FEDERAL REGISTER

Vol. 88 Friday,

No. 235 December 8, 2023

Pages 85467–85816

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.govinfo.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $860 plus postage, or $929, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 88 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–09512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:	
Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: *https://www.gpo.gov/frsubs.*

Contents

Federal Register

Vol. 88, No. 235

Friday, December 8, 2023

Separate Parts In This Issue

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

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 88, No. 235
Friday, December 8, 2023

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

[Docket ID: OPM–2023–0009]

RIN 3206–AO58

General Schedule Locality Pay Areas

Correction

In Rule document 2023–25153, appearing on pages 78631 through 78636, in the issue of Thursday, November 16, 2023, make the following correction:

§ 531.603 Locality pay areas. [Corrected]

■ On page 78636, in the first column, paragraph ''(48)'' is corrected to read as set forth below.

(48) Sacramento-Roseville, CA-NV—consisting of the Sacramento-Roseville, CA CSA and also including Alpine County, CA, Amador County, CA, Butte County, CA, Colusa County, CA, Sierra County, CA, Carson City, NV, and Douglas County, NV;

[FR Doc. C1–2023–25153 Filed 12–6–23; 8:45 am]

BILLING CODE 0099–01–D

FEDERAL MEDIATION AND CONCILIATION SERVICE

5 CFR Chapter CIII

RIN 3209–AA65

Supplemental Standards of Ethical Conduct for Employees of the Federal Mediation and Conciliation Service

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final rule.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS), with the concurrence of the Office of Government Ethics (OGE), is issuing this final rule for FMCS employees. This rule supplements the Standards of Ethical Conduct for Employees of the Executive Branch (OGE Standards) issued by OGE and is necessary because it addresses ethical issues unique to the FMCS. This rule sets forth prior approval requirements for certain outside employment and outside activities for all FMCS employees, other than special government employees.

DATES: This rule is effective January 8, 2024.

FOR FURTHER INFORMATION CONTACT: Anna Davis, Designated Agency Ethics Official (DAEO), General Counsel, Office of General Counsel, Federal Mediation and Conciliation Service, 250 E Street SW, Washington, DC 20427; Office/Fax/Mobile 202–606–3737; *register@fmcs.gov.*

SUPPLEMENTARY INFORMATION:

Background

In July 2023, the FMCS issued a proposed rule to establish the Supplemental Standards of Ethical Conduct for Employees of the Federal Mediation and Conciliation Service (Supplemental Standards), which are to be codified in 5 CFR part 10300. 88 FR 45822 (July 18, 2023). The proposed rule provided a 30 day comment period, which ended on August 17, 2023. The FMCS did not receive any timely and responsive comments. The rationale for the proposed rule, which the FMCS is now adopting as final, is explained in the preamble at: *https://www.federalregister.gov/documents/2023/07/18/2023-15021/supplemental-standards-of-ethical-conduct-for-employees-of-the-federal-mediation-and-conciliation.* For those reasons, the FMCS is, with the concurrence of OGE, issuing the rule as final with no substantive changes.

I. Analysis of the Regulations

In accordance with 5 CFR 2635.803, the FMCS has determined it is necessary for the purpose of administering its ethics program to require its employees, other than special government employees, to obtain approval before engaging in certain outside employment and outside activities. The FMCS's mission is to promote labor-management peace and cooperation. The FMCS has a large and broad range of clients external to the Government. Given the volume of public and private sector clients, there is a greater likelihood that conflicts of interest, impartiality, or other concerns may arise that employees may not be aware of and therefore it is necessary for the FMCS to screen for such conflicts. The approval requirement will help to ensure that potential ethics conflicts of interest, impartiality, or other concerns are resolved before certain employees begin outside employment or outside activities. Requiring prior approval ensures the neutrality and integrity of the FMCS' services.

Section 10300.101 General

Paragraph (a) explains that the regulation applies to all FMCS employees, other than special government employees, and supplements the OGE Standards.

Paragraph (b) notes that employees must comply with ethics guidance and procedures issued by the FMCS and should contact an FMCS ethics official if an ethics question arises. This paragraph also includes cross-references to other OGE ethics related regulations.

10300.102 Definitions

This section defines terms and phrases used throughout this supplemental regulation.

10300.103 Prior Approval for Outside Employment and Outside Activities

Paragraph (a) sets forth that an employee of the FMCS, other than a special government employee, is required to seek prior written approval before engaging in certain outside employment and outside activities.

Paragraph (b) sets out the standards and procedures for requesting approval to engage in certain outside employment and outside activities.

Paragraph (c) sets forth the requirement for submitting a revised request when there is a significant change in the nature, duties or scope of the outside employment or activity or to the employee's official duties or responsibilities.

Paragraph (d) provides that the DAEO may issue agency wide-policies, handbooks, or other written guidance governing the submission of requests for approval of outside employment and activities, which may exempt categories of employment and activities from the prior approval requirement of this section based on a determination that employment or activities within those categories would generally be approved and is not likely to involve conduct

prohibited by statute or Federal regulation, including 5 CFR part 2635.

II. Matters of Regulatory Procedure

Administrative Procedure Act

Under 5 U.S.C. 553(a)(2), rules relating to agency management or personnel are exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA). In addition, under 5 U.S.C. 553(b)(3)(A), notice and comment rulemaking requirements do not apply to rules concerning matters of agency organization, procedure, or practice. Given that the rule concerns matters of agency management or personnel, and organization, procedure, or practice, the notice and comment requirements of the APA do not apply here. Nor is a public hearing required under 45 U.S.C. 160a. The public comment period on the proposed rule opened on July 18, 2023, the date of its publication in the **Federal Register**, and closed on August 17, 2023. During this period, the FMCS did not receive any comments on the proposed rule.

