The EPA seeks comment on this approach to estimating missing data.

8. Selection of Proposed Data Reporting Requirements

Under proposed subpart B, facilities would be required to report the annual purchases of electricity (in kilowatt hours (kWh)) and thermal energy products (in million British thermal units (mmBtu)). Facilities would also report supporting information on the energy providers and meters used. Under the proposed subpart B, reporters would be required to report readily

available information from periodic billing statements provided by their electricity and thermal energy providers including the name of the provider, dates of service, meter locations and identifiers, quantities purchased, and billing period data such as billing period dates and rate descriptors. In states with deregulated markets where the billing statements have separate line items for electricity delivery services and electricity supply services, the delivery service and supply service providers may be different entities. Reporters would also be required to provide a copy of one billing statement for each energy delivery service provider of purchased energy with the first annual report. If the facility changes or adds one or more energy delivery service providers after the first reporting year, the annual report would be required to include an electronic copy of all pages of one billing statement received from each new provider for only the first reporting year of each new purchasing agreement. Facilities subject to multiple direct emitter subparts would additionally report the fraction of quantities purchased that is attributable to each subpart, as estimated by company records or engineering judgment. If the periodic billing statement spans two reporting years, the quantity of purchased energy would be required to be allocated to each year based on either the operational knowledge or the number of days of service in each reporting year. Reporters would be allowed to exclude purchased electricity as estimated by company records or engineering judgment, where: (1) electricity is generated outside the facility and delivered into the facility, but the final destination and usage is outside of the facility, or (2) electricity is consumed by operations or activities that do not support any activities reporting direct emissions under this part.

Please see section VI of this preamble for the EPA's proposed confidentiality determinations for these reporting elements. The EPA understands that these reporting requirements are readily available to the energy purchasing facility on periodic billing statements. The EPA also seeks comment on measures that could minimize the burden of reporting parameters related to purchased metered electricity or metered thermal energy transactions.

The EPA recognizes that under the proposed reporting requirements, the Agency would not receive information on the energy attributes of the metered electricity or metered thermal energy products purchased. For example, if a

facility has purchased a REC which certifies that the electricity purchased is generated and delivered to the electricity grid from a renewable energy resource, this would not be reflected in the data reported to the EPA. We reiterate that the purpose of this data collection is to better understand the energy intensity of facilities and sectors reporting to the GHGRP, and energy intensity is independent from energy attributes. Therefore, we are at this time proposing that facilities would report only quantities of energy products purchased, as well as supporting information on the service provider and meters used.

9. Selection of Proposed Records That Must Be Retained

The EPA is proposing that facilities must retain (1) copies of all purchased electricity or thermal energy products billing statements, (2) the results of all required certification and quality assurance tests referenced in the MEMF for all purchased electricity meters or thermal energy products meters used to develop the energy consumption values reported under this part, and (3) maintenance records for all monitoring systems, flow meters, and other instrumentation used to provide data on consumption of purchased electricity or thermal energy products under this part. Maintaining records of information, including purchase statements, certifications, quality assurance tests, and maintenance records, are necessary to support the verification of the energy consumption data reported.

The EPA is considering further expanding the reporting requirements for this proposed subpart to include information on the sources used to generate the purchased electricity or thermal energy when this information is known to reporters, such as with facilities that have a bilateral power purchase agreement with an energy provider. In these cases, this information would allow GHGRP data users to more accurately estimate the indirect emissions attributable to these purchases as compared to using regional grid factors or other less accurate methods. The EPA is seeking comments and information related to this potential expansion. For electrical energy, the EPA is seeking comment on requiring facilities to report the quantity of purchased electricity generated by each of the following sources: non-hydropower including solar, wind, geothermal and tidal, hydropower, natural gas, oil, coal, nuclear, and other. For thermal energy, the EPA is seeking comment on requiring facilities to report the quantity of purchased thermal steam

generated by each of the following sources: solar, geothermal, natural gas, oil, coal, nuclear and other. In addition, the EPA is also seeking comment on the availability of this data to reporters. In some situations, the EPA believes this information would be readily available, such as when a bilateral purchase agreement for dedicated off-site generation is in place. In most situations, the EPA anticipates facilities would not have access to this information, however, the requirement would be to report this information only if known. This would minimize burden as facilities would not be required to acquire any new information from their energy suppliers.

B. Subpart WW—Coke Calciners

1. Rationale for Inclusion in the GHGRP

For the reasons described in section II.B of this preamble and the 2022 Data Quality Improvements Proposal, consistent with its authority under the CAA, the EPA is proposing to add a new subpart, subpart WW of part 98 (Coke Calciners). Coke calcining is a process in which “green” petroleum coke with low metals content (commonly called “anode grade petroleum coke”) is heated to high temperatures in the absence of air or oxygen for the purpose of removing impurities or volatile substances in the green coke. The calcined petroleum coke product is a nearly pure carbon material used primarily to make anodes for the aluminum, steel, and titanium smelting industries. There are approximately 15 coke calcining facilities in the United States. The typical coke calcining facility emits 150,000 mt CO₂ per year. We estimate that coke calcining facilities emit approximately 2 million mt CO₂ per year.⁵⁴ On both an emissions per facility basis and an aggregate industry GHG emissions basis, the proposed coke calciners subpart is comparable with the GHG emissions required to be reported to the GHGRP for several other subparts.

Emissions from coke calciners located at a petroleum refinery must be reported to the GHGRP under subpart Y of part 98 (Petroleum Refineries) using CEMS

or a carbon balance method. Some facilities with coke calciners report emissions from coke calciners under subpart C of part 98 (General Stationary Fuel Combustion Sources) assuming that coke is the fuel consumed. This is not accurate because the primary fuel used in the calciner is process gas consisting of volatile organic compounds driven from the green coke, which have a lower carbon content than the green coke. Additionally, this leads to a disparity between calculation methods used for coke calciners at petroleum refineries and other facilities.

Creating a subpart specifically to provide GHG calculation methods and reporting requirements for coke calciners would clarify the applicability of the reporting requirements, improve the accuracy and usability of the data, provide consistency in the methods used to estimate emissions from coke calciners, and better inform future EPA policy under the CAA.

2. Public Comments Received in Request for Comment

In section IV.E of the 2022 Data Quality Improvements Proposal, the EPA requested comment on the addition of coke calcining as a new subpart to part 98. The request for comment covered the following topics:

- Whether the EPA should add a source category related to coke calcining, including information on the total number of facilities currently operating coke calciners in the United States;
- What calculation methodologies should be used for purposes of part 98 reporting, including the use of CEMS and what information is readily available to reporters that do not use CEMS to support calculation methodologies; and
- What monitoring requirements should be in place and what methodologies are recommended for monitoring and QA/QC.

This section presents a broad overview of the comments received regarding the request for comment on coke calcining.

The EPA received two comments on the addition of coke calcining as a new

source category to part 98. One commenter supported the addition of the source category to provide consistent reporting of coke calciner emissions, but suggested that the EPA allow petroleum refineries to continue to report their coke calciner emissions in subpart Y to minimize burden to current reporters. The other commenter suggested that the new source category was unnecessary because coke calciner emissions could be sufficiently reported under subpart C. Upon review of these comments, the EPA is proposing to require reporting of coke calciner emissions under subpart WW because this proposed approach would provide a consistent and more accurate method of estimating emissions from coke calciners than subpart C and would not significantly alter the burden for existing reporters with coke calciners collocated at petroleum refineries.

3. Proposed Definition of the Source Category

The proposed coke calciner source category consists of processes that heat petroleum coke to high temperatures in the absence of air or oxygen for the purpose of removing impurities or volatile substances in the petroleum coke feedstock. The proposed coke calciner source category includes, but is not limited to, rotary kilns or rotary hearth furnaces used to calcine petroleum coke and any afterburner or other equipment used to treat the process gas from the calciner. The proposed source category would include all coke calciners, not just those collocated at petroleum refineries, to provide consistent requirements for all coke calciners.

4. Selection of Proposed Reporting Threshold

The EPA considered various options for reporting thresholds including “all-in” (no threshold), as well as emissions-based thresholds of 10,000 mtCO₂e, 25,000 mtCO₂e, and 100,000 mtCO₂e. Table 5 of this preamble illustrates the estimated process and combustion CO₂ emissions, and facilities, that would be covered nationally under each scenario.

TABLE 5—THRESHOLD ANALYSIS FOR COKE CALCINERS

Threshold level (mtCO ₂ e)	Emissions covered		Facilities covered	
	mtCO ₂ e/yr	Percent	Number	Percent
100,000	1,970,000	98.5	14	93
25,000	2,000,000	100	15	100
10,000	2,000,000	100	15	100

⁵⁴ See Revised Technical Support Document For Coke Calciners: Supplemental Proposed Rule For

The Greenhouse Gas Reporting Program available

in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

TABLE 5—THRESHOLD ANALYSIS FOR COKE CALCINERS—Continued

Threshold level (mtCO ₂ e)	Emissions covered		Facilities covered	
	mtCO ₂ e/yr	Percent	Number	Percent
All-in (no threshold)	2,000,000	100	15	100

Because coke calciners are large emission sources, they are expected to emit over the 25,000 mtCO₂e threshold generally required to report under existing GHGRP subparts with thresholds, and nearly all of them are also projected to exceed the 100,000 mtCO₂e threshold. Therefore, the EPA projects that there are limited differences in the number of reporting facilities based on any of the emission thresholds considered. For this reason, the EPA is proposing to include the coke calciner source category as an “all-in” subpart (*i.e.*, regardless of their emissions profile), which would avoid the need for facilities to calculate whether their emissions exceed the threshold and the associated burden to do so, while continuing to focus the Agency’s efforts on collecting information from facilities with larger total emissions.

5. Selection of Proposed Calculation Methods

Coke calciners primarily emit CO₂, but also have CH₄ and N₂O emissions as part of the process gas combustion process. Subpart Y (Petroleum Refineries) includes two directly applicable methods for estimating GHG (specifically CO₂) emissions from coke calciners. These are (1) the CEMS method (using CO₂ concentration and total volumetric flow rate of the process vent gas to calculate emissions) and (2) the carbon mass balance method [see equation Y–13 of 40 CFR 98.253(g)(2)]. In subpart Y, if a qualified CEMS is in place, the CEMS must be used. Otherwise, the facility can elect to install a CEMS or elect to use the carbon mass balance method. Subpart Y also includes methods for estimating CH₄ and N₂O emissions based on the CO₂ emissions.

To support this proposal, we conducted an updated review of calculation methods applicable for coke calciners as documented in the *Revised Technical Support Document For Coke Calciners: Supplemental Proposed Rule For The Greenhouse Gas Reporting Program*, available in the docket for this rulemaking (Docket Id. No. EPA–HQ–OAR–2019–0424).

Option 1. This approach directly measures emissions using a CEMS. The CEMS would measure CO₂

concentration and total exhaust gas flow rate for the combined process and combustion source emissions. CO₂ mass emissions would be calculated from these measured values using equation C–6 and, if necessary, equation C–7 in 40 CFR 98.33(a)(4).

Option 2. This approach is a carbon mass balance method using the carbon content of the green and calcined coke. The methodology is the same as current equation Y–13 of 40 CFR 98.253(g)(2) used for coke calcining processes collocated at petroleum refineries.

Option 3. The methane in green coke method is based on use of a fixed methane content in the coke of 0.035 mass fraction and uses mass reduction in the quantity of coke fed to the process (corrected for moisture, volatile, and sulfur content) and the quantity of coke leaving the process (corrected for sulfur content). It is expected that coke calcine operators could just as easily determine the carbon content of the green and calcined coke and use the more direct carbon balance method.

Option 4. The vapor combustion method relies on analysis of carbon content of the gas stream inlet to the vapor combustion unit. CO₂ emissions are calculated assuming non-CO₂ carbon is combusted and converted to CO₂ at the efficiency of the combustion system, and assuming 100 percent of the CO₂ in the inlet gas stream is emitted. The difficulty with applying this method for coke calciners is collecting representative samples of the process off-gas prior to the afterburner.

Option 5. The coke combustion method is based on the method that some non-refinery facilities report emissions from coke calcining operations under 40 CFR part 98, subpart C. This method can be applied using either the default high heat values and emission factors in Table C–1 to subpart C of part 98 for petroleum coke (Tier 1 or 2) or measured carbon content of the green coke (Tier 3) and attribute the mass reduction of coke as petroleum coke combusted. This method does not correct for the fact that the volatile matter has a lower carbon content than the green petroleum coke and so is likely to produce CO₂ emission estimates that are biased high.

Proposed option. Following this review, we maintain that the CEMS

(Option 1) and carbon mass balance methods (Option 2) are the most accurate methods for determining CO₂ emissions from coke calciners. Several existing coke calciners currently operate a CEMS. For those facilities that do not have a qualified CEMS in-place, the carbon mass balance method provides an accurate approach for determining CO₂ emissions using data that is expected to be routinely monitored by coke calcining facilities. Furthermore, using these methods allows petroleum refineries with coke calciners to maintain their calculation methods. Additional detail on the calculation methods reviewed are available in, *Revised Technical Support Document For Coke Calciners: Supplemental Proposed Rule For The Greenhouse Gas Reporting Program* available in the docket for this rulemaking (Docket Id. No. EPA–HQ–OAR–2019–0424).

We note that the CEMS method as implemented in subpart Y of part 98 requires reporters to determine CO₂ emissions from auxiliary fuel use discharged in the coke calciner exhaust stack using methods in subpart C of part 98, and to subtract those emissions from the measured CEMS emissions to determine the process CO₂ emissions, comparable to the emissions determined using the carbon mass balance approach. We are proposing to retain this requirement and have the auxiliary fuel-related emissions reported in subpart C. We are also proposing to require reporters using the carbon mass balance approach to also determine auxiliary fuel use in the coke calciner (and afterburner) and estimate and report the CO₂ emissions from this fuel use in subpart C.

We are proposing that coke calciners also estimate process CH₄ and N₂O emissions based on the total CO₂ emissions determined for the coke calciner and the ratio of the default CO₂ emission factor for petroleum coke in Table C–1 to subpart C of part 98 to the default CH₄ and N₂O emission factors for petroleum products in Table C–2 to subpart C of part 98. The proposed approach is consistent with the requirements for determining these GHG emissions for coke calciners in subpart Y. We are proposing to include these GHG emissions in the new coke

calcining subpart to fully account for GHG emissions from coke calciners.

6. Selection of Proposed Monitoring, QA/QC, and Verification Requirements

We are proposing two separate monitoring methods: direct measurement and a mass balance emission calculation.

Proposed option for direct measurement using CEMS. The proposed CEMS method requires both a continuous CO₂ concentration monitor and a continuous volumetric flow monitor. We are proposing reporters required to or electing to use CEMS must install, operate, and calibrate the monitoring system according to subpart C (General Stationary Fuel Combustion Sources), which is consistent with CEMS requirements in other GHGRP subparts. We are proposing that all CO₂ CEMS and flow rate monitors used for direct measurement of GHG emissions should comply with QA/QC procedures for daily calibration drift checks and quarterly or annual accuracy assessments, such as those provided in Appendix F to part 60 or similar QA procedures. We are proposing these requirements to ensure the quality of the reported GHG emissions and to be consistent with the current requirements for CEMS measurements within subparts A (General Provisions) and C of the GHGRP.

Proposed option for mass balance calculation. The carbon mass balance method requires monitoring of mass quantities of green coke fed to the process, calcined coke leaving the process, and coke dust removed from the process by dust collection systems. It also requires periodic determination of carbon content of the green and calcined coke. For coke mass measurements, we are proposing that the measurement device be calibrated according to the procedures specified by the updated *Specifications, Tolerances, and Other Technical Requirements For Weighing and Measuring Devices*, NIST Handbook 44 (2022) or the procedures specified by the manufacturer. We are proposing that the measurement device be recalibrated either biennially or at the minimum frequency specified by the manufacturer. We are proposing these requirements to ensure the quality of the reported GHG emissions and to be consistent with the current requirements for coke calciner mass measurements within subpart Y.

For carbon content of coke measurements, we are proposing that the owner or operator follow approved analytical procedures and maintain and calibrate instruments used according to manufacturer's instructions and to

document the procedures used to ensure the accuracy of the measurement devices used. We are proposing these requirements to ensure the quality of the reported GHG emissions and to be consistent with the current requirements for coke calciner mass measurements within subpart Y.

We are proposing that these determinations be made monthly. Current requirements in subpart Y do not specify a monitoring frequency, such that only the annual mass of coke entering and leaving the process needs to be determined. It is expected that facilities likely determine these mass quantities on a daily or more frequent basis, so it would be minimal burden for facilities to determine and record these quantities monthly. Similarly, facilities are expected to regularly determine the carbon content of the green coke feedstock, so determining and reporting the monthly average carbon content of green and calcined coke would require limited additional effort compared to determining and reporting annual values. If carbon content measurements are made more often than monthly, we are proposing that all measurements made within the calendar month should be used to determine the average for the month. Conducting the calculation monthly would improve accuracy compared to annual or quarterly calculations. It also improves the verification process for the reported data. Because we expect reporters will have this data available on a monthly or more frequent basis, we are proposing to require reporters to conduct the calculations monthly. We solicit comment on whether quarterly averages for composition and quantity data would adequately account for potential variations in carbon content, production rates, and other factors that may affect the estimated GHG emissions.

7. Selection of Proposed Procedures for Estimating Missing Data

Whenever a quality-assured value of a required parameter is unavailable (*e.g.*, if a CEMS malfunctions during unit operation or if a required fuel sample is not taken), we are proposing that a substitute data value for the missing parameter shall be used in the calculations. For missing CEMS data, we are proposing that the missing data procedures in subpart C be used. The subpart C missing data procedures require the substitute data value to be the best available estimate of the parameter, based on all available process data (*e.g.*, electrical load, steam production, operating hours, etc.). For each missing value of mass or carbon content of coke, we are proposing that

the average of the data measurements before and after the missing data period be used to calculate the emissions during the missing data period because this is expected to provide the more accurate estimate for the missing value. If, for a particular parameter, no quality-assured data are available prior to the missing data incident, we are proposing that the substitute data value should be the first quality-assured value obtained after the missing data period. Similarly, if no quality-assured data are available after the missing data incident, we are proposing that the substitute data value should be the most recently acquired quality-assured value obtained prior to the missing data period. Missing data procedures are applicable for CEMS measurements when using the CEMS method and for mass of coke measurements and carbon content measurements of green and calcined coke when using the carbon mass balance method. These missing data procedures were selected because they are consistent with current GHGRP methods and because they are expected to provide the most accurate values for the missing data.

8. Selection of Proposed Data Reporting Requirements

For coke calcining units, we are proposing that the owner and operator shall report general information about the coke calciner (unit ID number and maximum rated throughput of the unit), the method used to calculate GHG emissions, and the calculated CO₂, CH₄, and N₂O annual emissions for each unit, expressed in metric tons of each pollutant emitted. We are also proposing to require the owner and operator to report the annual mass of green coke fed to the coke calcining unit, the annual mass of marketable petroleum coke produced by the coke calcining unit, the annual mass of petroleum coke dust removed from the process through the dust collection system of the coke calcining unit, the annual average mass fraction carbon content of green coke fed to the unit, and the annual average mass fraction carbon content of the marketable petroleum coke produced by the coke calcining unit.

9. Selection of Proposed Records That Must Be Retained

We are proposing that facilities maintain records documenting the procedures used to ensure the accuracy of the measurements of all reported parameters, including but not limited to, calibration of weighing equipment, flow meters, and other measurement devices. The estimated accuracy of

measurements made with these devices must also be recorded, and the technical basis for these estimates must be provided. We are proposing these requirements based on the provisions in subpart A of part 98. Maintaining records of information used to determine reported GHG emissions is necessary to allow us to verify that GHG emissions monitoring and calculations were done correctly.

For the coke calciners source category, we are proposing that the verification software specified in 40 CFR 98.5(b) would be used to fulfill the recordkeeping requirements for the following five data elements:

- Monthly mass of green coke fed to the coke calcining unit;
- Monthly mass of marketable petroleum coke produced by the coke calcining unit;
- Monthly mass of petroleum coke dust removed from the process through the dust collection system of the coke calcining unit;
- Average monthly mass fraction carbon content of green coke fed to the coke calcining unit; and
- Average monthly mass fraction carbon content of marketable petroleum coke produced by the coke calcining unit.

Maintaining records of information used to determine reported GHG emissions is necessary to allow us to verify that GHG emissions monitoring and calculations were done correctly.

C. Subpart XX—Calcium Carbide Production

1. Rationale for Inclusion in the GHGRP

For the reasons described in section II.B and the 2022 Data Quality Improvements Proposal, consistent with its authority under the CAA, the EPA is proposing to add a new subpart for facilities engaged in the manufacturing of calcium carbide to quantify and report GHG emissions from their processes and from fuel combustion. Calcium carbide production is currently identified as a potential source of GHG emissions in the IPCC 2006 Guidelines.⁵⁵ Although we are aware of at least one active calcium carbide production facility in the United States, emissions from calcium carbide production are currently not explicitly accounted for in the GHGRP. The one current producer of calcium carbide in the United States is Carbide Industries, LLC, located in Louisville, KY. Carbide

Industries, LLC currently reports their process GHG emissions under subpart K of part 98 (Ferroalloy Production) (e-GGRT identifier 1005537), although there is no requirement for them to report under subpart K because they do not meet the definition of the subpart. They also report combustion emissions under subpart C of part 98 (General Stationary Fuel Combustion Sources), which includes CO₂ emissions from an acetylene flare and other combustion sources. Because the subpart K calculation methodology is not intended for calcium carbide production processes, we anticipate that the emissions as estimated under this methodology do not accurately account for the CO₂ emissions from the calcium carbide process.

Therefore, we are proposing the addition of a calcium carbide production source category to the GHGRP to better align with intergovernmental approaches to estimating emissions and to provide more accurate applicability requirements and emissions estimation methodologies for these types of facilities. Further, the proposed requirements would improve the completeness of the data collected under the GHGRP, add to the EPA's understanding of the GHG emissions from these sources, and better inform future EPA policy under the CAA. Once collected, such data would also be available to and improve on the estimates provided in the Inventory, by incorporating the recommendations of the 2006 IPCC guidelines.

2. Public Comments Received in Request for Comment

In section IV.C of the 2022 Data Quality Improvements Proposal, the EPA requested comment on the addition of calcium carbide production as a new subpart to part 98. The request for comment covered the following topics:

- Whether the EPA should add a source category related to calcium carbide production;
- Information related to the source category definition, including information to contextualize potential reporters and, where acetylene production from calcium carbide occurs at the same facility, whether the EPA should account for emissions from these sources;
- Information on how emissions could be estimated at a facility-level based on methods available in the 2006 IPCC guidelines;
- What monitoring requirements should be in place; and

- What reporting requirements should be in place that would help to support emissions estimates.

This section presents a broad overview of the comments received regarding the request for comment on calcium carbide production.

We received one comment on the addition of a source category for calcium carbide production, stating that the addition was unnecessary. The commenter noted that the EPA already receives emissions data from the one U.S. calcium carbide production facility that voluntarily reports to part 98 under existing subpart K (Ferroalloy Production), and therefore a new source category is redundant. The EPA is proposing the addition of a new source category for calcium carbide production to provide accurate applicability requirements, require data specific to the calcium carbide industry, and better align with international emissions evaluations. In considering the comment, we think this proposal is appropriate in part because we have assessed that it is technically inconsistent with our regulations for a calcium carbide facility to voluntarily report under subpart K. Receiving data for a facility that does not align with the source category of subpart K presents potential data quality issues for the EPA that would be addressed under the proposed new subpart. Additionally, as discussed in the June 21, 2022 proposed rule, the data we would receive from these sources would better align the data collected under GHGRP with the 2006 IPCC Guidelines.

We received one comment on the potential calculation methodology for the calcium carbide production source category, stating that the adjustment factor within the carbon consumption method should be changed from 0.33 (for 100 percent pure calcium carbide) to 0.28, because commercial calcium carbide is not a pure product. As discussed in section IV.C.5 of this preamble, the EPA is requesting additional information regarding the purity level of commercial calcium carbide.

3. Proposed Definition of the Source Category

We propose defining calcium carbide production to include any process that produces calcium carbide. Calcium carbide is an industrial chemical manufactured from lime (CaO) and carbon, usually petroleum coke, by heating the mixture to 2,000 to 2,100 °C (3,632 to 3,812 °F) in an electric arc furnace. During the production of calcium carbide, the use of carbon-

⁵⁵ IPCC Guidelines for National Greenhouse Gas Inventories, Volume 3, Industrial Processes and Product Use, Mineral Industry Emissions. 2006. www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/3_Volume3/V3_2_Ch2_Mineral_Industry.pdf.

containing raw materials (petroleum coke) results in emissions of CO₂.

The largest application of calcium carbide is producing acetylene (C₂H₂) by reacting calcium carbide with water. The production of acetylene from calcium carbide results in the emissions of CO₂. Although we considered accounting for emissions from the production of acetylene at calcium carbide facilities in the 2022 Data Quality Improvements Proposal, we determined that acetylene is not produced at the one known plant that produces calcium carbide. Therefore, we are not proposing that CO₂ emissions from the production of acetylene from

calcium carbide be reported under proposed subpart XX. Additional background information about GHG emissions from the calcium carbide production source category is available in the *Revised Technical Support Document for Calcium Carbide: Supplemental Proposed Rule For The Greenhouse Gas Reporting Program*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

4. Selection of Proposed Reporting Threshold

In developing the reporting threshold for calcium carbide production, we

considered emissions-based thresholds of 10,000 mtCO₂e, 25,000 mtCO₂e and 100,000 mtCO₂e. Requiring all facilities to report (no threshold) was also considered. Process emissions for 2020 from the one calcium carbide production facility were estimated to be 41,244 mtCO₂e/yr. Including their reported combustion emissions, total emissions in 2020 were 46,878 mtCO₂e. Table 6 of this preamble illustrates the emissions and facilities that would be covered under these various thresholds.

TABLE 6—THRESHOLD ANALYSIS FOR CALCIUM CARBIDE PRODUCTION

Threshold level (mtCO ₂ e)	Emissions covered		Facilities covered	
	mtCO ₂ e/yr	Percent	Number	Percent
100,000	0	0	0	0
25,000	46,878	100	1	100
10,000	46,878	100	1	100
All-in (no threshold)	46,878	100	1	100

Following our analysis, we are proposing that all calcium carbide manufacturing facilities be required to report under the GHGRP. The current estimate of emissions from the known facility exceeds 25,000 mtCO₂e by a factor of about 1.9. Therefore, in order to simplify the rule and avoid the need for the facility to calculate and report whether the facility exceeds the threshold value, we propose that all facilities report in this source category. Requiring all facilities to report captures 100 percent of emissions, and small temporary changes to the facility would not affect reporting requirements.

For a full discussion of the threshold analysis, please refer to the *Revised Technical Support Document for Calcium Carbide: Supplemental Proposed Rule For The Greenhouse Gas Reporting Program*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

5. Selection of Proposed Calculation Methods

We are proposing to require facilities to report the process CO₂ emissions from each calcium carbide process unit or furnace used for production of calcium carbide. We reviewed existing methodologies for estimating process related GHG emissions including those of the 2006 IPCC Guidelines for National Greenhouse Inventories,⁵⁶ the

European Union,⁵⁷ Canada’s Greenhouse Quantification Requirements,⁵⁸ and the EPA’s GHGRP. The methodologies reviewed are detailed in the *Revised Technical Support Document for Calcium Carbide: Supplemental Proposed Rule For The Greenhouse Gas Reporting Program* (available in the docket for this rulemaking, Docket Id. No. EPA-HQ-OAR-2019-0424), and generally fall into one of the following options.

Option 1. Apply a default emission factor to calcium carbide output, or production. Generally, this method is less accurate as it involves multiplying production data by an emission factor that is likely a default value based on carbon content (i.e., percentage of petroleum coke content that is carbon) assumptions. This method involves multiplying the amount of calcium carbide produced by the appropriate default emission factor from the 2006 IPCC Guidelines. This method would

https://www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/3_Volume3/V3_2_Ch2_Mineral_Industry.pdf.

⁵⁷ European Union (EU). *Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the Monitoring and Reporting of Greenhouse Gas Emissions Pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Amending Commission Regulation (EU) No. 601/2012*. January 1, 2021. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02018R2066-20210101&from=EN>.

⁵⁸ Environment and Climate Change Canada (ECCC). *Canada’s Greenhouse Gas Quantification Requirements*. Version 4.0. December 2020. Available at: http://publications.gc.ca/collections/collection_2021/eccc/En81-28-2020-eng.pdf.

not account for facility-specific variances of process inputs or outputs.

While we included an adjustment factor of 0.33 in the carbon consumption method provided in the *Revised Technical Support Document for Calcium Carbide: Supplemental Proposed Rule For The Greenhouse Gas Reporting Program* (available in the docket for this rulemaking, Docket Id. No. EPA-HQ-OAR-2019-0424), a factor of 0.28 was suggested by one commenter. The EPA is requesting additional information regarding the purity level of commercial calcium carbide and data supporting the suggested factor of 0.28.

Option 2. The carbon balance option, which is the IPCC Tier 3 approach, is generally more accurate as it involves measuring the consumption of specific process inputs and process outputs and the amounts of these materials consumed or produced. This method requires that the carbon content and the mass of carbonaceous materials input to and output from the process be determined. Carbon contents of materials are determined through the analysis of samples of the material or from information provided by the material suppliers. Also, the quantities of these materials consumed and produced during production would be measured and recorded. CO₂ emissions are estimated by multiplying the carbon content of each input and output material by the corresponding mass. The difference between the calculated total

⁵⁶ IPCC Guidelines for National Greenhouse Gas Inventories, Volume 3, Industrial Processes and Product Use, Mineral Industry Emissions. 2006.

carbon input and the total carbon output is the estimated CO₂ emissions.

Option 3. Direct measurement of using CEMS. For configurations in which the process off-gases are contained within a stack or vent, direct measurement of the CO₂ emissions can be made by continuously measuring the off-gas stream CO₂ concentration and flow rate using a CEMS. Using a CEMS, the total CO₂ emissions tabulated from the recorded emissions measurement data would be reported annually.

Proposed option. We are proposing two different methods for quantifying GHG emissions from calcium carbide manufacturing, depending on current emissions monitoring at the facility. Under the proposed rule, if a qualified CEMS is in place, the CEMS must be used. Otherwise, under the proposed rule, the facility can elect to either install a CEMS or elect to use the carbon mass balance method.

CEMS method (Option 3). Under the proposed rule, facilities with an existing CEMS that meet the requirements outlined in 40 CFR part 98, subpart C would be required to use CEMS to estimate combined process and combustion CO₂ emissions. Facilities would be required to follow the requirements of 40 CFR part 98, subpart C to estimate all CO₂ emissions from the industrial source. Facilities would be required to follow 40 CFR part 98, subpart C to estimate emissions of CO₂, CH₄, and N₂O from stationary combustion.

Carbon balance method (Option 2). For facilities that do not have CEMS that meet the requirements of 40 CFR part 98 subpart C, the proposed monitoring method is Option 2, the carbon balance method. For any stationary combustion units included at the facility, facilities would be required to follow the existing requirements at 40 CFR part 98, subpart C to estimate emissions of CO₂, CH₄, and N₂O from stationary combustion.

Use of facility specific information under Option 2 is consistent with IPCC Tier 3 methods and is the preferred method for estimating emissions for other GHGRP sectors. Any additional burden associated with material measurement required for the carbon balance would be small in relation to the increased accuracy expected from using this site-specific information. Among the non-CEMS options, we are proposing Option 2 because it has the lowest uncertainty.

6. Selection of Proposed Monitoring, QA/QC, and Verification Requirements

We are proposing two separate monitoring methods: direct

measurement and a mass balance emission calculation.

Proposed option for direct measurement using CEMS. For facilities where process emissions and/or combustion GHG emissions are contained within a stack or vent, facilities can take direct measurement of the GHG concentration in the stack gas and the flow rate of the stack gas using a CEMS. Under the proposed rule, if facilities use an existing CEMS to meet the monitoring requirements, they would be required to use CEMS to estimate CO₂ emissions. Where the CEMS capture all combustion- and process-related CO₂ emissions, facilities would be required to follow the requirements of 40 CFR part 98, subpart C to estimate emissions.

A CEMS continuously withdraws and analyzes a sample of the stack gas and continuously measures the GHG concentration and flow rate of the total exhaust stack gas. The emissions are calculated from the CO₂ concentration and the flow rate of the stack gas. The proposed CEMS method requires both a continuous CO₂ concentration monitor and a continuous volumetric flow monitor. To qualify as a CEMS, the monitors would be required to be installed, operated, and calibrated according to subpart C (General Stationary Fuel Combustion Sources) of the GHGRP (40 CFR 98.33(a)(4)), which is consistent with CEMS requirements in other GHGRP subparts.

Proposed option for mass balance calculation. For facilities using the carbon mass balance method, we are proposing that the facility must determine the annual mass for each material used for the calculations of annual process CO₂ emissions by summing the monthly mass for the material determined for each month of the calendar year. The monthly mass may be determined using plant instruments used for accounting purposes, including either direct measurement of the quantity of the material placed in the unit or by calculations using process operating information.

For the carbon content of the materials used to calculate process CO₂ emissions, we are proposing that the owner or operator determine the carbon content using material supplier information or collect and analyze at least three representative samples of the material inputs and outputs each year. The proposed rule would require the carbon content be analyzed at least annually using standard ASTM methods, including their QA/QC procedures. To reduce burden, we are proposing that if a specific process

input or output contributes less than one percent of the total mass of carbon into or out of the process, you do not have to determine the monthly mass or annual carbon content of that input or output.

7. Selection of Proposed Procedures for Estimating Missing Data

We are proposing the use of substitute data whenever a quality-assured value of a parameter is used to calculate emission is unavailable, or “missing.” If the carbon content analysis of carbon inputs or outputs is missing, we are proposing the substitute data value would be based on collected and analyzed representative samples for average carbon contents. If the monthly mass of carbon-containing inputs and outputs is missing, we are proposing the substitute data value would be based on the best available estimate of the mass of the inputs and outputs from all available process data or data used for accounting purposes, such as purchase records. The likelihood for missing process input or output data is low, as businesses closely track their purchase of production inputs. These missing data procedures are the same as those for the ferroalloy production source category, subpart K of part 98, under which the existing U.S. calcium carbide production facility currently reports.

8. Selection of Proposed Data Reporting Requirements

We propose that each carbon carbide production facility report the annual CO₂ emissions from each calcium carbide production process, as well as any stationary fuel combustion emissions. In addition, we propose that additional information that forms the basis of the emissions estimates, along with supplemental data, also be reported so that we can understand and verify the reported emissions. All calcium carbide production facilities would be required to report their annual production and production capacity, total number of calcium carbide production process units, annual consumption of petroleum coke, each end use of any calcium carbide produced and sent off site, and, if the facility produces acetylene, the annual production of acetylene, the quantity of calcium carbide used for acetylene production at the facility, and the end use of the acetylene produced on-site. We propose reporting the end use of calcium carbide sent off site, as well as acetylene production information for current or future calcium carbide production facilities, to inform future Agency policy under the CAA. Collection of this information would

also better synchronize use of the GHGRP data in Inventory reporting based on the 2006 IPCC Guidelines. While the only known calcium carbide facility does not currently produce acetylene on site, it is possible that this facility or other facilities would do so in the future. If a facility uses CEMS to measure their CO₂ emissions, they would be required to also report the identification number of each process unit. If a CEMS is not used to measure CO₂ emissions, the facility would also report the method used to determine the carbon content of each material for each process unit, how missing data were determined, and the number of months missing data procedures were used.

9. Selection of Proposed Records That Must Be Retained

Maintaining records of information used to determine reported GHG emissions is necessary to allow us to verify that GHG emissions monitoring and calculations were done correctly. If a facility uses a CEMS to measure their CO₂ emissions, they would be required to record the monthly calcium carbide production from each process unit and the number of monthly and annual operating hours for each process unit. If a CEMS is not used, the facility would be required to retain records of monthly production, monthly and annual operating hours, monthly quantities of each material consumed or produced, and carbon content determinations.

We are proposing that the owner or operator maintain records of how measurements are made including measurements of quantities of materials used or produced and the carbon content of process input and output materials. The procedures for ensuring accuracy of measurement methods, including calibration, would be recorded.

The proposed rule would also require the retention of a record of the file generated by the verification software specified in 40 CFR 98.5(b) including:

- carbon content (percent by weight expressed as a decimal fraction) of the reducing agent (petroleum coke), carbon electrode, product produced, and non-product outgoing materials; and
- annual mass (tons) of the reducing agent (petroleum coke), carbon electrode, product produced, and non-product outgoing materials.

Maintaining records of information used to determine reported GHG emissions is necessary to allow us to verify that GHG emissions monitoring and calculations were done correctly.

D. Subpart YY—Caprolactam, Glyoxal, and Glyoxylic Acid Production

1. Rationale for Inclusion in the GHGRP

For the reasons described in section II.B and the 2022 Data Quality Improvements Proposal, the EPA is proposing to add a new subpart, subpart YY of part 98 (Caprolactam, Glyoxal, and Glyoxylic Acid Production). Caprolactam, glyoxal, and glyoxylic acid production facilities are identified as a potential important source of GHG emissions, specifically N₂O, in the IPCC 2006 Guidelines,⁵⁹ which provides limited methodologies for calculating emissions from these sources. There are approximately two caprolactam facilities operating in the United States, and likely two to four facilities that produce glyoxal and glyoxylic acid. However, the emissions from these caprolactam, glyoxal, and glyoxylic production operations are currently not explicitly accounted for in the GHGRP. Currently, two caprolactam production facilities only report combustion emissions under subpart C (General Stationary Fuel Combustion Sources).

Therefore, we are proposing the addition of a new source category to the GHGRP for caprolactam, glyoxal, and glyoxylic acid production sources consistent with our authority under the CAA to better align with intergovernmental guidance on emissions estimation and to provide clear applicability requirements and emissions estimation methodologies for these types of facilities. This new subpart would improve the completeness of the data collected under the GHGRP, add to the EPA's understanding of the GHG emissions from these sources, and better inform future EPA policy under the CAA. Once collected, such data would also be available to and improve on the estimates provided in the Inventory, by incorporating the recommendations of the 2006 IPCC guidelines. Grouping these three organic compounds together into one source category for GHGRP purposes would be reasonable because the 2006 IPCC guidelines methodology for estimating GHG emissions from the production of these compounds does the same.