Executive Order 12866

This rule is not a significant rule for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act.

The FMCS has determined under the Regulatory Flexibility Act, 5 U.S.C. chapter 6, that this final rule would not have a significant economic impact on a substantial number of small entities because it would primarily affect FMCS employees.

Paperwork Reduction Act.

The Paperwork Reduction Act, 44 U.S.C. chapter 35, does not apply to this final rule because it does not contain any information collection requirements that would require the approval of the Office of Management and Budget.

Congressional Review Act

The FMCS has determined that this final rule does not meet the definition of a rule, as defined by the Congressional Review Act, 5 U.S.C. chapter 8, and thus does not require review by Congress.

List of Subjects in 5 CFR Part 10300

Conflicts of interests, Government employees.

■ For the reasons set forth in the preamble, the FMCS, with the concurrence of OGE, amends title 5 of the Code of Federal Regulations by adding a new chapter CIII, consisting of part 10300, to read as follows:

Title 5—Administrative Personnel

CHAPTER CIII—FEDERAL MEDIATION AND CONCILIATION SERVICE

PART 10300—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL MEDIATION AND CONCILIATION SERVICE

Sec.

Authority: 5 U.S.C. 7301, 7353; 5 U.S.C. Ch. 131 (Ethics in Government Act of 1978); 29 U.S.C. 172; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 5 CFR 2635.402(c), 5 CFR 2635.403(a), 5 CFR 2635.502, 5 CFR 2635.604, 5 CFR 2635.802, and 5 CFR 2635.803.

§ 10300.101 General.

(a) *Purpose.* In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Federal Mediation and Conciliation Service (FMCS), other than special government employees as defined in 5 CFR 2635.102(l), and supplement the Standards of Ethical Conduct for Employees of the Executive Branch in 5 CFR part 2635 (Office of Government Ethics (OGE) Standards).

(b) *Cross-references.* In addition to the standards in 5 CFR part 2635 and this part, FMCS employees are required to comply with implementing guidance and procedures issued by the FMCS in accordance with 5 CFR 2635.105(c). FMCS employees are also subject to the regulations concerning executive branch financial disclosures contained in 5 CFR part 2634, the regulations concerning executive branch financial interests contained in 5 CFR part 2640, regulations concerning post-employment restrictions contained in 5 CFR part 2641, and the regulations concerning executive branch employee responsibilities and conduct contained in 5 CFR part 735. Employees should contact an FMCS ethics official if they have questions about any provision of this regulation or other ethics-related matters.

§ 10300.102 Definitions.

For purposes of this part:

Outside employment or activity means any form of non-Federal employment or business relationship, compensated or uncompensated, involving the provision of personal services by the employee. It includes, but is not limited to:

(1) Personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, professor, speaker, or writer.

(2) Active participation, including voluntary participation as defined in 5 CFR 2635.502(b)(1)(v), with a prohibited source.

(3) It does not include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization, unless such activities are for compensation other than reimbursement of expenses; such activities involve the provision of professional services or advice; or the organization's activities are devoted substantially to matters relating to the employee's official duties as defined in 5 CFR 2635.807(a)(2)(i)(B) through (E).

Note 1 to § 10300.102. There is a special approval requirement set out in both 18 U.S.C. 203(d) and 205(e) for certain representational activities otherwise covered by the conflict-of-interest restrictions on compensation and activities of employees in claims against and other matters affecting the Government. Thus, an employee who wishes to act as an agent or attorney for, or otherwise represent the employee's parents, spouse, child, or any person for whom, or any estate for which, the employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary in such matters, must obtain the approval required by law of the government official responsible for the employee's appointment, in addition to the regulatory approval required in this section.

§ 10300.103 Prior approval for outside employment and outside activities.

(a) *General requirement.* Before engaging in any outside employment or outside activity, as it is defined in § 10300.102, an employee of the FMCS, other than a special government employee, must obtain written approval.

(b) *Procedure for requesting approval.* The employee must first obtain written approval from the employee's immediate supervisor and then the Designated Agency Ethics Official (DAEO). If the employee does not obtain written approval from the employee's immediate supervisor, the employee may request review by the DAEO. Decisions by the DAEO are final and non-appealable.

(c) *Standard for approval.* Approval shall be granted only upon a determination that the outside employment or outside activity is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(d) *Revised requests.* Upon a significant change in the nature or scope of the outside employment or outside

activity or in the employee's official position with the FMCS, the employee must, within 7 calendar days of the change, submit a revised request for approval. If there are no significant changes in the nature or scope of the outside employment or outside activity or in the employee's official position with the FMCS, the employee does not need to reapply after the FMCS' initial approval.

(e) *Implementation guidance.* The DAEO may issue instructions or manual issuances governing the submission of requests for approval of outside employment or outside activities. The instructions or manual issuances may exempt categories of employment and activities from the prior approval requirement of this section based on a determination that employment or activity within those categories of employment or activities would generally be approved and is not likely to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635. The DAEO may include in these instructions or issuances examples of outside employment and activities that are permissible or impermissible consistent with this part and 5 CFR part 2635.

Dated: November 28, 2023.

Anna Davis,

General Counsel & DAEO.

Shelley K. Finlayson,

Acting Director, U.S. Office of Government Ethics.

[FR Doc. 2023–26950 Filed 12–7–23; 8:45 am]

BILLING CODE 6732–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2023–0007]

Citrus Canker; Designating Alabama a Commercial Citrus-Producing Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are revising the regulations to designate the State of Alabama as a commercial citrus-producing area in the current citrus canker regulations, and to update the scientific name for citrus canker used in the regulations. The State of Alabama has stated that it has commercial citrus production in the State, and the scientific name used in the regulations for citrus canker is obsolete and no longer used. These actions will update the regulations in order to provide Alabama protections that are afforded under the regulations to commercial citrus-producing States and be current as to the scientific name for citrus canker.

DATES: Effective December 8, 2023.

FOR FURTHER INFORMATION CONTACT: Dr. Derek A. Woller, Senior Regulatory Policy Specialist, RCC, IRM, PEIP, PPQ, APHIS, 4700 River Road, Riverdale, MD 20737–1228; (480) 490–6454; *Derek.A.Woller@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) imposes quarantines on citrus products in accordance with the regulatory authority provided under the Plant Protection Act (PPA or the Act) (7 U.S.C. 7701 *et seq.*). Under the Act, APHIS may prohibit or restrict the importation or interstate movement of any plant or plant product if the agency determines it is necessary to prevent the introduction into the United States or dissemination of a plant pest or noxious weed within the United States.

APHIS' regulations in 7 CFR part 301 (referred to below as the regulations) regulate the interstate movement of certain plants, plant parts, and other articles from areas of the United States quarantined because of citrus canker. These regulations are to prevent the interstate spread of citrus canker, and they are contained in ''Subpart M—Citrus Canker'' (7 CFR 301.75–1 through 301.75–17).

Citrus canker is a plant disease caused by strains of the bacterium *Xanthomonas citri* subsp. *citri.* The disease is known to affect plants and plant parts, including fruit, of citrus and citrus relatives (Family Rutaceae). It can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. It may also make the fruit of diseased plants unmarketable by causing lesions on the fruit. Infected fruit may also drop from trees before reaching maturity. Some strains of *Xanthomonas citri.* subsp. *citri.* are aggressive and can infect susceptible plants rapidly and lead to extensive economic losses in commercial citrus-producing areas.

Current regulations refer to the bacterium that causes citrus canker as *Xanthomonas axonopodis* pv. *citri*; however, there has been an internationally recognized change in the nomenclature. The bacterium should be listed as *Xanthomonas citri* subsp. *citri*; the term *Xanthomonas axonopodis* pv. *citri* is obsolete and no longer in use. Therefore, we are revising the definition of *citrus canker* in § 301.75–1, accordingly.

Paragraph (a) of § 301.75–5 currently lists commercial citrus-producing areas in the United States. Listed States have stated to APHIS that they have commercial citrus production in their States. The State of Alabama has stated to APHIS that it has such production. Accordingly, we are adding the State of Alabama to this list.

This recognition will provide the State of Alabama with Federal protections regarding the interstate movement of regulated articles for citrus canker that are afforded to the areas currently listed in § 301.75–5(a).

Miscellaneous

We are also revising the regulations in ''Subpart M—Citrus Canker'' to add reference to Office of Management and Budget (OMB) control number 0579–0363 and replace references to 0579–0325 and 0579–0369. OMB control numbers 0579–0325 and 0579–0369 were discontinued, and the associated activities are currently under 0579–0363.

Effective Date

This rule updates APHIS' domestic regulations regarding citrus canker in order to update the scientific name used for citrus canker and to recognize Alabama as a commercial citrus-producing State. With regard to the former change, the scientific name listed in the regulations is obsolete and no longer in international taxonomic use. With regard to the latter change, APHIS updates the regulations in this manner whenever a State claims that commercial citrus production occurs in the State. Because the international taxonomic norms are not within APHIS' purview, and because the update to the list of commercial citrus-producing States is based on a State's self-designation and ensures that the regulations align with this designation, there is good cause pursuant to 5 U.S.C. 553 to consider notice and a comment period for this rule unnecessary and contrary to the public interest and to make it effective less than 30 days after publication in the **Federal Register**.

Further, this action is a category that OMB has designated exempt from the provisions of Executive Order 12866. Finally, this action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and, thus, it is exempt from the provisions of that Act.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Lists of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Interstate Movement.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3. Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. Amend § 301.75–1 by revising the definition of ''Citrus canker'' to read as follows:

§ 301.75–1 Definitions.

* * * * *

Citrus canker. A plant disease caused by strains of the bacterium *Xanthomonas citri.* subsp. *citri.*

* * * * *

■ 3. Amend § 301.75–5, by revising paragraph (a) to read as follows:

§ 301.75–5 Commercial citrus-producing areas.

(a) The areas as shown in the following table are designated as commercial citrus-producing areas:

TABLE 1 TO PARAGRAPH (a)

Commercial citrus-producing areas
Alabama.
American Samoa.
Arizona.
California.
Florida.
Guam.
Hawaii.
Louisiana.
Northern Mariana Islands.
Puerto Rico.
Texas.
Virgin Islands of the United States.

■ 4. Amend § 301.75–6 by revising the OMB citation at the end of the section to read as follows:

§ 301.75–6 Interstate movement of regulated nursery stock from a quarantined area.