We are requesting comment on the level of production of glyoxal and

glyoxylic acid in the United States and whether production of glyoxal and glyoxylic acid are expected to increase in the future.

2. Public Comments Received in Request for Comment

In section IV.D of the 2022 Data Quality Improvements Proposal, the EPA requested comment on the addition of caprolactam, glyoxal, and glyoxylic acid production as a new subpart to part 98. The request for comment covered the following topics:

- Whether the EPA should add a source category;
- Information related to source category definitions, calculation methodologies, and reporting requirements;
- Whether there are any glyoxal and/or glyoxylic acid production facilities currently operating in the United States;
- Whether facilities have installed abatement equipment;
- Which information or inputs for each calculation methodology is readily available;
- Information on the mechanisms that generate CO₂ emissions from glyoxal and glyoxylic acid production;
- Available monitoring methodologies and quality assurance procedures that should be used; and
- Data that are readily available for reporting that would help to support emissions estimates.

We received no comments on the addition of a source category related to caprolactam, glyoxal, and glyoxylic acid production. For the reasons described in section IV.D.1 of this preamble, we are proposing to add new subpart YY for caprolactam, glyoxal, and glyoxylic acid production based on additional information gathered by the Agency following the publication of the 2022 Data Quality Improvements Proposal. The definitions, thresholds, and requirements for the proposed subpart are outlined in sections IV.D.2 through IV.D.9 of this preamble.

3. Proposed Definition of the Source Category

Caprolactam is a crystalline solid organic compound with a wide variety of uses, including brush bristles, textile stiffeners, film coatings, synthetic leather, plastics, plasticizers, paint vehicles, cross-linking for polyurethanes, and in the synthesis of lysine. Caprolactam is primarily used in the manufacture of synthetic fibers, especially Nylon 6.

⁵⁹ IPCC 2006. IPCC Guidelines for National Greenhouse Gas Inventories, Volume 3, Industrial Processes and Product Use. Chapter 3, Chemical Industry Emissions. 2006. www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/3_Volume3/V3_3_Ch3_Chemical_Industry.pdf.

Glyoxal is a solid organic compound with a wide variety of uses, including as a crosslinking agent in various polymers for paper coatings, textile finishes, adhesives, leather tanning, cosmetics, and oil-drilling fluids; as a sulfur scavenger in natural gas sweetening processes; as a biocide in water treatment; to improve moisture resistance in wood treatment; and as a chemical intermediate in the production of pharmaceuticals, dyestuffs, glyoxylic acid, and other chemicals. It is also used as a less toxic substitute for formaldehyde in some applications (e.g., in wood adhesives and embalming fluids).

Glyoxylic acid is a solid organic compound exclusively produced by the oxidation of glyoxal with nitric acid. It is used mainly in the synthesis of

vanillin, allantoin, and several antibiotics like amoxicillin, ampicillin, and the fungicide azoxystrobin.

We are proposing that the caprolactam, glyoxal, and glyoxylic acid production source category would include any facility that produces caprolactam, glyoxal, or glyoxylic acid. We are also proposing that the source category would exclude the production of glyoxal through the LaPorte process (i.e., the gas-phase catalytic oxidation of ethylene glycol with air in the presence of a silver or copper catalyst). The LaPorte process does not emit N₂O and there are no methods for estimating CO₂ in available literature.

4. Selection of Proposed Reporting Threshold

The total process emissions from current production of caprolactam,

glyoxal, and glyoxylic acid are estimated at 1.2 million mtCO₂e. Most of the emissions are from the two known caprolactam production facilities. There are approximately two to four facilities that produce glyoxal and glyoxylic acid. Therefore, the known universe of facilities that produce caprolactam, glyoxal, and glyoxylic acid in the United States is four to six total facilities.⁶⁰

In developing the reporting threshold for caprolactam, glyoxal, and glyoxylic acid production, we considered both an “all-in” (no threshold) and emissions-based thresholds of 10,000 mtCO₂e, 25,000 mtCO₂e, and 100,000 mtCO₂e. Table 7 of this preamble illustrates the emissions and facilities that would be covered under these various thresholds.

TABLE 7—THRESHOLD ANALYSIS FOR CAPROLACTAM, GLYOXAL, AND GLYOXYLIC ACID PRODUCTION

Threshold level (mtCO ₂ e)	Emissions covered		Facilities covered	
	mtCO ₂ e/yr (million)	Percent	Number	Percent
100,000	0	0	0	0
25,000	1.2	99.6	3	50
10,000	1.2	99.6	3	50
All-in (no threshold)	1.2	100	6	100

Table 7 of this preamble illustrates that there is a small difference in the total emissions that would be covered but a larger difference in the number of facilities that would be covered, depending on the threshold chosen. All thresholds except 100,000 mtCO₂e ensure that both of the known caprolactam facilities are covered by this subpart. However, using a threshold of 10,000 mtCO₂e or 25,000 mtCO₂e would exclude three of the four facilities that potentially produce glyoxal and glyoxylic acid. Adding caprolactam, glyoxal, and glyoxylic acid production as an “all-in” subpart (i.e., regardless of their emissions profile) is a conservative approach to gather information from as many facilities that produce caprolactam, glyoxal, and glyoxylic acid as possible, especially if production of glyoxal and glyoxylic acid increase in the near future. Defining this source category as an “all-in” subpart also accounts for the uncertainty in the data and assumptions used in the initial emissions analysis for glyoxal and glyoxylic acid. The CO₂ emissions from

glyoxal production (1,500 mt CO₂e) were estimated based on nationwide production data of 50 million pounds from 2011,⁶¹ relied on literature estimates to determine the yield of glyoxal, and assumed that all hydrocarbon feedstock that is not converted to glyoxal is converted to CO₂. The N₂O emissions from glyoxylic acid production were estimated as zero based on nationwide data from 2015.⁶²

Collecting data from all caprolactam, glyoxal, and glyoxylic acid facilities would help the EPA better understand the current level of production of each chemical and how accurate the literature estimates are at the facility level. Further details on the estimated emissions from facilities that produce caprolactam, glyoxal, and glyoxylic acid are available in, *Revised Technical Support Document For Caprolactam, Glyoxal, and Glyoxylic Acid Production: Supplemental Proposed Rule For The Greenhouse Gas Reporting Program*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

5. Selection of Proposed Calculation Methods

The ammonia oxidation step of caprolactam production results in emissions of N₂O, and the ammonium carbonate step results in insignificant emissions of CO₂. Therefore, only N₂O process emissions are estimated from caprolactam production.

The liquid-phase oxidation of acetaldehyde with nitric acid to produce glyoxal emits both N₂O and CO₂, but available methods for estimating emissions address only the N₂O. The LaPorte process for producing glyoxal generates CO₂ emissions but there are no methods for estimating such emissions. Therefore, only N₂O process emissions are estimated from glyoxal production.

Glyoxylic acid is produced by the oxidation of glyoxal with nitric acid. A considerable amount of the glyoxal is overoxidized to oxalic acid, and N₂O is created through this secondary reaction. Only N₂O process emissions are estimated from glyoxylic acid production.

⁶⁰ See *Revised Technical Support Document For Caprolactam, Glyoxal, and Glyoxylic Acid Production: Supplemental Proposed Rule For The Greenhouse Gas Reporting Program* available in the

docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

⁶¹ Compilation of data submitted under the Toxic Substances Control Act (TSCA) in 2011. Accessed

April 2021. Available at <https://chemview.epa.gov/chemview>.

⁶² Compilation of data submitted under TSCA in 2015. Accessed April 2021. Available at <https://chemview.epa.gov/chemview>.

Combustion emissions at facilities that produce caprolactam, glyoxal, and glyoxylic acid are expected to include CO₂, CH₄, and N₂O.

We reviewed two methods from the 2006 IPCC Guidelines⁶³ for calculating N₂O emissions from the production of caprolactam, glyoxal, and glyoxylic acid, as summarized in this section of the preamble. Additional detail on the calculation methods reviewed are available in the *Revised Technical Support Document For Caprolactam, Glyoxal, and Glyoxylic Acid Production: Supplemental Proposed Rule For The Greenhouse Gas Reporting Program*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

Option 1 for calculating N₂O emissions. Following the Tier 2 approach established by the IPCC, apply default N₂O generation factors on a site-specific basis. This option requires raw material input to be known in addition to a standard N₂O generation factor, which differs for each of the three chemicals. In addition, Tier 2 requires site-specific knowledge of the use of N₂O control technologies. The volume or mass of each product would be measured with a flow meter or weigh scales. The process-related N₂O emissions are estimated by multiplying the generation factor by the production and the destruction efficiency of any N₂O control technology.

Option 2 for calculating N₂O emissions. Follow the Tier 3 approach established by IPCC using periodic direct monitoring of N₂O emissions to determine the relationship between production and the amount of N₂O emissions, *i.e.*, develop a site-specific emissions factor. The site-specific N₂O emission factor would be determined from an annual measurement or a single annual stack test. The site-specific emissions factor developed from this test and production rate (activity level) are used to calculate N₂O emissions. After the initial test, annual testing of N₂O emissions would be required to estimate the N₂O emission factor. The new factor would then be applied to production to estimate N₂O emissions.

Proposed Option for calculating N₂O emissions. We are proposing Option 1 (IPCC Tier 2 approach) to quantify N₂O process emissions from caprolactam, glyoxal, and glyoxylic acid production facilities. Option 1 is already being used in the Inventory for caprolactam

production and the method is also directly applicable to glyoxal and glyoxylic acid production. Synergy would be gained from using the same methodology for both programs.

For any stationary combustion units included at the facility, facilities would be required to follow the existing requirements in 40 CFR part 98, subpart C to calculate emissions of CO₂, CH₄ and N₂O from stationary combustion.

6. Selection of Proposed Monitoring, QA/QC, and Verification Requirements

The proposed monitoring required to comply with the N₂O calculation methodologies for reporters that produce caprolactam, glyoxal, and glyoxylic acid are to determine the monthly and annual production quantities of each chemical and to determine the N₂O destruction efficiency of any N₂O abatement technologies in use. The EPA considered two options for determination of production quantities:

Option 1 for production quantities. Use direct measurement of production quantities for all three chemicals. This option is consistent with existing GHGRP subparts but could be burdensome to require a specific measurement method.

Option 2 for production quantities. Use existing plant procedures used for accounting purposes to determine production quantities for all three chemicals. This option is also consistent with existing GHGRP subparts and would not impose additional burden to applicable facilities.

Proposed option for production quantities. We are proposing to allow either direct measurement of production quantities or existing plant procedures to determine production quantities. This option requires one of the following from reporters: maintain documentation of the procedures used to ensure the accuracy of the measurements of all reported parameters and the estimated accuracy of the measurements made with these devices, or maintain documentation of how accounting procedures were used to determine production. Allowing reporters to use either method for determining production quantities provides flexibility to reporters and is consistent with existing part 98 subparts.

The EPA considered two options for determination of the N₂O destruction efficiency:

Option 1 for control device destruction efficiency. Estimate the destruction efficiency for each N₂O abatement technology. This can be determined by using the N₂O control device's manufacturer-specified

destruction efficiency or estimating the destruction efficiency through process knowledge.

Option 2 for control device destruction efficiency. Use a default N₂O destruction efficiency according to the 2006 IPCC guidelines.⁶⁴ The IPCC default is 80 percent for glyoxal and glyoxylic acid if the facility is known to have abatement and 0 percent if no abatement. The IPCC default is 0 percent for caprolactam.

Proposed option for control device destruction efficiency. We are proposing to require reporters to estimate the destruction efficiency for each N₂O abatement technology because this option is more accurate than using a default destruction efficiency. The destruction efficiency can be determined by using the manufacturer's specific destruction efficiency or estimating the destruction efficiency through process knowledge. Documentation of how process knowledge was used to estimate the destruction efficiency is required if reporters choose that option. Examples of information that could constitute process knowledge include calculations based on material balances, process stoichiometry, or previous test results provided that the results are still relevant to the current vent stream conditions.

For the caprolactam, glyoxal, and glyoxylic acid production subpart, we are proposing to require reporters to perform all applicable flow meter calibration and accuracy requirements and maintain documentation as specified in 40 CFR 98.3(i).

7. Selection of Proposed Procedures for Estimating Missing Data

For caprolactam, glyoxal, and glyoxylic acid production, we are proposing that substitute data would be the best available estimate based on all available process data or data used for accounting purposes (such as sales records). For the control device destruction efficiency, assuming that the control device operation is generally consistent from year to year, we are proposing the substitute data value would be the most recent quality-assured value.

8. Selection of Proposed Data Reporting Requirements

We are proposing that facilities report annual N₂O emissions (in metric tons) from each production line. In addition, we are proposing that facilities submit the following data to understand the emissions data and verify the

⁶³ IPCC 2006. IPCC Guidelines for National Greenhouse Gas Inventories, Volume 3, Industrial Processes and Product Use. Chapter 3, Chemical Industry Emissions. 2006. www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/3_Volume3/V3_3_Ch3_Chemical_Industry.pdf.

⁶⁴ *Id.*

reasonableness of the reported emissions: number of process lines; annual production capacity; annual production; number of operating hours in the calendar year for each process line; abatement technology used and installation dates (if applicable); abatement utilization factor; number of times in the reporting year that missing data procedures were followed to measure production quantities of caprolactam, glyoxal, or glyoxylic acid (months); and overall percent N₂O reduction for each chemical.

Capacity, production, and operating hours would be helpful in determining the potential for growth in the subpart. Under the proposed rule, the production rate can be determined through sales records or by direct measurement using flow meters or weigh scales.

A list of abatement technologies would be helpful in assessing how widespread the use of abatement is in this subpart, cataloging any new technologies that are being used, and documenting the amount of time that the abatement technologies are being used.

9. Selection of Proposed Records That Must Be Retained

We are proposing that facilities maintain records documenting the procedures used to ensure the accuracy of the measurements of all reported parameters, including but not limited to, calibration of weighing equipment, flow meters, and other measurement devices. The estimated accuracy of measurements made with these devices would also be required to be recorded, and the technical basis for these estimates would be required to be provided. We are also proposing that facilities maintain records documenting the estimate of production rate and abatement technology destruction efficiency through accounting procedures and process knowledge, respectively.

The proposed rule would also require the retention of a record of the file generated by the verification software specified in 40 CFR 98.5(b) including:

- Monthly production quantities of caprolactam from all process lines;
- Monthly production quantities of glyoxal from all process lines; and
- Monthly production quantities of glyoxylic acid from all process lines.

Maintaining records of information used to determine reported GHG emissions is necessary to allow us to verify that GHG emissions monitoring and calculations were done correctly.

E. Subpart ZZ—Ceramics Production

1. Rationale for Inclusion in the GHGRP

For the reasons described in section II.B and the 2022 Data Quality Improvements Proposal, consistent with its authority under the CAA, the EPA is proposing to add a new subpart, subpart ZZ of part 98 (Ceramics Production), for facilities engaged in the manufacturing of ceramics to quantify and report GHG emissions from their processes and from fuel combustion. Ceramics manufacturing facilities are identified in the IPCC 2006 Guidelines as a source of CO₂ emissions based on the calcination process, which incorporates raw carbonates such as clay, shale, limestone, and dolomite, and as a source of CO₂, CH₄, and N₂O emissions from combustion in kilns, dryers, and other sources.⁶⁵ Although there are currently a large number of ceramics manufacturing facilities operating in the United States, emissions from these operations are not explicitly accounted for in the GHGRP. While it was originally anticipated that some of these ceramic production facilities would be required to report under subpart U of part 98 (Miscellaneous Uses of Carbonate), there are no such facilities currently reporting under this subpart, likely because they do not meet the applicability requirements of subpart U due to the use of carbonates contained in clay rather than pure carbonates. Currently, only 16 ceramics facilities report under part 98, and these facilities only report combustion emissions under subpart C (General Stationary Fuel Combustion Sources). As such, we have determined that emissions from ceramics manufacturing are likely not appropriately captured in the GHGRP.

For these reasons, we are proposing the addition of a new source category for ceramics manufacturing to better align with the guidance and approach of the IPCC 2006 Guidelines and to provide clear applicability requirements and emissions estimation methodologies for these types of facilities. The proposed requirements would improve the completeness of the data collected under the GHGRP, add to the EPA's understanding of the GHG emissions from these sources, and better inform future EPA policy under the CAA. Once collected, such data would also be available to and improve on the estimates provided in the Inventory, by incorporating the recommendations of the 2006 IPCC guidelines.

⁶⁵ IPCC Guidelines for National Greenhouse Gas Inventories, Volume 3, Industrial Processes and Product Use, Mineral Industry Emissions, 2006. www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/3_Volume3/V3_2_Ch2_Mineral_Industry.pdf.

2. Public Comments Received in Request for Comment

In section IV.B of the 2022 Data Quality Improvements Proposal, the EPA requested comment on the addition of ceramics manufacturing as a new subpart to part 98. The request for comment covered the following topics:

- Whether the EPA should add a source category related to ceramics manufacturing;
- Information related to the source category definition, including whether it should be included as a separate category or as part of an existing category such as subpart N (Glass Production);
- What calculation methodologies should be used for purposes of part 98 reporting, including what information is readily available to reporters to support calculation methodologies;
- What monitoring requirements should be in place and what methodologies are recommended for monitoring and QA/QC; and
- What reporting requirements should be in place.

This section presents a broad overview of the comments received regarding the request for comment on ceramics production.

We received one comment on the addition of a source category for ceramics manufacturing, stating that the commenter opposed a new source category for brick manufacturing and that the EPA has methods available to estimate GHG emissions from the brick industry without annual GHG reporting. The commenter suggested that the EPA consider a one-time information collection request for GHG emissions data or other collaboration with the brick industry as an alternative to mandatory reporting requirements. The EPA is proposing the addition of a new source category for ceramics manufacturing that would include a variety of ceramics production industries in addition to brick manufacturing. As discussed in the 2022 Data Quality Improvements Proposal, we are seeking data from these sources to improve the coverage of the GHGRP, provide more accurate emissions estimations, and better inform the development of GHG policies and programs under the CAA. This information would also further align the data collected under GHGRP with the 2006 IPCC Guidelines.

3. Proposed Definition of the Source Category

Ceramics manufacturing is the process in which nonmetallic, inorganic materials, many of which are clay-

based, are used to produce ceramic products such as bricks and roof tiles, wall and floor tiles, table and ornamental ware (household ceramics), sanitary ware, refractory products, vitrified clay pipes, expanded clay products, inorganic bonded abrasives, and technical ceramics (e.g., aerospace, automotive, electronic, or biomedical applications). Most ceramic products are made from one or more different types of clay (e.g., shales, fire clay, ball clay). The general process of manufacturing ceramic products consists of raw material processing (grinding, calcining, and drying), forming, firing, and final processing (which may include grinding, polishing, surface coating, annealing, and/or chemical treatment). GHG emissions are produced during the calcination process in the kiln, dryer, or oven, and from any combustion source.

We are proposing that the ceramics source category would apply to facilities that annually consume at least 2,000 tons of carbonates or 20,000 tons of clay heated to a temperature sufficient to allow the calcination reaction to occur, and operate a ceramics manufacturing process unit. We propose to define a ceramics manufacturing process unit as a kiln, dryer, or oven used to calcine clay or other carbonate-based materials for the production of a ceramics product. The proposed definition of

ceramics manufacturers as facilities that use at least the minimum quantity of carbonates or clay (2,000 tons/20,000 tons) would be consistent with the Miscellaneous Uses of Carbonate source category (subpart U of part 98). The source category definition establishes a minimum production level as a means to exclude and thus reduce the reporting burden for small artisan-level ceramics manufacturing processes. An example of a facility that may fall under this scenario is a university with a small ceramics department onsite for students. The university may be required to report GHGs under subpart D (Electricity Generation) but would only be required to gather data and report GHGs under subpart ZZ if the small ceramics department consumed at least 2,000 tons of carbonates or 20,000 tons of clay, as ceramic process and combustion emissions from use of 2,000 tons of carbonate are roughly estimated to be 3,100 mtCO₂e.

Additional background information about GHG emissions from the ceramics manufacturing source category is available in the *Revised Technical Support Document for Ceramics: Supplemental Proposed Rule For The Greenhouse Gas Reporting Program*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

4. Selection of Proposed Reporting Threshold

Per the 2018 U.S. Census, approximately 815 corporations reported their primary NAICS code as one of the two NAICS codes associated with Clay Product and Refractory Manufacturing, representing an estimated 850 facilities in the ceramics manufacturing industry.⁶⁶ Additionally, there is an unknown number of corporations that operate a ceramics facility as a secondary or tertiary operation onsite.

A large number of small artisan ceramic facilities comprise this industry—of the 815 corporations noted in the 2018 census, an estimated 700 corporations representing 86 percent have less than 100 employees corporate-wide and likely low production rates and small GHG emissions (likely less than 25,000 mtCO₂e).

In developing the ceramics production source category, we considered including facilities that emit at least 10,000 mtCO₂e, 25,000 mtCO₂e, or 100,000 mtCO₂e. Requiring all facilities to report (no threshold) was also considered. Table 8 of this preamble illustrates the estimated process and combustion CO₂ emissions, and facilities that would be covered under each scenario.

TABLE 8—THRESHOLD ANALYSIS FOR CERAMICS MANUFACTURING

Threshold level (metric tons)	Emissions covered		Facilities covered	
	mtCO ₂ e/yr	Percent	Number	Percent
100,000	0	0	0	0
25,000	2,770,000	60	34	4.0
10,000	2,770,000	60	34	4.0
All-in (no threshold)	4,630,000	100	850	100

As the quantity of emissions covered were estimated to be the same for the 10,000 mtCO₂e and 25,000 mtCO₂e thresholds, between these two options it is reasonable to adopt a facility definition that would include facilities estimated to emit 25,000 mtCO₂e or more. A threshold of 25,000 mtCO₂e is also preferable at this time to the “all-in” option because it would avoid burden on small facilities with few employees and lower overall emissions.

The proposed definition of ceramics manufacturers as facilities that use at least the minimum quantity of carbonates or clay (2,000 tons/20,000 tons) and the 25,000 mtCO₂e threshold are both expected to ensure that small

ceramics manufacturers are excluded. It is estimated that over 30 facilities would meet the proposed definition of a ceramics manufacturer and the proposed threshold of 25,000 mtCO₂e for reporting. The total combined process and combustion emissions from this source category are estimated at 2.77 million mtCO₂e.

For a full discussion of this analysis, please refer to the *Revised Technical Support Document for Ceramics: Supplemental Proposed Rule For The Greenhouse Gas Reporting Program*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

5. Selection of Proposed Calculation Methods

CO₂ emissions result from the calcination of carbonates in the raw material (particularly clay, shale, limestone, dolomite, and witherite) and the use of limestone or other additives as a flux. Carbonates are heated to high temperatures in a ceramics process unit producing oxides and CO₂. Additionally, CO₂, CH₄, and N₂O emissions are produced during combustion in the ceramics manufacturing process unit and from other combustion sources on site.

We reviewed existing methodologies for estimating ceramics manufacturing

⁶⁶ See the *Revised Technical Support Document for Ceramics: Supplemental Proposed Rule For The*

Greenhouse Gas Reporting Program, available in the

docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424), for additional information.

process related GHG emissions including those of the 2006 IPCC Guidelines for National Greenhouse Gas Inventories,⁶⁷ the European Union, Canada's Greenhouse Quantification Requirements, the EPA's GHGRP, and Australia's National Greenhouse and Energy Reporting Amendment. Additional detail on the calculation methods reviewed are available in the *Revised Technical Support Document for Ceramics: Supplemental Proposed Rule For The Greenhouse Gas Reporting Program*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424). From the review of existing programs, three basic calculation methodologies were identified.

Option 1. This approach directly measures emissions using a CEMS. The CEMS would measure CO₂ concentration and total exhaust gas flow rate for the combined process and combustion source emissions. CO₂ mass emissions would be calculated from these measured values using equation C-6 and, if necessary, equation C-7 in 40 CFR 98.33(a)(4). The combined process and combustion CO₂ emissions would be calculated according to the Tier 4 Calculation Methodology specified in 40 CFR 98.33(a)(4).

Option 2. The carbon mass balance method, which is based on the IPCC Tier 3 approach, requires that the carbon content and the mass of carbonaceous materials input to the process be determined. The facility would measure the consumption of specific process inputs and the amounts of these materials consumed by end-use/product type. Carbon contents of materials would be determined through the analysis of samples of the material or from information provided by the material suppliers. Also, the quantities of these materials consumed and produced during production would be measured and recorded. CO₂ emissions would be estimated by multiplying the carbon content of each raw material by the corresponding mass, by a carbonate emission factor, and by the decimal fraction of calcination achieved for that raw material.

Option 3. The IPCC Tier 1 approach is a basic mass balance method that assumes limestone and dolomite are the only carbonates used as input, and that 85 percent of carbonates consumed are limestone and 15 percent of carbonates consumed are dolomite. This carbonate assumption reflects pure carbonates,

and not carbonate rock or materials such as clay that contain carbonate-based minerals. For clay or other carbonate-based raw materials, this approach assumes a default purity of 10 percent for clay content. Generally, this method is less accurate as it involves multiplying raw material usage by a default carbonate-based mineral content. CO₂ emissions would be estimated by multiplying the quantity of clay used by the assumed limestone and dolomite percentages and their respective carbonate emission factors.

For option 2 and option 3, facilities would be required to follow 40 CFR part 98, subpart C (General Stationary Fuel Combustion Sources) to estimate combustion GHG emissions of CO₂, CH₄, and N₂O from ceramics process units.

Proposed option. We are proposing two different methods for quantifying GHG emissions from ceramics manufacturing, depending on current emissions monitoring at the facility. If a qualified CEMS is in place, the CEMS must be used. Otherwise, the facility can elect to either install a CEMS or elect to use the carbon mass balance method.

CEMS method (Option 1). Facilities with a CEMS that meet the requirements in 40 CFR part 98, subpart C would be required to use CEMS to estimate the combined process and combustion CO₂ emissions. Facilities would be required to use subpart C to estimate emissions of CO₂, CH₄, and N₂O from stationary combustion.

Carbon balance method (Option 2). For facilities that do not have CEMS that meet the requirements of 40 CFR part 98, subpart C, the proposed monitoring method for process emissions is the Option 2 carbon mass balance method. For any stationary combustion units included at the facility, facilities would be required to follow 40 CFR part 98, subpart C to estimate emissions of CO₂, CH₄, and N₂O from stationary combustion.

Use of facility specific information under Option 2 is consistent with IPCC Tier 3 methods and is the preferred method for estimating emissions for other GHGRP sectors. Any additional burden associated with material measurement required for the carbon balance would be small in relation to the increased accuracy expected from using this site-specific information. Of the two non-CEMS options, we are proposing Option 2 as it has the lowest uncertainty.

6. Selection of Proposed Monitoring, QA/QC, and Verification Requirements

We are proposing two separate monitoring methods: direct

measurement and a mass balance emission calculation.

Proposed option for direct measurement using CEMS. Industrial source categories for which the process emissions and/or combustion GHG emissions are contained within a stack or vent can take direct measurement of the GHG concentration in the stack gas and the flow rate of the stack gas using a CEMS. In the case of ceramics manufacturing, process and combustion GHG emissions from ceramics process units are typically emitted from the same stack. Under the proposed rule, if facilities use an existing CEMS to meet the monitoring requirements, they would be required to use CEMS to estimate CO₂ emissions. Where the CEMS capture all combustion- and process-related CO₂ emissions, facilities would be required to follow the requirements of 40 CFR part 98, subpart C to estimate all CO₂ emissions from the industrial source.

A CEMS continuously withdraws and analyzes a sample of the stack gas and continuously measures the GHG concentration and flow rate of the total exhaust stack gas. The emissions are calculated from the CO₂ concentration and the flow rate of the stack gas. The proposed CEMS method requires both a continuous CO₂ concentration monitor and a continuous volumetric flow monitor. To qualify as a CEMS, the monitors would be required to be installed, operated, and calibrated according to subpart C (General Stationary Fuel Combustion Sources) of part 98 (40 CFR 98.33(a)(4)), which is consistent with CEMS requirements in other GHGRP subparts.

Proposed option for mass balance calculation. The proposed carbon mass balance method requires monitoring of mass quantities of carbonate-based raw material (e.g., clay) fed to the process, establishing the mass fraction of carbonate-based minerals in the raw material, and an emission factor based on the type of carbonate consumed.

The mass quantities of carbonate-based raw materials consumed by each ceramics process unit can be determined using direct weight measurement of plant instruments or techniques used for accounting purposes, such as calibrated scales, weigh hoppers, or weigh belt feeders. The direct weight measurement can then be compared to records of raw material purchases for the year.

For the carbon content of the materials used to calculate process CO₂ emissions, we are proposing that the owner or operator determine the carbon mass fraction either by using information provided by the raw

⁶⁷ IPCC Guidelines for National Greenhouse Gas Inventories, Volume 3, Industrial Processes and Product Use, Mineral Industry Emissions, 2006. https://www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/3_Volume3/V3_2_Ch2_Mineral_Industry.pdf.

material supplier, by collecting and sending representative samples of each carbonate-based material consumed to an offsite laboratory for a chemical analysis of the carbonate content (weight fraction), or by choosing to use the default value of 1.0. The use of 1.0 for the mass fraction assumes that the carbonate-based raw material comprises 100 percent of one carbonate-based mineral. Suitable chemical analysis methods include using an x-ray fluorescence standard method. The proposed rule would require the carbon content be analyzed at least annually using standard ASTM methods, including their QA/QC procedures.

The carbonate emission factors provided in proposed Table ZZ-1 to subpart ZZ of part 98 are based on stoichiometric ratios and represent the weighted average of the emission factors for each particular carbonate. These factors were pulled from Table N-1 to subpart N of part 98, and from Table 2.1 of the 2006 IPCC Guidelines.⁶⁸ Emission factors provided by the carbonate vendor for other minerals not listed in Table ZZ-1 may also be used.

For the ceramics manufacturing source category, we are proposing for QA/QC requirements that reporters calibrate all meters or monitors and maintain documentation of this calibration. These meters or monitors should be calibrated prior to the first reporting year, using a suitable method published by a consensus standards organization (e.g., ASTM, American Society of Mechanical Engineers (ASME), American Petroleum Institute (API), American Gas Association (AGA), etc.), or as specified by the meter/monitor manufacturer. These meters or monitors would be required to be recalibrated either annually or at the minimum frequency specified by the manufacturer.

In addition, any flow rate monitors used for direct measurement would be required to comply with QA procedures for daily calibration drift checks and quarterly or annual accuracy assessments, such as those provided in Appendix F to part 60 or similar QA procedures. We are proposing these requirements to ensure the quality of the reported GHG emissions and to be consistent with the current requirements for CEMS measurements within subparts A (General Provisions) and C of the GHGRP.

For measurements of carbonate content, reporters would assess representativeness of the carbonate content received from suppliers with laboratory analysis.

7. Selection of Proposed Procedures for Estimating Missing Data

The proposed rule would require the use of substitute data whenever a quality-assured value of a parameter is used to calculate emission is unavailable, or “missing.” For example, if the CEMS malfunctions during unit operation, the substitute data value would be the average of the quality-assured values of the parameter immediately before and immediately after the missing data period. For missing data on the amounts of carbonate-based raw materials consumed, we are proposing reporters must use the best available estimate based on all available process data or data used for accounting purposes, such as purchase records. For missing data on the mass fractions of carbonate-based minerals in the carbonate-based raw materials, reporters would assume that the mass fraction of each carbonate-based mineral is 1.0. The use of 1.0 for the mass fraction assumes that the carbonate-based raw material comprises 100 percent of one carbonate-based mineral. The likelihood for missing process input or output data is low, as business closely track their purchase of production inputs. Missing data procedures would be applicable for CEMS measurements, mass measurements of raw material, and carbon content measurements.

8. Selection of Proposed Data Reporting Requirements

We propose that each ceramics manufacturing facility report the annual CO₂ process emissions from each ceramics manufacturing process, as well as any stationary fuel combustion emissions. In addition, we propose that additional information that forms the basis of the emissions estimates also be reported so that we can understand and verify the reported emissions.

For ceramic manufacturers, the additional information would include: the total number of ceramics process units at the facility and the total number of units operating; annual production of each ceramics product for each process unit; the annual production capacity of each ceramics process unit; and the annual quantity of carbonate-based raw material charged for all ceramics process units combined.

For ceramic manufacturers with non-CEMS units, the proposed rules would also require reporting of the following information: the method used for the determination for each carbon-based mineral in each raw material; applicable test results used to verify the carbonate-based mineral mass fraction for each

carbonate-based raw material charged to a ceramics process unit, including the date of test and test methods used; and the number of times in the reporting year that missing data procedures were used.

9. Selection of Proposed Records That Must Be Retained

Maintaining records of information used to determine reported GHG emissions is necessary to allow the EPA to verify that GHG emissions monitoring and calculations were done correctly. The proposed rule would require facilities subject to subpart ZZ to maintain monthly records of the ceramics production rate for each ceramics process unit, and the monthly amount of each carbonate-based raw material charged to each ceramics process unit.

Additionally, if facilities use the carbon balance procedure, the proposed rule would require facilities to maintain monthly records of the carbonate-based mineral mass fraction for each mineral in each carbonate-based raw material. Facilities would also be required to maintain (1) records of the supplier-provided mineral mass fractions for all raw materials consumed annually, (2) results of all analyses used to verify the mineral mass fraction for each raw material (including the mass fraction of each sample, the date of test; test methods and method variations; and equipment calibration data, and identifying information for the laboratory conducting the test); and (3) annual operating hours for each unit. If facilities use the CEMS procedure, they would be required to maintain the CEMS measurement records.

Under the proposed rule, the procedures for ensuring accuracy of measurement methods, including calibration, must be recorded. The proposed rules would require records of how measurements are made including measurements of quantities of materials used or produced and the carbon content of minerals in raw materials.

The proposed rule would require the retention of a record of the file generated by the verification software specified in 40 CFR 98.5(b) including: annual average decimal mass fraction of each carbonate-based mineral per carbonate-based raw material for each ceramics process unit (percent by weight expressed as a decimal fraction); annual mass of each carbonate-based raw material charged to each ceramics process unit (tons); and the decimal fraction of calcination achieved for each carbonate-based raw material for each ceramics process unit (percent by weight expressed as a decimal fraction).

⁶⁸ *Id.*

V. Schedule for the Proposed Amendments

In the 2022 Data Quality Improvements Proposal, the EPA intended the proposed amendments to take effect starting January 1, 2023. We are now planning to consider the comments on the 2022 Data Quality Improvements Proposal and this supplemental proposal, which would delay the effective date of any final rule. If amendments from either the 2022 Data Quality Improvements Proposal or this supplemental proposal are finalized, we plan to respond to comments and publish any final rule(s) regarding both notices during 2024. We are proposing that the final amendments would become effective on January 1, 2025. Reporters would implement the changes beginning with reports prepared for RY2025 and submitted March 31, 2026, with one exception explained in this section below for existing reporters.

We are proposing this revised schedule because it would provide additional time for reporters to prepare to comply and simplify implementation. There are several source categories for which we have included proposed revisions in both the 2022 Data Quality Improvements Proposal and in this supplemental notification. We anticipate that it would be less burdensome for reporters in these source categories to have the proposed rule amendments go into effect in the same year instead of having the amendments go into effect separately across two different reporting years. This proposed revised schedule would also provide time for affected stakeholders to adapt to new monitoring requirements and purchase and install any necessary monitoring equipment. We intend to finalize this proposed rule early-2024 and have determined that it would be feasible for reporters to implement the proposed changes for RY2025.

For existing reporters, the proposed amendments largely update or clarify calculations, clarify provisions, or amend reporting requirements, but do not result in changes that require monitoring, sampling, or calibration of equipment. A number of proposed changes would amend the reporting requirements for individual sectors to require information that we anticipate would be readily available to facilities. For example, we are proposing revisions that would require facilities to report information regarding annual production capacity and operation hours (e.g., subpart F (Aluminum Production)), capacity of emission units

(e.g., subpart Y (Petroleum Refineries)) or to provide information regarding process inputs (e.g., subpart N (Glass Production)) or process types (e.g., subpart P (Hydrogen Production)). In these cases, we anticipate that facilities can easily identify and obtain capacity and process information, and we anticipate that facilities would have any additional inputs for calculations available in company records or could easily calculate the required input from existing process knowledge and engineering estimates, or from available company records. In other cases, we are proposing to require reporting of information that facilities have currently maintained as records for the purposes of part 98 (e.g., we are proposing that facilities submit CBP entry forms previously retained as records under subparts OO (Suppliers of Industrial Greenhouse Gases) and QQ (Importers and Exporters of Fluorinated GHGs Contained in Pre-charged Equipment and Closed-Cell Foams)), or information that is already maintained in keeping with existing facility data permits (e.g., hours of operation), or may be estimated using emission factors or engineering judgment. Therefore, for these types of changes, reporters would not need a significant amount of time in advance of the 2025 reporting year to collect the additional data. Existing reporters that are direct emitters that would be newly required to report energy consumption under proposed subpart B (Energy Consumption) would be able to implement the requirements for RY2025 because facilities would not be required to immediately install special equipment or conduct routine monitoring, but rather would be able to rely on billing statements for purchased energy products that would be readily available to facilities. For existing reporters subject to subpart HH (Municipal Solid Waste Landfills), we anticipate that facilities would be able to implement the proposed revisions to the monitoring and calculation methodologies for RY2025 because the proposed revisions apply to facilities that are already subject to landfills NSPS (40 CFR part 60, subpart WWW or XXX), state plans implementing landfills EG (40 CFR part 60, subparts Cc or Cf), or landfills Federal plans (40 CFR part 62, subpart GGG or OOO). Facilities are already required to conduct surface measurement monitoring per the requirements of the NSPS, EG, or Federal plans, and would only be required to use the existing measurement data to provide a count of the number of exceedances to adjust the reported methane emissions to account

for these exceedances. The proposed requirements also require facilities that are not subject to the landfill NSPS (40 CFR part 60, subpart WWW or XXX), EG (40 CFR part 60, subparts Cc or Cf), or Federal plans (40 CFR part 62, subpart GGG or OOO) to either use the proposed lower gas collection efficiency value or elect to monitor their landfill as specified in this proposal and use the currently existing gas collection efficiency values. Therefore, although we are proposing to add surface methane concentration monitoring methods at 40 CFR 98.344, this monitoring is optional to facilities that are not subject to the NSPS, EG, or Federal plans. As such, we anticipate that landfills would be able to incorporate these changes for their RY2025 reports with minimal changes to their existing monitoring and operations.