* * * * *

(Approved by the Office of Management and Budget under control number 0579–0363)

■ 5. Amend § 301.75–7 by revising the OMB citation at the end of the section to read as follows:

§ 301.75–7 Interstate movement of regulated fruit from a quarantined area.

* * * * *

(Approved by the Office of Management and Budget under control number 0579–0363)

■ 6. Amend § 301.75–12 by adding an OMB citation at the end of the section to read as follows:

§ 301.75–12 Certificates and limited permits.

* * * * *

(Approved by the Office of Management and Budget under control number 0579–0363)

■ 7. Amend § 301.75–13 by adding an OMB citation at the end of the section to read as follows:

§ 301.75–13 Compliance agreements.

* * * * *

(Approved by the Office of Management and Budget under control number 0579–0363)

Done in Washington, DC, this 4th day of December 2023.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2023–27034 Filed 12–7–23; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3550

[Docket No. RHS–23–SFH–0026]

Single Family Housing Section 502 Direct Loan Program—Community Land Trust Pilot

AGENCY: Rural Housing Service, USDA.

ACTION: Notification of waivers.

SUMMARY: The Rural Housing Service (RHS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), is announcing a pilot for the Section 502 Direct Home Loan program to test alternative eligibility criteria related to community representation for Community Land Trust (CLT) organizations. The Agency intends to evaluate the impact of allowing eligibility criteria other than membership open to all residents of the geographic area which could meet the intent of the statutory requirements for CLTs to have specific community representation. This notification outlines the pilot parameters and provides contact information for additional details about the pilot.

DATES: The effective date of this pilot is December 8, 2023. The duration of the pilot is anticipated to continue until December 8, 2025, at which time the RHS may extend the pilot program (with or without modifications) or terminate it depending on the workload and resources needed to administer the program, feedback from the public, and the effectiveness of the program. If the pilot program is extended or terminated early, the RHS will notify the public.

FOR FURTHER INFORMATION CONTACT: Jeremy Anderson, Finance and Loan Analyst, Direct Loan Origination Branch, Single Family Housing Direct Loan Division, Rural Development, U.S. Department of Agriculture, Email: *jeremy.anderson@usda.gov;* Phone: (202) 302–3092.

SUPPLEMENTARY INFORMATION:

Authority

The RHS Single Family Housing Direct Division administers the Sec. 502 Direct Loan Program under the authority of Section 502 of the Housing Act of 1949, as amended; and operates under 7 CFR 3550, subpart B. Section 506(b) of Title V of the Housing Act of 1949, as amended (42 U.S.C. 1476(b)), permits the Secretary to conduct demonstrations relating to national housing goals. All statutory or regulatory program

requirements that are not waived in this document will remain in effect.

Overview

The RHS offers a variety of programs to build or improve housing and essential community facilities in rural areas. The Agency offers loans, grants, and loan guarantees for single- and multifamily housing, child-care centers, fire and police stations, hospitals, libraries, nursing homes, schools, first responder vehicles and equipment, housing for farm laborers, and much more. RHS also provides technical assistance loans and grants in partnership with non-profit organizations, Indian Tribes, State and Federal government agencies, and local communities.

The RHS administers the Section 502 Direct Loan Program to assist low- and very low-income applicants who currently do not own adequate housing and cannot obtain other credit the opportunity to acquire, build, rehabilitate, improve, or relocate dwellings in rural areas. Homes financed through the Section 502 Direct loan program can be located on land owned by a Community Land Trust (CLT). CLTs are a growing land management tool used by affordable housing providers nationwide and are recognized for their use of ground leases and/or long-term deed restrictions as mechanisms to achieve lasting affordability. CLTs were traditionally organized as member nonprofits but are increasingly organized as entities without members and/or without strict representation on governing boards, because they meet community accountability standards through other means. Similarly, mission-driven affordable housing developers other than CLTs use ground leases or deed restrictions to maintain lasting affordability of the housing units developed and initially sold to income-eligible homebuyers to ensure the units remain affordable after the initial sale.

To receive agency supported financing, eligible dwellings located on land owned by a CLT must comply with 7 CFR 3550.72. Additional requirements for a community housing development organization identifying as a CLT are found at 42 U.S.C. 1472(a)(3)(B), which also incorporates definitions provided at 42 U.S.C. 12704 as described. These requirements include, in part, that a CLT's governing board maintains representation of low-income community residents and, to the extent practicable, low-income beneficiaries. 42 U.S.C. 1472(a)(3)(B); 42 U.S.C. 12704(6)(B). The Act also requires the CLT to have its corporate membership open to any adult resident of a particular geographic area specified in its bylaws. 42 U.S.C. 1472(a)(3)(B)(iv). As written, the community representation requirements are prohibitive for some affordable housing providers also acting as a CLT.

As land prices increase and availability decreases, many affordable housing providers are exploring various model to achieve lasting affordability in the housing stock they contribute to their community, including CLTs, ground leases and long-term deed restrictions. Some affordable housing providers that utilize ground leases do not meet the governing board membership requirements and/or requirement of open corporate membership required of CLTs in the Housing Act of 1949 and are therefore unable to access the Section 502 program for their low to very low-income clients in rural communities when using a land trust ownership model.

To ensure applicants working with affordable housing providers have access to the Section 502 program when using a land trust ownership model, RHS will approve affordable housing providers, under this pilot, that meet the eligibility criteria described in this document. The goal of this pilot is to test the viability of aligning the Section 502 program CLT requirements with affordable housing providers' current strategies to provide lasting affordability in homeownership.