Some facilities that are not currently subject to the GHGRP would be brought into the program by proposed revisions that change what facilities must report under the rule. For example, we are proposing to revise subpart P (Hydrogen Production) to include non-merchant (captive) hydrogen production plants, as outlined in section III.G of this preamble, and proposing to collect data in several new source categories, including subparts WW (Coke Calciners), XX (Calcium Carbide Production), YY (Caprolactam, Glyoxal, and Glyoxylic Acid Production), and ZZ (Ceramics Production), as outlined in section IV of this preamble. The facilities affected by these proposed amendments would need to start implementing requirements, including any required monitoring and recordkeeping, on January 1, 2025, and prepare reports for RY2025 that must be submitted by March 31, 2026. Because we plan to promulgate any final rule(s) by early-2024, new reporters under these subparts should have sufficient time to implement the amendments, including installation or calibration of any necessary equipment, and be ready to collect data for reporting starting on January 1, 2025. We anticipate that new reporters that have not previously reported under part 98 would have over six months to comply with the monitoring methods for new emission sources in subparts P, WW, XX, YY, and ZZ, which would allow time for facilities to install necessary monitoring equipment and set up internal recordkeeping and reporting systems.⁶⁹

⁶⁹ Existing reporters with coke calciners located at petroleum refineries that currently report under subpart Y would continue to report under subpart

Some facilities that have not previously reported to the GHGRP may also become subject to the rule due to the proposed revisions to GWPs in Table A–1 to subpart A of part 98.⁷⁰ Reporters that become subject to a new subpart of part 98 due to the proposed revisions to Table A–1 to subpart A, per the existing requirements at 40 CFR 98.3(k), would not be required to submit an annual GHG report until the following reporting year. Therefore, these new reporters would also implement changes and begin monitoring and recordkeeping on January 1, 2025.

Per the existing regulations at 40 CFR 98.3(k), there is one exception to this proposed schedule. Specifically, in keeping with 40 CFR 98.3(k), the GWP amendments to Table A–1 to subpart A would apply to reports submitted by current reporters that are submitted in calendar year 2025 and subsequent years, *i.e.*, starting with reports submitted for RY2024 on March 31, 2025. The revisions to GWPs do not affect the data collection, monitoring, or calculation methodologies used by these existing reporters. The EPA’s e-GGRT generally automatically applies GWPs to a facility’s emissions as reported in metric tons. Therefore, existing facilities would not have to conduct any additional activities for the reports submitted for RY2024.

Finally, although we previously stated in the 2022 Data Quality Improvements Proposal that facilities that would report under proposed subpart VV (Geologic Sequestration of Carbon Dioxide With Enhanced Oil Recovery Using ISO 27916) would implement the requirements beginning in RY2023, we are now proposing that these reporters would begin to implement the proposed changes and begin reporting under subpart VV starting in RY2025. As we stated in the 2022 Data Quality Improvements Proposal, these facilities already report under part 98 and are likely to follow the calculation

⁷⁰ Y for RY2024, and would begin reporting under subpart WW with their RY2025 reports. The monitoring, calculation, reporting, and recordkeeping requirements for coke calciners under subpart WW do not substantially differ from the existing requirements for these units under subpart Y.

⁷⁰ Part 98 requires direct emitters and suppliers of GHGs to use the GWP values in Table A–1 to subpart A to calculate emissions (or supply) of GHGs in CO₂e. These values are used to determine whether the facility meets a CO₂e-based threshold and is required to report under part 98, as well as to calculate total facility emissions for the annual report. A change to the GWP for a GHG will change the calculated emissions (in CO₂e) of that gas. Therefore, the proposed amendments could affect the number of facilities required to report under part 98.

requirements and data gathering prescribed under CSA/ANSI ISO 27916:2019 to quantify storage for the Internal Revenue Code (IRC) section 45Q tax credit.⁷¹ The facilities that are likely to be subject to subpart VV are thus not anticipated to be new reporters and would not perform any additional calculation, monitoring, or quality assurance procedures under the proposed requirements; therefore, the information submitted to the GHGRP would be obtained and provided from readily available data and could be implemented beginning January 1, 2025. We request comment on the proposed schedule for existing and new reporters and the feasibility of implementing these requirements for the proposed schedule.

VI. Proposed Confidentiality Determinations for Certain Data Elements

A. Overview and Background

Part 98 requires reporting of numerous data elements to characterize, quantify, and verify GHG emissions and related information. Following proposal of part 98 (74 FR 16448, April 10, 2009), the EPA received comments addressing the issue of whether certain data could be entitled to confidential treatment. In response to these comments, the EPA stated in the preamble to the 2009 Final Rule (74 FR 56387, October 30, 2009) that through a notice and comment process, we would establish those data elements that are entitled to confidential treatment. This proposal is one of a series of rules dealing with confidentiality determinations for data reported under part 98. For more information on previous confidentiality determinations for part 98 data elements, see the following documents:

- 75 FR 39094, July 7, 2010. Describes the data categories and category-based determinations the EPA developed for the part 98 data elements.

- 76 FR 30782, May 26, 2011; hereafter referred to as the “2011 Final CBI Rule.” Assigned data elements to data categories and published the final CBI determinations for the data elements in 34 part 98 subparts, except for those data elements that were assigned to the “Inputs to Emission Equations” data category.

- 77 FR 48072, August 13, 2012. Finalized confidentiality determinations for data elements reported under nine subparts, except for those data elements that are “inputs to emission equations.” Also finalized confidentiality determinations for new data elements

added to subparts II (Industrial Wastewater Treatment) and TT (Industrial Waste Landfills) in the November 29, 2011 Technical Corrections document (76 FR 73886).

- 78 FR 68162; November 13, 2013. Finalized confidentiality determinations for new data elements added to subpart I (Electronics Manufacturing).

- 78 FR 69337, November 29, 2013. Finalized determinations for new and revised data elements in 15 subparts, except for those data elements assigned to the “Inputs to Emission Equations” data category.

- 79 FR 63750, October 24, 2014. Revised recordkeeping and reporting requirements for “inputs to emission equations” for 23 subparts and finalized confidentiality determinations for new data elements in 11 subparts.

- 79 FR 70352, November 25, 2014.

Finalized confidentiality determinations for new and substantially revised data elements in subpart W (Petroleum and Natural Gas Systems).

- 79 FR 73750, December 11, 2014.

Finalized confidentiality determinations for certain reporting requirements in subpart L (Fluorinated GHG Production).

- 80 FR 64262, October 22, 2015.

Finalized confidentiality determinations for new data elements in subpart W.

- 81 FR 86490, November 30, 2016.

Finalized confidentiality determinations for new or substantially revised data elements in subpart W.

- 81 FR 89188, December 9, 2016.

Finalized confidentiality determinations for new or substantially revised data elements in 18 subparts and for certain existing data elements in four subparts.

In the 2022 Data Quality Improvements Proposal, the EPA proposed confidentiality determinations for certain data elements in 26 subparts, including data elements newly added or substantially revised in the proposed amendments and existing data elements where the EPA had previously not established a determination or was proposing to revise or clarify a determination based on new information. In this supplemental proposal, the EPA is proposing additional amendments to part 98 that would complement, expand on, or refine the amendments proposed in the 2022 Data Quality Improvements Proposal or that would further enhance the quality of part 98 and implementation of the GHGRP. To support the proposed amendments described in sections III and IV of this preamble, we are also proposing confidentiality determinations or “emission data” designations for the following:

⁷¹ See 26 CFR 1.45Q–0 through 26 CFR 1.45Q–5.

- New or substantially revised reporting requirements (*i.e.*, the proposed change requires additional or different data to be reported); and
- Existing reporting requirements for which the EPA did not previously finalize a confidentiality determination or “emission data” designation.

Further, we propose to designate certain new or substantially revised data elements as “inputs to emission equations.” For each element that we

propose would fall in this category, we further propose whether the data element would be directly reported to the EPA or whether it would be entered into IVT (see section VI.C of this preamble for a discussion of “inputs to emission equations”).

Table 9 of this preamble provides the number of affected data elements and the affected subparts for each of these proposed actions. The majority of the

determinations would apply at the same time as the proposed schedule described in section V of this preamble. In the cases where the EPA is proposing a determination for an existing data element where one was not previously made, the proposed determinations would be effective on January 1, 2025, and would apply to annual reports submitted for RY2025, as well as all prior years that the data were collected.

TABLE 9—SUMMARY OF PROPOSED ACTIONS RELATED TO DATA CONFIDENTIALITY

Proposed actions related to data confidentiality	Number of data elements ^a	Subparts
New or substantially revised reporting requirements for which the EPA is proposing a confidentiality determination or “emission data” designation.	153	A, B, C, F, G, N, P, Y, HH, OO, PP, QQ, WW, XX, YY, ZZ.
Existing reporting requirements for which the EPA is proposing a confidentiality determination or “emission data” designation because the EPA did not previously make a confidentiality determination or “emission data” designation.	1	A.
New or substantially revised reporting requirements that the EPA is proposing be designated as “inputs to emission equations” and for which the EPA is proposing reporting determinations.	32	P, HH, WW, XX, YY, ZZ.

^a These data elements are individually listed in the memoranda: (1) Proposed Confidentiality Determinations and Emission Data Designations for Data Elements in Proposed Supplemental Revisions to the Greenhouse Gas Reporting Rule and (2) Proposed Reporting Determinations for Data Elements Assigned to the Inputs to Emission Equations Data Category in Proposed Supplemental Revisions to the Greenhouse Gas Reporting Rule, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

B. Proposed Confidentiality Determinations and Emissions Data Designations

1. Proposed Approach

The EPA is proposing to assess the data elements in this supplemental proposed rule in the same manner as the 2022 Data Quality Improvements Proposal. In that proposal, the EPA described a revised approach to assessing data in response to *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356 (2019) (hereafter referred to as *Argus Leader*).⁷²

First, we proposed that the *Argus Leader* decision does not affect our approach to designating data elements as “inputs to emission equations” or our previous approach for designating new and revised reporting requirements as “emission data.” We proposed to continue identifying new and revised reporting elements that qualify as “emission data” (*i.e.*, data necessary to determine the identity, amount, frequency, or concentration of the emission emitted by the reporting facilities) by evaluating the data for assignment to one of the four data categories designated by the 2011 Final CBI Rule to meet the CAA definition of “emission data” in 40 CFR

2.301(a)(2)(i)⁷³ (hereafter referred to as “emission data categories”). Refer to section II.B of the July 7, 2010 proposal for descriptions of each of these data categories and the EPA’s rationale for designating each data category as “emission data.” For data elements designated as “inputs to emission equations,” the EPA maintained the two subcategories, data elements entered into e-GGRT’s Inputs Verification Tool (IVT) and those directly reported to the EPA. Refer to section VI.C of the preamble of the 2022 Data Quality Improvements Proposal for further discussion of “inputs to emission equations.”

Then in the 2022 Data Quality Improvements Proposal, for new or revised data elements that the EPA did not propose to designate as “emission

data” or “inputs to emission equations,” the EPA proposed a revised approach for assessing data confidentiality. We proposed to assess each individual reporting element according to the new *Argus Leader* standard. So, we evaluated each data element individually to determine whether the information is customarily and actually treated as private by the reporter and proposed a confidentiality determination based on that evaluation.

2. Proposed Confidentiality Determinations and “Emission Data” Designations

In this section, we discuss the proposed confidentiality determinations and “emission data” designations for 153 new or substantially revised data elements. We also discuss one existing data element (*i.e.*, not proposed to be substantially revised) for which no determination has been previously established.

a. Proposed Confidentiality Determinations and “Emission Data” Designations for New or Substantially Revised Data Reporting Elements

For the 153 new and substantially revised data elements, the EPA is proposing “emission data” designations for 38 data elements and confidentiality determinations for 115 data elements. The EPA is proposing to designate 38 new or substantially revised data

⁷² Available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

⁷³ See section I.C of the July 7, 2010 proposal (75 FR 39100) for a discussion of the definition of “emission data.” As discussed therein, the relevant paragraphs (to the GHGRP) of the CAA definition of “emission data” include 40 CFR 2.301(a)(2)(i)(A) and (C), as follows: (A) “Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;” and (C) “A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).”

elements as “emission data” by assigning the data elements to four emission data categories (established in the 2011 Final CBI Rule as discussed in section VI.B.1 of this preamble), as follows:

- 16 data elements that are proposed to be reported under subparts C, P, WW, XX, YY, and ZZ are proposed to be assigned to the “Emissions” emission data category;
- 10 data elements that are proposed to be reported under subparts P, HH, WW, XX, and YY are proposed to be assigned to the “Facility and Unit Identifier Information” emission data category;
- Four data elements that are proposed to be reported under subparts P, HH, WW, and XX are proposed to be assigned to the “Calculation Methodology and Methodological Tier” emission data category; and
- Eight data elements that are proposed to be reported under subparts N, XX, YY, and ZZ are proposed to be assigned to the “Data Elements Reported for Periods of Missing Data that are Not Inputs to Emission Equations” emission category.

Refer to Table 1 in the memorandum, *Proposed Confidentiality Determinations and Emission Data Designations for Data Elements in Proposed Supplemental Revisions to the Greenhouse Gas Reporting Rule*, available in the docket for this rulemaking (Docket Id. No. EPA–HQ–OAR–2019–0424), for a list of these 38 data elements proposed to be designated as “emission data,” the proposed emission data category assignment for each data element, and the EPA’s rationale for each proposed “emission data” category assignment.

The remaining 115 new and substantially revised data elements not proposed to be designated as “emission data,” or “inputs to emission equations,” are proposed to be reported under subparts A, B, C, F, G, N, P, Y, HH, OO, PP, QQ, WW, XX, YY, and ZZ. This proposal assesses each individual reporting element according to the *Argus Leader* criteria as discussed in section VI.B.1 of this preamble. Refer to Table 2 in the memorandum, *Proposed Confidentiality Determinations and Emission Data Designations for Data Elements in Proposed Revisions to the Greenhouse Gas Reporting Rule*, to see a list of these 115 specific data elements, the proposed confidentiality determination for each data element, and the EPA’s rationale for each proposed confidentiality determination. These determinations show the data elements that the EPA would hold as

confidential and those that the EPA would publish.

b. Proposed Confidentiality Determinations for Existing Part 98 Data Elements for Which No Determination Has Been Previously Established

We are proposing to make a confidentiality determination for one existing data element in subpart A for which no confidentiality determination has been previously established under part 98. Review of previous rules revealed one instance where a confidentiality determination had been made for a previous version of a data element, but not for the current version of that data element. This data element (40 CFR 98.3(c)(5)(i)) is the total quantity of GHG aggregated for all GHG from all applicable supply categories in Table A–5 (in mtCO₂e). When part 98 was first promulgated, 40 CFR 98.3(c)(5)(i) referred explicitly to individual supplier categories rather than to Table A–5. Consequently, when a confidentiality determination for 40 CFR 98.3(c)(5)(i) was finalized in the May 26, 2011 final rule (76 FR 30782), the determination referred explicitly to the supply categories that existed when the confidentiality determination was proposed in July 2010, which included subparts LL through PP. On December 1, 2010, the EPA finalized subpart QQ and added it to Table A–5, but the EPA never updated the confidentiality determination for 40 CFR 98.3(c)(5)(i) to clearly include importers and exporters reporting under subpart QQ. To update the determination for this data element, the EPA is now proposing to extend the existing determination to include suppliers under QQ. In particular, the EPA is proposing that this data element would not be eligible for confidential treatment except in cases where a single product is supplied, and the amount of that single product supplied has been determined to be eligible for confidential treatment. Refer to Table 3 in the memorandum, *Proposed Confidentiality Determinations and Emission Data Designations for Data Elements in Proposed Supplemental Revisions to the Greenhouse Gas Reporting Rule*, available in the docket for this rulemaking (Docket Id. No. EPA–HQ–OAR–2019–0424), for details of the data element receiving a determination, the proposed confidentiality determination, and the Agency’s rationale for the proposed determinations.

c. Proposed Reporting Determinations for Inputs to Emission Equations

In this section, we discuss data elements that EPA proposes to assign to

the “Inputs to Emission Equations” data category. This data category includes data elements that are the inputs to the emission equations used by sources that directly emit GHGs to calculate their annual GHG emissions.⁷⁴ As discussed in section VI.B.1 of the 2022 Data Quality Improvements Proposal, the EPA determined that the *Argus Leader* decision does not affect our approach for handling of data elements assigned to the “Inputs to Emission Equations” data category.

The EPA organizes data assigned to the “Inputs to Emission Equations” data category into two subcategories. The first subcategory includes “inputs to emission equations” that must be directly reported to the EPA. This is done in circumstances where the EPA has determined that the data elements do not meet the criteria necessary for them to be entered into the IVT system. These “inputs to emission equations,” once received by the EPA, are not held as confidential. The second subcategory includes “inputs to emission equations” that are entered into IVT. These “inputs to emission equations” are entered into IVT to satisfy the EPA’s verification requirements. These data must be maintained as verification software records by the submitter, but the data are not included in the annual report that is submitted to the EPA. This is done in circumstances where the EPA has determined that the data elements meet the criteria necessary for them to be entered into the IVT system. Refer to the memorandum, *Proposed Reporting Determinations for Data Elements Assigned to the Inputs to Emission Equations Data Category in Proposed Supplemental Revisions to the Greenhouse Gas Reporting Rule*, available in the docket for this rulemaking (Docket Id. No. EPA–HQ–OAR–2019–0424), for a discussion of the criteria that we established in 2011 for evaluating whether data assigned to the “Inputs to Emission Equations” data category should be entered into the IVT system.

We are proposing to assign 32 new or substantially revised data elements in subparts HH, WW, XX, YY, and ZZ to the “Inputs to Emission Equations” data category. We evaluated each of the 32 proposed new or substantially revised

⁷⁴ For facilities that directly emit GHGs, part 98 includes equations that facilities use to calculate emission values. The “Inputs to Emission Equations” data category includes the data elements that facilities would be required to enter in the equations to calculate the facility emissions values, e.g., monthly consumption or production data or measured values from required monitoring, such as carbon content. See 75 FR 39094, July 7, 2010 for a full description of the “Inputs to Emission Equations” data category.

data elements assigned to the “Inputs to Emission Equations” data category and determined that 13 of these 32 data elements do not meet the criteria necessary for them to be entered into the IVT system; therefore, we propose that these 13 data elements be directly reported to the EPA. As “inputs to emission equations” are emissions data, these 13 data elements would not be eligible for confidential treatment once directly reported to the EPA, and they would be published once received by the EPA. Refer to Table 1 in the memorandum, *Proposed Reporting Determinations for Data Elements Assigned to the Inputs to Emission Equations Data Category in Proposed Supplemental Revisions to the Greenhouse Gas Reporting Rule*, available in the docket for this rulemaking (Docket Id. No. EPA–HQ–OAR–2019–0424), for a list of these 13 data elements proposed to be designated as “inputs to emission equations” that would be directly reported to the EPA and the EPA’s rationale for the proposed reporting determinations.

For the remaining 19 proposed new data elements in subparts WW, XX, YY, and ZZ of the 32 data elements assigned to the “Inputs to Emission Equations” data category and evaluated based on the criteria discussed earlier in this section VI.C, we determined that all 19 data elements meet the criteria necessary for them to be entered into the IVT system. These 19 data elements include information such as quantities of materials produced and quantities of raw materials consumed. As documented in previous rules (refer to the list of rules specified in section VI.A of this preamble), the EPA has generally determined that these types of data meet the criteria necessary for them to be entered into the IVT system (except in cases where the information is already publicly available). Therefore, these 19 data elements in subparts WW, XX, YY, and ZZ are not proposed to be directly reported to the EPA (*i.e.*, the EPA is not proposing to include these data elements as reporting requirements), but instead these 19 data elements would be entered into the IVT and maintained as verification software records by the submitter. A list of these data elements is included in Table 2 of the memorandum, *Proposed Reporting Determinations for Data Elements Assigned to the Inputs to Emission Equations Data Category in Proposed Supplemental Revisions to the Greenhouse Gas Reporting Rule*, available in the docket for this rulemaking (Docket Id. No. EPA–HQ–OAR–2019–0424). Refer to section IV of

this preamble for discussion of all proposed recordkeeping requirements of subparts WW, XX, YY, and ZZ.

D. Request for Comments on Proposed Category Assignments, Confidentiality Determinations, or Reporting Determinations

By proposing confidentiality determinations prior to data reporting through this proposal and rulemaking process, we are providing potential reporters an opportunity to submit comments, particularly comments identifying data elements proposed by the Agency to be “not CBI” that reporters consider to be customarily and actually treated as private. Likewise, we provide potential reporters an opportunity to submit comments on whether there are disclosure concerns for data elements proposed to be categorized as “inputs to emission equations” that we propose would be directly reported to the EPA via annual reports and subsequently released by the EPA. This opportunity to submit comments is intended to provide reporters with the opportunity that is afforded to reporters when the EPA considers claims for confidential treatment of information in case-by-case confidentiality determinations under 40 CFR part 2. In addition, the comment period provides an opportunity to respond to the EPA’s proposed determinations with more information for the Agency to consider prior to finalization. We will evaluate the comments on our proposed determinations, including claims of confidentiality and information substantiating such claims, before finalizing the confidentiality determinations. Please note that this will be reporters’ only opportunity to substantiate a confidentiality claim for data elements included in this proposed rule where a confidentiality determination or reporting determination is being proposed. Upon finalizing the confidentiality determinations and reporting determinations of the data elements identified in this proposed rule, the EPA will release or withhold these data in accordance with 40 CFR 2.301(d), which contains special provisions governing the treatment of part 98 data for which confidentiality determinations have been made through rulemaking pursuant to CAA sections 114 and 307(d).

If members of the public have reason to believe any data elements in this proposed rule that are proposed to be treated as confidential are not customarily and actually treated as private by reporters, please provide

comment explaining why the Agency should not provide an assurance of confidential treatment for data. Likewise, if members of the public have reason to disagree with the EPA’s proposal that “inputs to emission equations” qualify to be entered into IVT and retained as verification software records instead of being directly reported to the EPA, please provide comment explaining why the “inputs to emission equations” do not qualify to be entered into IVT, should be directly reported to the EPA, and subsequently released by the EPA.

When submitting comments regarding the confidentiality determinations or reporting determinations we are proposing in this action, please identify each individual proposed new, revised, or existing data element you consider to be confidential or do not consider to be “emission data” in your comments. If the data element has been designated as “emission data,” please explain why you do not believe the information should be considered “emission data” as defined in 40 CFR 2.301(a)(2)(i). If the data has not been designated as “emission data” and is proposed to be not entitled to confidential treatment, please explain specifically how the data element is commercial or financial information that is both customarily and actually treated as private. Particularly describe the measures currently taken to keep the data confidential and how that information has been customarily treated by your company and/or business sector in the past. This explanation is based on the requirements for confidential treatment set forth in *Argus Leader*. If the data element has been designated as an “input to an emission equation” (*i.e.*, not entitled to confidential treatment) and proposed to be directly reported to the EPA via annual reports and subsequently released by the EPA, please explain specifically why there are disclosure concerns. Likewise, if the data element has been designated as an “input to an emission equation” that we propose would not be directly reported to the EPA, but instead entered into IVT and retained as verification software records, please explain specifically why there are not disclosure concerns.

Please also discuss how this data element may be different from or similar to data that are already publicly available, including data already collected and published annually by the GHGRP, as applicable. Please submit information identifying any publicly available sources of information containing the specific data elements in question. Data that are already available through other sources would likely be

found not to qualify for confidential treatment. In your comments, please identify the manner and location in which each specific data element you identify is publicly available, including a citation. If the data are physically published, such as in a book, industry trade publication, or Federal agency publication, provide the title, volume number (if applicable), author(s), publisher, publication date, and International Standard Book Number (ISBN) or other identifier. For data published on a website, provide the address of the website, the date you last visited the website and identify the website publisher and content author. Please avoid conclusory and unsubstantiated statements, or general assertions regarding the confidential nature of the information.

Finally, we are not proposing new confidentiality determinations and reporting determinations for data reporting elements proposed to be unchanged or minimally revised because the final confidentiality determinations and reporting determinations that the EPA made in previous rules for these unchanged or minimally revised data elements are unaffected by this proposed amendment and will continue to apply. The minimally revised data elements are those where we are proposing revisions that would not require additional or different data to be reported. For example, under subpart P (Hydrogen Production), we are proposing to revise the data element at 40 CFR 98.166(b)(3)(i) “annual quantity of hydrogen produced (metric tons)” to read “annual quantity of hydrogen produced by reforming, gasification, oxidation, reaction, or other transformation of feedstock (metric tons)” to clarify the reporting requirement by harmonizing the data element description with the definition of the source category in 40 CFR 98.160(b). This proposed change would not affect the data collected, and therefore we are not proposing a new or revised confidentiality determination. However, we are soliciting comment on any cases where a minor revision would affect the previous confidentiality determination or reporting determination. In your comments, please identify the specific data element, including name and citation, and explain why the minor revision

would affect the previous confidentiality determination or reporting determination.

VII. Impacts of the Proposed Amendments

The EPA is proposing amendments to part 98 where we have identified revisions that would complement, expand on, or refine the amendments proposed in the 2022 Data Quality Improvements Proposal as well as additional amendments that we have determined would further enhance the quality of part 98. The proposed revisions include revisions to the global warming potentials in Table A–1 to subpart A of part 98, revisions to establish requirements for new source categories and expanding reporting for new emission sources for specific sectors, updates to existing emissions estimation methodologies, and revisions to collect data that would improve the EPA’s understanding of the sector-specific processes or other factors that influence GHG emission rates, verification of collected data, or to complement or inform other EPA programs under the CAA. We anticipate that the proposed revisions would result in an overall increase in burden to reporters.

The primary costs associated with the rule include initial labor and non-labor costs for reporters that are newly subject to part 98 to come into compliance with the rule. The proposed revisions to Table A–1 to subpart A to part 98 are estimated to result in a change to the number of reporters under subparts V, W, DD, HH, II, OO, and TT (*i.e.*, where a change to GWPs would affect reporters that are currently at or close to the 25,000 mtCO₂e threshold, or that would affect a reporter’s ability to off-ramp from part 98 reporting as determined under 40 CFR 98.2(i)). Additional revisions to the applicability of subparts P, Y, and the proposed addition of new source categories for energy consumption; coke calcining; calcium carbide; caprolactam, glyoxal, and glyoxylic acid production; and ceramics manufacturing are also anticipated to change the number of reporters reporting under current subparts of part 98 or that are newly subject to reporting under part 98. We also estimated costs where we are proposing to add or revise monitoring and calculation methods that would require additional data to be

collected or estimated, and where reporters would be required to submit additional data that we anticipate could be obtained from existing company records or are readily available or estimated from other data currently gathered under part 98. Where we included proposed revisions for a source category in both the 2022 Data Quality Improvements Proposal and in this supplemental notification, the costs for this supplemental proposal were adjusted to account for revisions from the 2022 Data Quality Improvements Proposal.

As discussed in section V of this preamble, we are proposing to implement these changes for existing and new reporters on January 1, 2025, to apply to RY2025 reports.⁷⁵ Costs have been estimated over the three years following the year of implementation. The incremental implementation labor costs for all subparts include \$11,748,619 in RY2025, and \$7,644,140 in each subsequent year (RY2026 and RY2027). The incremental implementation labor costs over the next three years (RY2025 through RY2027) total \$27,076,898. There is an additional incremental burden of \$3,223,041 for capital and operation and maintenance (O&M) costs in RY2025 and \$3,225,282 in each subsequent year (RY2026 and RY2027), which reflects changes to applicability and monitoring for subparts P, W, V, Y, DD, HH, II, OO, and TT and new subparts B, WW, XX, YY, and ZZ. The incremental non-labor costs for RY2025 through RY2027 total \$9,673,605.

The incremental burden for the proposed supplemental revisions is summarized by subpart for initial and subsequent years in Table 10 of this preamble. Note that subparts I, RR, UU, and VV include proposed revisions that are clarifications that would not result in any changes to burden (beyond those previously estimated in the 2022 Data Quality Improvements Proposal) and are not included in Table 10.

⁷⁵ As discussed in section V of this preamble, for existing reporters, per the current regulations at 40 CFR 98.3(k), the proposed amendments to the GWPs in Table A–1 to subpart A would apply to reports submitted for RY2024 on March 31, 2025. However, there are no costs associated with implementing GWPs for RY2024 reports because the proposed revisions would not affect the data collection, monitoring, or calculation methodologies used by existing reporters.

TABLE 10—ANNUAL INCREMENTAL BURDEN BY SUBPART
[\$2021]

Subpart	Number of affected facilities	Labor costs		Capital and O&M
		Initial year RY2025	Subsequent year RY2026–27	
A—General Provisions ^a	7,840	\$64,133	\$64,133	\$—
B—Energy Consumption ^a	7,840	8,771,243	4,700,877	489,050
C—General Stationary Fuel Combustion Sources	346	9,906	9,906	.....
F—Aluminum Production	7	57	57	.....
G—Ammonia Manufacturing	29	119	119	.....
N—Glass Production	100	1,227	1,227	.....
P—Hydrogen Production ^b	118	7,179	7,179	4,481
V—Nitric Acid Production ^{c,d}	1	(2,680)	(2,680)	(11,085)
W—Petroleum and Natural Gas Systems ^e	188	2,620,418	2,620,418	2,717,864
Y—Petroleum Refineries ^{b,f}	6	(6,881)	(6,881)	(3,930)
AA—Pulp and Paper Manufacturing	1	104	104	.....
DD—Electrical Transmission ^c	2	6,200	6,200	3,119
HH—Municipal Solid Waste Landfills	1,126	130,188	127,330	374
II—Industrial Wastewater Treatment ^c	2	5,288	4,713	3,077
OO—Suppliers of Industrial Greenhouse Gases	105	6,680	6,680	62
PP—Suppliers of Carbon Dioxide	11	135	135	.....
QQ—Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-Charged Equipment or Closed-Cell Foams	33	384	384	.....
TT—Industrial Waste Landfills ^c	1	4,853	3,934	62
WW—Coke Calciners ^b	15	37,847	34,525	19,649
XX—Calcium Carbide ^b Production	1	2,849	2,627	62
YY—Caprolactam, Glyoxal, and Glyoxylic Acid Production ^b	6	12,285	11,089	374
ZZ—Ceramics Production ^b	34	77,083	72,062	2,121
Total	.....	11,748,619	7,664,140	3,225,282

^a Applies to existing direct emitters under subpart B and new reporters anticipated under subparts W, DD, HH, II, OO, TT, WW, XX, YY, and ZZ.

^b Applies to reporters that may currently report under existing subparts of part 98 and that are newly subject to reporting under part 98.

^c Applies to reporters estimated to be affected due to revisions to Table A–1 to subpart A only.

^d Reflects changes to the number of reporters able to off-ramp from reporting under the part 98 source category.

^e For Subpart W, the revisions to Table A–1 included in this supplemental proposal and the revisions included in the 2022 Data Quality Improvements Proposal would increase the number of facilities subject to the requirements of the GHGRP. Some facilities would become subject to the requirements of the GHGRP due to either of these proposed changes. The EPA anticipates issuing a separate proposed rulemaking to implement certain provisions of the Methane Emissions and Waste Reduction Incentive Program that would propose further revisions to the requirements of Subpart W and which could also change the number of facilities subject to this subpart.⁷⁶ The estimate included here for Subpart W in this supplemental proposal conservatively includes all facilities that would become subject to the GHGRP due to the proposed changes to Table A–1 included in this supplemental proposal compared to the existing requirements of the GHGRP and does not consider revisions proposed under the 2022 Data Quality Improvement Proposal.

^f Reflects changes to the number of reporters with coke calciners reporting under subpart Y that would be required to report under proposed subpart WW.

Additional information regarding the costs impacts of the proposed amendments may be found in the memorandum, *Assessment of Burden Impacts for Proposed Supplemental Notice of Revisions for the Greenhouse Gas Reporting Rule*, available in the docket for this rulemaking (Docket Id. No. EPA–HQ–OAR–2019–0424).

VIII. Statutory and Executive Order Reviews

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

This action is a significant regulatory action that was submitted to OMB for

⁷⁶ See the entry for RIN 060–AV83 in the Fall 2022 Regulatory Agenda at: <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202210&RIN=2060-AV83>.

review. Any changes made in response to reviewer recommendations have been documented in the docket for this rulemaking (Docket Id. No. EPA–HQ–OAR–2019–0424).

B. Paperwork Reduction Act (PRA)

The information collection requirements in this supplemental proposal have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared for this supplemental proposal has been assigned OMB No. 2060–NEW (EPA ICR number 2773.01). You can find a copy of the ICR in the docket for this rulemaking (Docket Id. No. EPA–HQ–OAR–2019–0424), and it is briefly summarized here.

The EPA has estimated that the supplemental proposal would result in an increase in burden. The burden

associated with the proposed rule is primarily due to revisions to applicability, including revisions to the global warming potentials in Table A–1 to subpart A of part 98 that would change the number of reporters currently at or near the 25,000 mtCO₂e threshold; revisions to establish requirements for new source categories for energy consumption, coke calcining, calcium carbide, caprolactam, glyoxal, and glyoxylic acid production, and ceramics manufacturing; and revisions to expand reporting to include new emission sources for specific sectors, such as the addition of captive (non-merchant) hydrogen production facilities. The proposed revisions would affect approximately 253 new reporters across 13 source categories, including the hydrogen production, oil and gas, petroleum refineries, electrical transmission and distribution, industrial

wastewater, municipal solid waste landfill, fluorinated GHG supplier, and industrial landfill source categories. Additionally, there is burden associated with the proposed revisions to existing monitoring or emissions estimation methodologies, such as the additional time required to conduct engineering calculations or incorporate additional data (e.g., under subpart HH, we are proposing that reporters adjust emissions by including count and surface measurement methane concentration data gathered under other regulatory standards). Finally, there is burden associated with proposed revisions to collect additional facility production or input data that would improve the EPA's understanding of the sector-specific processes or other factors that influence GHG emission rates, verification of collected data, or to complement or inform other EPA programs under the CAA.

The estimated annual average burden is 114,678 hours and \$12,250,168 over the 3 years covered by this information collection, including \$3,224,535 in non-labor costs. The labor burden costs include \$11,748,619 from revisions implemented in the first year (RY2025), and \$7,664,140 per year from revisions implemented in each subsequent year (RY2026 and RY2027). The incremental labor burden over the next three years (RY2025 through RY2027) totals 344,034 hours, \$27,076,898 in labor costs, and \$9,673,605 in capital and O&M costs. Further information on the EPA's assessment on the impact on burden can be found in the memorandum, *Assessment of Burden Impacts for Proposed Revisions for the Greenhouse Gas Reporting Rule*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424).

Respondents/affected entities:

Owners and operators of facilities that must report their GHG emissions and other data to the EPA to comply with 40 CFR part 98.

Respondent's obligation to respond:

The respondent's obligation to respond is mandatory and the requirements in this rule are under the authority provided in CAA section 114.

Estimated number of respondents:

7,990 (affected by proposed amendments).

Frequency of response: Initially, annually.

Total estimated burden: 114,678 hours (annual average per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$12,250,168 (annual average), includes \$3,224,535 annualized capital or operation & maintenance costs.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. The EPA will respond to any ICR-related comments in the final rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs using the interface at www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function. OMB must receive comments no later than July 21, 2023.

C. Regulatory Flexibility Act (RFA)

I certify that this supplemental proposal would not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small businesses across all sectors encompassed by the rule, small governmental jurisdictions, and small non-profits. In the development of 40 CFR part 98, the EPA determined that some small entities are affected because their production processes emit GHGs that must be reported, because they have stationary combustion units on site that emit GHGs that must be reported, or because they have fuel supplier operations for which supply quantities and GHG data must be reported. Small Governments and small non-profits are generally affected because they have regulated landfills or stationary combustion units on site, or because they own a local distribution company (LDC).

In the promulgation of the 2009 rule, the EPA took several steps to reduce the impact on small entities. For example, the EPA determined appropriate thresholds that reduced the number of small entities reporting (e.g., the 25,000 mtCO₂e threshold used to determine applicability under 40 CFR 98.2(a)(2)). In addition, the EPA conducted meetings with industry associations to discuss regulatory options and the corresponding burden on industry, such as recordkeeping and reporting. This supplemental proposal includes amendments that would improve the existing emissions estimation methodologies; implement requirements

to collect additional data to understand new source categories or emissions sources; and improve the EPA's understanding of the sector-specific processes or other factors that influence GHG emission rates and improve verification of collected data; and more broadly inform climate programs and policies. For existing reporters, these changes are improvements or clarifications of requirements that do not require new monitoring and would not significantly increase reporter burden, or are changes that require data that is readily available and may be obtained from company records or estimated from existing inputs or data elements already collected under part 98. Further, the proposed revisions in this supplemental notification would not revise the 25,000 mtCO₂e threshold or other subpart thresholds, therefore, we do not expect a significant number of small entities would be newly impacted under this supplemental proposal.

Although the EPA continues to maintain thresholds that reduce the number of small entities reporting, we evaluated the impacts of the proposed revisions where we identified small entities could potentially be affected and considered whether additional measures to minimize impacts were needed. The EPA conducted a small entity analysis that assessed the costs and impacts to small entities in three areas, including: (1) amendments that revise the number or types of facilities required to report (i.e., updates of the GHGRP's applicability to certain sources), (2) changes to refine existing monitoring or calculation methodologies, and (3) revisions to reporting and recordkeeping requirements for data provided to the program. The analysis provides the subparts affected, the number of small entities affected, and the estimated impact to these entities based on the total annualized reporting costs of the proposed rule. Details of this analysis are presented in the memorandum, *Assessment of Burden Impacts for Proposed Supplemental Revisions for the Greenhouse Gas Reporting Rule*, available in the docket for this rulemaking (Docket Id. No. EPA-HQ-OAR-2019-0424). Based on the results of this analysis, we concluded that this proposed action will have no significant regulatory burden for any directly regulated small entities and thus that this proposed action would not have a significant economic impact on a substantial number of small entities. The EPA continues to conduct significant outreach on the GHGRP and

maintains an “open door” policy for stakeholders to help inform the EPA’s understanding of key issues for the industries. We continue to be interested in the potential impacts of the proposed rule amendments on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act (UMRA)

This supplemental proposal 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.

E. Executive Order 13132: Federalism

This supplemental proposal 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 supplemental proposal has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized Tribal Governments, nor preempt tribal law. The supplemental proposal would only have tribal implications where the tribal entity owns a facility that directly emits GHGs above threshold levels; therefore, relatively few (six) tribal entities would be affected. This regulation is not anticipated to affect facilities or suppliers of additional sectors owned by Tribal Governments.

In evaluating the potential implications for tribal entities, we first assessed whether tribes would be affected by any proposed revisions that expanded the universe of facilities that would report GHG data to the EPA. The proposed rule amendments would implement requirements to collect additional data to understand new source categories or new emission sources for specific sectors; improve the existing emissions estimation methodologies; and improve the EPA’s understanding of the sector-specific processes or other factors that influence GHG emission rates and improve verification of collected data. Of the 133 facilities that we anticipate would be newly required to report under the proposed revisions, we do not anticipate that there are any tribally owned facilities. As discussed in section VII of this preamble, we expect the proposed revisions to Table A–1 to part 98 to

result in a change to the number of facilities required to report under subparts W (Petroleum and Natural Gas Systems), V (Nitric Acid Production), DD (Electrical Transmission and Distribution Equipment Use), HH (MSW Landfills), II (Industrial Wastewater Treatment), OO (Suppliers of Industrial GHGs), and TT (Industrial Waste Landfills). However, we did not identify any potential sources in these source categories that are owned by tribal entities not already reporting to the GHGRP. Similarly, although we are proposing amendments that would require that some facilities not currently subject to the GHGRP begin reporting and implementing requirements under the program for select new source categories, as discussed in section IV of this preamble, we have not identified, and do not anticipate, any such affected facilities in the proposed source categories that are owned by Tribal Governments.

As a second step to evaluate potential tribal implications, we evaluated whether there were any tribally owned facilities that are currently reporting under the GHGRP that would be affected by the proposed revisions. Tribally owned facilities currently subject to part 98 would only be subject to proposed changes that do not significantly change the existing requirements or result in substantial new activities because they do not require new equipment, sampling, or monitoring. Rather, tribally owned facilities would only be subject to new requirements where reporters would provide data that is readily available from company records. As such, the proposed revisions would not substantially increase reporter burden, impose significant direct compliance costs for tribal facilities, or preempt tribal law. Specifically, we identified ten facilities currently reporting to part 98 that are owned by six tribal parent companies. For these six parent companies, we identified facilities in the stationary fuel combustion (subpart C), petroleum and natural gas (subpart W), and MSW landfill (subpart HH) source categories that may be affected by the proposed revisions. These facilities would be affected by the proposed revisions to subparts C and HH and the proposed addition of reporting requirements under subpart B (Energy Consumption). For these six parent companies, we reviewed publicly available sales and revenue data to determine whether the parent company was a small entity and to assess whether the costs of the proposed rule would be significant. Based on our review, we

located sales and revenue data for three of the six parent companies (currently reporting under subparts C, W, and HH) and were able to confirm that the costs of the proposed revisions, including reporting of energy consumption data under proposed subpart B, would reflect less than one half of one percent of company revenue for these sources. The remaining three parent companies include facilities that report under subparts C and HH, and that would be required to report under new subpart B. Under the proposed rule, the costs for facilities currently reporting under subparts C or HH would be anticipated to increase by less than \$100 per year per subpart. For subpart C, this would include costs related to revisions to report whether the facility has an electricity generating unit and the fraction of reported emissions attributable to electricity generation under subparts, which we do not anticipate would apply to tribal facilities. For subpart HH, this includes time to report additional information for landfills with gas collection systems and destruction devices, as well as additional time to adjust estimated methane emissions based on methane surface monitoring measurements or to use a default lower gas collection efficiency value. Under proposed subpart B, facilities would be anticipated to incur costs of up to \$1,189 in the first year (for planning and implementation of a Metered Energy Monitoring Plan and associated reporting and recordkeeping) and \$670 in subsequent years (for update of the Plan and associated reporting and recordkeeping). Based on our review of similar tribally owned facilities and small entity analysis (discussed in VIII.C of this preamble), we do not anticipate the proposed revisions to subparts B, C, or HH would impose substantial direct compliance costs on the remaining tribally owned entities.

Further, although few facilities subject to part 98 are likely to be owned by Tribal Governments, the EPA previously sought opportunities to provide information to Tribal Governments and representatives during the development of the proposed and final rules for part 98 subparts that were promulgated on October 30, 2009 (74 FR 52620), July 12, 2010 (75 FR 39736), November 30, 2010 (75 FR 74458), and December 1, 2010 (75 FR 74774 and 75 FR 75076). Consistent with the 2011 EPA Policy on Consultation and Coordination with Indian Tribes,⁷⁷ the

⁷⁷ EPA Policy on Consultation and Coordination with Indian Tribes, May 4, 2011. Available at:

EPA previously consulted with tribal officials early in the process of developing part 98 regulations to permit them to have meaningful and timely input into its development and to provide input on the key regulatory requirements established for these facilities. A summary of these consultations is provided in section VIII.F of the preamble to the final rule published on October 30, 2009 (74 FR 52620), section V.F of the preamble to the final rule published on July 12, 2010 (75 FR 39736), section IV.F of the preamble to the re-proposal of subpart W (Petroleum and Natural Gas Systems) published on April 12, 2010 (75 FR 18608), section IV.F of the preambles to the final rules published on December 1, 2010 (75 FR 74774 and 75 FR 75076). As described in this section, the proposed rule does not significantly revise the established regulatory requirements and would not substantially change the equipment, monitoring, or reporting activities conducted by these facilities, or result in other substantial impacts for tribal facilities.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental 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 supplemental proposal is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not a “significant energy action” because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The proposed amendments would implement requirements to collect additional data to understand new source categories or new emission sources for specific sectors; improve the EPA’s understanding of factors that influence GHG emission rates; improve the existing emissions estimation methodologies; improve verification of collected data; and provide additional data to complement or inform other EPA

programs. We are also proposing revisions that clarify or update provisions that have been unclear. In general, these changes would not substantially impact the supply, distribution, or use of energy. The EPA is proposing to require reporting of metered energy consumption from direct emitter facilities that currently report under part 98 in order to gain an improved understanding of the energy intensity (*i.e.*, the amount of energy required to produce a given level of product or activity) of specific facilities or sectors, and to better inform our understanding of the potential indirect GHG emissions associated with certain sectors. The proposed regulations under subpart B include QA/QC requirements for energy meters for this source category, but the EPA understands that these meters would already be in place to monitor energy purchases. Therefore, the proposed regulations would not require installation of new equipment. Therefore, the proposed new subpart is not anticipated to add significant burden for existing reporters or to impact the supply, distribution, or use of energy. In addition to the data quality improvements described, the EPA is proposing confidentiality determinations for new and revised data elements in this proposed rule and for certain existing data elements for where the EPA has determined that the current determination is no longer appropriate. These proposed amendments and confidentiality determinations do not make any changes to the existing monitoring, calculation, and reporting requirements under part 98 that would affect the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

This action involves technical standards. The EPA is proposing the use of several standards in establishing monitoring requirements in these proposed amendments. For proposed subpart B (Energy Consumption), the EPA is proposing that reporters must determine whether electric meters at the facility comply with the *American National Standards Institute (ANSI) standard C12.1–2022 Electric Meters—Code for Electric Metering* or another, similar consensus standard with accuracy specifications at least as stringent. The ANSI standard is widely referenced in state utility commission performance standards governing the accuracy of electric meters used for billing calculations. The proposed standard establishes acceptable performance criteria for electricity meters including accuracy class

designations, current class designations, voltage and frequency ratings, test current values, service connection arrangements, pertinent dimensions, form designations, and environmental tests. The proposed requirements under subpart B allow for reporters to rely on manufacturer’s certification, certification from the local utility supplying the electric service and meter, or to provide copy of written request that the existing meter be replaced by an electrical meter that meets the accuracy specifications of the cited ANSI standard. Additionally, the proposed requirements allow for reporters to use another consensus standard having accuracy specifications at least as stringent as the proposed ANSI standards C12.1–2022. Anyone may access the standard on the ANSI website (www.ansi.org) for additional information; the standard is available at the following web link: <https://webstore.ansi.org/standards/nema/ansic122022>. The standard is available to everyone at a cost determined by the ANSI (\$423). The ANSI also offers memberships or subscriptions that allow unlimited access to their methods. Because facilities may rely on certifications from the meter manufacturer or the local utility, or use an alternative consensus standard that is at least as stringent as the proposed standards, the EPA has determined that obtaining these methods is not a significant financial burden, making the methods reasonably available for reporters.

The EPA is proposing amendments to subpart HH (Municipal Solid Waste Landfills) at 40 CFR 98.344 that would allow for facilities that elect to conduct surface methane concentration monitoring to use measurement methods that are consistent with those already required and standard under existing landfills regulations. The proposed amendments would require landfill owners and operators that are already subject to the NSPS at 40 CFR part 60, subparts WWW or XXX, the EG at 40 CFR part 60, subpart Cc of Cf, or according to the Federal plan at 40 CFR part 62, subpart GGG or OOO to follow the monitoring measurement requirements under the NSPS, EG, or Federal plans; facilities would be able to use the measurements collected under the existing NSPS, EG, and Federal plan rules for estimation of emissions from cover leaks. We are also proposing to add surface methane concentration monitoring methods at 40 CFR 98.344 for landfill owners and operators that are not required to conduct surface measurements according to the NSPS

(40 CFR part 60, subpart WWW or XXX), EG (40 CFR part 60, subparts Cc or Cf as implemented in approved state plans), or Federal plans (40 CFR part 62, subparts GGG or OOO), but that voluntarily elect to conduct these surface measurements. Landfill owners and operators that are not required to conduct surface measurements according to the NSPS (40 CFR part 60, subpart WWW or XXX), EG (40 CFR part 60, subparts Cc or Cf), or Federal plans (40 CFR part 62, subparts GGG or OOO) would also have the option to use a default lower gas collection efficiency value in lieu of monitoring. Landfill reporters that elect to conduct surface measurements under part 98 would follow the procedures in 40 CFR 60.765(c) and (d), which must be performed in accordance with Method 21 of appendix A to part 60. Because we are proposing the option to use of a default lower gas collection efficiency and not requiring reporters that are not subject to the control requirements in the NSPS (40 CFR part 60, subpart WWW or XXX), EG (40 CFR part 60, subparts Cc or Cf), or Federal plans (40 CFR part 62, subparts GGG or OOO) to perform this surface methane concentration monitoring, the use of Method 21 is voluntary for those reporters. Therefore, the EPA has determined that use of Method 21 is not a significant financial burden and would be reasonably available for reporters.

The EPA previously proposed to allow the use of the ISO standard designated as CSA/ANSI ISO 27916:2019, *Carbon Dioxide Capture, Transportation and Geological Storage—Carbon Dioxide Storage Using Enhanced Oil Recovery (CO₂-EOR)* (2019) consistent with the proposed addition of proposed subpart VV (Geologic Sequestration of Carbon Dioxide With Enhanced Oil Recovery Using ISO 27916) in the 2022 Data Quality Improvements Proposal (87 FR 37035). The EPA also previously proposed paragraph 98.470(c) of subpart UU (Injection of Carbon Dioxide) to indicate that facilities that report under proposed subpart VV would not be required to report under subpart UU. In this supplemental action, the EPA is re-proposing section 40 CFR 98.470, section 40 CFR 98.480, and section 40 CFR 98.481 to clarify the applicability of the rule. The re-proposed section 98.480 would require that facilities that elect to use the CSA/ANSI ISO 27916:2019 method for the purpose of quantifying geologic sequestration of CO₂ in association with EOR operations would be required to report under proposed

subpart VV. The re-proposed sections 40 CFR 98.470 and 40 CFR 98.481 clarify that CO₂-EOR projects previously reporting under subpart UU that begin using CSA/ANSI ISO 27916:2019 part-way through a reporting year must report under subpart UU for the portion of the year before CSA/ANSI ISO 27916:2019 was used and report under subpart VV for the portion of the year once CSA/ANSI ISO 27916:2019 began to be used and thereafter. Our supporting analysis in the 2022 Data Quality Improvements Proposal regarding the availability and the cost of obtaining the ISO standard are the same for this re-proposal, and we reiterate that the proposed amendments to subparts UU and VV would not impose a significant financial burden for reporters, as the proposed rule would apply to reporters that elect to use CSA/ANSI ISO 27916:2019 for quantifying their geologic sequestration of CO₂ in association with EOR operations.

The EPA also proposes to allow the use of any one of the following standards for coke calcining facilities subject to proposed new subpart WW: (1) ASTM D3176–15 *Standard Practice for Ultimate Analysis of Coal and Coke*, (2) ASTM D5291–16 *Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Petroleum Products and Lubricants*, and (3) ASTM D5373–21 *Standard Test Methods for Determination of Carbon, Hydrogen, and Nitrogen in Analysis Samples of Coal and Carbon in Analysis Samples of Coal and Coke*. These proposed methods are used to determine the carbon content of petroleum coke. The EPA currently allows for the use of an earlier version of these proposed standard methods for the instrumental determination of carbon content in laboratory samples of petroleum coke in other sections of part 98, including the use of ASTM D3176–89, ASTM D5291–02, and ASTM D5373–08 in 40 CFR 98.244(b) (subpart X—Petrochemical Production) and 40 CFR 98.254(i) (subpart Y—Petroleum Refineries). The EPA is proposing to allow the use of the updated versions of these standards (ASTM D3176–15, ASTM D5291–16, and ASTM D5373–21) to determine the carbon content of petroleum coke for proposed subpart WW (Coke Calciners). Anyone may access the standards on the ASTM website (www.astm.org/) for additional information. These standards are available to everyone at a cost determined by the ASTM (between \$48 and \$60 per method). The ASTM also offers memberships or subscriptions that allow unlimited access to their

methods. The cost of obtaining these methods is not a significant financial burden, making the methods reasonably available for reporters.

We are also proposing to allow the use of the following standard for coke calciners subject to subpart WW: *Specifications, Tolerances, and Other Technical Requirements For Weighing and Measuring Devices*, NIST Handbook 44 (2022). The EPA currently allows for the use of an earlier version of the proposed standard methods (*Specifications, Tolerances, and Other Technical Requirements For Weighing and Measuring Devices*, NIST Handbook 44 (2009)) for the calibration and maintenance of instruments used for weighing of mass of samples of petroleum coke in other sections of part 98, including 40 CFR 98.244(b) (subpart X). The EPA is proposing to allow the use of the updated versions of these standards (*Specifications, Tolerances, and Other Technical Requirements For Weighing and Measuring Devices*, NIST Handbook 44 (2022)) for performing mass measurements of petroleum coke for proposed subpart WW (Coke Calciners). Anyone may access the standards on the NIST website (www.nist.gov/index.html) for additional information. These standards are available to everyone at no cost, therefore the methods are reasonably available for reporters.

The EPA proposes to allow the use of one of the following standards for calcium carbide production facilities subject to proposed subpart XX (Calcium Carbide Production): (1) ASTM D5373–08 *Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Laboratory Samples of Coal*, or (2) ASTM C25–06, *Standard Test Methods for Chemical Analysis of Limestone, Quicklime, and Hydrated Lime*. ASTM D5373–08 addresses the determination of carbon in the range of 54.9 percent m/m to 84.7 percent m/m, hydrogen in the range of 3.25 percent m/m to 5.10 percent m/m, and nitrogen in the range of 0.57 percent m/m to 1.80 percent m/m in the analysis sample of coal. The EPA currently allows for the use of ASTM D5373–08 in other sections of part 98, including in 40 CFR 98.244(b) (subpart X—Petrochemical Production), 40 CFR 98.284(c) (subpart BB—Silicon Carbide Production), and 40 CFR 98.314(c) (subpart EE—Titanium Production) for the instrumental determination of carbon content in laboratory samples. Therefore, we are proposing to allow the use of ASTM D5373–08 for determination of carbon content of materials consumed, used, or produced at calcium carbide facilities.

The EPA currently allows for the use of ASTM C25–06 in other sections of part 98, including in 40 CFR 98.194(c) (subpart S—Lime Production) for chemical composition analysis of lime products and calcined byproducts and in 40 CFR 98.184(b) (subpart R—Lead Production) for analysis of flux materials such as limestone or dolomite. ASTM C25–06 addresses the chemical analysis of high-calcium and dolomitic limestone, quicklime, and hydrated lime. We are proposing to allow the use of ASTM C25–06 for determination of carbon content of materials consumed, used, or produced at calcium carbide facilities, including analysis of materials such as limestone or dolomite. Anyone may access the standards on the ASTM website (www.astm.org/) for additional information. These standards are available to everyone at a cost determined by the ASTM (between \$64 and \$92 per method). The ASTM also offers memberships or subscriptions that allow unlimited access to their methods. The cost of obtaining these methods is not a significant financial burden, making the methods reasonably available for reporters.

The EPA is not proposing to require the use of specific consensus standards for proposed new subparts YY (Caprolactam, Glyoxal, and Glyoxylic Acid Production) or ZZ (Ceramics Production), or for other proposed amendments to part 98.

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 low-income populations.

The EPA believes that this proposed action does not directly concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on people of color, low-income populations and/or indigenous peoples. This action does not affect the level of protection provided to human health or the environment, but instead, addresses information collection and reporting procedures.

K. Determination Under CAA Section 307(d)

Pursuant to CAA section 307(d)(1)(V), the Administrator determines that this supplemental proposal is subject to the provisions of CAA section 307(d). Section 307(d)(1)(V) of the CAA provides that the provisions of CAA section 307(d) apply to “such other actions as the Administrator may determine.”

List of Subjects in 40 CFR Part 98

Environmental protection, Greenhouse gases, Reporting and recordkeeping requirements, Suppliers.

Michael S. Regan,
Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend title 40, chapter I, of the Code of Federal Regulations as follows:

PART 98—MANDATORY GREENHOUSE GAS REPORTING

■ 1. The authority citation for part 98 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart A—General Provision

■ 2. Amend § 98.2 by revising paragraphs (a)(1), (a)(2), and (a)(3) introductory text as follows:

§ 98.2 Who must report?

(a) * * *

(1) A facility that contains any source category that is listed in Table A–3 of this subpart. For these facilities, the annual GHG report must cover energy consumption (subpart B of this part), stationary fuel combustion sources (subpart C of this part), miscellaneous use of carbonates (subpart U of this part), and all applicable source categories listed in Tables A–3 and A–4 of this subpart.

(2) A facility that contains any source category that is listed in Table A–4 of this subpart and that emits 25,000 metric tons CO₂e or more per year in combined emissions from stationary fuel combustion units, miscellaneous uses of carbonate, and all applicable source categories that are listed in Table A–3 and Table A–4 of this subpart. For these facilities, the annual GHG report must cover energy consumption (subpart B of this part), stationary fuel combustion sources (subpart C of this part), miscellaneous use of carbonates (subpart U of this part), and all applicable source categories listed in Table A–3 and Table A–4 of this subpart.

(3) A facility that in any calendar year starting in 2010 meets all three of the conditions listed in this paragraph (a)(3). For these facilities, the annual GHG report must cover energy consumption (subpart B of this part) and emissions from stationary fuel combustion sources.

* * * * *

■ 3. Amend § 98.3 by:

- a. Revising paragraph (c)(4) introductory text;
- b. Redesignating paragraphs (c)(4)(iv) and (v) as paragraphs (c)(4)(v) and (vi), respectively;
- c. Adding new paragraph (c)(4)(iv);
- d. Revising paragraphs (k)(1), (2), and (3);
- e. Revising paragraphs (l)(1) introductory text, (l)(2) introductory text, (l)(2)(i), (l)(2)(ii)(C), (D), and (E), and (l)(2)(iii).

The revisions and additions read as follows:

§ 98.3 What are the general monitoring, reporting, recordkeeping and verification requirements of this part?

* * * * *

(c) * * *

(4) For facilities, except as otherwise provided in paragraph (c)(12) of this section, report annual emissions of CO₂, CH₄, N₂O, each fluorinated GHG (as defined in § 98.6), and each fluorinated heat transfer fluid (as defined in § 98.98), as well as annual quantities of electricity and thermal energy purchases, as follows.

* * * * *

(iv) Annual quantity of electricity purchased expressed in kilowatt-hours (kWh) and annual quantity of thermal energy purchased expressed in mmBtu for all applicable source categories, per the requirements of subpart B of this part.

(v) Except as provided in paragraph (c)(4)(vii) of this section, emissions and other data for individual units, processes, activities, and operations as specified in the “Data reporting requirements” section of each applicable subpart of this part.

(vi) Indicate (yes or no) whether reported emissions include emissions from a cogeneration unit located at the facility.

* * * * *

(k) * * *

(1) A facility or supplier that first becomes subject to part 98 due to a change in the GWP for one or more compounds in Table A–1 of this subpart, Global Warming Potentials, is not required to submit an annual GHG report for the reporting year during which the change in GWPs is published

in the **Federal Register** as a final rulemaking.

(2) A facility or supplier that was already subject to one or more subparts of part 98 but becomes subject to one or more additional subparts due to a change in the GWP for one or more compounds in Table A-1 of this subpart, is not required to include those subparts to which the facility is subject only due to the change in the GWP in the annual GHG report submitted for the reporting year during which the change in GWPs is published in the **Federal Register** as a final rulemaking.

(3) Starting on January 1 of the year after the year during which the change in GWPs is published in the **Federal Register** as a final rulemaking, facilities or suppliers identified in paragraph (k)(1) or (2) of this section must start monitoring and collecting GHG data in compliance with the applicable subparts of part 98 to which the facility is subject due to the change in the GWP for the annual greenhouse gas report for that reporting year, which is due by March 31 of the following calendar year.

* * * * *

(l) * * *

(1) Best available monitoring methods. From January 1 to March 31 of the year after the year during which the change in GWPs is published in the **Federal Register** as a final rulemaking, owners or operators subject to this paragraph (l) may use best available monitoring methods for any parameter (e.g., fuel use, feedstock rates) that cannot reasonably be measured according to the monitoring and QA/QC requirements of a relevant subpart. The owner or operator must use the calculation methodologies and equations in the “Calculating GHG Emissions” sections of each relevant subpart, but may use the best available monitoring method for any parameter for which it is not reasonably feasible to acquire, install, and operate a required piece of monitoring equipment by January 1 of the year after the year during which the change in GWPs is published in the **Federal Register** as a final rulemaking. Starting no later than April 1 of the year after the year during which the change in GWPs is published, the owner or operator must discontinue using best available methods and begin following all applicable monitoring and QA/QC requirements of this part, except as provided in paragraph (l)(2) of this section. Best available monitoring methods means any of the following methods:

* * * * *

(2) Requests for extension of the use of best available monitoring methods.

The owner or operator may submit a request to the Administrator to use one or more best available monitoring methods beyond March 31 of the year after the year during which the change in GWPs is published in the **Federal Register** as a final rulemaking.

(i) Timing of request. The extension request must be submitted to EPA no later than January 31 of the year after the year during which the change in GWPs is published in the **Federal Register** as a final rulemaking.

(ii) * * *

(C) A description of the reasons that the needed equipment could not be obtained and installed before April 1 of the year after the year during which the change in GWPs is published in the **Federal Register** as a final rulemaking.

(D) If the reason for the extension is that the equipment cannot be purchased and delivered by April 1 of the year after the year during which the change in GWPs is published in the **Federal Register** as a final rulemaking, include supporting documentation such as the date the monitoring equipment was ordered, investigation of alternative suppliers and the dates by which alternative vendors promised delivery, backorder notices or unexpected delays, descriptions of actions taken to expedite delivery, and the current expected date of delivery.

(E) If the reason for the extension is that the equipment cannot be installed without a process unit shutdown, include supporting documentation demonstrating that it is not practicable to isolate the equipment and install the monitoring instrument without a full process unit shutdown. Include the date of the most recent process unit shutdown, the frequency of shutdowns for this process unit, and the date of the next planned shutdown during which the monitoring equipment can be installed. If there has been a shutdown or if there is a planned process unit shutdown between November 29 of the year during which the change in GWPs is published in the **Federal Register** as a final rulemaking and April 1 of the year after the year during which the change in GWPs is published, include a justification of why the equipment could not be obtained and installed during that shutdown.

* * * * *

(iii) Approval criteria. To obtain approval, the owner or operator must demonstrate to the Administrator’s satisfaction that it is not reasonably feasible to acquire, install, and operate a required piece of monitoring equipment by April 1 of the year after the year during which the change in

GWPs is published in the **Federal Register** as a final rulemaking. The use of best available methods under this paragraph (l) will not be approved beyond December 31 of the year after the year during which the change in GWPs is published.

■ 4. Amend § 98.6 by:

■ a. Adding a definition for “Cyclic” and “Fluorinated heat transfer fluids” in alphabetic order;

■ b. Revising the definitions for “Bulk”; “Fluorinated greenhouse gas”, “Fluorinated greenhouse gas (GHG) group”, “Greenhouse gas or GHG”, and “Process vent”;

■ c. Removing the definition for “Other fluorinated GHGs”; and

■ d. Adding definitions for “Remaining fluorinated GHGs”, “Saturated chlorofluorocarbons (CFCs)”, “Unsaturated bromochlorofluorocarbons (BCFCs)”, “Unsaturated bromofluorocarbons (BFCs)”, “Unsaturated chlorofluorocarbons (CFCs)”, “Unsaturated hydrobromochlorofluorocarbons (HBCFCs)”, and “Unsaturated hydrobromofluorocarbons (HBFCs)” in alphabetic order.

The revisions and additions read as follows:

§ 98.6 Definitions.

* * * * *

Bulk, with respect to industrial GHG suppliers and CO₂ suppliers, means a transfer of gas in any amount that is in a container for the transportation or storage of that substance such as cylinders, drums, ISO tanks, and small cans. An industrial gas or CO₂ that must first be transferred from a container to another container, vessel, or piece of equipment in order to realize its intended use is a bulk substance. An industrial GHG or CO₂ that is contained in a manufactured product such as electrical equipment, appliances, aerosol cans, or foams is not a bulk substance.

* * * * *

Cyclic, in the context of fluorinated GHGs, means a fluorinated GHG in which three or more carbon atoms are connected to form a ring.

* * * * *

Fluorinated greenhouse gas (GHG) means sulfur hexafluoride (SF₆), nitrogen trifluoride (NF₃), and any fluorocarbon except for controlled substances as defined at 40 CFR part 82, subpart A and substances with vapor pressures of less than 1 mm of Hg absolute at 25 degrees C. With these exceptions, “fluorinated GHG” includes but is not limited to any hydrofluorocarbon, any

perfluorocarbon, any fully fluorinated linear, branched or cyclic alkane, ether, tertiary amine or aminoether, any perfluoropolyether, and any hydrofluoropolyether.

Fluorinated greenhouse gas (GHG) group means one of the following sets of fluorinated GHGs:

- (1) Fully fluorinated GHGs;
- (2) Saturated hydrofluorocarbons with two or fewer carbon-hydrogen bonds;
- (3) Saturated hydrofluorocarbons with three or more carbon-hydrogen bonds;
- (4) Saturated hydrofluoroethers and hydrochlorofluoroethers with one carbon-hydrogen bond;
- (5) Saturated hydrofluoroethers and hydrochlorofluoroethers with two carbon-hydrogen bonds;
- (6) Saturated hydrofluoroethers and hydrochlorofluoroethers with three or more carbon-hydrogen bonds;
- (7) Saturated chlorofluorocarbons (CFCs);
- (8) Fluorinated formates;
- (9) Cyclic forms of the following: unsaturated perfluorocarbons (PFCs), unsaturated HFCs, unsaturated CFCs, unsaturated hydrochlorofluorocarbons (HCFCs), unsaturated bromofluorocarbons (BFCs), unsaturated bromochlorofluorocarbons (BCFCs), unsaturated hydrobromofluorocarbons (HBFCs), unsaturated hydrobromochlorofluorocarbons (HBCFCs), unsaturated halogenated ethers, and unsaturated halogenated esters;

(10) Fluorinated acetates, carbonofluoridates, and fluorinated alcohols other than fluorotelomer alcohols;

(11) Fluorinated aldehydes, fluorinated ketones and non-cyclic forms of the following: unsaturated PFCs, unsaturated HFCs, unsaturated CFCs, unsaturated HCFCs, unsaturated BFCs, unsaturated BCFCs, unsaturated HBFCs, unsaturated HBCFCs, unsaturated halogenated ethers, and unsaturated halogenated esters;

(12) Fluorotelomer alcohols;

(13) Fluorinated GHGs with carbon-iodine bonds; or

(14) Remaining fluorinated GHGs.

Fluorinated heat transfer fluids means fluorinated GHGs used for temperature control, device testing, cleaning substrate surfaces and other parts, other solvent applications, and soldering in certain types of electronics manufacturing production processes and in other industries. Fluorinated heat transfer fluids do not include fluorinated GHGs used as lubricants or surfactants in electronics manufacturing. For fluorinated heat transfer fluids, the lower vapor pressure limit of 1 mm Hg in absolute at 25 °C

in the definition of “fluorinated greenhouse gas” in § 98.6 shall not apply. Fluorinated heat transfer fluids include, but are not limited to, perfluoropolyethers (including PPFMIE), perfluoroalkylamines, perfluoroalkylmorpholines, perfluoroalkanes, perfluoroethers, perfluorocyclic ethers, and hydrofluoroethers. Fluorinated heat transfer fluids include HFC-43-10meee but do not include other hydrofluorocarbons.

* * * * *
Greenhouse gas or GHG means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and fluorinated greenhouse gases (GHGs) as defined in this section.
* * * * *

Process vent means a gas stream that: Is discharged through a conveyance to the atmosphere either directly or after passing through a control device; originates from a unit operation, including but not limited to reactors (including reformers, crackers, and furnaces, and separation equipment for products and recovered byproducts); and contains or has the potential to contain GHG that is generated in the process. Process vent does not include safety device discharges, equipment leaks, gas streams routed to a fuel gas system or to a flare, discharges from storage tanks.

* * * * *
Remaining fluorinated GHGs means fluorinated GHGs that are none of the following:

- (1) Fully fluorinated GHGs;
- (2) Saturated hydrofluorocarbons with two or fewer carbon-hydrogen bonds;
- (3) Saturated hydrofluorocarbons with three or more carbon-hydrogen bonds;
- (4) Saturated hydrofluoroethers and hydrochlorofluoroethers with one carbon-hydrogen bond;
- (5) Saturated hydrofluoroethers and hydrochlorofluoroethers with two carbon-hydrogen bonds;
- (6) Saturated hydrofluoroethers and hydrochlorofluoroethers with three or more carbon-hydrogen bonds;

(7) Saturated chlorofluorocarbons (CFCs);

(8) Fluorinated formates;

(9) Cyclic forms of the following: unsaturated perfluorocarbons (PFCs), unsaturated HFCs, unsaturated CFCs, unsaturated hydrochlorofluorocarbons (HCFCs), unsaturated bromofluorocarbons (BFCs), unsaturated bromochlorofluorocarbons (BCFCs), unsaturated hydrobromofluorocarbons (HBFCs), unsaturated hydrobromochlorofluorocarbons (HBCFCs), unsaturated halogenated ethers, and unsaturated halogenated esters;

(10) Fluorinated acetates, carbonofluoridates, and fluorinated alcohols other than fluorotelomer alcohols;

(11) Fluorinated aldehydes, fluorinated ketones and non-cyclic forms of the following: unsaturated PFCs, unsaturated HFCs, unsaturated CFCs, unsaturated HCFCs, unsaturated BFCs, unsaturated BCFCs, unsaturated HBFCs, unsaturated HBCFCs, unsaturated halogenated ethers, and unsaturated halogenated esters;

(12) Fluorotelomer alcohols; or

(13) Fluorinated GHGs with carbon-iodine bonds.

* * * * *
Saturated chlorofluorocarbons (CFCs) means fluorinated GHGs that contain only chlorine, fluorine, and carbon and that contain only single bonds.
* * * * *

Unsaturated bromochlorofluorocarbons (BCFCs) means fluorinated GHGs that contain only bromine, chlorine, fluorine, and carbon and that contain one or more bonds that are not single bonds.

Unsaturated bromofluorocarbons (BFCs) means fluorinated GHGs that contain only bromine, fluorine, and carbon and that contain one or more bonds that are not single bonds.

Unsaturated chlorofluoro-carbons (CFCs) means fluorinated GHGs that contain only chlorine, fluorine, and carbon and that contain one or more bonds that are not single bonds.
* * * * *

Unsaturated hydrobromochlorofluorocarbons (HBCFCs) means fluorinated GHGs that contain only hydrogen, bromine, chlorine, fluorine, and carbon and that contain one or more bonds that are not single bonds.

Unsaturated hydrobromofluorocarbons (HBFCs) means fluorinated GHGs that contain only hydrogen, bromine, fluorine, and carbon and that contain one or more bonds that are not single bonds.
* * * * *

- 5. Amend § 98.7 by:
- a. Adding paragraph (a);
- b. Revising paragraphs (e)(1), (e)(18), (e)(26), (e)(27), and (i)(1); and
- c. Adding paragraphs (e)(50) through (52), (g)(6) and (i)(2).

§ 98.7 What standardized methods are incorporated by reference into this part?

* * * * *
(a) The following material is available for purchase from the American National Standards Institute (ANSI), 25 W 43rd Street, 4th Floor, New York, NY 10036, Telephone (212) 642-4980, and is also available at the following website: <http://www.ansi.org>.

(1) ANSI C12.1–2022 Electric Meters—Code for Electricity Metering, incorporation by reference (IBR) approved for § 98.24(b).

(2) [Reserved]

* * * * *

(e) * * *

(1) ASTM C25–06 Standard Test Method for Chemical Analysis of Limestone, Quicklime, and Hydrated Lime, incorporation by reference (IBR) approved for §§ 98.114(b), 98.174(b), 98.184(b), 98.194(c), 98.334(b), and 98.504(b).

* * * * *

(18) ASTM D3176–89 (Reapproved 2002) Standard Practice for Ultimate Analysis of Coal and Coke, IBR approved for §§ 98.74(c), 98.164(b), 98.244(b), 98.284(c), 98.284(d), 98.314(c), 98.314(d), and 98.314(f).

* * * * *

(26) ASTM D5291–02 (Reapproved 2007) Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Petroleum

Products and Lubricants, IBR approved for §§ 98.74(c), 98.164(b), and 98.244(b).

(27) ASTM D5373–08 Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Laboratory Samples of Coal, IBR approved for §§ 98.74(c), 98.114(b), 98.164(b), 98.174(b), 98.184(b), 98.244(b), 98.274(b), 98.284(c), 98.284(d), 98.314(c), 98.314(d), 98.314(f), 98.334(b), and 98.504(b).

* * * * *

(50) ASTM D3176–15 Standard Practice for Ultimate Analysis of Coal and Coke, IBR approved for § 98.494(c).

(51) ASTM D5291–16 Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Petroleum Products and Lubricants, IBR approved for § 98.494(c).

(52) ASTM D5373–21 Standard Test Methods for Determination of Carbon, Hydrogen, and Nitrogen in Analysis Samples of Coal and Carbon in Analysis Samples of Coal and Coke, IBR approved for § 98.494(c).

* * * * *

(g) * * *

(6) CSA/ANSI ISO 27916:19, Carbon dioxide capture, transportation and geological storage—Carbon dioxide storage using enhanced oil recovery (CO₂-EOR). Edition 1. January 2019; IBR approved for §§ 98.470(c), 98.480(a), 98.481(a), 98.481(b), 98.481(c), 98.482, 98.483, 98.484, 98.485, 98.486(g), 98.487, 98.488(a)(5), and 98.489.

* * * * *

(i) * * *

(1) Specifications, Tolerances, and Other Technical Requirements For Weighing and Measuring Devices, NIST Handbook 44 (2009), incorporation by reference (IBR) approved for §§ 98.244(b) and 98.344(a).

(2) Specifications, Tolerances, and Other Technical Requirements For Weighing and Measuring Devices, NIST Handbook 44 (2022), IBR approved for § 98.494(b).