Discussion of the New Section 502 CLT Pilot Regulatory Waivers

RHS has determined that the following two waivers are to be tested under the new pilot (demonstration) program for the Single-Family Housing Section 502 Direct Loan Program under the demonstration program authority provided in Section 506(b) of Title V of the Housing Act of 1949, as amended (42 U.S.C. 1476(b)) and at 7 CFR 3550.7):

1. The first waiver approved for this pilot is for affordable housing providers to be exempt from the requirement that a CLT maintain accountability to low-income community residents with regard to decisions on the design, siting, development, and management of affordable housing through significant representation on the organization's governing board. (42 U.S.C. 1472(a)(3)(B); 42 U.S.C. 12704(6)(B)).

Instead, organizations may propose to the Agency through this pilot, other methods by which the organization will maintain this accountability and ensure low-income community residents are included in these decisions. This could be demonstrated through community meetings, public notice for comment, a community advisory board, etc. Organizations should include detailed information related to the activities it will undertake to ensure community involvement is comparable to the input afforded the organizations board members. The Agency will evaluate these proposals and determine whether they are sufficient to maintain accountability.

2. The second waiver approved for this pilot is for affordable housing providers to be exempt from the requirements that a CLT be a membership organization with its corporate membership open to any adult resident of a particular geographic area specified in the by-laws of the organization (1472(a)(3)(B)(iv))).

Affordable housing providers who meet the eligibility criteria described in this document may request approval to take part in this pilot by providing information sufficient to determine their eligibility as described in this document to the applicable state office. State office information can be found online at—*https://www.rd.usda.gov/browse-state.*

Eligibility Requirements

To be eligible to participate in this pilot, organizations must be a private nonprofit entity, state or local government, Indian tribe or Tribal corporation; that meets all other requirements provided at 7 CFR 3550.72, and at 42 U.S.C. 1472(a)(3)(B), except item (iv), and satisfactorly demonstrates to the Agency the steps they will take to be accountable to low income residences with regard to decisions on the design, siting, development, and management of affordable housing.

Except as specified in this document, affordable housing providers seeking approval as a CLT must abide by all applicable statutory and regulatory requirements. Eligible participants in the Section 502 Direct program must otherwise abide by all statutory requirements and by the regulatory requirements outlined in 7 CFR 3550.

Paperwork Reduction Act

The regulatory waivers for this pilot contain no new reporting or recordkeeping burdens under OMB control number 0575–0179 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Non-Discrimination Statement

In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its

Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, staff office; or the Federal Relay Service at (800) 877–8339.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, *USDA Program Discrimination Complaint Form,* which can be obtained online at *https://www.usda.gov/sites/default/files/documents/ad-3027.pdf,* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or

(2) *Fax:* (833) 256–1665 or (202) 690–7442; or

(3) *Email: Program.Intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Yvonne Hsu,

Acting Administrator, Rural Housing Service.

[FR Doc. 2023–26654 Filed 12–7–23; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–1786; Airspace Docket No. 23–AGL–22]

RIN 2120–AA66

Amendment of Class E Airspace; Roseau, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at Roseau, MN. This action is the result of an airspace review caused by the decommissioning of the Roseau very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operating Network (MON) Program. The name and geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database. This action brings the airspace into compliance with FAA orders to support instrument flight rule (IFR) operations.

DATES: Effective 0901 UTC, March 21, 2024. 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 7400.11H, 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 amends the Class E surface airspace and the Class E airspace extending upward from 700 feet above the surface at Roseau Municipal Airport/Rudy Billberg Field, Roseau, MN, to support instrument flight rule (IFR) operations at this airport.

History

The FAA published an NPRM for Docket No. FAA–2023–1786 in the **Federal Register** (88 FR 62477; September 12, 2023) proposing to amend the Class E airspace at Roseau, MN. 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 paragraphs 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 7400.11H, dated August 11, 2023, and effective September 15, 2023. FAA Order JO 7400.11H 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 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71 modifies the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile (decreased from a 7-mile) radius of Roseau Municipal Airport/Rudy Billberg Field, Roseau, MN; and updates the name (previously Roseau Municipal Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database.

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 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

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

* * * * *

AGL MN E5 Roseau, MN [Amended]

Roseau Municipal Airport/Rudy Billberg Field, MN
(Lat 48°51′23″ N, long 95°41′49″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Roseau Municipal Airport/Rudy Billberg Field.

* * * * *

Issued in Fort Worth, Texas, on December 4, 2023.

Martin A. Skinner,

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

[FR Doc. 2023–26866 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–1787; Airspace Docket No. 23–AGL–23]

RIN 2120–AA66

Amendment of Class E Airspace; Mount Pleasant, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at Mount Pleasant, MI. This action is the result of an airspace review caused by the decommissioning of the Mount Pleasant very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operating Network (MON) Program. The geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database. This action brings the airspace into compliance with FAA orders to support instrument flight rule (IFR) operations.

DATES: Effective 0901 UTC, March 21, 2024. 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 7400.11H, 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 amends the Class E surface airspace and the Class E airspace extending upward from 700 feet above the surface at Mount Pleasant Municipal Airport, Mount Pleasant, MI, to support instrument flight rule (IFR) operations at this airport.

History

The FAA published an NPRM for Docket No. FAA–2023–1787 in the **Federal Register** (88 FR 62479; September 12, 2023) proposing to amend the Class E airspace at Mount Pleasant, MI. 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 paragraphs 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 7400.11H, dated August 11, 2023, and effective September 15, 2023. FAA Order JO 7400.11H 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 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71 modifies the Class E airspace extending upward from 700 feet above the surface to within a 6.6-mile (decreased from a 7-mile) radius of Mount Pleasant Municipal Airport, Mount Pleasant, MI; and updates the geographic coordinates of airport to coincide with the FAA's aeronautical database.

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 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 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 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

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

* * * * *

AGL MI E5 Mount Pleasant, MI [Amended]

Mount Pleasant Municipal Airport, MI
(Lat 43°37′18″ N, long 84°44′14″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Mount Pleasant Municipal Airport.

* * * * *

Issued in Fort Worth, Texas, on December 2, 2023.

Martin A. Skinner,

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

[FR Doc. 2023–26862 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–0432]

14 CFR Chapter I

Policy Regarding Processing Land Use Changes on Federally Acquired or Federally Conveyed Airport Land

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of final policy.

SUMMARY: This action finalizes the FAA's policy on the FAA's procedures for processing land use changes on federally acquired or federally conveyed airport land or in situations where a land use change impacts the safe and efficient operation of aircraft or safety of people and property on the ground related to aircraft operations. These changes were needed because of legislative changes made in the FAA Reauthorization Act of 2018. The policy is intended to simplify the procedures required to make a land use change and to protect airport land by limiting the use of releases to the actual sale or disposal of airport property.

DATES: This policy is effective January 8, 2024.

FOR FURTHER INFORMATION CONTACT: Kevin C. Willis, Director, Airport Compliance and Management Analysis, ACO–1, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–3085; facsimile: (202) 267–4629.

ADDRESSES: You can get an electronic copy of this Policy and all other documents in this docket using the internet by:

(1) Searching the Federal eRulemaking portal (*https://www.regulations.gov*)

(2) Visiting FAA's Regulations and Policies web page at (*http://www.faa.gov/regulations/policies*); or

(3) Accessing the Government Publishing Office's web page at (*http://www.gpoaccess.gov/index.html*).

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Airport Compliance and Management Analysis, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–3085. Make sure to identify the docket number, notice number or amendment number of this proceeding.

SUPPLEMENTARY INFORMATION:

Authority for the Policy: This document is published under the authority described in Title 49 of the United States Code, Subtitle VII, part B, chapter 471, section 47122(a).

This policy should be used in conjunction with FAA Order 5190.6, *Airport Compliance Manual,* Chapter 22, Releases from Federal Obligations; and FAA Order 5100.38, *Airport Improvement Handbook;* and any related policy implemented in conjunction and complementary with Airports Planning and Programming (APP) guidance. Additionally, compliance specialists will consult with FAA environmental protection specialists to determine what, if any, environmental obligations under relevant statutes or regulations may apply to specific land use changes at specific airports.

Background

Congress authorized financial assistance for an airport development project to acquire land, including land for future airport development (See 49 U.S.C. 47104, 47107(c)(2)). Under the Airport Improvement Act, land is needed for an airport purpose ''if the land may be needed for an aeronautical purpose (including runway protection zone) or serves as noise buffer land, and revenue from interim uses of the land contributes to the financial self-sufficiency of the airport.'' (See 49 U.S.C. 47107(c)(1)). Congress also authorized the conveyance of Federal non-surplus and surplus property for

developing, improving, operating or maintaining a public airport. (See 49 U.S.C. 47125, 47151).

Federally conveyed or federally acquired land must be used for airport purposes until the FAA approves or consents to a change in land use. (See 49 U.S.C. 47153(a), 47125(a), and 47107(c)(2)(B)). In addition, Congress requires the FAA to submit an annual report listing airports not in compliance with airport land use restrictions and identifying necessary corrective action. (49 U.S.C. 47131(a)(5)).[1]

The FAA's decision to approve or consent to a non-aeronautical or mixed land use or to release Federal obligations depends on the obligating documents, the current and future aeronautical need for the property, and the requested land use. For example, residential use of airport property is incompatible with the needs of civil aviation. Incompatible land uses on the airport are prohibited by FAA policy and are contrary to Federal obligations. Limiting the use of aeronautical facilities to aeronautical purposes ensures that airport facilities are available to meet aviation demand at the airport. Aviation tenants and aircraft owners should not be displaced by non-aviation commercial uses that could be conducted off airport property.[2] The FAA must consider both the existing and future aviation demand.

Implications of FAA Reauthorization Act of 2018

Through the ''*FAA Reauthorization Act of 2018*'' (Pub. L. 115–254), Section 163, Congress changed the FAA's authority to regulate non-federally acquired or conveyed airport land. The FAA's authority over a proposed land use change may be limited when (1) it does not impact the safe and efficient operation of aircraft or the safety of people and property on the ground related to aircraft operations or (2) does not adversely affect the value of prior Federal investments to a significant extent. (*See* Pub. L. 115–254, section 163(b)(1)(A) and (d)(1)(B)). Section 163(a) limits the FAA's authority to directly or indirectly regulate an airport owner or operator's acquisition, use, lease, encumbrance, transfer, or disposal of land, any facility upon such land, or any portion of such land or facility. However, Section 163(b) contains three exceptions and provides that the limitations of Section 163(a) do not apply to the following:

1. Any regulation ensuring the safe and efficient operation of aircraft or the safety of people and property on the ground related to aircraft operations; [3]