* * * * *

■ 6. Revise table A–1 to subpart A of part 98 to read as follows:

TABLE A–1 TO SUBPART A OF PART 98—GLOBAL WARMING POTENTIALS [100-Year time horizon]

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
Chemical-Specific GWPs			
Carbon dioxide	124–38–9	CO ₂	1
Methane	74–82–8	CH ₄	^{a d} 28
Nitrous oxide	10024–97–2	N ₂ O	^{a d} 265
Fully Fluorinated GHGs			
Sulfur hexafluoride	2551–62–4	SF ₆	^{a d} 23,500
Trifluoromethyl sulphur pentafluoride	373–80–8	SF ₅ CF ₃	^d 17,400
Nitrogen trifluoride	7783–54–2	NF ₃	^d 16,100
PFC-14 (Perfluoromethane)	75–73–0	CF ₄	^{a d} 6,630
PFC-116 (Perfluoroethane)	76–16–4	C ₂ F ₆	^{a d} 11,100
PFC-218 (Perfluoropropane)	76–19–7	C ₃ F ₈	^{a d} 8,900
Perfluorocyclopropane	931–91–9	c-C ₃ F ₆	^d 9,200
PFC-3-1-10 (Perfluorobutane)	355–25–9	C ₄ F ₁₀	^{a d} 9,200
PFC-318 (Perfluorocyclobutane)	115–25–3	c-C ₄ F ₈	^{a d} 9,540
Perfluorotetrahydrofuran	773–14–8	c-C ₄ F ₈ O	^e 13,900
PFC-4-1-12 (Perfluoropentane)	678–26–2	C ₅ F ₁₂	^{a d} 8,550
PFC-5-1-14 (Perfluorohexane, FC-72)	355–42–0	C ₆ F ₁₄	^{a d} 7,910
PFC-6-1-12	335–57–9	C ₇ F ₁₆ ; CF ₃ (CF ₂) ₅ CF ₃	^b 7,820
PFC-7-1-18	307–34–6	C ₈ F ₁₈ ; CF ₃ (CF ₂) ₆ CF ₃	^b 7,620
PFC-9-1-18	306–94–5	C ₁₀ F ₁₈	^d 7,190
PPFMIE (HT-70)	NA	CF ₃ OCF(CF ₃)CF ₂ OCF ₂ OCF ₃	^d 9,710
Perfluorodecalin (cis)	60433–11–6	Z-C ₁₀ F ₁₈	^{b d} 7,240
Perfluorodecalin (trans)	60433–12–7	E-C ₁₀ F ₁₈	^{b d} 6,290
Perfluorotriethylamine	359–70–6	N(C ₂ F ₅) ₃	^e 10,300
Perfluorotripropylamine	338–83–0	N(CF ₂ CF ₂ CF ₃) ₃	^e 9,030
Perfluorotributylamine	311–89–7	N(CF ₂ CF ₂ CF ₂ CF ₃) ₃	^e 8,490
Perfluorotripentylamine	338–84–1	N(CF ₂ CF ₂ CF ₂ CF ₂ CF ₃) ₃	^e 7,260
Saturated Hydrofluorocarbons (HFCs) With Two or Fewer Carbon-Hydrogen Bonds			
(4s,5s)-1,1,2,2,3,3,4,5-octafluorocyclopentane	158389–18–5	trans-cyc (-CF ₂ CF ₂ CF ₂ CHFCHF-)	^e 258
HFC-23	75–46–7	CHF ₃	^{a d} 12,400
HFC-32	75–10–5	CH ₂ F ₂	^{a d} 677
HFC-125	354–33–6	C ₂ HF ₅	^{a d} 3,170
HFC-134	359–35–3	C ₂ H ₂ F ₄	^{a d} 1,120
HFC-134a	811–97–2	CH ₂ FCF ₃	^{a d} 1,300
HFC-227ca	2252–84–8	CF ₃ CF ₂ CHF ₂	^b 2,640
HFC-227ea	431–89–0	C ₃ HF ₇	^{a d} 3,350
HFC-236cb	677–56–5	CH ₂ FCF ₂ CF ₃	^d 1,210
HFC-236ea	431–63–0	CHF ₂ CHF ₂ CF ₃	^d 1,330

TABLE A-1 TO SUBPART A OF PART 98—GLOBAL WARMING POTENTIALS—Continued
[100-Year time horizon]

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFC-236fa	690-39-1	C ₃ H ₂ F ₆	^a ^d 8,060
HFC-329p	375-17-7	CHF ₂ CF ₂ CF ₂ CF ₃	^b 2,360
HFC-43-10mee	138495-42-8	CF ₃ CFHCFHCF ₂ CF ₃	^a ^d 1,650
Saturated Hydrofluorocarbons (HFCs) With Three or More Carbon-Hydrogen Bonds			
1,1,2,2,3,3-hexafluorocyclopentane	123768-18-3	cyc (-CF ₂ CF ₂ CF ₂ CH ₂ CH ₂ -)	^e 120
1,1,2,2,3,3,4-heptafluorocyclopentane	15290-77-4	cyc (-CF ₂ CF ₂ CF ₂ CHFCH ₂ -)	^e 231
HFC-41	593-53-3	CH ₃ F	^a ^d 116
HFC-143	430-66-0	C ₂ H ₃ F ₃	^a ^d 328
HFC-143a	420-46-2	C ₂ H ₃ F ₃	^a ^d 4,800
HFC-152	624-72-6	CH ₂ FCH ₂ F	^d 16
HFC-152a	75-37-6	CH ₃ CHF ₂	^a ^d 138
HFC-161	353-36-6	CH ₃ CH ₂ F	^d 4
HFC-245ca	679-86-7	C ₃ H ₃ F ₅	^a ^d 716
HFC-245cb	1814-88-6	CF ₃ CF ₂ CH ₃	^b 4,620
HFC-245ea	24270-66-4	CHF ₂ CHFCHF ₂	^b 235
HFC-245eb	431-31-2	CH ₂ FCHF ₂ CF ₃	^b 290
HFC-245fa	460-73-1	CHF ₂ CH ₂ CF ₃	^d 858
HFC-263fb	421-07-8	CH ₃ CH ₂ CF ₃	^b 76
HFC-272ca	420-45-1	CH ₃ CF ₂ CH ₃	^b 144
HFC-365mfc	406-58-6	CH ₃ CF ₂ CH ₂ CF ₃	^d 804
Saturated Hydrofluoroethers (HFEs) and Hydrochlorofluoroethers (HCFEs) With One Carbon-Hydrogen Bond			
HFE-125	3822-68-2	CHF ₂ OCF ₃	^d 12,400
HFE-227ea	2356-62-9	CF ₃ CHF ₂ OCF ₃	^d 6,450
HFE-329mcc2	134769-21-4	CF ₃ CF ₂ OCF ₂ CHF ₂	^d 3,070
HFE-329me3	428454-68-6	CF ₃ CFHCF ₂ OCF ₃	^b 4,550
1,1,1,2,2,3,3-Heptafluoro-3-(1,2,2,2-tetrafluoroethoxy)-propane	3330-15-2	CF ₃ CF ₂ CF ₂ OCHF ₂ CF ₃	^b 6,490
Saturated HFEs and HCFEs With Two Carbon-Hydrogen Bonds			
HFE-134 (HG-00)	1691-17-4	CHF ₂ OCHF ₂	^d 5,560
HFE-236ca	32778-11-3	CHF ₂ OCF ₂ CHF ₂	^b 4,240
HFE-236ca12 (HG-10)	78522-47-1	CHF ₂ OCF ₂ OCHF ₂	^d 5,350
HFE-236ea2 (Desflurane)	57041-67-5	CHF ₂ OCHF ₂ CF ₃	^d 1,790
HFE-236fa	20193-67-3	CF ₃ CH ₂ OCF ₃	^d 979
HFE-338mcf2	156053-88-2	CF ₃ CF ₂ OCH ₂ CF ₃	^d 929
HFE-338mmz1	26103-08-2	CHF ₂ OCH(CF ₃) ₂	^d 2,620
HFE-338pcc13 (HG-01)	188690-78-0	CHF ₂ OCF ₂ CF ₂ OCHF ₂	^d 2,910
HFE-43-10pccc (H-Galden 1040x, HG-11)	E1730133	CHF ₂ OCF ₂ OC ₂ F ₄ OCHF ₂	^d 2,820
HCFE-235ca2 (Enflurane)	13838-16-9	CHF ₂ OCF ₂ CHFCl	^b 583
HCFE-235da2 (Isoflurane)	26675-46-7	CHF ₂ OCHClCF ₃	^d 491
HG-02	205367-61-9	HF ₂ C-(OCF ₂ CF ₂) ₂ -OCF ₂ H	^b ^d 2,730
HG-03	173350-37-3	HF ₂ C-(OCF ₂ CF ₂) ₃ -OCF ₂ H	^b ^d 2,850
HG-20	249932-25-0	HF ₂ C-(OCF ₂) ₂ -OCF ₂ H	^b 5,300
HG-21	249932-26-1	HF ₂ C-OCF ₂ CF ₂ OCF ₂ OCF ₂ O-CF ₂ H	^b 3,890
HG-30	188690-77-9	HF ₂ C-(OCF ₂) ₃ -OCF ₂ H	^b 7,330
1,1,3,3,4,4,6,6,7,7,9,9,10,10,12,12,13,13,15,15-eicosafuoro-2,5,8,11,14-Pentaoxapentadecane.	173350-38-4	HCF ₂ O(CF ₂ CF ₂ O) ₄ CF ₂ H	^b 3,630
1,1,2-Trifluoro-2-(trifluoromethoxy)-ethane	84011-06-3	CHF ₂ CHFOCF ₃	^b 1,240
Trifluoro(fluoromethoxy)methane	2261-01-0	CH ₂ FOCF ₃	^b 751
Saturated HFEs and HCFEs With Three or More Carbon-Hydrogen Bonds			
HFE-143a	421-14-7	CH ₃ OCF ₃	^d 523
HFE-245cb2	22410-44-2	CH ₃ OCF ₂ CF ₃	^d 654
HFE-245fa1	84011-15-4	CHF ₂ CH ₂ OCF ₃	^d 828
HFE-245fa2	1885-48-9	CHF ₂ OCH ₂ CF ₃	^d 812
HFE-254cb2	425-88-7	CH ₃ OCF ₂ CHF ₂	^d 301
HFE-263fb2	460-43-5	CF ₃ CH ₂ OCH ₃	^d 1
HFE-263m1; R-E-143a	690-22-2	CF ₃ OCH ₂ CH ₃	^b 29
HFE-347mcc3 (HFE-7000)	375-03-1	CH ₃ OCF ₂ CF ₂ CF ₃	^d 530
HFE-347mcf2	171182-95-9	CF ₃ CF ₂ OCH ₂ CHF ₂	^d 854
HFE-347mmy1	22052-84-2	CH ₃ OCF(CF ₃) ₂	^d 363
HFE-347mmz1 (Sevoflurane)	28523-86-6	(CF ₃) ₂ CHOCH ₂ F	^c ^d 216
HFE-347pcf2	406-78-0	CHF ₂ CF ₂ OCH ₂ CF ₃	^d 889
HFE-356mec3	382-34-3	CH ₃ OCF ₂ CHF ₂ CF ₃	^d 387
HFE-356mff2	333-36-8	CF ₃ CH ₂ OCH ₂ CF ₃	^b 17
HFE-356mmz1	13171-18-1	(CF ₃) ₂ CHOCH ₃	^d 14
HFE-356pcc3	160620-20-2	CH ₃ OCF ₂ CF ₂ CHF ₂	^d 413
HFE-356pcf2	50807-77-7	CHF ₂ CH ₂ OCF ₂ CHF ₂	^d 719
HFE-356pcf3	35042-99-0	CHF ₂ OCH ₂ CF ₂ CHF ₂	^d 446
HFE-365mcf2	22052-81-9	CF ₃ CF ₂ OCH ₂ CH ₃	^b 58
HFE-365mcf3	378-16-5	CF ₃ CF ₂ CH ₂ OCH ₃	^d 0.99
HFE-374pcf2	512-51-6	CH ₃ CH ₂ OCF ₂ CHF ₂	^d 627
HFE-449s1 (HFE-7100) Chemical blend	163702-07-6	C ₄ F ₉ OCH ₃	^d 421

TABLE A-1 TO SUBPART A OF PART 98—GLOBAL WARMING POTENTIALS—Continued
[100-Year time horizon]

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFE-569sf2 (HFE-7200) Chemical blend	163702-08-7 163702-05-4 163702-06-5	(CF ₃) ₂ CF ₂ OCH ₃ C ₄ F ₉ OC ₂ H ₅ (CF ₃) ₂ CF ₂ OC ₂ H ₅	 d 57
HFE-7300	132182-92-4	(CF ₃) ₂ CF ₂ OC ₂ H ₅ CF ₂ CF ₃	e 405
HFE-7500	297730-93-9	n-C ₃ F ₇ FOC ₂ H ₅ CF ₂ (CF ₃) ₂	e 13
HG'-01	73287-23-7	CH ₃ OCF ₂ CF ₂ OCH ₃	b 222
HG'-02	485399-46-0	CH ₃ O(CF ₂ CF ₂ O) ₂ CH ₃	b 236
HG'-03	485399-48-2	CH ₃ O(CF ₂ CF ₂ O) ₃ CH ₃	b 221
Difluoro(methoxy)methane	359-15-9	CH ₃ OCHF ₂	b 144
2-Chloro-1,1,2-trifluoro-1-methoxyethane	425-87-6	CH ₃ OCF ₂ CH ₂ Cl	b 122
1-Ethoxy-1,1,2,2,3,3,3-heptafluoropropane	22052-86-4	CF ₃ CF ₂ CF ₂ OCH ₂ CH ₃	b 61
2-Ethoxy-3,3,4,4,5-pentafluorotetrahydro-2,5-bis[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]-furan	920979-28-8	C ₁₂ H ₅ F ₁₉ O ₂	b 56
1-Ethoxy-1,1,2,3,3,3-hexafluoropropane	380-34-7	CF ₃ CH ₂ CF ₂ OCH ₂ CH ₃	b 23
Fluoro(methoxy)methane	460-22-0	CH ₃ OCH ₂ F	b 13
1,1,2,2-Tetrafluoro-3-methoxy-propane; Methyl 2,2,3,3-tetrafluoropropyl ether	60598-17-6	CH ₂ OCF ₂ CH ₂ OCH ₃	b d 0.49
1,1,2,2-Tetrafluoro-1-(fluoromethoxy)ethane	37031-31-5	CH ₂ FOCF ₂ CF ₂ H	b 871
Difluoro(fluoromethoxy)methane	461-63-2	CH ₂ FOCHF ₂	b 617
Fluoro(fluoromethoxy)methane	462-51-1	CH ₂ FOCH ₂ F	b 130
Saturated Chlorofluorocarbons (CFCs)			
E-R316c	3832-15-3	trans-cyc (-CClCF ₂ CF ₂ CClF-)	e 4,230
Z-R316c	3934-26-7	cis-cyc (-CClCF ₂ CF ₂ CClF-)	e 5,660
Fluorinated Formates			
Trifluoromethyl formate	85358-65-2	HCOOCF ₃	b 588
Perfluoroethyl formate	313064-40-3	HCOOCF ₂ CF ₃	b 580
1,2,2,2-Tetrafluoroethyl formate	481631-19-0	HCOOCH ₂ CF ₃	b 470
Perfluorobutyl formate	197218-56-7	HCOOCF ₂ CF ₂ CF ₂ CF ₃	b 392
Perfluoropropyl formate	271257-42-2	HCOOCF ₂ CF ₂ CF ₃	b 376
1,1,1,3,3,3-Hexafluoropropan-2-yl formate	856766-70-6	HCOOCH(CF ₃) ₂	b 333
2,2,2-Trifluoroethyl formate	32042-38-9	HCOOCH ₂ CF ₃	b 33
3,3,3-Trifluoropropyl formate	1344118-09-7	HCOOCH ₂ CH ₂ CF ₃	b 17
Fluorinated Acetates			
Methyl 2,2,2-trifluoroacetate	431-47-0	CF ₃ COOCH ₃	b 52
1,1-Difluoroethyl 2,2,2-trifluoroacetate	1344118-13-3	CF ₃ COOCF ₂ CH ₃	b 31
Difluoromethyl 2,2,2-trifluoroacetate	2024-86-4	CF ₃ COOCHF ₂	b 27
2,2,2-Trifluoroethyl 2,2,2-trifluoroacetate	407-38-5	CF ₃ COOCH ₂ CF ₃	b 7
Methyl 2,2-difluoroacetate	433-53-4	HCF ₂ COOCH ₃	b 3
Perfluoroethyl acetate	343269-97-6	CH ₃ COOCF ₂ CF ₃	b d 2
Trifluoromethyl acetate	74123-20-9	CH ₃ COOCF ₃	b d 2
Perfluoropropyl acetate	1344118-10-0	CH ₃ COOCF ₂ CF ₂ CF ₃	b, d 2
Perfluorobutyl acetate	209597-28-4	CH ₃ COOCF ₂ CF ₂ CF ₂ CF ₃	b d 2
Ethyl 2,2,2-trifluoroacetate	383-63-1	CF ₃ COOCH ₂ CH ₃	b d 1
Carbonofluoridates			
Methyl carbonofluoridate	1538-06-3	FCOOCH ₃	b 95
1,1-Difluoroethyl carbonofluoridate	1344118-11-1	FCOOCF ₂ CH ₃	b 27
Fluorinated Alcohols Other Than Fluorotelomer Alcohols			
Bis(trifluoromethyl)-methanol	920-66-1	(CF ₃) ₂ CHOH	d 182
2,2,3,3,4,4,5,5-Octafluorocyclopentanol	16621-87-7	cyc (-CF ₂) ₄ CH(OH)-	d 13
2,2,3,3,3-Pentafluoropropanol	422-05-9	CF ₃ CF ₂ CH ₂ OH	d 19
2,2,3,3,4,4,4-Heptafluorobutan-1-ol	375-01-9	C ₃ F ₇ CH ₂ OH	b d 34
2,2,2-Trifluoroethanol	75-89-8	CF ₃ CH ₂ OH	b 20
2,2,3,4,4,4-Hexafluoro-1-butanol	382-31-0	CF ₃ CH ₂ CF ₂ CH ₂ OH	b 17
2,2,3,3-Tetrafluoro-1-propanol	76-37-9	CHF ₂ CF ₂ CH ₂ OH	b 13
2,2-Difluoroethanol	359-13-7	CHF ₂ CH ₂ OH	b 3
2-Fluoroethanol	371-62-0	CH ₂ FCH ₂ OH	b 1.1
4,4,4-Trifluorobutan-1-ol	461-18-7	CF ₃ (CH ₂) ₂ CH ₂ OH	b 0.05
Non-Cyclic, Unsaturated Perfluorocarbons (PFCs)			
PFC-1114; TFE	116-14-3	CF ₂ =CF ₂ ; C ₂ F ₄	b 0.004
PFC-1216; Dyneon HFP	116-15-4	C ₃ F ₆ ; CF ₃ CF=CF ₂	b 0.05
Perfluorobut-2-ene	360-89-4	CF ₃ CF=CF ₂	b 1.82
Perfluorobut-1-ene	357-26-6	CF ₃ CF ₂ CF=CF ₂	b 0.10
Perfluorobuta-1,3-diene	685-63-2	CF ₂ =CF ₂ CF=CF ₂	b 0.003
Non-Cyclic, Unsaturated Hydrofluorocarbons (HFCs) and Hydrochlorofluorocarbons (HCFCs)			
HFC-1132a; VF2	75-38-7	C ₂ H ₂ F ₂ ; CF ₂ =CH ₂	b 0.04

TABLE A-1 TO SUBPART A OF PART 98—GLOBAL WARMING POTENTIALS—Continued
[100-Year time horizon]

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFC-1141; VF	75-02-5	C ₂ H ₃ F; CH ₂ =CHF	^b 0.02
(E)-HFC-1225ye	5595-10-8	CF ₃ CF=CHF(E)	^b 0.06
(Z)-HFC-1225ye	5528-43-8	CF ₃ CF=CHF(Z)	^b 0.22
Solstice 1233zd(E)	102687-65-0	C ₃ H ₂ ClF ₃ ; CHCl=CHCF ₃	^b 1.34
HCFO-1233zd(Z)	99728-16-2	(Z)-CF ₃ CH=CHCl	^e 0.45
HFC-1234yf; HFO-1234yf	754-12-1	C ₃ H ₂ F ₄ ; CF ₃ CF=CH ₂	^b 0.31
HFC-1234ze(E)	1645-83-6	C ₃ H ₂ F ₄ ; trans-CF ₃ CH=CHF	^b 0.97
HFC-1234ze(Z)	29118-25-0	C ₃ H ₂ F ₄ ; cis-CF ₃ CH=CHF; CF ₃ CH=CHF	^b 0.29
HFC-1243zf; TFP	677-21-4	C ₃ H ₃ F ₃ ; CF ₃ CH=CH ₂	^b 0.12
(Z)-HFC-1336	692-49-9	CF ₃ CH=CHCF ₃ (Z)	^b 1.58
HFO-1336mzz(E)	66711-86-2	(E)-CF ₃ CH=CHCF ₃	^e 18
HFC-1345zfc	374-27-6	C ₂ F ₅ CH=CH ₂	^b 0.09
HFO-1123	359-11-5	CHF=CF ₂	^e 0.005
HFO-1438ezy(E)	14149-41-8	(E)-(CF ₃) ₂ CFCH=CHF	^e 8.2
HFO-1447fz	355-08-8	CF ₃ (CF ₂) ₂ CH=CH ₂	^e 0.24
Capstone 42-U	19430-93-4	C ₆ H ₃ F ₉ ; CF ₃ (CF ₂) ₃ CH=CH ₂	^b 0.16
Capstone 62-U	25291-17-2	C ₈ H ₃ F ₁₃ ; CF ₃ (CF ₂) ₅ CH=CH ₂	^b 0.11
Capstone 82-U	21652-58-4	C ₁₀ H ₃ F ₁₇ ; CF ₃ (CF ₂) ₇ CH=CH ₂	^b 0.09
(e)-1-chloro-2-fluoroethene	460-16-2	(E)-CHCl=CHF	^e 0.004
3,3,3-trifluoro-2-(trifluoromethyl)prop-1-ene	382-10-5	(CF ₃) ₂ C=H ₂	^e 0.38
Non-Cyclic, Unsaturated CFCs			
CFC-1112	598-88-9	CClF=CClF	^e 0.13
CFC-1112a	79-35-6	CCl ₂ =CF ₂	^e 0.021
Non-Cyclic, Unsaturated Halogenated Ethers			
PMVE; HFE-216	1187-93-5	CF ₃ OCF=CF ₂	^b 0.17
Fluoroxene	406-90-6	CF ₃ CH ₂ OCH=CH ₂	^b 0.05
Methyl-perfluoroheptene-ethers	N/A	CH ₃ OC ₇ F ₁₃	^e 15
Non-Cyclic, Unsaturated Halogenated Esters			
Ethenyl 2,2,2-trifluoroacetate	433-28-3	CF ₃ COOCH=CH ₂	^e 0.008
Prop-2-enyl 2,2,2-trifluoroacetate	383-67-5	CF ₃ COOCH ₂ CH=CH ₂	^e 0.007
Cyclic, Unsaturated HFCs and PFCs			
PFC C-1418	559-40-0	c-C ₅ F ₈	^d 2
Hexafluorocyclobutene	697-11-0	cyc (-CF=CFCF ₂ CF ₂ -)	^e 126
1,3,3,4,4,5,5-heptafluorocyclopentene	1892-03-1	cyc (-CF ₂ CF ₂ CF ₂ CF=CH-)	^e 45
1,3,3,4,4-pentafluorocyclobutene	374-31-2	cyc (-CH=CFCF ₂ CF ₂ -)	^e 92
3,3,4,4-tetrafluorocyclobutene	2714-38-7	cyc (-CH=CHCF ₂ CF ₂ -)	^e 26
Fluorinated Aldehydes			
3,3,3-Trifluoro-propanal	460-40-2	CF ₃ CH ₂ CHO	^b 0.01
Fluorinated Ketones			
Novec 1230 (perfluoro (2-methyl-3-pentanone))	756-13-8	CF ₃ CF ₂ C(O)CF(CF ₃) ₂	^b 0.1
1,1,1-trifluoropropan-2-one	421-50-1	CF ₃ COCH ₃	^e 0.09
1,1,1-trifluorobutan-2-one	381-88-4	CF ₃ COCH ₂ CH ₃	^e 0.095
Fluorotelomer Alcohols			
3,3,4,4,5,5,6,6,7,7,7-Undecafluoroheptan-1-ol	185689-57-0	CF ₃ (CF ₂) ₄ CH ₂ CH ₂ OH	^b 0.43
3,3,3-Trifluoropropan-1-ol	2240-88-2	CF ₃ CH ₂ CH ₂ OH	^b 0.35
3,3,4,4,5,5,6,6,7,7,8,8,9,9,9-Pentadecafluorononan-1-ol	755-02-2	CF ₃ (CF ₂) ₆ CH ₂ CH ₂ OH	^b 0.33
3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,11-Nonadecafluoroundecan-1-ol	87017-97-8	CF ₃ (CF ₂) ₈ CH ₂ CH ₂ OH	^b 0.19
Fluorinated GHGs With Carbon-Iodine Bond(s)			
Trifluoroiodomethane	2314-97-8	CF ₃ I	^b 0.4
Remaining Fluorinated GHGs With Chemical-Specific GWPs			
Dibromodifluoromethane (Halon 1202)	75-61-6	CBr ₂ F ₂	^b 231
2-Bromo-2-chloro-1,1,1-trifluoroethane (Halon-2311/Halothane)	151-67-7	CHBrClCF ₃	^b 41
Heptafluoroisobutyronitrile	42532-60-5	(CF ₃) ₂ CFCN	^e 2,750
Carbonyl fluoride	353-50-4	COF ₂	^e 0.14

Fluorinated GHG group ^f	Global warming potential (100 yr.)
Default GWPs for Compounds for Which Chemical-Specific GWPs Are Not Listed Above	
Fully fluorinated GHGs ^g	9,200
Saturated hydrofluorocarbons (HFCs) with 2 or fewer carbon-hydrogen bonds ^g	3,000
Saturated HFCs with 3 or more carbon-hydrogen bonds ^g	840
Saturated hydrofluoroethers (HFEs) and hydrochlorofluoroethers (HCFEs) with 1 carbon-hydrogen bond ^g	6,600
Saturated HFEs and HCFEs with 2 carbon-hydrogen bonds ^g	2,900
Saturated HFEs and HCFEs with 3 or more carbon-hydrogen bonds ^g	320
Saturated chlorofluorocarbons (CFCs) ^g	4,900
Fluorinated formate	350
Cyclic forms of the following: unsaturated perfluorocarbons (PFCs), unsaturated HFCs, unsaturated CFCs, unsaturated hydrochlorofluorocarbons (HCFCs), unsaturated bromofluorocarbons (BFCs), unsaturated bromochlorofluorocarbons (BCFCs), unsaturated hydrobromofluorocarbons (HBFCs), unsaturated hydrobromochlorofluorocarbons (HBCFCs), unsaturated halogenated ethers, and unsaturated halogenated esters ^g	58
Fluorinated acetates, carbonofluorides, and fluorinated alcohols other than fluorotelomer alcohols ^g	25
Fluorinated aldehydes, fluorinated ketones, and non-cyclic forms of the following: unsaturated perfluorocarbons (PFCs), unsaturated HFCs, unsaturated CFCs, unsaturated HCFCs, unsaturated BFCs, unsaturated BCFCs, unsaturated HBFCs, unsaturated HBCFCs, unsaturated halogenated ethers and unsaturated halogenated esters ^g	1
Fluorotelomer alcohols ^g	1
Fluorinated GHGs with carbon-iodine bond(s) ^g	1
Other fluorinated GHGs ^g	1,800

^a The GWP for this compound was updated in the final rule published on November 29, 2013 [78 FR 71904] and effective on January 1, 2014.
^b This compound was added to Table A–1 in the final rule published on December 11, 2014, and effective on January 1, 2015.
^c The GWP for this compound was updated in the final rule published on December 11, 2014, and effective on January 1, 2015.
^d The GWP for this compound was updated in the final rule published on [Date of publication of the final rule in the **Federal Register**] and effective on January 1, 2025.
^e The GWP for this compound was added to Table A–1 in the final rule published on [Date of publication of the final rule in the **Federal Register**] and effective on January 1, 2025.
^f For electronics manufacturing (as defined in § 98.90), the term “fluorinated GHGs” in the definition of each fluorinated GHG group in § 98.6 shall include fluorinated heat transfer fluids (as defined in § 98.6), whether or not they are also fluorinated GHGs.
^g The GWP for this fluorinated GHG group was updated in the final rule published on [Date of publication of the final rule in the **Federal Register**] and effective on January 1, 2025.

■ 7. Amend table A–3 to subpart A of part 98 by adding the entries “Additional Source Categories^a Applicable in Reporting Year 2025 and Future Years”, “Geologic sequestration of carbon dioxide with enhanced oil recovery using ISO 27916 (subpart VV).”, “Coke calciners (subpart WW).”, “Calcium carbide production (subpart XX).”, and “Caprolactam, glyoxal, and glyoxylic acid production (subpart YY).” to the end of the table to read as follows.

TABLE A–3 TO SUBPART A OF PART 98—SOURCE CATEGORY LIST FOR § 98.2(a)(1)
 Source Category List for § 98.2(a)(1)

*	*	*	*	*	*	*
Additional Source Categories ^a Applicable in Reporting Year 2025 and Future Years: Geologic sequestration of carbon dioxide with enhanced oil recovery using ISO 27916 (subpart VV). Coke calciners (subpart WW). Calcium carbide production (subpart XX). Caprolactam, glyoxal, and glyoxylic acid production (subpart YY).						

^a Source categories are defined in each applicable subpart.

■ 8. Amend table A–4 to subpart A of part 98 by adding the entries “Additional Source Categories^a Applicable in Reporting Year 2025 and Future Years.” and “Ceramics manufacturing facilities, as determined under § 98.XXXX (subpart ZZ)”, to the end of the table.

TABLE A–4 TO SUBPART A OF PART 98—SOURCE CATEGORY LIST FOR § 98.2(a)(2)

*	*	*	*	*	*	*
Additional Source Categories ^a Applicable in Reporting Year 2025 and Future Years: Ceramics manufacturing facilities, as determined under § 98.XXXX (subpart ZZ)						

^a Source categories are defined in each applicable subpart.

■ 9. Add subpart B to read as follows:

Subpart B—Energy Consumption	98.23 Calculating GHG emissions.	§ 98.20 Definition of the source category.
Sec.	98.24 Monitoring and QA/QC requirements.	(a) The energy consumption source category consists of direct emitting facilities that (1) purchase metered electricity or metered thermal energy products; (2) are required to report under §§ 98.2(a)(1), (2), or (3) or are
98.20 Definition of the source category.	98.25 Procedures for estimating missing data.	
98.21 Reporting threshold.	98.26 Data reporting requirements.	
98.22 GHGs to report.	98.27 Records that must be retained.	
	98.28 Definitions.	

required to resume reporting under §§ 98.2(i)(1), (2), or (3); and (3) are not eligible to discontinue reporting under the provisions at §§ 98.2(i)(1), (2), or (3).

(b) This source category does not include:

(1) Purchases of fuel and the associated direct emissions from the use of that fuel on site.

(2) Electricity and thermal energy products that are not subject to purchasing agreements.

§ 98.21 Reporting threshold.

You must report the quantity of purchased electricity and thermal energy products in accordance with the reporting requirements of § 98.26 of this subpart.

§ 98.22 GHGs to report.

This subpart does not require the reporting of either direct or indirect greenhouse gas emissions.

§ 98.23 Calculating GHG emissions.

This subpart does not require the calculation of either direct or indirect greenhouse gas emissions.

§ 98.24 Monitoring and QA/QC requirements.

Facilities subject to this subpart must develop a written Metered Energy Monitoring Plan (MEMP) for purchased electricity and thermal energy products in accordance with paragraph (a) of this section. The MEMP may rely on references to existing corporate documents (*e.g.*, purchasing agreements, standard operating procedures, quality assurance programs under appendix F to 40 CFR part 60 or appendix B to 40 CFR part 75, and other documents) provided that the elements required by paragraphs (a)(1) through (7) of this section are easily recognizable. Facilities must complete QA/QC requirements in accordance with paragraphs (b) and (c) of this section.

(a) MEMP Requirements. At a minimum, the MEMP must specify recordkeeping activities at the same frequency as billing statements from the energy delivery service provider and must include the elements listed in this paragraph (a).

(1) Identification of positions of responsibility (*i.e.*, job titles) for collection of the energy consumption data.

(2) The identifier of each meter shown on periodic billing statements with a description of the portions of the facility served by the meter and a photograph that shows the meter identifier, manufacturer's name, and model number.

(3) For each meter, an indication of the billing frequency (*e.g.*, monthly, quarterly, or semi-annually).

(4) A copy of one typical billing statement that includes all pages for each meter with the meter identifier, the name of the energy delivery service provider, the name of the energy supply service provider (if applicable in deregulated states), the dates of service, the usage, and the rate descriptor.

(5) An indication of whether each electricity meter conforms to the accuracy specifications required by § 98.24(b). The MEMP must include one of the potential outcomes listed in paragraphs (a)(5)(i) through (iii) of this section for each electricity meter serving the facility:

(i) Manufacturer's certification that the electricity meter model number conforms to the accuracy specifications required by § 98.24(b), with a copy of the associated manufacturer's technical data. If this option is selected the owner or operator must include a picture of the meter with a copy of the technical data from the manufacturer indicating conformance to the accuracy specifications required by § 98.24(b).

(ii) Certification letter from the electricity delivery service provider indicating the meter conforms to the accuracy specifications required by § 98.24(b).

(iii) An indication that either the conformance status of the meter to the accuracy specifications required by § 98.24(b) could not be determined, or the meter was determined to have accuracy specifications less stringent than required by § 98.24(b), according to paragraphs (a)(5)(iii)(A) through (C) of this section.

(A) A copy of the certified letter sent to the electricity delivery service provider, requesting installation of a meter that conforms to the accuracy specifications required by § 98.24(b).

(B) The return receipt for the certified letter.

(C) Any correspondence from the electricity delivery service provider related to the request.

(6) For both purchased electricity and thermal energy product meters, an explanation of the processes and methods used to collect the necessary data to report the total annual usage of purchased electricity in kWh and the total annual usage of purchased thermal energy products in mmBtu. For thermal energy products the plan must include a clear procedure and example of how measured data are converted to mmBtu.

(7) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all monitoring systems, flow meters, and

other instrumentation used to collect the energy consumption data reported under this part.

(8) The facility must revise the MEMP as needed to reflect changes in production processes, monitoring instrumentation, and quality assurance procedures; or to improve procedures for the maintenance and repair of monitoring systems to reduce the frequency of monitoring equipment downtime.

(9) Upon request by the Administrator, the facility must make all information that is collected in conformance with the MEMP available for review. Electronic storage of the information in the plan is permissible, provided that the information can be made available in hard copy upon request.

(b) Quality assurance for purchased electricity monitoring. The facility must determine if each electricity meter conforms to ANSI C12.1–2022: Electric Meters—Code for Electricity Metering (incorporated by reference, see § 98.7) or another similar consensus standard with accuracy specifications at least as stringent as the ANSI standard, using one of the methods under paragraphs (b)(1) through (3) of this section.

(1) The facility may identify the manufacturer and model number of the meter and obtain a copy of the meter's technical reference guide or technical data sheet indicating the meter's conformance with the requirements of § 98.24(b). If this option is selected the facility must include a picture of the meter with a copy of the technical data from the manufacturer indicating conformance with the requirements of § 98.24(b).

(2) The facility may obtain a certification from the electricity delivery service provider that owns the meter indicating that the meter conforms to the accuracy specifications required by § 98.24(b).

(3) If the facility determines that either the conformance status of the meter under § 98.24(b) could not be determined, or that the meter does not conform to the accuracy specifications required by § 98.24(b), the facility must submit, via certified mail (with return receipt requested) to the electricity delivery service provider that owns the meter, a request that the existing meter be replaced by an electricity meter that meets the accuracy specifications required by § 98.24(b). The facility must maintain in the MEMP a copy of the written request, the return receipt, and any correspondence from the electricity delivery service provider. Any meters that do not conform to the accuracy specifications required by § 98.24(b)

must be flagged as such in the MEMP, until such time that they are replaced with meters that conform to the accuracy specifications required by § 98.24(b).

(c) Quality assurance for purchased thermal energy product monitoring. The facility must contact the energy delivery service provider of each purchased thermal energy product and request a copy of the most recent audit of the accuracy of each meter referenced in the purchasing agreement. If an audit of the meter has never been completed or if the audit is more than five years old, the facility must request that the energy delivery service provider complete an energy audit consistent with the terms of the purchasing agreement. If the purchasing agreement does not include provisions for periodic audits of the meter, the facility must complete an audit of the meter using a qualified metering specialist with knowledge of the associated thermal medium. Every five years an audit of the meter must be completed. If the audit indicates that the meter is producing readings with errors greater than specified by § 98.3(i)(2) or (3), the meter must be repaired or replaced and retested to demonstrate compliance with the specifications at § 98.3(i)(2) or (3).

§ 98.25 Procedures for estimating missing data.

For both purchased electricity and thermal energy products, a facility with missing billing statements must request replacement copies of the statements from its energy delivery service provider. If the energy delivery service provider is unable to provide replacement copies of billing statements, the facility must estimate the missing data based on the best available estimate of the energy use, based on all available data which may impact energy usage (e.g., processing rates, operating hours, etc.). The facility must document and keep records of the procedures used for all missing data estimates.

§ 98.26 Data reporting requirements.

In addition to the facility-level information required under § 98.3, the annual GHG report must contain the data specified in paragraphs (a) through (m) of this section for each purchased electricity and thermal energy product meter located at the facility.

(a) The state in which each meter is located.

(b) The locality of the meter. You must report the county in which each meter is located. If the meter is not located in a county (e.g., meters in

Alexandria, Virginia), you must report the city in which the meter is located.

(c) Energy delivery service provider's name (i.e., the name of the entity to whom the purchasing facility will send payment).

(d) An identifying number for the energy delivery service provider as specified in paragraph (d)(1) or (2) of this section:

(1) For purchased electricity, the zip code associated with the payment address for the provider.

(2) For purchased thermal energy products, the public GHGRP facility identifier of the energy supply service provider. If the provider does not have an assigned GHGRP facility identifier, report the zip code for the physical location in which the thermal energy product was produced.

(e) Electricity supply service provider's name. This reporting requirement applies only to purchased electricity in states with deregulated markets where the electricity billing statements have separate line items for electricity delivery services and electricity supply services. In these states, the electricity delivery service provider may be a different entity from the electricity supply service provider.

(f) Meter number. This is the meter number that appears on each billing statement.

(g) Annual sequence of bill. This is a number from 1 to 12 for monthly billing cycles, from 1 to 4 for quarterly billing cycles, and 1 to 2 for semi-annual billing cycles.

(h) Start date(s) of period(s) billed. This is the date designating when the usage period began for each billing statement. For monthly billing cycles, the annual report would include 12 start dates. For quarterly billing cycles the annual report would include four start dates. For semi-annual billing cycles the annual report would include two start dates.

(i) End date(s) of period(s) billed. This is the date designating when the usage period ends for each billing statement. For monthly billing cycles, the annual report would include 12 end dates. For quarterly billing cycles the annual report would include four end dates. For semi-annual billing cycles the annual report would include two end dates.

(j) Quantities of purchased electricity and thermal energy products as specified in paragraphs (j)(1) through (3) of this section, excluding any quantities described in paragraph (j)(4) of this section.

(1) Purchased electricity. You must report the kWh used as reported on each periodic billing statement received

during the reporting year. For each meter on each electricity billing statement received during the reporting period, the usage will be clearly designated for the month, quarter, or semi-annual billing period. This value may be listed on the billing statement in megawatt-hours (MWh). To convert values on billing statements that report usage in MWh to kWh, the MWh value should be multiplied by 1,000.

(2) Purchased thermal energy products. You must report the quantity of thermal energy products purchased as reported on each periodic billing statement received during the reporting year, converted to mmBtu. This value must be calculated in accordance with the method described and documented in the MEMP.

(3) Allocation. If the periodic billing statement specified in paragraph (j)(1) or (2) of this section spans two reporting years, you must allocate the quantity of purchased electricity and thermal energy products using either the method specified in paragraph (j)(3)(i) or (ii) of this section:

(i) You may allocate the purchased electricity and thermal energy products to each reporting year based on operational knowledge of the industrial processes for which energy is purchased, or

(ii) You may allocate to each reporting year the portion of purchased electricity and thermal energy products in the periodic billing statement proportional to the number of days of service in each reporting year.

(4) Excluded quantities. For the purpose of reporting under this paragraph (j), the facility may exclude any electricity that is generated outside the facility and delivered into the facility with final destination and usage outside of the facility. The facility may also exclude electricity consumed by operations or activities that do not support any activities reporting direct emissions in this part. The excluded quantities may be estimated based on company records or engineering judgment.

(k) Rate descriptor for each electricity billing statement. Each electricity billing statement should have a statement that describes the rate plan in effect for the billing location. This rate descriptor can indicate if the customer is billed based on a time-of-use rate or if the customer is purchasing a renewable energy product. For example, a typical rate statement could be "Your current rate is Large Commercial Time of Use (LC-TOUD)." In this case the GHGRP reporter would enter "LC-TOUD" as the rate descriptor for the associated billing period.

(l) Facilities subject to multiple direct emitting part 98 subparts must report, for the quantities reported under paragraph (j) of this section, the decimal fraction of purchased electricity or thermal energy products attributable to each subpart. The fraction may be estimated based on company records or engineering judgment.

(m) Copy of one billing statement per energy delivery service provider of purchased electricity or thermal energy products, as specified in paragraphs (m)(1) through (3) of this section.

(1) The first annual report under this subpart must include an electronic copy of all pages of one billing statement received by the facility from each energy delivery service provider of purchased electricity or thermal energy products.

(2) If the facility changes or adds one or more energy delivery service providers after the first reporting year, the annual report must include an electronic copy of all pages of one billing statement received from each new energy delivery service provider for only the first reporting year of each new purchasing agreement.

(3) The electronic copy specified in paragraph (m)(2) of this section must be submitted in the format specified in the reporting instructions published for the reporting year.

§ 98.27 Records that must be retained.

(a) Copies of all purchased electricity or thermal energy product billing statements.

(b) The results of all required certification and quality assurance tests referenced in the MEMP for all purchased electricity or thermal energy product meters used to develop the energy consumption data reported under this part.

(c) Maintenance records for all monitoring systems, flow meters, and other instrumentation used to provide data on consumption of purchased electricity or thermal energy products under this part.

§ 98.28 Definitions.

Except as provided in this section, all terms used in this part shall have the same meaning given in the Clean Air Act and subpart A of this part.

Indirect emissions are an attribute of activities that consume energy and are intended to provide an estimate of the quantity of greenhouse gases associated with the production and delivery of

purchased electricity and thermal energy products delivered to the energy consumer. Indirect emissions are released to the atmosphere at a facility that is owned by the energy supply service provider, but the indirect emissions attribute is associated with the consuming activity.

Metered means, as applied to electricity, that the quantity of electricity is determined by an electricity meter installed at the location of service by an electricity delivery service provider who periodically conducts meter readings for billing purposes. As applied to thermal energy products, metered means that the thermal energy product is metered in accordance with the purchasing agreement with additional information, as necessary, such as design or operating temperature, pressure, and mass flow rate to determine the supplied quantity of thermal energy products.

Purchased electricity means metered electricity that is delivered to a facility subject to this subpart.

Purchasing agreement means, for purchased electricity, the terms and conditions governing the provision of electric services by an electricity delivery service provider to a consumer seeking electric service (*i.e.*, the applicable part 98 source). For purchased thermal energy products, this term means a contract, such as a steam purchase contract, between a supplier of thermal energy products and a consumer of thermal energy products (*i.e.*, the applicable part 98 source). Purchasing agreements include specific provisions for metering the purchased electricity or thermal energy products.

Thermal energy products means metered steam, hot water, hot oil, chilled water, refrigerant, or any other medium used to transfer thermal energy and delivered to a facility subject to this subpart.

Subpart C—General Stationary Fuel Combustion Sources

■ 10. Amend § 98.36 by adding paragraphs (b)(12), (c)(1)(xii), (c)(2)(xii), and (c)(3)(xi) to read as follows:

§ 98.36 Data reporting requirements.

* * * * *

(b) * * *

(12) An indication of whether the unit is an electricity generating unit.

(c) * * *

(1) * * *

(xii) An indication of whether any unit in the group is an electricity generating unit, and, if so, an estimate of the group's total reported emissions attributable to electricity generation (expressed as a decimal fraction). This estimate may be based on engineering estimates.

(2) * * *

(xii) An indication of whether any unit in the group is an electricity generating unit, and, if so, an estimate of the group's total reported emissions attributable to electricity generation (expressed as a decimal fraction). This estimate may be based on engineering estimates.

(3) * * *

(xii) An indication of whether any unit in the group is an electricity generating unit, and, if so, an estimate of the group's total reported emissions attributable to electricity generation (expressed as a decimal fraction). This estimate may be based on engineering estimates.

* * * * *

Subpart F—Aluminum Production

■ 11. Amend § 98.66 by revising paragraphs (a) and (g) to read as follows:

§ 98.66 Data reporting requirements.

* * * * *

(a) Annual production capacity (tons).

* * * * *

(g) Annual operating days per potline.

* * * * *

Subpart G—Ammonia Manufacturing

■ 12. Amend § 98.76 by adding paragraph (b)(16) to read as follows:

§ 98.76 Data reporting requirements.

* * * * *

(b) * * *

(16) Annual quantity of excess hydrogen produced that is not consumed through the production of ammonia (metric tons).

Subpart I—Electronics Manufacturing

§ 98.98 [Amended]

■ 13. Amend § 98.98 by removing the definition for “Fluorinated heat transfer fluids.”

■ 14. Revise table I–16 of subpart I of part 98 to read as follows:

TABLE I-16 TO SUBPART I OF PART 98—DEFAULT EMISSION DESTRUCTION OR REMOVAL EFFICIENCY (DRE) FACTORS FOR ELECTRONICS MANUFACTURING

Manufacturing type/process type/gas	Default DRE (%)
MEMS, LCDs, and PV manufacturing	60
Semiconductor Manufacturing	87
CF ₄	98
CH ₃ F	97
CHF ₃	98
CH ₂ F ₂	93
C ₄ F ₈	93
C ₄ F ₈ O	97
C ₅ F ₈	95
C ₄ F ₆	98
C ₃ F ₈	97
C ₂ HF ₅	98
C ₂ F ₆	95
SF ₆	96
NF ₃	60
All other carbon-based fluorinated GHGs used in Semiconductor Manufacturing	60
N ₂ O Processes	60
CVD and all other N ₂ O-using processes	60

15. Revise table I-18 of subpart I of part 98 to read as follows:

TABLE I-18 TO SUBPART I OF PART 98—DEFAULT FACTORS FOR GAMMA ($\gamma_{i,p}$ AND $\gamma_{k,i,p}$) FOR SEMICONDUCTOR MANUFACTURING AND FOR MEMS AND PV MANUFACTURING UNDER CERTAIN CONDITIONS* FOR USE WITH THE STACK TESTING METHOD

Process type	In-situ thermal or in-situ plasma cleaning					Remote plasma cleaning			
	Gas	CF ₄	C ₂ F ₆	c-C ₄ F ₈	NF ₃	SF ₆	C ₃ F ₈	CF ₄	NF ₃
If manufacturing wafer sizes ≤200 mm AND manufacturing 300 mm (or greater) wafer sizes									
γ_i	13	9.3	4.7	14	11	NA	NA	5.7	
$\gamma_{CF4,i}$	NA	23	6.7	63	8.7	NA	NA	58	
$\gamma_{C2F6,i}$	NA	NA	NA	NA	3.4	NA	NA	NA	
$\gamma_{CHF3,i}$	NA	NA	NA	NA	NA	NA	NA	0.24	
$\gamma_{CH2F2,i}$	NA	NA	NA	NA	NA	NA	NA	111	
$\gamma_{CH3F,i}$	NA	NA	NA	NA	NA	NA	NA	33	
If manufacturing ≤200 mm OR manufacturing 300 mm (or greater) wafer sizes									
γ_i (≤200 mm wafer size)	13	9.3	4.7	2.9	11	NA	NA	1.4	
$\gamma_{CF4,i}$ (≤200 mm wafer size)	NA	23	6.7	110	8.7	NA	NA	36	
$\gamma_{C2F6,i}$ (≤200 mm wafer size)	NA	NA	NA	NA	3.4	NA	NA	NA	
γ_i (300 mm wafer size)	NA	NA	NA	26	NA	NA	NA	10	
$\gamma_{CF4,i}$ (300 mm wafer size)	NA	NA	NA	17	NA	NA	NA	80	
$\gamma_{C2F6,i}$ (300 mm wafer size)	NA	NA	NA	NA	NA	NA	NA	NA	
$\gamma_{CHF3,i}$ (300 mm wafer size)	NA	NA	NA	NA	NA	NA	NA	0.24	
$\gamma_{CH2F2,i}$ (300 mm wafer size)	NA	NA	NA	NA	NA	NA	NA	111	
$\gamma_{CH3F,i}$ (300 mm wafer size)	NA	NA	NA	NA	NA	NA	NA	33	

* If you manufacture MEMS or PVs and use semiconductor tools and processes, you may use the corresponding γ in this table. For all other tools and processes, a default γ of 10 must be used.

Subpart N—Glass Production

- 16. Amend § 98.146 by:
 - a. Revising paragraphs (a) introductory text and (a)(1);
 - b. Adding paragraph (a)(3); and
 - c. Revising paragraphs (b)(4) and (9).

The revisions and additions read as follows:

§ 98.146 Data reporting requirements.

* * * * *

(a) If a CEMS is used to measure CO₂ emissions, then you must report under this subpart the relevant information required under § 98.36 for the Tier 4 Calculation Methodology and the following information specified in paragraphs (a)(1) through (3) of this section:

(1) Annual quantity of each carbonate-based raw material (tons) charged to

each continuous glass melting furnace and for all furnaces combined.

* * * * *

(3) Annual quantity (tons), by glass type, of recycled scrap glass (cullet) charged to each glass melting furnace and for all furnaces combined.

(b) * * *

(4) Annual quantity (tons), by glass type, of recycled scrap glass (cullet)

charged to each glass melting furnace and for all furnaces combined.

* * * * *

(9) The number of times in the reporting year that missing data procedures were followed to measure monthly quantities of carbonate-based raw materials, recycled scrap glass (cullet), or mass fraction of the carbonate-based minerals for any continuous glass melting furnace (months).

■ 17. Amend § 98.147 by:

■ a. Revising paragraph (a) introductory text;

■ b. Adding paragraph (a)(3);

■ c. Revising paragraphs (b) introductory text and (b)(1) and (2);

■ d. Redesignating paragraphs (b)(3) through (5) as paragraphs (b)(4) through (6), respectively; and

■ e. Adding new paragraph (b)(3).

The revisions and additions read as follows:

§ 98.147 Records that must be retained.

* * * * *

(a) If a CEMS is used to measure emissions, then you must retain the records required under § 98.37 for the Tier 4 Calculation Methodology and the following information specified in paragraphs (a)(1) through (a)(3) of this section:

* * * * *

(3) Monthly amount (tons) of recycled scrap glass (cullet) charged to each glass melting furnace, by glass type.

(b) If process CO₂ emissions are calculated according to the procedures specified in § 98.143(b), you must retain the records in paragraphs (b)(1) through (b)(6) of this section.

(1) Monthly glass production rate for each continuous glass melting furnace, by glass type (tons).

(2) Monthly amount of each carbonate-based raw material charged to each continuous glass melting furnace (tons).

(3) Monthly amount (tons) of recycled scrap glass (cullet) charged to each glass melting furnace, by glass type.

(4) Data on carbonate-based mineral mass fractions provided by the raw material supplier for all raw materials consumed annually and included in calculating process emissions in Equation N-1 of this subpart, if applicable.

(5) Results of all tests, if applicable, used to verify the carbonate-based mineral mass fraction for each carbonate-based raw material charged to a continuous glass melting furnace, including the data specified in paragraphs (b)(5)(i) through (v) of this section.

(i) Date of test.

(ii) Method(s), and any variations of the methods, used in the analyses.

(iii) Mass fraction of each sample analyzed.

(iv) Relevant calibration data for the instrument(s) used in the analyses.

(v) Name and address of laboratory that conducted the tests.

(6) The decimal fraction of calcination achieved for each carbonate-based raw material, if a value other than 1.0 is used to calculate process mass emissions of CO₂.

* * * * *

Subpart P—Hydrogen Production

■ 18. Revise § 98.160 to read as follows:

§ 98.160 Definition of the source category.

(a) A hydrogen production source category consists of facilities that produce hydrogen gas as a product.

(b) This source category comprises process units that produce hydrogen by reforming, gasification, oxidation, reaction, or other transformations of feedstocks except the processes listed in paragraph (b)(1) or (2) of this section.

(1) Any process unit for which emissions are reported under another subpart of this part. This includes, but is not necessarily limited to:

(A) Ammonia production units for which emissions are reported under subpart G.

(B) Catalytic reforming units at petroleum refineries that transform naphtha into higher octane aromatics for which emissions are reported under subpart Y.

(C) Petrochemical process units for which emissions are reported under subpart X.

(2) Any process unit that only separates out diatomic hydrogen from a gaseous mixture and is not associated with a unit that produces hydrogen created by transformation of one or more feedstocks, other than those listed in paragraph (b)(1) of this section.

(c) This source category includes the process units that produce hydrogen and stationary combustion units directly associated with hydrogen production (e.g., reforming furnace and hydrogen production process unit heater).

■ 19. Amend § 98.162 by revising paragraph (a) to read as follows:

§ 98.162 GHGs to report.

* * * * *

(a) CO₂ emissions from each hydrogen production process unit, including fuel combustion emissions accounted for in the calculation methodologies in § 98.163.

* * * * *

■ 20. Amend § 98.163 by revising paragraph (c) to read as follows:

§ 98.163 Calculating GHG emissions.

* * * * *

(c) If GHG emissions from a hydrogen production process unit are vented through the same stack as any combustion unit or process equipment that reports CO₂ emissions using a CEMS that complies with the Tier 4 Calculation Methodology in subpart C of this part (General Stationary Fuel Combustion Sources), then the owner or operator shall report under this subpart the combined stack emissions according to the Tier 4 Calculation Methodology in § 98.33(a)(4) and all associated requirements for Tier 4 in subpart C of this part (General Stationary Fuel Combustion Sources). If GHG emissions from a hydrogen production process unit using a CEMS that complies with the Tier 4 Calculation Methodology in subpart C of this part (General Stationary Fuel Combustion Sources) does not include combustion emissions from the hydrogen production unit (i.e., the hydrogen production unit has separate stacks for process and combustion emissions), then the calculation methodology in paragraph (b) of this section shall be used considering only fuel inputs to calculate and report CO₂ emissions from fuel combustion related to the hydrogen production unit.

■ 21. Revise § 98.166 to read as follows:

§ 98.166 Data reporting requirements.

In addition to the information required by § 98.3(c), each annual report must contain the information specified in paragraphs (a) and (b) of this section, as appropriate.

(a) If a CEMS is used to measure CO₂ emissions, then you must report the relevant information required under § 98.36 for the Tier 4 Calculation Methodology for each CEMS monitoring location.

(b) For each hydrogen production process unit, report:

(1) Unit identification number and the information about the unit specified in paragraphs (b)(1)(i) and (ii) of this section:

(i) The type of hydrogen production unit (steam methane reformer (SMR) only, SMR followed by water gas shift reaction (WGS), partial oxidation (POX) only, POX followed by WGS, water electrolysis, brine electrolysis, other (specify)); and,

(ii) The type of hydrogen purification method (pressure swing adsorption, amine adsorption, membrane separation, other (specify), none).

(2) Annual CO₂ emissions (metric tons) and the calculation methodology (CEMS for single hydrogen production unit; CEMS on a common stack for multiple hydrogen production units; CEMS on a common stack with hydrogen production unit(s) and other sources; CEMS measuring only process emissions plus fuel combustion emissions calculated using Equations P-1 through P-3; material balance using Equations P-1 through P-3 only; material balance using Equations P-1 through P-4).

(i) If either a CEMS on a common stack for multiple hydrogen production units or CEMS on a common stack for hydrogen production unit(s) and other sources is used, you must also report the estimated decimal fraction of the total annual CO₂ emissions from the CEMS monitoring location (estimated using engineering estimates or best available data) attributable to this hydrogen production unit.

(ii) If the method selected is CEMS measuring process emissions alone plus mass balance for hydrogen production unit fuel combustion using Equations P-1 through P-3, you must also report the annual CO₂ emissions (metric tons) calculated for this hydrogen production unit's fuel combustion using Equations P-1 through P-3.

(3) The following quantities of hydrogen exiting the hydrogen production unit:

(i) Annual quantity of hydrogen produced by reforming, gasification, oxidation, reaction, or other transformation of feedstocks (metric tons).

(ii) Annual quantity of hydrogen that is purified only (metric tons). This quantity may be assumed to be equal to the annual quantity of hydrogen in the feedstocks to the hydrogen production unit.

(4) Annual quantity of ammonia intentionally produced as a desired product, if applicable (metric tons).

(5) If a material balance method is used, name and annual quantity (metric tons) of each carbon-containing fuel and feedstock.

(6) Quantity of CO₂ collected and transferred off site in either gas, liquid, or solid forms, following the requirements of subpart PP of this part.

(7) Annual quantity of carbon other than CO₂ or methanol collected and transferred off site in either gas, liquid, or solid forms (metric tons carbon).

(8) Annual quantity of methanol intentionally produced as a desired product, if applicable, (metric tons) for each process unit.

(9) Annual net quantity of steam consumed by the unit, (metric tons).

Include steam purchased or produced outside of the hydrogen production unit. If the hydrogen production unit is a net producer of steam, enter the annual net quantity of steam consumed by the unit as a negative value.

■ 22. Amend § 98.167 by revising paragraph (b), removing and reserving paragraph (c), and revising paragraph (d).

§ 98.167 Records that must be retained.

* * * * *

(b) You must retain records of all analyses and calculations conducted to determine the values reported in § 98.166(b).

(c) [Reserved]

(d) The owner or operator must document the procedures used to ensure the accuracy of the estimates of fuel and feedstock usage in § 98.163(b), including, but not limited to, calibration of weighing equipment, fuel and feedstock flow meters, and other measurement devices. The estimated accuracy of measurements made with these devices must also be recorded, and the technical basis for these estimates must be provided.

* * * * *

Subpart Y—Petroleum Refineries

■ 23. Amend § 98.250 by revising paragraph (c) to read as follows:

§ 98.250 Definition of source category.

* * * * *

(c) This source category consists of the following sources at petroleum refineries: Catalytic cracking units; fluid coking units; delayed coking units; catalytic reforming units; asphalt blowing operations; blowdown systems; storage tanks; process equipment components (compressors, pumps, valves, pressure relief devices, flanges, and connectors) in gas service; marine vessel, barge, tanker truck, and similar loading operations; flares; and sulfur recovery plants.

§ 98.252 [Amended]

■ 24. Amend § 98.252 by removing and reserving paragraphs (e) and (i).

■ 25. Amend § 98.253 by:

■ a. Revising parameter “CO₂” of Equation Y-9 in paragraph (c)(4) and parameter “CO₂” of Equation Y-10 in paragraph (c)(5); and

■ b. Removing and reserving paragraph (g).

The revisions read as follows:

§ 98.253 Calculating GHG emissions.

* * * * *

(c) * * *

(4) * * *

CO₂ = Emission rate of CO₂ from coke burn-off calculated in paragraphs (c)(1), (c)(2), (e)(1), or (e)(2) of this section, as applicable (metric tons/year).

* * * * *

(5) * * *

CO₂ = Emission rate of CO₂ from coke burn-off calculated in paragraphs (c)(1), (c)(2), (e)(1), or (e)(2) of this section, as applicable (metric tons/year).

* * * * *

(g) [Removed and Reserved]

§ 98.254 [Amended]

■ 26. Amend § 98.254 by removing and reserving paragraphs (h) and (i).

§ 98.255 [Amended]

■ 27. Amend § 98.255 by removing and reserving paragraph (d).

■ 28. Amend § 98.256 by:

■ a. Removing and reserving paragraphs (b) and (i); and

■ b. Revising paragraph (j)(2).

The revisions read as follows:

§ 98.256 Data reporting requirements.

* * * * *

(b) [Removed and Reserved]

* * * * *

(i) [Removed and Reserved]

* * * * *

(j) * * *

(2) Maximum rated throughput of the unit, in metric tons asphalt/stream day.

* * * * *

■ 29. Amend § 98.257 by:

■ a. Revising paragraphs (b)(16) through (19); and

■ b. Removing and reserving paragraphs (b)(27) through (31).

The revisions read as follows:

§ 98.257 Records that must be retained.

* * * * *

(b) * * *

(16) Value of unit-specific CH₄ emission factor, including the units of measure, for each catalytic cracking unit, traditional fluid coking unit, and catalytic reforming unit (calculation method in § 98.253(c)(4)).

(17) Annual activity data (e.g., input or product rate), including the units of measure, in units of measure consistent with the emission factor, for each catalytic cracking unit, traditional fluid coking unit, and catalytic reforming unit (calculation method in § 98.253(c)(4)).

(18) Value of unit-specific N₂O emission factor, including the units of measure, for each catalytic cracking unit, traditional fluid coking unit, and catalytic reforming unit (calculation method in § 98.253(c)(5)).

(19) Annual activity data (e.g., input or product rate), including the units of

measure, in units of measure consistent with the emission factor, for each catalytic cracking unit, traditional fluid coking unit, and catalytic reforming unit (calculation method in § 98.253(c)(5)).

- * * * * *
- (27) [Removed and Reserved]
- (28) [Removed and Reserved]
- (29) [Removed and Reserved]
- (30) [Removed and Reserved]
- (31) [Removed and Reserved]
- * * * * *

Subpart AA—Pulp and Paper Manufacturing

- 30. Amend § 98.273 by:
 - a. Revising introductory paragraph (a) and paragraphs (a)(1) and (2);
 - b. Adding paragraph (a)(4);
 - c. Revising introductory paragraph (b) and paragraphs (b)(1) and (2);
 - d. Adding paragraph (b)(5);
 - e. Revising introductory paragraph (c) and paragraphs (c)(1) and (2); and
 - f. Adding paragraph (c)(4).

The revisions and additions read as follows:

§ 98.273 Calculating GHG emissions.

(a) For each chemical recovery furnace located at a kraft or soda facility, you must determine CO₂, biogenic CO₂, CH₄, and N₂O emissions using the procedures in paragraphs (a)(1) through (a)(4) of this section. CH₄ and N₂O emissions must be calculated as the sum of emissions from combustion of fuels and combustion of biomass in spent liquor solids.

(1) Calculate CO₂ emissions from fuel combustion using direct measurement of fuels consumed and default emissions factors according to the Tier 1 methodology for stationary combustion sources in § 98.33(a)(1). Tiers 2 or 3 from § 98.33(a)(2) or (3) may be used to calculate CO₂ emissions if the respective monitoring and QA/QC requirements described in § 98.34 are met.

(2) Calculate CH₄ and N₂O emissions from fuel combustion using direct measurement of fuels consumed, default or site-specific HHV, and default emissions factors and convert to metric tons of CO₂ equivalent according to the methodology for stationary combustion sources in § 98.33(c).

(4) Calculate biogenic CO₂ emissions from combustion of biomass (other than spent liquor solids) with other fuels according to the applicable methodology for stationary combustion sources in § 98.33(e).

(b) For each chemical recovery combustion unit located at a sulfite or stand-alone semichemical facility, you

must determine CO₂, CH₄, and N₂O emissions using the procedures in paragraphs (b)(1) through (5) of this section:

(1) Calculate CO₂ emissions from fuel combustion using direct measurement of fuels consumed and default emissions factors according to the Tier 1 Calculation Methodology for stationary combustion sources in § 98.33(a)(1). Tiers 2 or 3 from § 98.33(a)(2) or (3) may be used to calculate CO₂ emissions if the respective monitoring and QA/QC requirements described in § 98.34 are met.

(2) Calculate CH₄ and N₂O emissions from fuel combustion using direct measurement of fuels consumed, default or site-specific HHV, and default emissions factors and convert to metric tons of CO₂ equivalent according to the methodology for stationary combustion sources in § 98.33(c).

(5) Calculate biogenic CO₂ emissions from combustion of biomass (other than spent liquor solids) with other fuels according to the applicable methodology for stationary combustion sources in § 98.33(e).

(c) For each pulp mill lime kiln located at a kraft or soda facility, you must determine CO₂, CH₄, and N₂O emissions using the procedures in paragraphs (c)(1) through (c)(4) of this section:

(1) Calculate CO₂ emissions from fuel combustion using direct measurement of fuels consumed and default HHV and default emissions factors, according to the Tier 1 Calculation Methodology for stationary combustion sources in § 98.33(a)(1). Tiers 2 or 3 from § 98.33(a)(2) or (3) may be used to calculate CO₂ emissions if the respective monitoring and QA/QC requirements described in § 98.34 are met.

(2) Calculate CH₄ and N₂O emissions from fuel combustion using direct measurement of fuels consumed, default or site-specific HHV, and default emissions factors and convert to metric tons of CO₂ equivalent according to the methodology for stationary combustion sources in § 98.33(c); use the default HHV listed in Table C–1 of subpart C and the default CH₄ and N₂O emissions factors listed in Table AA–2 of this subpart.

(4) Calculate biogenic CO₂ emissions from combustion of biomass with other fuels according to the applicable methodology for stationary combustion sources in § 98.33(e).

- 31. Amend § 98.276 by revising paragraph (a) to read as follows:

§ 98.276 Data reporting requirements.

(a) Annual emissions of CO₂, biogenic CO₂, CH₄, and N₂O (metric tons per year).

- 32. Amend § 98.277 by revising paragraph (d) to read as follows:

§ 98.277 Records that must be retained.

(d) Annual quantity of spent liquor solids combusted in each chemical recovery furnace and chemical recovery combustion unit, and the basis for determining the annual quantity of the spent liquor solids combusted (whether based on T650 om-05 Solids Content of Black Liquor, TAPPI (incorporated by reference, see § 98.7) or an online measurement system). If an online measurement system is used, you must retain records of the calculations used to determine the annual quantity of spent liquor solids combusted from the continuous measurements.

Subpart HH—Municipal Solid Waste Landfills

- 33. Amend § 98.343 by:
 - a. Revising paragraph (c) introductory text;
 - b. Revising Equation HH–6 in paragraph (c)(3)(i);
 - c. Adding parameters “M,” “0.0026,” “d_m,” and “S_n” to Equation HH–6 in paragraph (c)(3)(i);
 - d. Revising parameters “R_n” and “f_{Dest,n}” to Equation HH–6 in paragraph (c)(3)(i);
 - e. Revising Equations HH–7 and HH–8 in paragraph (c)(3)(ii);
 - f. Removing parameter “f_{Rec,n}” to Equations HH–7 and HH–8 in paragraph (c)(3)(ii);
 - g. Adding parameters “C,” “X,” “R_{x,c},” “f_{Rec,c},” “M,” “0.0026,” “d_m,” and “S_m” to Equation HH–7 in paragraph (c)(3)(ii);
 - h. Revising parameter “CE” to Equation HH–7 in paragraph (c)(3)(ii);
 - i. Adding parameters “C,” “X,” “R_{x,c},” and “f_{Rec,c}” to Equation HH–8 in paragraph (c)(3)(ii);
 - j. Revising parameters “N” and “f_{Dest,n}” to Equation HH–8 in paragraph (c)(3)(ii); and
 - k. Adding paragraph (c)(4).

The revisions read as follows:

§ 98.343 Calculating GHG emissions.

(c) For all landfills, calculate CH₄ generation (adjusted for oxidation in cover materials) and actual CH₄ emissions (taking into account any CH₄ recovery, and oxidation in cover

materials) according to the applicable methods in paragraphs (c)(1) through (4) of this section. (3) * * * (i) * * *

$$\text{Emissions} = \left[(G_{CH4} - \sum_{n=1}^N R_n) \times (1 - OX) + \sum_{n=1}^N \left\{ R_n \times \left(1 - (DE_n \times f_{Dest,n}) \right) \right\} + OX \times \sum_{m=1}^M [0.0000284 \times d_m \times S_m] \right] \text{ (Eq. HH-6)}$$

* * * * *
 R_n = Quantity of recovered CH₄ from Equation HH-4 of this section for the nth measurement location (metric tons CH₄).
 * * * * *
 M = Number of individual surface measurements that exceed 500 parts per million (ppm) above background in the reporting year. If surface monitoring is not performed or no measurement exceeded 500 ppm above background in the reporting year, assume M = 0.
 0.0000284 = Correlation factor (metric tons methane per ppm surface concentration per day).
 d_m = Leak duration (days), estimated as the number of days since the last monitoring event at the specified location from company records. Alternatively, you may use the following defaults for d: 10 days for 10-day monitoring events; 30 days for

monthly monitoring, 91 days for quarterly monitoring, and 365 days for annual monitoring.
 S_m = Surface measurement methane concentration for the mth measurement that exceeds 500 parts per million above background (parts per million by volume).
 * * * * *
 f_{Dest,n} = Fraction of hours the destruction device associated with the nth measurement location was operating during active gas flow calculated as the annual operating hours for the destruction device divided by the annual hours flow was sent to the destruction device as measured at the nth measurement location. The annual operating hours for the destruction device should include only those periods when flow was sent to the destruction

device and the destruction device was operating at its intended temperature or other parameter indicative of effective operation. For flares, times when there is no pilot flame present must be excluded from the annual operating hours for the destruction device. If the gas is transported off-site for destruction, use f_{Dest,n} = 1. If the volumetric flow and CH₄ concentration of the recovered gas is measured at a single location providing landfill gas to multiple destruction devices (including some gas destroyed on-site and some gas sent off-site for destruction), calculate f_{Dest,n} as the arithmetic average of the f_{Dest} values determined for each destruction device associated with that measurement location.
 (ii) * * *

$$MG = \frac{1}{CE} \sum_{c=1}^C \left[\frac{\sum_{x=1}^X R_{x,c}}{f_{Rec,c}} \right] \times (1 - OX) + \sum_{m=1}^M [0.0000284 \times d_m \times S_m] \text{ (Eq. HH-7)}$$

$$\text{Emissions} = \left[\left(\frac{1}{CE} \sum_{c=1}^C \left[\frac{\sum_{x=1}^X R_{x,c}}{f_{Rec,c}} \right] - \sum_{n=1}^N R_n \right) \times (1 - OX) + \sum_{n=1}^N \left\{ R_n \times \left(1 - (DE_n \times f_{Dest,n}) \right) \right\} + \sum_{m=1}^M [0.0000284 \times d_m \times S_m] \right] \text{ (Eq. HH-8)}$$

* * * * *
 C = Number of landfill gas collection systems operated at the landfill.
 X = Number of landfill gas measurement locations associated with landfill gas collection system "c".
 N = Number of landfill gas measurement locations (associated with a destruction device or gas sent off-site). If a single monitoring location is used to monitor volumetric flow and CH₄ concentration of the recovered gas sent to one or multiple destruction devices, then N = 1. Note that N = Σ_{c=1}^C [Σ_{x=1}^X [1]].
 R_{x,c} = Quantity of recovered CH₄ from Equation HH-4 of this section for the xth measurement location for landfill gas collection system "c" (metric tons CH₄).
 * * * * *
 CE = Collection efficiency estimated at landfill, taking into account system coverage, operation, measurement practices, and cover system materials from Table HH-3 of this subpart. If area by soil cover type information is not

available, use applicable default value for CE4 in Table HH-3 of this subpart for all areas under active influence of the collection system.
 * * * * *
 f_{Rec,c} = Fraction of hours the landfill gas collection system "c" was operating normally (annual operating hours/8760 hours per year or annual operating hours/8784 hours per year for a leap year). Do not include periods of shut down or poor operation, such as times when pressure, temperature, or other parameters indicative of operation are outside of normal variances, in the annual operating hours.
 * * * * *
 M = Number of individual surface measurements that exceed 500 parts per million (ppm) above background in the reporting year. If surface monitoring is not performed or no measurement exceeded 500 ppm above background in the reporting year, assume M = 0.

0.0000284 = Correlation factor (metric tons methane per ppm surface concentration per day)
 d_m = Leak duration (days), estimated as the number of days since the last monitoring event at the specified location from company records. Alternatively, you may use the following defaults for d: 10 days for 10-day monitoring events; 30 days for monthly monitoring, 91 days for quarterly monitoring, and 365 days for annual monitoring.
 S_m = Surface measurement methane concentration for the mth measurement that exceeds 500 parts per million above background (parts per million by volume).
 * * * * *
 f_{Dest,n} = Fraction of hours the destruction device associated with the nth measurement location was operating during active gas flow calculated as the annual operating hours for the destruction device divided by the annual hours flow was sent to the destruction

device as measured at the n th measurement location. The annual operating hours for the destruction device should include only those periods when flow was sent to the destruction device and the destruction device was operating at its intended temperature or other parameter indicative of effective operation. For flares, times when there is no pilot flame present must be excluded from the annual operating hours for the destruction device. If the gas is transported off-site for destruction, use $f_{\text{Dest},n} = 1$. If the volumetric flow and CH_4 concentration of the recovered gas is measured at a single location providing landfill gas to multiple destruction devices (including some gas destroyed on-site and some gas sent off-site for destruction), calculate $f_{\text{Dest},n}$ as the arithmetic average of the f_{Dest} values determined for each destruction device associated with that measurement location.

(4) For landfills with landfill gas collection systems, you must comply with the applicable requirements in paragraphs (c)(4)(i) through (iii) of this section when calculating the emissions in paragraph (c)(3) of this section.

(i) For landfills with landfill gas collection systems required to conduct surface methane concentration measurements according to 40 CFR part 60, subparts Cc, Cf, WWW or XXX or according to 40 CFR part 62, subpart GGG or OOO, you must use the method for conducting surface methane concentration measurements in § 98.344(g) of this subpart as applicable to your landfill, you must account for each exceedance including exceedances when re-monitoring, and you must use the landfill gas collection efficiencies in Table HH-3 of this subpart applicable to “landfills for which surface methane concentration measurements are conducted.”

(ii) For landfills with landfill gas collection systems that are not required to conduct surface methane concentration measurements according to 40 CFR part 60, subparts Cc, Cf, WWW or XXX or according to 40 CFR part 62, subpart GGG or OOO but elect to conduct surface methane concentration measurements in lieu of meeting the requirements in paragraph (c)(4)(iii) of this section for landfills with landfill gas collection systems that do not conduct surface methane concentration measurements, you must use the method for conducting surface methane concentration measurements described in § 98.344(g)(7) of this subpart, you must account for each exceedance including re-monitoring exceedances (if re-monitoring is conducted), and you must use the landfill gas collection efficiencies in Table HH-3 of this subpart applicable to

“landfills for which surface methane concentration measurements are conducted.”

(iii) For landfills with landfill gas collection systems that are not required to conduct surface methane concentration measurements according to 40 CFR part 60, subparts Cc, Cf, WWW or XXX or according to 40 CFR part 62, subpart GGG or OOO and elect not to conduct surface methane concentration measurements, you must use the landfill gas collection efficiencies in Table HH-3 of this subpart applicable to “landfills for which no surface methane concentration measurements are conducted.”

■ 34. Amend § 98.344 by adding paragraph (g) to read as follows:

§ 98.344 Monitoring and QA/QC requirements.

* * * * *

(g) The owner or operator shall conduct surface methane concentration measurements according to the requirements in paragraphs (g)(1) through (7) of this section, as applicable.

(1) For landfills with landfill gas collection systems that are required to conduct surface methane concentration measurements according to 40 CFR part 60, subpart Cc, you must monitor surface concentrations of methane according to the procedures in § 60.755(c) and the instrument specifications in § 60.755(d) of this chapter.

(2) For landfills with landfill gas collection systems that are required to conduct surface methane concentration measurements according to 40 CFR part 60, subpart Cf, you must monitor surface concentrations of methane according to the procedures in § 60.36f(c) and the instrument specifications in § 60.36f(d) of this chapter.

(3) For landfills with landfill gas collection systems that are required to conduct surface methane concentration measurements according to 40 CFR part 60, subpart WWW, you must monitor surface concentrations of methane according to the procedures in § 60.755(c) and the instrument specifications in § 60.755(d) of this chapter.

(4) For landfills with landfill gas collection systems that are required to conduct surface methane concentration measurements according to 40 CFR part 60, subpart XXX, you must monitor surface concentrations of methane according to the procedures in § 60.765(c) and the instrument specifications in § 60.765(d) of this chapter.

(5) For landfills with landfill gas collection systems that are required to conduct surface methane concentration measurements according to 40 CFR part 62, subpart GGG, you must monitor surface concentrations of methane according to the procedures in § 60.755(c) and the instrument specifications in § 60.755(d) of this chapter.