2. Any regulation imposed with respect to land or a facility acquired or modified using Federal funding; [4]

3. Any authority contained in a Surplus Property Act instrument of transfer,[5] or section 40117 of title 49 United States Code (Passenger Facility Charge statute).[6]

When the FAA retains approval authority over a proposed land use change or sale, the FAA will follow this policy guidance and FAA Order 5190.6, *Airport Compliance Manual.* When the FAA does not have approval authority over a proposed land use change or sale, all of the airport sponsor's Federal statutory and grant assurance obligations remain in full force and effect, including over its remaining airport property. In addition, airport sponsors remain obligated under FAA's *Policies and Procedures Concerning the Use of Airport Revenue* (64 FR 7696, February 16, 1999) (Revenue Use Policy), and FAA's *Policy Regarding Rates and Charges* (78 FR 55330, September 10, 2013). Any land that is to be sold or leased must be at fair market value and the funds must be used in accordance with the FAA's *Revenue Use Policy.* (See 49 U.S.C. 47107(c)(2)(B)). The airport sponsor should retain sufficient authority over the disposed land to prevent uses that conflict with its Federal obligations and related requirements or create conditions resulting in violations of the Grant Assurances. To retain this authority, airport sponsors should consider using subordination clauses, reservations, covenants, or other restrictions in a deed, or other instrument, to protect the public's right to fly over the land, prohibit obstructions to air navigation or interference with the flight of aircraft, or assure compatible land use. The deed or other instrument containing the restrictions should be recorded in local land records.

The FAA may verify compliance with these requirements through a financial compliance review, request and review of supporting documentation, enforcement of grant assurances, or other enforcement mechanisms. The airport sponsor also has the responsibility to comply with all Federal, state, and local environmental laws and regulations.

In September 2022, the FAA issued a Draft FAA Policy Regarding Processing Land Use Changes on Federally Acquired or Federally Conveyed Airport Land and requested comments. (87 FR 56601, September 15, 2022). The FAA received comments from 29 commenters representing airport sponsors, industry groups, and airport consultants.

Discussion of Public Comments

The following summary of comments reflects the major issues raised and does not restate each comment received. The FAA considered all comments received even if not specifically identified and responded to in this notice.

1. Comment: Commenters asked for clarification on the purpose and reason for the policy clarification.

Response: As the steward of federally acquired and federally conveyed land, FAA's role is to ensure that such land is available to serve aviation needs. New aviation entrants (air mobility, UAS, etc.) are changing the nature of aviation and their ability to use land previously deemed inaccessible due to its distance from the runway and taxiway environment is changing. To ensure land is available to serve these growing aviation needs, the FAA, as a general policy, will only release Federal obligations when land is to be sold or conveyed. This policy allows airport sponsors to seek approval for non-aeronautical land use in excess of 3–5 years without a release of obligations.

2. Comment: Commenters asked whether the policy applies to land acquired for noise compatibility.

Response: This policy does not apply to land acquired for noise compatibility purposes. FAA's *Noise Land Management and Requirements for Disposal of Noise Land or Development Land Funded with AIP* issued June 2014 (*www.faa.gov/sites/faa.gov/files/airports/environmental/policy_guidance/Noise-Land-Management-Disposal-AIP-Funded-Noise-Development-Land.pdf*) provides guidance on disposal and retention of noise land through the Noise Land Reuse Plan.

[1] Airport sponsors that have accepted federally conveyed or federally acquired airport land have agreed to comply with certain obligations and policies included in the Federal grant agreement or the Federal conveyance documents regarding the use of the land. Those obligations derive from multiple statutes, deed covenants and the grant assurances.

[2] See *Policy on the Non-Aeronautical Use of Airport Hangars,* 81 FR 38906–38907, (June 15, 2016).

[3] See section 163(b)(1)(A).

[4] See section 163(b)(2).

[5] The FAA may retain approval authority over proposed changes in the use of lands granted to an airport sponsor from the United States, including under the *Surplus Property Act,* 49 U.S.C. 47125, section 16 of the *Federal Airport Act of 1946* Public Law 79– 377, section 23 of the *Airport and Airway Development Act of 1970,* Public Law 91–258, section 516 of the *Airport and Airway Development Act of 1982,* and former military airports conveyed to local public entities under the congressionally authorized Base Realignment and Closure program because lands granted under these statutes constitute Federal investments in the airport.

[6] See section 163(b)(3).

3. Comment: Commenters are concerned that the duration of FAA's approval or consent to a land use change will be limited to the length of a lease and create additional workload.

Response: The final policy clarifies that the duration of the FAA's approval or consent will be dependent on the circumstances at the airport. It may be permitted for the duration of the approved use so long as the land is not needed for aeronautical use. The duration is not limited to an individual lease term.

4. Comment: Commenters asked whether FAA will now review and approve leases.

Response: The policy does not change the FAA's approach to the review of an airport sponsor's leases. The FAA does not approve leases but will continue to review some leases, as needed, to ascertain compliance with an airport sponsor's Federal obligations.

5. Comment: Commenters asked whether aeronautical or airport purpose land uses need FAA consent or approval?

Response: Aeronautical and airport purpose land uses do not need FAA approval or consent for the use. However, airport sponsors are reminded that other approvals, such as airspace, may still be required.

6. Comment: Commenters asked FAA to provide a timeframe for completing a land use change review.

Response: FAA recommends that airport sponsors work closely with their Region/ADO to determine the timeframes for completing a land use change review. Each situation is unique and the timeframe is dependent upon the level of documentation submitted and airport-specific information.