(6) For landfills with landfill gas collection systems that are required to conduct surface methane concentration measurements according to 40 CFR part 62, subpart OOO, you must monitor surface concentrations of methane according to the procedures in § 62.16720(c) and the instrument specifications in § 60.16720(d) of this chapter.

(7) For landfills with landfill gas collection systems that are not required to conduct surface methane concentration measurements according to 40 CFR part 60, subparts Cc, Cf, WWW or XXX or according to 40 CFR part 62, subpart GGG or OOO but elect to conduct surface methane concentration measurements, you must monitor surface concentrations of methane according to the procedures in § 60.765(c) and the instrument specifications in § 60.765(d) of this chapter.

■ 35. Amend § 98.346 by:

■ a. Redesignating paragraph (i) as paragraph (j).

■ b. Revising newly redesignated paragraphs (j)(5) through (7)

■ c. Redesignating paragraph (h) as paragraph (i).

■ d. Adding new paragraph (h) to read as follows:

§ 98.346 Data reporting requirements.

* * * * *

(h) An indication of the applicability of 40 CFR part 60 or part 62 requirements to the landfill (40 CFR part 60, subpart WWW, 40 CFR part 60, subpart XXX, approved state plan implementing 40 CFR part 60, subparts Cc or Cf, Federal plan as implemented at 40 CFR part 62, subparts GGG or OOO, or not subject to 40 CFR part 60 or part 62 municipal solid waste landfill rules) and, if the landfill is subject to a 40 CFR part 60 or part 62 municipal solid waste landfill rule, an indication of whether the landfill exceeds the applicable nonmethane organic carbon emission rates requiring landfill gas collection.

* * * * *

(j) * * *
(5) The number of gas collection systems at the landfill facility.

(6) For each gas collection system at the facility report:

- (i) A unique name or ID number for the gas collection system.
- (ii) A description of the gas collection system (manufacturer, capacity, and number of wells).
- (iii) The annual hours the gas collection system was operating normally. Do not include periods of shut down or poor operation, such as times when pressure, temperature, or other parameters indicative of operation are outside of normal variances, in the annual operating hours.
- (iv) The number of measurement locations associated with the gas collection system.
- (v) For each measurement location associated with the gas collection system, report:
 - (A) A unique name or ID number for the measurement location.

$$\sum_{c=1}^C \left[\sum_{x=1}^X [1] \right]$$

- (B) Annual quantity of recovered CH₄ (metric tons CH₄) calculated using Equation HH-4 of this subpart.
- (C) An indication of whether destruction occurs at the landfill facility, off-site, or both for the measurement location.
- (D) If destruction occurs at the landfill facility for the measurement location (in full or in part), also report the number of destruction devices associated with the measurement location that are

- located at the landfill facility and the information in paragraphs (j)(6)(v)(D)(1) through (6) of this section for each destruction device located at the landfill facility.
 - (1) A unique name or ID number for the destruction device.
 - (2) The type of destruction device (flare, a landfill gas to energy project (i.e., engine or turbine), off-site, or other (specify)).
 - (3) The destruction efficiency (decimal).
 - (4) The total annual hours where active gas flow was sent to the destruction device.
 - (5) The annual operating hours where active gas flow was sent to the destruction device and the destruction device was operating at its intended temperature or other parameter indicative of effective operation. For flares, times when there is no pilot flame present must be excluded from the annual operating hours for the destruction device.
 - (6) The estimated fraction of the recovered CH₄ reported for the measurement location directed to the destruction device based on best available data or engineering judgement (decimal, must total to 1 for each measurement location).
 - (7) The following information about the landfill.
 - (i) The surface area (square meters) and estimated waste depth (meters) for

- each area specified in Table HH-3 to this subpart.
 - (ii) The estimated gas collection system efficiency for the landfill.
 - (iii) An indication of whether passive vents and/or passive flares (vents or flares that are not considered part of the gas collection system as defined in § 98.6) are present at the landfill.
 - (iv) An indication of whether surface methane concentration measurements were made at the landfill during the reporting year, the frequency of routine measurements (annual, semiannual, quarterly, bimonthly, monthly, or varied during the reporting year), and the total number of surface methane concentration measurements that exceeded 500 parts per million above background during the reporting year.
 - (v) For each surface methane concentration measurement that exceeded 500 parts per million above background during the reporting year report:
 - (A) A unique name or ID number for the surface measurement.
 - (B) The date of the measurement.
 - (C) The measured methane concentration (in parts per million by volume).
 - (D) The leak duration (days).
- * * * * *
- 36. Revise table HH-1 to subpart HH of part 98 to read as follows:

TABLE HH-1 TO SUBPART HH OF PART 98—EMISSIONS FACTORS, OXIDATION FACTORS AND METHODS

Factor	Default value	Units
DOC and k values—Bulk waste option		
DOC (bulk waste)	0.17	Weight fraction, wet basis.
k (precipitation plus recirculated leachate ^a <20 inches/year)	0.055	yr ⁻¹ .
k (precipitation plus recirculated leachate ^a 20–40 inches/year)	0.111	yr ⁻¹ .
k (precipitation plus recirculated leachate ^a >40 inches/year)	0.142	yr ⁻¹ .
DOC and k values—Modified bulk MSW option		
DOC (bulk MSW, excluding inerts and C&D waste)	0.27	Weight fraction, wet basis.
DOC (inerts, e.g., glass, plastics, metal, concrete)	0.00	Weight fraction, wet basis.
DOC (C&D waste)	0.08	Weight fraction, wet basis.
k (bulk MSW, excluding inerts and C&D waste)	0.055 to 0.142 ^b	yr ⁻¹ .
k (inerts, e.g., glass, plastics, metal, concrete)	0.00	yr ⁻¹ .
k (C&D waste)	0.02 to 0.04 ^b	yr ⁻¹ .
DOC and k values—Waste composition option		
DOC (food waste)	0.15	Weight fraction, wet basis.
DOC (garden)	0.2	Weight fraction, wet basis.
DOC (paper)	0.4	Weight fraction, wet basis.
DOC (wood and straw)	0.43	Weight fraction, wet basis.
DOC (textiles)	0.24	Weight fraction, wet basis.
DOC (diapers)	0.24	Weight fraction, wet basis.
DOC (sewage sludge)	0.05	Weight fraction, wet basis.
DOC (inerts, e.g., glass, plastics, metal, cement)	0.00	Weight fraction, wet basis.
DOC (Uncharacterized MSW)	0.32	Weight fraction, wet basis.
k (food waste)	0.06 to 0.185 ^c	yr ⁻¹ .
k (garden)	0.05 to 0.10 ^c	yr ⁻¹ .
k (paper)	0.04 to 0.06 ^c	yr ⁻¹ .
k (wood and straw)	0.02 to 0.03 ^c	yr ⁻¹ .

TABLE HH-1 TO SUBPART HH OF PART 98—EMISSIONS FACTORS, OXIDATION FACTORS AND METHODS—Continued

Factor	Default value	Units
k (textiles)	0.04 to 0.06 ^c	yr ⁻¹ .
k (diapers)	0.05 to 0.10 ^c	yr ⁻¹ .
k (sewage sludge)	0.06 to 0.185 ^c	yr ⁻¹ .
k (inerts, e.g., glass, plastics, metal, concrete)	0.00	yr ⁻¹ .
k (uncharacterized MSW)	0.055 to 0.142 ^b	yr ⁻¹ .
Other parameters—All MSW landfills		
MCF	1.	
DOC _F	0.5.	
F	0.5.	
OX	See Table HH-4 of this subpart.	
DE	0.99.	

^aRecirculated leachate (in inches/year) is the total volume of leachate recirculated from company records or engineering estimates divided by the area of the portion of the landfill containing waste with appropriate unit conversions. Alternatively, landfills that use leachate recirculation can elect to use the k value of 0.142 rather than calculating the recirculated leachate rate.

^bUse the lesser value when precipitation plus recirculated leachate is less than 20 inches/year. Use the greater value when precipitation plus recirculated leachate is greater than 40 inches/year. Use the average of the range of values when precipitation plus recirculated leachate is 20 to 40 inches/year (inclusive). Alternatively, landfills that use leachate recirculation can elect to use the greater value rather than calculating the recirculated leachate rate.

^cUse the lesser value when the potential evapotranspiration rate exceeds the mean annual precipitation rate plus recirculated leachate. Use the greater value when the potential evapotranspiration rate does not exceed the mean annual precipitation rate plus recirculated leachate. Alternatively, landfills that use leachate recirculation can elect to use the greater value rather than assessing the potential evapotranspiration rate or recirculated leachate rate.

■ 37. Amend table HH-3 to subpart HH of part 98 to read as follows:

TABLE HH-3 TO SUBPART HH OF PART 98—LANDFILL GAS COLLECTION EFFICIENCIES

Description	Landfill gas collection efficiency		
	Term ID	Landfills for which surface methane concentration measurements ¹ are conducted (%)	Landfills for which no surface methane concentration measurements ¹ are conducted (%)
A1: Area with no waste in-place	Not applicable; do not use this area in the calculation.		
A2: Area without active gas collection, regardless of cover type	CE2	0	0
A3: Area with daily soil cover and active gas collection	CE3	60	50
A4: Area with an intermediate soil cover, or a final soil cover not meeting the criteria for A5 below, and active gas collection.	CE4	75	65
A5: Area with a final soil cover of 3 feet or thicker of clay or final cover (as approved by the relevant agency) and/or geomembrane cover system and active gas collection.	CE5	95	85
Area weighted average collection efficiency for landfills	$CE_{ave1} = (A2 \cdot CE2 + A3 \cdot CE3 + A4 \cdot CE4 + A5 \cdot CE5) / (A2 + A3 + A4 + A5).$		

¹Surface methane concentration measurements include only those conducted as required under 40 CFR part 60, subparts WWW or XXX, or approved state plans to implement the emission guidelines in 40 CFR part 60, subparts Cc or Cf, or Federal plan at 40 CFR part 62 subparts GGG or OOO, or, for those electing to conduct surface concentration measurements, those conducted according to the method provided in § 98.344(g) of this subpart.

■ 38. Revise footnote “b” to table HH-4 to subpart HH of part 98 to read as follows:

TABLE HH-4 TO SUBPART HH OF PART 98—LANDFILL METHANE OXIDATION FRACTIONS

Under these conditions:

Use this landfill methane oxidation fraction:

* * * * *

For Equation HH-5 of this subpart, or for Equation TT-6 of subpart TT of this part,

MF = K × G_{CH4}/S_{Area}
For Equation HH-6 of this subpart,

For Equation HH-7 of this subpart,

$$MF = K \times \left(G_{CH_4} - \sum_{n=1}^N R_n \right) / S_{Area}$$

$$MF = K \times \left(\frac{1}{CE} \sum_{c=1}^C \left[\frac{\sum_{x=1}^X R_{x,c}}{f_{Rec,c}} \right] \right) / S_{Area}$$

For Equation HH-8 of this subpart,

$$MF = K \times \left(\frac{1}{CE} \sum_{c=1}^C \left[\frac{\sum_{x=1}^X R_{x,c}}{f_{Rec,c}} \right] - \sum_{n=1}^N R_n \right) / S_{Area}$$

Where:

- MF = Methane flux rate from the landfill in the reporting year (grams per square meter per day, g/m²/d).
- K = unit conversion factor = 10⁶/365 (g/metric ton per days/year) or 10⁶/366 for a leap year.
- S_{Area} = The surface area of the landfill containing waste at the beginning of the reporting year (square meters, m²).
- G_{CH4} = Modeled methane generation rate in reporting year from Equation HH-1 of this subpart or Equation TT-1 of subpart TT of this part, as applicable, except for application with Equation HH-6 of this subpart (metric tons CH₄). For application with Equation HH-6 of this subpart, the greater of the modeled methane generation rate in reporting year from Equation HH-1 of this subpart or Equation TT-1 of this part, as applicable, and the quantity of recovered CH₄ from Equation HH-4 of this subpart (metric tons CH₄).
- CE = Collection efficiency estimated at landfill, taking into account system coverage, operation, measurement practices, and cover system materials from Table HH-3 of this subpart. If area by soil cover type information is not available, use applicable default value for CE4 in Table HH-3 of this subpart for all areas under active influence of the collection system.
- C = Number of landfill gas collection systems operated at the landfill.
- X = Number of landfill gas measurement locations associated with landfill gas collection system “c”.
- N = Number of landfill gas measurement locations (associated with a destruction device or gas sent off-site). If a single

- monitoring location is used to monitor volumetric flow and CH₄ concentration of the recovered gas sent to one or multiple destruction devices, then N = 1. Note that N = Σ_{c=1}^C [Σ_{x=1}^X 1].
- R_{x,c} = Quantity of recovered CH₄ from Equation HH-4 of this subpart for the xth measurement location for landfill gas collection system “c” (metric tons CH₄).
- R_n = Quantity of recovered CH₄ from Equation HH-4 of this subpart for the nth measurement location (metric tons CH₄).
- f_{Rec,c} = Fraction of hours the landfill gas collection system “c” was operating normally (annual operating hours/8760 hours per year or annual operating hours/8784 hours per year for a leap year). Do not include periods of shutdown or poor operation, such as times when pressure, temperature, or other parameters indicative of operation are outside of normal variances, in the annual operating hours.

Subpart OO—Suppliers of Industrial Greenhouse Gases

- 39. Amend § 98.416 by:
 - a. Revising paragraph (c) introductory text;
 - b. Adding paragraph (c)(11);
 - c. Revising paragraph (d) introductory text; and
 - d. Adding paragraph (k).

The revisions and additions read as follows:

§ 98.416 Data reporting requirements.

* * * * *

(c) Each bulk importer of fluorinated GHGs, fluorinated HTFs, or nitrous oxide shall submit an annual report that summarizes its imports at the corporate level, except importers may exclude shipments including less than twenty-five kilograms of fluorinated GHGs, fluorinated HTFs, or nitrous oxide; transshipments if the importer also excludes transshipments from reporting of exports under paragraph (d) of this section; and heels that meet the conditions set forth at § 98.417(e) if the importer also excludes heels from any reporting of exports under paragraph (d) of this section. The report shall contain the following information for each import:

* * * * *

(11) For all GHGs that are not regulated substances under 40 CFR part 84 (Phasedown of Hydrofluorocarbons), a copy of the corresponding U.S. Customs entry form for each reported import.

(d) Each bulk exporter of fluorinated GHGs, fluorinated HTFs, or nitrous oxide shall submit an annual report that summarizes its exports at the corporate level, except exporters may exclude shipments including less than twenty-five kilograms of fluorinated GHGs, fluorinated HTFs, or nitrous oxide; transshipments if the exporter also excludes transshipments from reporting of imports under paragraph (c) of this section; and heels if the exporter also

excludes heels from any reporting of imports under paragraph (c) of this section. The report shall contain the following information for each export:

* * * * *

(k) For nitrous oxide, saturated perfluorocarbons, sulfur hexafluoride, and fluorinated heat transfer fluids as defined at § 98.6, report the end use(s) for which each GHG or fluorinated HTF is transferred and the aggregated annual quantity of that GHG or fluorinated HTF in metric tons that is transferred to that end use application, if known.

Subpart PP—Suppliers of Carbon Dioxide

- 40. Amend § 98.426 by:
 - a. Redesignating paragraphs (f)(12) and (13) as paragraphs (f)(13) and (14), respectively;
 - b. Adding new paragraph (f)(12); and
 - c. Revising paragraph (h).

The revisions and additions read as follows:

§ 98.426 Data reporting requirements.

* * * * *

(f) * * *

(12) Geologic sequestration of carbon dioxide with enhanced oil recovery that is covered by subpart VV of this part.

* * * * *

(h) If you capture a CO₂ stream from a facility that is subject to this part and transfer CO₂ to any facilities that are subject to subpart RR or subpart VV of this part, you must:

- (1) Report the facility identification number associated with the annual GHG report for the facility that is the source of the captured CO₂ stream;
- (2) Report each facility identification number associated with the annual GHG reports for each subpart RR and subpart VV facility to which CO₂ is transferred; and
- (3) Report the annual quantity of CO₂ in metric tons that is transferred to each subpart RR and subpart VV facility.

Subpart QQ—Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-Charged Equipment or Closed-Cell Foams

- 41. Amend § 98.436 by adding paragraphs (a)(7) and (8) and (b)(7) to read as follows:

§ 98.436 Data reporting requirements.

(a) * * *

(7) The Harmonized tariff system (HTS) code for each type of pre-charged equipment or closed-cell foam imported.

(8) A copy of the corresponding U.S. Customs entry form for each reported import.

(b) * * *

(7) The Schedule B code for each type of pre-charged equipment or closed-cell foam exported.

Subpart RR—Geologic Sequestration of Carbon Dioxide

42. Add the definition of “Offshore” in § 98.449 to read as follows:

§ 98.449 Definitions.

* * * * *

Offshore means seaward of the terrestrial borders of the United States, including waters subject to the ebb and flow of the tide, as well as adjacent bays, lakes or other normally standing waters, and extending to the outer boundaries of the jurisdiction and control of the United States under the Outer Continental Shelf Lands Act.

* * * * *

Subpart UU—Injection of Carbon Dioxide

- 43. Amend § 98.470 by:
 - a. Revising paragraph (b);
 - b. Redesignating paragraph (c) as paragraph (d); and
 - c. Adding new paragraph (c).

The revisions and additions read as follows:

§ 98.470 Definition of the source category.

* * * * *

(b) If you report under subpart RR of this part for a well or group of wells, you shall not report under this subpart for that well or group of wells.

(c) If you report under subpart VV of this part for a well or group of wells, you shall not report under this subpart for that well or group of wells. If you previously met the source category definition for subpart UU for a project where CO₂ is injected in enhanced recovery operations for oil and other hydrocarbons (CO₂-EOR) and then began using the International Standards Organization (ISO) standard designated as CSA/ANSI ISO 27916:2019 (incorporated by reference, see § 98.7) such that you met the definition of the source category for subpart VV during a reporting year, you must report under subpart UU for the portion of the year before you began using CSA/ANSI ISO 27916:2019 and report under subpart VV for the portion of the year after you began using CSA/ANSI ISO 27916:2019.

(d) A facility that is subject to this part only because it is subject to subpart UU of this part is not required to report emissions under subpart C of this part or any other subpart listed in § 98.2(a)(1) or (2).

- 44. Add subpart VV to read as follows:

Subpart VV—Geologic Sequestration of Carbon Dioxide with Enhanced Oil Recovery Using ISO 27916

Sec.

- 98.480 Definition of the source category.
- 98.481 Reporting threshold.
- 98.482 GHGs to report.
- 98.483 Calculating CO₂ geologic sequestration.
- 98.484 Monitoring and QA/QC requirements.
- 98.485 Procedures for estimating missing data.
- 98.486 Data reporting requirements.
- 98.487 Records that must be retained.
- 98.488 EOR Operations Management Plan.
- 98.489 Definitions.

§ 98.480 Definition of the source category.

(a) This source category pertains to carbon dioxide (CO₂) that is injected in enhanced recovery operations for oil and other hydrocarbons (CO₂-EOR) in which all of the following apply:

(1) You are using the International Standards Organization (ISO) standard designated as CSA/ANSI ISO 27916:2019, “Carbon Dioxide Capture, Transportation and Geological Storage—Carbon Dioxide Storage Using Enhanced Oil Recovery (CO₂-EOR)” (CSA/ANSI ISO 27916:2019) (incorporated by reference, see § 98.7) as a method of quantifying geologic sequestration of CO₂ in association with EOR operations.

(2) You are not reporting under subpart RR of this part.

(b) This source category does not include wells permitted as Class VI under the Underground Injection Control program.

(c) If you are subject to only this subpart, you are not required to report emissions under subpart C of this part or any other subpart listed in § 98.2(a)(1) or (2).

§ 98.481 Reporting threshold.

(a) You must report under this subpart if your CO₂-EOR project uses CSA/ANSI ISO 27916:2019 (incorporated by reference, see § 98.7) as a method of quantifying geologic sequestration of CO₂ in association with CO₂-EOR operations. There is no threshold for reporting.

(b) The requirements of § 98.2(i) do not apply to this subpart. Once a CO₂-EOR project becomes subject to the requirements of this subpart, you must continue for each year thereafter to comply with all requirements of this subpart, including the requirement to submit annual reports until the facility has met the requirements of paragraphs (b)(1) and (2) of this section and submitted a notification to discontinue reporting according to paragraph (b)(3) of this section.

(1) Discontinuation of reporting under this subpart must follow the

requirements set forth under Clause 10 of CSA/ANSI ISO 27916:2019.

(2) CO₂-EOR project termination is completed when all of the following occur:

- (i) Cessation of CO₂ injection.
- (ii) Cessation of hydrocarbon production from the project reservoir; and
- (iii) Wells are plugged and abandoned unless otherwise required by the appropriate regulatory authority.

(3) You must notify the Administrator of your intent to cease reporting and provide a copy of the CO₂-EOR project termination documentation.

(c) If you previously met the source category definition for subpart UU for your CO₂-EOR project and then began using CSA/ANSI ISO 27916:2019 as a method of quantifying geologic

sequestration of CO₂ in association with CO₂-EOR operations during a reporting year, you must report under subpart UU for the portion of the year before you began using CSA/ANSI ISO 27916:2019 and report under subpart VV for the portion of the year after you began using CSA/ANSI ISO 27916:2019.

§ 98.482 GHGs to report.

You must report the following from Clause 8 of CSA/ANSI ISO 27916:2019 (incorporated by reference, see § 98.7):

- (a) The mass of CO₂ received by the CO₂-EOR project.
- (b) The mass of CO₂ loss from the CO₂-EOR project operations.
- (c) The mass of native CO₂ produced and captured.
- (d) The mass of CO₂ produced and sent off-site.

(e) The mass of CO₂ loss from the EOR complex.

(f) The mass of CO₂ stored in association with CO₂-EOR.

§ 98.483 Calculating CO₂ geologic sequestration.

You must calculate CO₂ sequestered using the following quantification principles from Clause 8.2 of CSA/ANSI ISO 27916:2019 (incorporated by reference, see § 98.7).

- (a) You must calculate the mass of CO₂ stored in association with CO₂-EOR (m_{stored}) in the reporting year by subtracting the mass of CO₂ loss from operations and the mass of CO₂ loss from the EOR complex from the total mass of CO₂ input (as specified in Equation VV-1 of this section).

$$m_{\text{stored}} = m_{\text{input}} - m_{\text{loss operations}} - m_{\text{loss EOR complex}} \quad (\text{Equation VV-1})$$

Where:

m_{stored} = the annual quantity of associated storage in metric tons of CO₂ mass.

m_{input} = the total mass of CO₂ m_{received} by the EOR project plus m_{native} (see Clause 8.3 and paragraph (c) of this section), metric tons. Native CO₂ produced and captured in the CO₂-EOR project (m_{native}) can be quantified and included in m_{input} .

$m_{\text{loss operations}}$ = the total mass of CO₂ loss from project operations (see Clauses 8.4.1 through 8.4.5 and paragraph (d) of this section), metric tons.

$m_{\text{loss EOR complex}}$ = the total mass of CO₂ loss from the EOR complex (see Clause 8.4.6), metric tons.

(b) The manner by which associated storage is quantified must assure completeness and preclude double counting. The annual mass of CO₂ that is recycled and reinjected into the EOR complex must not be quantified as associated storage. Loss from the CO₂ recycling facilities must be quantified.

(c) You must quantify the total mass of CO₂ input (m_{input}) in the reporting year according to paragraphs (g)(1) through (3) of this section.

(1) You must include the total mass of CO₂ received at the custody transfer meter by the CO₂-EOR project (m_{received}).

(2) The CO₂ stream received (including CO₂ transferred from another CO₂-EOR project) must be metered.

(A) The native CO₂ recovered and included as m_{native} must be documented.

(B) CO₂ delivered to multiple CO₂-EOR projects must be allocated among those CO₂-EOR projects.

(3) The sum of the quantities of allocated CO₂ must not exceed the total quantities of CO₂ received.

(d) You must calculate the total mass of CO₂ from project operations ($m_{\text{loss operations}}$) in the reporting year as specified in Equation VV-2 of this section.

$$m_{\text{loss operations}} = m_{\text{loss leakage facilities}} + m_{\text{loss vent/flare}} + m_{\text{loss entrained}} + m_{\text{loss transfer}} \quad (\text{Equation VV-2})$$

Where:

$m_{\text{loss leakage facilities}}$ = Loss of CO₂ due to leakage from production, handling, and recycling CO₂-EOR facilities (infrastructure including wellheads), metric tons.

$m_{\text{loss vent/flare}}$ = Loss of CO₂ from venting/flaring from production operations, metric tons.

$m_{\text{loss entrained}}$ = Loss of CO₂ due to entrainment within produced gas/oil/water when this CO₂ is not separated and reinjected, metric tons.

$m_{\text{loss transfer}}$ = Loss of CO₂ due to any transfer of CO₂ outside the CO₂-EOR project, metric tons. You must quantify any CO₂ that is subsequently produced from the EOR complex and transferred offsite.

§ 98.484 Monitoring and QA/QC requirements.

You must use the applicable monitoring and quality assurance requirements set forth in Clause 6.2 of CSA/ANSI ISO 27916:2019 (incorporated by reference, see § 98.7).

§ 98.485 Procedures for estimating missing data.

Whenever the value of a parameter is unavailable or the quality assurance procedures set forth in § 98.484 cannot be followed, you must follow the procedures set forth in Clause 9.2 of CSA/ANSI ISO 27916:2019 (incorporated by reference, see § 98.7).

§ 98.486 Data reporting requirements.

In addition to the information required by § 98.3(c), the annual report shall contain the following information, as applicable:

(a) The annual quantity of associated storage in metric tons of CO₂ (m_{stored}).

(b) The density of CO₂ if volumetric units are converted to mass in order to be reported for annual quantity of CO₂ stored.

(c) The annual quantity of CO₂ input (m_{input}) and the information in paragraphs (c)(1) and (2) of this section.

(1) The annual total mass of CO₂ received at the custody transfer meter by the CO₂-EOR project, including CO₂

transferred from another CO₂-EOR project (m_{received}).

(2) The annual mass of native CO₂ produced and captured in the CO₂-EOR project (m_{native}).

(d) The annual mass of CO₂ that is recycled and reinjected into the EOR complex.

(e) The annual total mass of CO₂ loss from project operations ($m_{\text{loss operations}}$), and the information in paragraphs (e)(1) through (4) of this section.

(1) Loss of CO₂ due to leakage from production, handling, and recycling CO₂-EOR facilities (infrastructure including wellheads) ($m_{\text{loss leakage facilities}}$).

(2) Loss of CO₂ from venting/flaring from production operations ($m_{\text{loss vent/flare}}$).

(3) Loss of CO₂ due to entrainment within produced gas/oil/water when this CO₂ is not separated and reinjected ($m_{\text{loss entrained}}$).

(4) Loss of CO₂ due to any transfer of CO₂ outside the CO₂-EOR project ($m_{\text{loss transfer}}$).

(f) The total mass of CO₂ loss from the EOR complex ($m_{\text{loss EOR complex}}$).

(g) Annual documentation that contains the following components as described in Clause 4.4 of CSA/ANSI ISO 27916:2019 (incorporated by reference, see § 98.7):

(1) The formulas used to quantify the annual mass of associated storage, including the mass of CO₂ delivered to the CO₂-EOR project and losses during the period covered by the documentation (see Clause 8 and Annex B).

(2) The methods used to estimate missing data and the amounts estimated as described in Clause 9.2.

(3) The approach and method for quantification utilized by the operator, including accuracy, precision, and uncertainties (see Clause 8 and Annex B).

(4) A statement describing the nature of validation or verification including the date of review, process, findings, and responsible person or entity.

(5) Source of each CO₂ stream quantified as associated storage (see Clause 8.3).

(6) A description of the procedures used to detect and characterize the total CO₂ leakage from the EOR complex.

(7) If only the mass of anthropogenic CO₂ is considered for m_{stored} , a description of the derivation and application of anthropogenic CO₂ allocation ratios for all the terms described in Clauses 8.1 to 8.4.6.

(8) Any documentation provided by a qualified independent engineer or geologist, who certifies that the documentation provided, including the mass balance calculations as well as

information regarding monitoring and containment assurance, is accurate and complete.

(h) Any changes made within the reporting year to containment assurance and monitoring approaches and procedures in the EOR operations management plan.

§ 98.487 Records that must be retained.

You must follow the record retention requirements specified by § 98.3(g). In addition to the records required by § 98.3(g), you must comply with the record retention requirements in Clause 9.1 of CSA/ANSI ISO 27916:2019 (incorporated by reference, see § 98.7).

§ 98.488 EOR Operations Management Plan.

(a) You must prepare and update, as necessary, a general EOR operations management plan that provides a description of the EOR complex and engineered system (see Clause 4.3 (a)), establishes that the EOR complex is adequate to provide safe, long-term containment of CO₂, and includes site-specific and other information including:

(1) Geologic characterization of the EOR complex.

(2) A description of the facilities within the CO₂-EOR project.

(3) A description of all wells and other engineered features in the CO₂-EOR project.

(4) The operations history of the project reservoir.

(5) The information set forth in Clauses 5 and 6 of CSA/ANSI ISO 27916:2019 (incorporated by reference, see § 98.7).

(b) You must prepare initial documentation at the beginning of the quantification period, and include the following as described in the EOR operations management plan:

(1) A description of the EOR complex and engineered systems (see Clause 5).

(2) The initial containment assurance (see Clause 6.1.2).

(3) The monitoring program (see Clause 6.2).

(4) The quantification method to be used (see Clause 8 and Annex B).

(5) The total mass of previously injected CO₂ (if any) within the EOR complex at the beginning of the CO₂-EOR project (see Clause 8.5 and Annex B).

(c) The EOR operation management plan in paragraph (a) of this section and initial documentation in paragraph (b) of this section must be submitted to the Administrator with the annual report covering the first reporting year that the facility reports under this subpart. In addition, any documentation provided

by a qualified independent engineer or geologist, who certifies that the documentation provided is accurate and complete, must also be provided to the Administrator.

(d) If the EOR operations management plan is updated, the updated EOR management plan must be submitted to the Administrator with the annual report covering the first reporting year for which the updated EOR operation management plan is applicable.

§ 98.489 Definitions.

Except as provided in paragraphs (a) and (b) of this section, all terms used in this subpart have the same meaning given in the Clean Air Act and subpart A of this part.

(a) Additional terms and definitions are provided in Clause 3 of CSA/ANSI ISO 27916:2019 (incorporated by reference, see § 98.7) and incorporated herein by reference.

(b) All references in this subpart preceded by the word Clause refer to the Clauses in CSA/ANSI ISO 27916:2019.

■ 45. Add subpart WW to read as follows:

Subpart WW—Coke Calciners

Sec.

98.490 Definition of source category.

98.491 Reporting threshold.

98.492 GHGs to report.

98.493 Calculating GHG emissions.

98.494 Monitoring and QA/QC requirements.

98.495 Procedures for estimating missing data.

98.496 Data reporting requirements.

98.497 Records that must be retained.

98.498 Definitions.

§ 98.490 Definition of source category.

(a) A coke calciner is a process unit that heats petroleum coke to high temperatures in the absence of air or oxygen for the purpose of removing impurities or volatile substances in the petroleum coke feedstock.

(b) This source category consists of rotary kilns, rotary hearth furnaces, or similar process units used to calcine petroleum coke and also includes afterburners or other emission control systems used to treat the coke calcining unit's process exhaust gas.

§ 98.491 Reporting threshold.

You must report GHG emissions under this subpart if your facility contains a coke calciner and the facility meets the requirements of either § 98.2(a)(1) or (2).

§ 98.492 GHGs to report.

You must report:

(a) CO₂, CH₄, and N₂O emissions from each coke calcining unit under this subpart.

(b) CO₂, CH₄, and N₂O emissions from auxiliary fuel used in the coke calcining unit and afterburner, if applicable, or other control system used to treat the coke calcining unit's process off-gas under subpart C of this part (General Stationary Fuel Combustion Sources) by following the requirements of subpart C.

§ 98.493 Calculating GHG emissions.

(a) Calculate GHG emissions required to be reported in § 98.492(a) using the applicable methods in paragraph (b) of this section.

$$CO_2 = \frac{44}{12} \times \sum_{m=1}^{12} (M_{in,m} \times CC_{GC,m} - (M_{out,m} + M_{dust,m}) \times CC_{MPC,m}) \quad (\text{Eq. WW-1})$$

Where:

CO₂ = Annual CO₂ emissions (metric tons CO₂/year).

m = Month index.

M_{in,m} = Mass of green coke fed to the coke calcining unit in month "m" from facility records (metric tons/year).

CC_{GC,m} = Mass fraction carbon content of green coke fed to the coke calcining unit from facility measurement data in month "m" (metric ton carbon/metric ton green coke). If measurements are made more frequently than monthly, determine the monthly average as the arithmetic average for all measurements made during the calendar month.

M_{out,m} = Mass of marketable petroleum coke produced by the coke calcining unit in month "m" from facility records (metric tons petroleum coke/year).

M_{dust,m} = Mass of petroleum coke dust removed from the process through the dust collection system of the coke

(b) For each coke calcining unit, calculate GHG emissions according to the applicable provisions in paragraphs (b)(1) through (4) of this section.

(1) If you operate and maintain a CEMS that measures CO₂ emissions according to subpart C of this part, you must calculate and report CO₂ emissions under this subpart by following the Tier 4 Calculation Methodology specified in § 98.33(a)(4) and all associated requirements for Tier 4 in subpart C of this part (General Stationary Fuel Combustion Sources). Auxiliary fuel use

calcining unit in month "m" from facility records (metric ton petroleum coke dust/year). For coke calcining units that recycle the collected dust, the mass of coke dust removed from the process is the mass of coke dust collected less the mass of coke dust recycled to the process.

CC_{MPC,m} = Mass fraction carbon content of marketable petroleum coke produced by the coke calcining unit in month "m" from facility measurement data (metric ton carbon/metric ton petroleum coke). If measurements are made more frequently than monthly, determine the monthly average as the arithmetic average for all measurements made during the calendar month.

44 = Molecular weight of CO₂ (kg/kg-mole).

12 = Atomic weight of C (kg/kg-mole).

(3) Calculate CH₄ emissions using Equation WW-2 of this section.

$$N_2O = \left(CO_2 \times \frac{EmF_3}{EmF_1} \right) \quad (\text{Eq. WW-3})$$

Where:

N₂O = Annual nitrous oxide emissions (metric tons N₂O/year).

CO₂ = Annual CO₂ emissions calculated in paragraph (b)(1) or (2) of this section, as applicable (metric tons CO₂/year).

EmF₁ = Default CO₂ emission factor for petroleum coke from Table C-1 of subpart C of this part (General Stationary Fuel Combustion Sources) (kg CO₂/MMBtu).

EmF₃ = Default N₂O emission factor for "Petroleum Products (All fuel types in Table C-1)" from Table C-2 of subpart C of this part (kg N₂O/MMBtu).

§ 98.494 Monitoring and QA/QC requirements.

(a) Flow meters, gas composition monitors, and heating value monitors that are associated with sources that use a CEMS to measure CO₂ emissions according to subpart C of this part or that are associated with stationary

combustion sources must meet the applicable monitoring and QA/QC requirements in § 98.34.

(b) Determine the mass of petroleum coke monthly as required by Equation WW-1 of this subpart using mass measurement equipment meeting the requirements for commercial weighing equipment as described in Specifications, Tolerances, and Other Technical Requirements For Weighing and Measuring Devices, NIST Handbook 44 (2022) (incorporated by reference, see § 98.7). Calibrate the measurement device according to the procedures specified by NIST handbook 44 (incorporated by reference, see § 98.7) or the procedures specified by the manufacturer. Recalibrate either biennially or at the minimum frequency specified by the manufacturer.

CO₂ emissions should be calculated in accordance with subpart C of this part and subtracted from the CO₂ CEMS emissions to determine process CO₂ emissions. Other coke calcining units must either install a CEMS that complies with the Tier 4 Calculation Methodology in subpart C of this part or follow the requirements of paragraph (b)(2) of this section.

(2) Calculate the CO₂ emissions from the coke calcining unit using monthly measurements and Equation WW-1 of this section.

$$CH_4 = \left(CO_2 \times \frac{EmF_2}{EmF_1} \right) \quad (\text{Eq. WW-2})$$

Where:

CH₄ = Annual methane emissions (metric tons CH₄/year).

CO₂ = Annual CO₂ emissions calculated in paragraph (b)(1) or (2) of this section, as applicable (metric tons CO₂/year).

EmF₁ = Default CO₂ emission factor for petroleum coke from Table C-1 of subpart C of this part (General Stationary Fuel Combustion Sources) (kg CO₂/MMBtu).

EmF₂ = Default CH₄ emission factor for "Petroleum Products (All fuel types in Table C-1)" from Table C-2 of subpart C of this part (General Stationary Fuel Combustion Sources) (kg CH₄/MMBtu).

(4) Calculate N₂O emissions using Equation WW-3 of this section.

(Eq. WW-3)

(c) Determine the carbon content of petroleum coke as required by Equation WW-1 of this subpart using any one of the following methods. Calibrate the measurement device according to procedures specified by the method or procedures specified by the measurement device manufacturer.

(1) ASTM D3176-15 Standard Practice for Ultimate Analysis of Coal and Coke (incorporated by reference, see § 98.7).

(2) ASTM D5291-16 Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Petroleum Products and Lubricants (incorporated by reference, see § 98.7).

(3) ASTM D5373-21 Standard Test Methods for Determination of Carbon, Hydrogen, and Nitrogen in Analysis Samples of Coal and Carbon in Analysis

Samples of Coal and Coke (incorporated by reference, see § 98.7).

(d) The owner or operator shall document the procedures used to ensure the accuracy of the monitoring systems used including but not limited to calibration of weighing equipment, flow meters, and other measurement devices. The estimated accuracy of measurements made with these devices shall also be recorded.

§ 98.495 Procedures for estimating missing data.

A complete record of all measured parameters used in the GHG emissions calculations is required (*e.g.*, concentrations, flow rates, fuel heating values, carbon content values). Therefore, whenever a quality-assured value of a required parameter is unavailable (*e.g.*, if a CEMS malfunctions during unit operation or if a required sample is not taken), a substitute data value for the missing parameter shall be used in the calculations.

(a) For missing auxiliary fuel use data, use the missing data procedures in subpart C of this part.

(b) For each missing value of mass or carbon content of coke, substitute the arithmetic average of the quality-assured values of that parameter immediately preceding and immediately following the missing data incident. If the “after” value is not obtained by the end of the reporting year, you may use the “before” value for the missing data substitution. If, for a particular parameter, no quality-assured data are available prior to the missing data incident, the substitute data value shall be the first quality-assured value obtained after the missing data period.

(c) For missing CEMS data, you must use the missing data procedures in § 98.35.

§ 98.496 Data reporting requirements.

In addition to the reporting requirements of § 98.3(c), you must report the information specified in paragraphs (a) through (i) of this section for each coke calcining unit.

(a) The unit ID number (if applicable).

(b) Maximum rated throughput of the unit, in metric tons coke calcined/stream day.

(c) The calculated CO₂, CH₄, and N₂O annual process emissions, expressed in metric tons of each pollutant emitted.

(d) A description of the method used to calculate the CO₂ emissions for each unit (*e.g.*, CEMS or Equation WW-1).

(e) Annual mass of green coke fed to the coke calcining unit from facility records (metric tons/year).

(f) Annual mass of marketable petroleum coke produced by the coke

calcining unit from facility records (metric tons/year).

(g) Annual mass of petroleum coke dust removed from the process through the dust collection system of the coke calcining unit from facility records (metric tons/year) and an indication of whether coke dust is recycled to the unit (*e.g.*, all dust is recycled, a portion of the dust is recycled, or none of the dust is recycled).

(h) Annual average mass fraction carbon content of green coke fed to the coke calcining unit from facility measurement data (metric tons C per metric ton green coke).

(i) Annual average mass fraction carbon content of marketable petroleum coke produced by the coke calcining unit from facility measurement data (metric tons C per metric ton petroleum coke).

§ 98.497 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records specified in paragraphs (a) and (b) of this section.

(a) The records of all parameters monitored under § 98.494.

(b) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (b)(1) through (5) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (b)(1) through (5) of this section.

(1) Monthly mass of green coke fed to the coke calcining unit from facility records (metric tons/year) (Equation WW-1 of § 98.493).

(2) Monthly mass of marketable petroleum coke produced by the coke calcining unit from facility records (metric tons/year) (Equation WW-1).

(3) Monthly mass of petroleum coke dust removed from the process through the dust collection system of the coke calcining unit from facility records (metric tons/year) (Equation WW-1).

(4) Average monthly mass fraction carbon content of green coke fed to the coke calcining unit from facility measurement data (metric tons C per metric ton green coke) (Equation WW-1).

(5) Average monthly mass fraction carbon content of marketable petroleum coke produced by the coke calcining unit from facility measurement data (metric tons C per metric ton petroleum coke) (Equation WW-1).

§ 98.498 Definitions.

All terms used in this subpart have the same meaning given in the Clean Air Act and subpart A of this part.

■ 46. Add subpart XX to read as follows:

Subpart XX—Calcium Carbide Production

Sec.

98.500 Definition of the source category.

98.501 Reporting threshold.

98.502 GHGs to report.

98.503 Calculating GHG emissions.

98.504 Monitoring and QA/QC requirements.

98.505 Procedures for estimating missing data.

98.506 Data reporting requirements.

98.507 Records that must be retained.

98.508 Definitions.

§ 98.500 Definition of the source category.

The calcium carbide production source category consists of any facility that produces calcium carbide.

§ 98.501 Reporting threshold.

You must report GHG emissions under this subpart if your facility contains a calcium carbide production process and the facility meets the requirements of either § 98.2(a)(1) or (2).

§ 98.502 GHGs to report.

You must report:

(a) Process CO₂ emissions from each calcium carbide process unit or furnace used for the production of calcium carbide.

(b) CO₂, CH₄, and N₂O emissions from each stationary combustion unit following the requirements of subpart C of this part. You must report these emissions under subpart C of this part (General Stationary Fuel Combustion Sources) by following the requirements of subpart C.

§ 98.503 Calculating GHG emissions.

You must calculate and report the annual process CO₂ emissions from each calcium carbide process unit not subject to paragraph (c) of this section using the procedures in either paragraph (a) or (b) of this section.

(a) Calculate and report under this subpart the combined process and combustion CO₂ emissions by operating and maintaining CEMS according to the Tier 4 Calculation Methodology in § 98.33(a)(4) and all associated requirements for Tier 4 in subpart C of this part (General Stationary Fuel Combustion Sources).

(b) Calculate and report under this subpart the annual process CO₂ emissions from the calcium carbide process unit using the carbon mass balance procedure specified in paragraphs (b)(1) and (2) of this section.

(1) For each calcium carbide process unit, determine the annual mass of carbon in each carbon-containing input and output material for the calcium carbide process unit and estimate annual process CO₂ emissions from the

calcium carbide process unit using Equation XX-1 of this section. Carbon-containing input materials include carbon electrodes and carbonaceous

reducing agents. If you document that a specific input or output material contributes less than 1 percent of the total carbon into or out of the process,

you do not have to include the material in your calculation using Equation XX-1 of this section.

$$E_{CO_2} = \frac{44}{12} \times \frac{2000}{2205} \times \sum_1^i (M_{reducing\ agent_i} \times C_{reducing\ agent_i})$$

$$+ \frac{44}{12} \times \frac{2000}{2205} \times \sum_1^m (M_{electrode_m} \times C_{electrode_m}) \text{ (Eq. XX-1)}$$

$$- \frac{44}{12} \times \frac{2000}{2205} \times \sum_1^k (M_{product\ outgoing_k} \times C_{product\ outgoing_k})$$

$$- \frac{44}{12} \times \frac{2000}{2205} \times \sum_1^l (M_{non-product\ outgoing_l} \times C_{non-product\ outgoing_l})$$

Where:

E_{CO_2} = Annual process CO₂ emissions from an individual calcium carbide process unit (metric tons).

44/12 = Ratio of molecular weights, CO₂ to carbon.

2000/2205 = Conversion factor to convert tons to metric tons.

$M_{reducing\ agent_i}$ = Annual mass of reducing agent i fed, charged, or otherwise introduced into the calcium carbide process unit (tons).

$C_{reducing\ agent_i}$ = Carbon content in reducing agent i (percent by weight, expressed as a decimal fraction).

$M_{electrode_m}$ = Annual mass of carbon electrode m consumed in the calcium carbide process unit (tons).

$C_{electrode_m}$ = Carbon content of the carbon electrode m (percent by weight, expressed as a decimal fraction).

$M_{product\ outgoing_k}$ = Annual mass of alloy product k tapped from the calcium carbide process unit (tons).

$C_{product\ outgoing_k}$ = Carbon content in alloy product k (percent by weight, expressed as a decimal fraction).

$M_{non-product\ outgoing_l}$ = Annual mass of non-product outgoing material l removed from the calcium carbide unit (tons).

$C_{non-product\ outgoing_l}$ = Carbon content in non-product outgoing material l (percent by weight, expressed as a decimal fraction).

(2) Determine the combined annual process CO₂ emissions from the calcium carbide process units at your facility using Equation XX-2 of this section.

$$CO_2 = \sum_1^k E_{CO_2k} \text{ (Eq. XX-2)}$$

Where:

CO₂ = Annual process CO₂ emissions from calcium carbide process units at a facility used for the production of calcium carbide (metric tons).

E_{CO_2k} = Annual process CO₂ emissions calculated from calcium carbide process unit k calculated using Equation XX-1 of this section (metric tons).

k = Total number of calcium carbide process units at facility.

(c) If all GHG emissions from a calcium carbide process unit are vented through the same stack as any combustion unit or process equipment that reports CO₂ emissions using a CEMS that complies with the Tier 4 Calculation Methodology in subpart C of this part (General Stationary Fuel Combustion Sources), then the calculation methodology in paragraph (b) of this section must not be used to calculate process emissions. The owner or operator must report under this subpart the combined stack emissions according to the Tier 4 Calculation Methodology in § 98.33(a)(4) and all associated requirements for Tier 4 in subpart C of this part.

§ 98.504 Monitoring and QA/QC requirements.

If you determine annual process CO₂ emissions using the carbon mass balance procedure in § 98.503(b), you must meet the requirements specified in paragraphs (a) and (b) of this section.

(a) Determine the annual mass for each material used for the calculations of annual process CO₂ emissions using Equation XX-1 of this subpart by summing the monthly mass for the material determined for each month of the calendar year. The monthly mass may be determined using plant instruments used for accounting purposes, including either direct measurement of the quantity of the material placed in the unit or by calculations using process operating information.

(b) For each material identified in paragraph (a) of this section, you must determine the average carbon content of the material consumed, used, or produced in the calendar year using the methods specified in either paragraph (b)(1) or (2) of this section. If you

document that a specific process input or output contributes less than one percent of the total mass of carbon into or out of the process, you do not have to determine the monthly mass or annual carbon content of that input or output.

(1) Information provided by your material supplier.

(2) Collecting and analyzing at least three representative samples of the material inputs and outputs each year. The carbon content of the material must be analyzed at least annually using the standard methods (and their QA/QC procedures) specified in paragraphs (b)(2)(i) and (ii) of this section, as applicable.

(i) ASTM D5373-08 Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Laboratory Samples of Coal (incorporated by reference, see § 98.7), for analysis of carbonaceous reducing agents and carbon electrodes.

(ii) ASTM C25-06, Standard Test Methods for Chemical Analysis of Limestone, Quicklime, and Hydrated Lime (incorporated by reference, see § 98.7) for analysis of materials such as limestone or dolomite.

§ 98.505 Procedures for estimating missing data.

A complete record of all measured parameters used in the GHG emissions calculations in § 98.503 is required. Therefore, whenever a quality-assured value of a required parameter is unavailable, a substitute data value for the missing parameter must be used in the calculations as specified in the paragraphs (a) and (b) of this section. You must document and keep records of the procedures used for all such estimates.

(a) If you determine CO₂ emissions for the calcium carbide process unit at your facility using the carbon mass balance procedure in § 98.503(b), 100 percent data availability is required for the carbon content of the input and output materials. You must repeat the test for average carbon contents of inputs according to the procedures in § 98.504(b) if data are missing.

(b) For missing records of the monthly mass of carbon-containing inputs and outputs, the substitute data value must be based on the best available estimate of the mass of the inputs and outputs from all available process data or data used for accounting purposes, such as purchase records.

§ 98.506 Data reporting requirements.

In addition to the information required by § 98.3(c), each annual report must contain the information specified in paragraphs (a) through (h) of this section, as applicable:

(a) Annual facility calcium carbide production capacity (tons).

(b) The annual facility production of calcium carbide (tons).

(c) Total number of calcium carbide process units at facility used for production of calcium carbide.

(d) Annual facility consumption of petroleum coke (tons).

(e) Each end use of any calcium carbide produced and sent off site.

(f) If the facility produces acetylene on site, provide the information in paragraphs (f)(1), (2), and (3) of this section.

(1) The annual production of acetylene at the facility (tons).

(2) The annual quantity of calcium carbide used for the production of acetylene at the facility (tons).

(3) Each end use of any acetylene produced on-site.

(g) If a CEMS is used to measure CO₂ emissions, then you must report under this subpart the relevant information required by § 98.36 for the Tier 4 Calculation Methodology and the information specified in paragraphs (g)(1) and (2) of this section.

(1) Annual CO₂ emissions (in metric tons) from each calcium carbide process unit.

(2) Identification number of each process unit.

(h) If a CEMS is not used to measure CO₂ process emissions, and the carbon mass balance procedure is used to determine CO₂ emissions according to the requirements in § 98.503(b), then you must report the information specified in paragraphs (h)(1) through (3) of this section.

(1) Annual process CO₂ emissions (in metric tons) from each calcium carbide process unit.

(2) List the method used for the determination of carbon content for each input and output material included in the calculation of annual process CO₂ emissions for each calcium carbide process unit (e.g., supplier provided information, analyses of representative samples you collected).

(3) If you use the missing data procedures in § 98.505(b), you must report for each calcium carbide production process unit how monthly mass of carbon-containing inputs and outputs with missing data were determined and the number of months the missing data procedures were used.

§ 98.507 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records specified in paragraphs (a) through (d) of this section for each calcium carbide process unit, as applicable.

(a) If a CEMS is used to measure CO₂ emissions according to the requirements in § 98.503(a), then you must retain under this subpart the records required for the Tier 4 Calculation Methodology in § 98.37 and the information specified in paragraphs (a)(1) through (3) of this section.

(1) Monthly calcium carbide process unit production quantity (tons).

(2) Number of calcium carbide processing unit operating hours each month.

(3) Number of calcium carbide processing unit operating hours in a calendar year.

(b) If the carbon mass balance procedure is used to determine CO₂ emissions according to the requirements in § 98.503(b)(2), then you must retain records for the information specified in paragraphs (b)(1) through (5) of this section.

(1) Monthly calcium carbide process unit production quantity (tons).

(2) Number of calcium carbide process unit operating hours each month.

(3) Number of calcium carbide process unit operating hours in a calendar year.

(4) Monthly material quantity consumed, used, or produced for each material included for the calculations of annual process CO₂ emissions (tons).

(5) Average carbon content determined and records of the supplier provided information or analyses used for the determination for each material included for the calculations of annual process CO₂ emissions.

(c) You must keep records that include a detailed explanation of how company records of measurements are used to estimate the carbon input and output to each calcium carbide process

unit, including documentation of specific input or output materials excluded from Equation XX–1 of this subpart that contribute less than 1 percent of the total carbon into or out of the process. You also must document the procedures used to ensure the accuracy of the measurements of materials fed, charged, or placed in a calcium carbide process unit including, but not limited to, calibration of weighing equipment and other measurement devices. The estimated accuracy of measurements made with these devices must also be recorded, and the technical basis for these estimates must be provided.

(d) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (d)(1) through (13) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (d)(1) through (8) of this section.

(1) Carbon content in reducing agent (percent by weight, expressed as a decimal fraction) (Equation XX–1 of § 98.503).

(2) Annual mass of reducing agent fed, charged, or otherwise introduced into the calcium carbide process unit (tons) (Equation XX–1).

(3) Carbon content of carbon electrode (percent by weight, expressed as a decimal fraction) (Equation XX–1).

(4) Annual mass of carbon electrode consumed in the calcium carbide process unit (tons) (Equation XX–1).

(5) Carbon content in product (percent by weight, expressed as a decimal fraction) (Equation XX–1).

(6) Annual mass of product produced/tapped in the calcium carbide process unit (tons) (Equation XX–1).

(7) Carbon content in non-product outgoing material (percent by weight, expressed as a decimal fraction) (Equation XX–1).

(8) Annual mass of non-product outgoing material removed from calcium carbide process unit (tons) (Equation XX–1).

§ 98.508 Definitions.

All terms used of this subpart have the same meaning given in the Clean Air Act and subpart A of this part.

■ 47. Add subpart YY to read as follows:

Subpart YY—Caprolactam, Glyoxal, and Glyoxylic Acid Production

Sec.

98.510 Definition of source category.

98.511 Reporting threshold.

98.512 GHGs to report.

98.513 Calculating GHG emissions.

98.514 Monitoring and QA/QC requirements.

- 98.515 Procedures for estimating missing data.
 98.516 Data reporting requirements.
 98.517 Records that must be retained.
 98.518 Definitions.

§ 98.510 Definition of source category.

This source category includes any facility that produces caprolactam, glyoxal, or glyoxylic acid. This source category excludes the production of glyoxal through the LaPorte process (*i.e.*, the gas-phase catalytic oxidation of ethylene glycol with air in the presence of a silver or copper catalyst).

§ 98.511 Reporting threshold.

You must report GHG emissions under this subpart if your facility meets the requirements of either § 98.2(a)(1) or (2) and the definition of source category in § 98.510.

§ 98.512 GHGs to report.

(a) You must report N₂O process emissions from the production of caprolactam, glyoxal, and glyoxylic acid as required by this subpart.

(b) You must report under subpart C of this part (General Stationary Fuel Combustion Sources) the emissions of CO₂, CH₄, and N₂O from each stationary combustion unit by following the requirements of subpart C.

§ 98.513 Calculating GHG emissions.

(a) You must determine annual N₂O process emissions from each

caprolactam, glyoxal, and glyoxylic acid process line using the appropriate default N₂O generation factor(s) from Table YY-1 to this subpart, the site-specific N₂O destruction factor(s) for each N₂O abatement device, and site-specific production data according to paragraphs (b) through (e) of this section.

(b) You must determine the total annual amount of product *i* (caprolactam, glyoxal, or glyoxylic acid) produced on each process line *t* (metric tons product), according to § 98.514(b).

(c) If process line *t* exhausts to any N₂O abatement technology *j*, you must determine the destruction efficiency for each N₂O abatement technology according to paragraph (c)(1) or (2) of this section.

(1) Use the control device manufacturer's specified destruction efficiency.

(2) Estimate the destruction efficiency through process knowledge. Examples of information that could constitute process knowledge include calculations based on material balances, process stoichiometry, or previous test results provided the results are still relevant to the current vent stream conditions. You must document how process knowledge (if applicable) was used to determine the destruction efficiency.

(d) If process line *t* exhausts to any N₂O abatement technology *j*, you must

determine the abatement utilization factor for each N₂O abatement technology according to paragraph (d)(1) or (2) of this section.

(1) If the abatement technology *j* has no downtime during the year, use 1.

(2) If the abatement technology *j* was not operational while product *i* was being produced on process line *t*, calculate the abatement utilization factor according to Equation YY-1 of this subpart.

$$AF_j = \frac{T_{ij}}{T_i} \text{ Equation YY-1}$$

Where:

AF_{*j*} = Monthly abatement utilization factor of N₂O abatement technology *j* from process unit *t* (fraction of time that abatement technology is operating).

T_{*i*} = Total number of hours during month that product *i* (caprolactam, glyoxal, or glyoxylic acid), was produced from process unit *t* (hours).

T_{*ij*} = Total number of hours during month that product *i* (caprolactam, glyoxal, or glyoxylic acid), was produced from process unit *t* during which N₂O abatement technology *j* was operational (hours).

(e) You must calculate N₂O emissions for each product *i* from each process line *t* and each N₂O control technology *j* according to Equation YY-2 of this subpart.

$$E_{N2Ot} = \sum_{i,j} \left[EF_i * P_i * \left(1 - (DE_j * AF_j) \right) \right] * 0.001 \text{ Eq. YY-2}$$

Where:

E_{N₂O*t*} = Monthly process emissions of N₂O, metric tons (mt) from process line *t*.

EF_{*i*} = N₂O generation factor for product *i* (caprolactam, glyoxal, or glyoxylic acid), kg N₂O/mt of product produced, as shown in Table YY-1 to this subpart.

P_{*i*} = Monthly production of product *i*, (caprolactam, glyoxal, or glyoxylic acid), mt.

DE_{*j*} = Destruction efficiency of N₂O abatement technology type *j*, fraction (decimal fraction of N₂O removed from vent stream).

AF_{*j*} = Monthly abatement utilization factor for N₂O abatement technology type *j*, fraction, calculated using Equation YY-1 of this subpart.

0.001 = Conversion factor from kg to metric tons.

§ 98.514 Monitoring and QA/QC requirements.

(a) You must determine the total monthly amount of caprolactam, glyoxal, and glyoxylic acid produced. These monthly amounts are determined according to the methods in paragraph (a)(1) or (2) of this section.

(1) Direct measurement of production (such as using flow meters, weigh scales, etc.).

(2) Existing plant procedures used for accounting purposes (*i.e.*, dedicated tank-level and acid concentration measurements).

(b) You must determine the annual amount of caprolactam, glyoxal, and glyoxylic acid produced. These annual amounts are determined by summing the respective monthly quantities determined in paragraph (a) of this section.

§ 98.515 Procedures for estimating missing data.

A complete record of all measured parameters used in the GHG emissions calculations is required. Therefore, whenever a quality-assured value of a required parameter is unavailable, a substitute data value for the missing parameter must be used in the calculations as specified in paragraphs (a) and (b) of this section.

(a) For each missing value of caprolactam, glyoxal, or glyoxylic acid production, the substitute data must be the best available estimate based on all available process data or data used for accounting purposes (such as sales records).

(b) For missing values related to the N₂O abatement device, assuming that the operation is generally constant from year to year, the substitute data value should be the most recent quality-assured value.

§ 98.516 Data reporting requirements.

In addition to the information required by § 98.3(c), each annual report must contain the information specified in paragraphs (a) through (j) of this section.

(a) Process line identification number.

(b) Annual process N₂O emissions from each process line according to paragraphs (b)(1) through (3) of this section.

(1) N₂O from caprolactam production (metric tons).

(2) N₂O from glyoxal production (metric tons).
 (3) N₂O from glyoxylic acid production (metric tons).
 (c) Annual production quantities from all process lines at the caprolactam, glyoxal, or glyoxylic acid production facility according to paragraphs (c)(1) through (3) of this section.
 (1) Caprolactam production (metric tons).
 (2) Glyoxal production (metric tons).
 (3) Glyoxylic acid production (metric tons).
 (d) Annual production capacity from all process lines at the caprolactam, glyoxal, or glyoxylic acid production facility, as applicable, in paragraphs (d)(1) through (3) of this section.
 (1) Caprolactam production capacity (metric tons).
 (2) Glyoxal production capacity (metric tons).
 (3) Glyoxylic acid production capacity (metric tons).
 (e) Number of process lines at the caprolactam, glyoxal, or glyoxylic acid production facility, by product, in paragraphs (e)(1) through (3) of this section.
 (1) Total number of process lines producing caprolactam.
 (2) Total number of process lines producing glyoxal.
 (3) Total number of process lines producing glyoxylic acid.
 (f) Number of operating hours in the calendar year for each process line at the caprolactam, glyoxal, or glyoxylic acid production facility (hours).
 (g) N₂O abatement technologies used (if applicable) and date of installation of abatement technology at the caprolactam, glyoxal, or glyoxylic acid production facility.
 (h) Monthly abatement utilization factor for each N₂O abatement technology at the caprolactam, glyoxal, or glyoxylic acid production facility.
 (i) Number of times in the reporting year that missing data procedures were followed to measure production quantities of caprolactam, glyoxal, or glyoxylic acid (months).
 (j) Annual percent N₂O emission reduction per chemical produced at the caprolactam, glyoxal, or glyoxylic acid production facility, as applicable, in paragraphs (j)(1) through (3) of this section.
 (1) Annual percent N₂O emission reduction for caprolactam production.
 (2) Annual percent N₂O emission reduction for glyoxal production.
 (3) Annual percent N₂O emission reduction for glyoxylic acid production.

§ 98.517 Records that must be retained.

In addition to the information required by § 98.3(g), you must retain

the records specified in paragraphs (a) through (d) of this section for each caprolactam, glyoxal, or glyoxylic acid production facility:

- (a) Documentation of how accounting procedures were used to estimate production rate.
- (b) Documentation of how process knowledge was used to estimate abatement technology destruction efficiency (if applicable).
- (c) Documentation of the procedures used to ensure the accuracy of the measurements of all reported parameters, including but not limited to, calibration of weighing equipment, flow meters, and other measurement devices. The estimated accuracy of measurements made with these devices must also be recorded, and the technical basis for these estimates must be provided.
- (d) You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (d)(1) through (3) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (d)(1) through (3) of this section.

(1) Monthly production quantity of caprolactam from all process lines at the caprolactam, glyoxal, or glyoxylic acid production facility.
 (2) Monthly production quantity of glyoxal from all process lines at the caprolactam, glyoxal, or glyoxylic acid production facility.
 (3) Monthly production quantity of glyoxylic acid from all process lines at the caprolactam, glyoxal, or glyoxylic acid production facility.

§ 98.518 Definitions.

All terms used in this subpart have the same meaning given in the Clean Air Act and subpart A of this part.

TABLE YY-1 TO SUBPART YY OF PART 98—N₂O GENERATION FACTORS

Product	N ₂ O generation factor ^a
Caprolactam	9.0
Glyoxal	5,200
Glyoxylic acid	1,000

^a Generation factors in units of kilograms of N₂O emitted per metric ton of product produced.

■ 48. Add subpart ZZ to read as follows:

Subpart ZZ—Ceramics Manufacturing

- Sec.
- 98.520 Definition of the source category.
- 98.521 Reporting threshold.
- 98.522 GHGs to report.
- 98.523 Calculating GHG emissions.
- 98.524 Monitoring and QA/QC requirements.
- 98.525 Procedures for estimating missing data.

- 98.526 Data reporting requirements.
- 98.527 Records that must be retained.
- 98.528 Definitions.

§ 98.520 Definition of the source category.

(a) The ceramics manufacturing source category consists of any facility that uses nonmetallic, inorganic materials, many of which are clay-based, to produce ceramic products such as bricks and roof tiles, wall and floor tiles, table and ornamental ware (household ceramics), sanitary ware, refractory products, vitrified clay pipes, expanded clay products, inorganic bonded abrasives, and technical ceramics (e.g., aerospace, automotive, electronic, or biomedical applications). For the purposes of this subpart, ceramics manufacturing processes include facilities that annually consume at least 2,000 tons of carbonates or 20,000 tons of clay, which is heated to a temperature sufficient to allow the calcination reaction to occur, and operate a ceramics manufacturing process unit.

(b) A ceramics manufacturing process unit is a kiln, dryer, or oven used to calcine clay or other carbonate-based materials for the production of a ceramics product.

§ 98.521 Reporting threshold.

You must report GHG emissions under this subpart if your facility contains a ceramics manufacturing process and the facility meets the requirements of either § 98.2(a)(1) or (2).

§ 98.522 GHGs to report.

You must report:
 (a) CO₂ process emissions from each ceramics process unit (e.g., kiln, dryer, or oven).
 (b) CO₂ combustion emissions from each ceramics process unit.

(c) CH₄ and N₂O combustion emissions from each ceramics process unit. You must calculate and report these emissions under subpart C of this part (General Stationary Fuel Combustion Sources) by following the requirements of subpart C of this part.
 (d) CO₂, CH₄, and N₂O combustion emissions from each stationary fuel combustion unit other than kilns, dryers, or ovens. You must report these emissions under subpart C of this part (General Stationary Fuel Combustion Sources) by following the requirements of subpart C of this part.

(d) CO₂, CH₄, and N₂O combustion emissions from each stationary fuel combustion unit other than kilns, dryers, or ovens. You must report these emissions under subpart C of this part (General Stationary Fuel Combustion Sources) by following the requirements of subpart C of this part.

§ 98.523 Calculating GHG emissions.

You must calculate and report the annual process CO₂ emissions from each ceramics process unit using the procedures in paragraphs (a) through (c) of this section.

(a) For each ceramics process unit that meets the conditions specified in § 98.33(b)(4)(ii) or (iii), you must calculate and report under this subpart the combined process and combustion CO₂ emissions by operating and maintaining a CEMS to measure CO₂ emissions according to the Tier 4 Calculation Methodology specified in § 98.33(a)(4) and all associated requirements for Tier 4 in subpart C of this part (General Stationary Fuel Combustion Sources).

(b) For each ceramics process unit that is not subject to the requirements in

paragraph (a) of this section, calculate and report the process and combustion CO₂ emissions from the ceramics process unit separately by using the procedures specified in paragraphs (b)(1) through (6) of this section, except as specified in paragraph (c) of this section.

(1) For each carbonate-based raw material charged to the ceramics process unit, either obtain the mass fractions of any carbonate-based minerals from the supplier of the raw material or by sampling the raw material, or use a

default value of 1.0 as the mass fraction for the raw material.

(2) Determine the quantity of each carbonate-based raw material charged to the ceramics process unit.

(3) Apply the appropriate emission factor for each carbonate-based raw material charged to the ceramics process unit. Table ZZ-1 to this subpart provides emission factors based on stoichiometric ratios for carbonate-based minerals.

(4) Use Equation ZZ-1 of this section to calculate process mass emissions of CO₂ for each ceramics process unit:

$$E_{CO_2} = \sum_j [(M_j \cdot \frac{2000}{2205}) \cdot \sum_i (MF_i \cdot EF_i \cdot F_i)] \text{ (Eq. ZZ-1)}$$

Where:

E_{CO_2} = Annual process CO₂ emissions (metric tons/year).

MF_i = Annual average decimal mass fraction of carbonate-based mineral i in carbonate-based raw material j .

M_j = Annual mass of the carbonate-based raw material j consumed (tons/year).

2000/2205 = Conversion factor to convert tons to metric tons.

EF_i = Emission factor for the carbonate-based mineral i , (metric tons CO₂/metric ton carbonate, see Table ZZ-1 of this subpart).

F_i = Decimal fraction of calcination achieved for carbonate-based mineral i , assumed to be equal to 1.0.

i = Index for carbonate-based mineral in each carbonate-based raw material.

j = Index for carbonate-based raw material.

(5) Determine the combined annual process CO₂ emissions from the ceramic process units at your facility using Equation ZZ-2 of this subpart:

$$CO_2 = \sum_1^k E_{CO_2k} \text{ (Eq. ZZ-2)}$$

Where:

CO_2 = Annual process CO₂ emissions from ceramic process units at a facility (metric tons).

E_{CO_2k} = Annual process CO₂ emissions calculated from ceramic process unit k calculated using Equation ZZ-1 of this subpart (metric tons).

k = Total number of ceramic process units at facility.

(6) Calculate and report under subpart C of this part (General Stationary Fuel Combustion Sources) the combustion CO₂ emissions in the ceramics process unit according to the applicable requirements in subpart C of this part.

(c) As an alternative to data provided by either the raw material supplier or a lab analysis, a value of 1.0 can be used for the mass fraction (MF_i) of carbonate-based mineral i in each carbonate-based raw material j in Equation ZZ-1 of this subpart. The use of 1.0 for the mass fraction assumes that the carbonate-

based raw material comprises 100% of one carbonate-based mineral.

§ 98.524 Monitoring and QA/QC requirements.

(a) You must measure annual amounts of carbonate-based raw materials charged to each ceramics process unit from monthly measurements using plant instruments used for accounting purposes, such as calibrated scales or weigh hoppers. Total annual mass charged to ceramics process units at the facility must be compared to records of raw material purchases for the year.

(b) Unless you use the default value of 1.0 for the mass fraction of a carbonate-based mineral, you must measure carbonate-based mineral mass fractions at least annually to verify the mass fraction data provided by the supplier of the raw material; such measurements must be based on sampling and chemical analysis using consensus standards that specify X-ray fluorescence.

(c) Unless you use the default value of 1.0 for the mass fraction of a carbonate-based mineral, you must determine the annual average mass fraction for the carbonate-based mineral in each carbonate-based raw material by calculating an arithmetic average of the monthly data obtained from raw material suppliers or sampling and chemical analysis.

(d) Unless you use the default value of 1.0 for the calcination fraction of a carbonate-based mineral, you must determine on an annual basis the calcination fraction for each carbonate-based mineral consumed based on sampling and chemical analysis using an industry consensus standard. If performed, this chemical analysis must be conducted using an x-ray fluorescence test or other enhanced testing method published by an industry

consensus standards organization (e.g., ASTM, ASME, API, etc.).

§ 98.525 Procedures for estimating missing data.

A complete record of all measured parameters used in the GHG emissions calculations in § 98.523 is required. If the monitoring and quality assurance procedures in § 98.524 cannot be followed and data is unavailable, you must use the most appropriate of the missing data procedures in paragraphs (a) and (b) of this section in the calculations. You must document and keep records of the procedures used for all such missing value estimates.

(a) If the CEMS approach is used to determine combined process and combustion CO₂ emissions, the missing data procedures in § 98.35 apply.

(b) For missing data on the monthly amounts of carbonate-based raw materials charged to any ceramics process unit, use the best available estimate(s) of the parameter(s) based on all available process data or data used for accounting purposes, such as purchase records.

(c) For missing data on the mass fractions of carbonate-based minerals in the carbonate-based raw materials, assume that the mass fraction of a carbonate-based mineral is 1.0, which assumes that one carbonate-based mineral comprises 100 percent of the carbonate-based raw material.

§ 98.526 Data reporting requirements.

In addition to the information required by § 98.3(c), each annual report must contain the information specified in paragraphs (a) through (c) of this section, as applicable:

(a) The total number of ceramics process units at the facility and the number of units that operated during the reporting year.

(b) If a CEMS is used to measure CO₂ emissions from ceramics process units, then you must report under this subpart the relevant information required under § 98.36 for the Tier 4 Calculation Methodology and the following information specified in paragraphs (b)(1) through (3) of this section.

(1) The annual quantity of each carbonate-based raw material charged to each ceramics process unit and for all units combined (tons).

(2) Annual quantity of each type of ceramics product manufactured by each ceramics process unit and by all units combined (tons).

(3) Annual production capacity for each ceramics process unit (tons).

(c) If a CEMS is not used to measure CO₂ emissions from ceramics process units and process CO₂ emissions are calculated according to the procedures specified in § 98.523(b), then you must report the following information specified in paragraphs (c)(1) through (7) of this section.

(1) Annual process emissions of CO₂ (metric tons) for each ceramics process unit and for all units combined.

(2) The annual quantity of each carbonate-based raw material charged to all units combined (tons).

(3) Results of all tests used to verify each carbonate-based mineral mass fraction for each carbonate-based raw material charged to a ceramics process unit, as specified in paragraphs (c)(3)(i) through (iii) of this section.

(i) Date of test.

(ii) Method(s) and any variations used in the analyses.

(iii) Mass fraction of each sample analyzed.

(4) Method used to determine the decimal mass fraction of carbonate-based mineral, unless you used the default value of 1.0 (e.g., supplier provided information, analyses of representative samples you collected).

(5) Annual quantity of each type of ceramics product manufactured by each ceramics process unit and by all units combined (tons).

(6) Annual production capacity for each ceramics process unit (tons).

(7) If you use the missing data procedures in § 98.525(b), you must report for each applicable ceramics process unit the number of times in the reporting year that missing data procedures were followed to measure monthly quantities of carbonate-based raw materials or mass fraction of the carbonate-based minerals (months).

§ 98.527 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records specified in paragraphs (a) through (d) of this section for each ceramics process unit, as applicable.

(a) If a CEMS is used to measure CO₂ emissions according to the requirements in § 98.523(a), then you must retain under this subpart the records required under § 98.37 for the Tier 4 Calculation Methodology and the information specified in paragraphs (a)(1) and (2) of this section.

(1) Monthly ceramics production rate for each ceramics process unit (tons).

(2) Monthly amount of each carbonate-based raw material charged to each ceramics process unit (tons).

(b) If process CO₂ emissions are calculated according to the procedures specified in § 98.523(b), you must retain the records in paragraphs (b)(1) through (6) of this section.

(1) Monthly ceramics production rate for each ceramics process unit (metric tons).

(2) Monthly amount of each carbonate-based raw material charged to each ceramics process unit (metric tons).

(3) Data on carbonate-based mineral mass fractions provided by the raw material supplier for all raw materials consumed annually and included in calculating process emissions in Equation ZZ-1 of this subpart, if applicable.

(4) Results of all tests, if applicable, used to verify the carbonate-based mineral mass fraction for each carbonate-based raw material charged to a ceramics process unit, including the data specified in paragraphs (b)(4)(i) through (v) of this section.

(i) Date of test.

(ii) Method(s), and any variations of methods, used in the analyses.

(iii) Mass fraction of each sample analyzed.

(iv) Relevant calibration data for the instrument(s) used in the analyses.

(v) Name and address of laboratory that conducted the tests.

(5) Each carbonate-based mineral mass fraction for each carbonate-based raw material, if a value other than 1.0 is used to calculate process mass emissions of CO₂.

(6) Number of annual operating hours of each ceramics process unit.

(c) All other documentation used to support the reported GHG emissions.

(d) *Verification software records.* You must keep a record of the file generated by the verification software specified in § 98.5(b) for the applicable data specified in paragraphs (d)(1) through (3) of this section. Retention of this file satisfies the recordkeeping requirement for the data in paragraphs (d)(1) through (3) of this section.

(1) Annual average decimal mass fraction of each carbonate-based mineral in each carbonate-based raw material for each ceramics process unit (specify the default value, if used, or the value determined according to § 98.524) (percent by weight, expressed as a decimal fraction) (Equation ZZ-1 of § 98.523).

(2) Annual mass of each carbonate-based raw material charged to each ceramics process unit (tons) (Equation ZZ-1 of this subpart).

(3) Decimal fraction of calcination achieved for each carbonate-based raw material for each ceramics process unit (specify the default value, if used, or the value determined according to § 98.524) (percent by weight, expressed as a decimal fraction) (Equation ZZ-1 of this subpart).

§ 98.528 Definitions.

All terms used of this subpart have the same meaning given in the Clean Air Act and subpart A of this part.

TABLE ZZ-1 TO SUBPART ZZ OF PART 98—CO₂ EMISSION FACTORS FOR CARBONATE-BASED RAW MATERIALS

Carbonate	Mineral name(s)	CO ₂ emission factor ^a
BaCO ₃	Witherite, Barium carbonate	0.223
CaCO ₃	Limestone, Calcium Carbonate, Calcite, Aragonite	0.440
Ca(Fe,Mg,Mn)(CO ₃) ₂	Ankerite ^b	0.408–0.476
CaMg(CO ₃) ₂	Dolomite	0.477
FeCO ₃	Siderite	0.380
K ₂ CO ₃	Potassium carbonate	0.318
Li ₂ CO ₃	Lithium carbonate	0.596
MgCO ₃	Magnesite	0.522
MnCO ₃	Rhodochrosite	0.383
Na ₂ CO ₃	Sodium carbonate, Soda ash	0.415

TABLE ZZ-1 TO SUBPART ZZ OF PART 98—CO₂ EMISSION FACTORS FOR CARBONATE-BASED RAW MATERIALS—
Continued

Carbonate	Mineral name(s)	CO ₂ emission factor ^a
SrCO ₃	Strontium carbonate, Strontianite	0.298

^a Emission factors are in units of metric tons of CO₂ emitted per metric ton of carbonate-based mineral.

^b Ankerite emission factors are based on a formula weight range that assumes Fe, Mg, and Mn are present in amounts of at least 1.0 percent.

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