7. Comment: Commenters asked if there is an appeal process if a sponsor's request is denied.

Response: Similar to an airport sponsor's request for a release, if the request is denied, the airport sponsor is encouraged to work with Region/ADO to find possible alternatives that will meet their needs, while protecting the aeronautical use of the airport. A Region/ADOs determination is not a final agency decision. The Region/ADO can coordinate with ACO–100 as needed.

8. Comment: Commenters asked if the policy is retroactive and if existing uses will be grandfathered.

Response: This policy is not retroactive. It will not apply to land that FAA has previously released for non-aeronautical use under a Letter of Release or a Deed of Release. However, existing interim/concurrent use approvals will be reviewed in accordance with this policy when the existing approval expires.

9. Comment: Commenters asked when under this policy must airport sponsors update their Exhibit A.

Response: Under this policy, an airport sponsor's Exhibit A must be updated when the FAA issues a letter of consent or approval or when the property is released for sale or conveyance off the airport.

10. Comment: Commenters asked if the designation of a non-aeronautical area on the Airport Layout Plan (ALP) mean the land use has been approved.

Response: The designation of non-aeronautical areas on the ALP does not mean a particular land use has been approved. These areas can still be shown as proposed on the ALP but must be updated on the Exhibit A once the FAA has approved or consented to the use.

11. Comment: Commenters asked whether NEPA applies to FAA's issuance of letters of consent or approval.

Response: These comments are not within the scope of the policy and have been shared with the appropriate office for consideration. Airport sponsors should coordinate with their local FAA Region/ADO to determine their National Environmental Policy Act (NEPA) obligations.

12. Comment: Commenters asked how this policy relates to the FAA's existing Section 163 guidance?

Response: This policy does not change FAA's review and approval authority for ALPs or land use under Section 163. The policy only addresses how land use approvals are processed after FAA has determined we retain approval authority.

13. Comment: Commenters noted that 49 U.S.C. 47107(c)(1)(A) includes ''(ii) revenue from interim uses of the land [that] contributes to the financial self-sufficiency of the airport . . .'' and should not be omitted from the definition of Airport Purpose.

Response: In the final policy, the FAA has included 49 U.S.C. 47107(c)(1)(A)(i) and (ii) in the definition of airport purpose.

14. *Comment: Commenters asked for additional detail on how the FAA will assess the primary purpose of a requested land use change. Some commenters suggested square footage, customer base, nature of the structure, etc.*

Response: The FAA recognizes that there are numerous ways a requested land use change can be evaluated to determine its primary purpose. Airport sponsors should work closely with their Region/ADO to complete the land use change review.

15. Comment: Some Commenters requested a response to specific individual examples at their airport.

Response: The FAA recognizes that land use decisions must be based on the specific use identified and the situation at the airport. The FAA has provided general guiding examples, but the determination is dependent on the specific facts of a situation and should be discussed with the local Region/ADO.

III. Final Policy

The FAA is adopting the following FAA policy and practice regarding processing land use changes on federally acquired or federally conveyed airport land: [7] (1) in reviewing an airport sponsor's request for a land use change on federally acquired or federally conveyed airport land, the FAA will review the primary purpose of the requested land use, rather than examining each individual component of the request as aeronautical or nonaeronautical; (2) FAA written approval or consent is only required for a change in land use to non-aeronautical use, mixed use, or for interim uses of the land that contribute to the financial self-sufficiency of the airport; (3) the duration of the FAA's approval or consent will be dependent on the circumstances at the airport and may be permitted for the duration of the approved use; [8] (4) The FAA will only release Federal obligations when the airport sponsor requests a release for the sale or conveyance of airport land that meets FAA release requirements, such a release must have ACO–100 concurrence; [9] and (5) FAA letters of approval or consent will be documented on the Exhibit A.

Applicability

This policy applies to all requests for land use changes on federally acquired or federally conveyed land as well as when a land use change impacts the safe and efficient operation of aircraft or the safety of people and property on the ground related to aircraft operations.

[7] This also applies in situations where a land use impacts the safe and efficient operation of aircraft or safety of people and property on the ground related to aircraft operations.

[8] This process supersedes the existing interim and concurrent use process discussed in FAA Order 5190.6B, *Airport Compliance Manual, 2009,* that was limited to 3–5 years.

[9] Airport sponsors should follow the existing release process in 14 CFR part 155, *Release of Airport Property from Surplus Property Disposal Restrictions* and FAA Order 5190.6, Chapter 22.

1. General

This policy and practice is intended to ensure that the Federal investment in federally obligated airports is protected by making the use of aeronautical land and facilities available for aeronautical purposes and to ensure that airport land and facilities are available to meet the current and future aeronautical demand of the airport. Aeronautical users should not be displaced by non-aviation commercial uses, especially those that could be conducted off airport property.

2. Explanation of Terms

Aeronautical Use—The FAA considers the aeronautical use of an airport to be any activity that involves, makes possible, is required for the safety of, or is otherwise directly related to, the operation of aircraft. Aeronautical use includes services provided by air carriers related directly and substantially to the movement of passengers, baggage, mail, and cargo at the airport. (*FAA's Policy Regarding Rates and Charges,* 78 FR 55331, September 10, 2013).

Over time, the definition of aeronautical use has remained relatively unchanged, except when changes were needed to reflect necessary access for sky diving and new entrants. Land on which an aeronautical activity takes place is by its nature aeronautical use (*e.g.,* drop zone, apron, hangar).

The FAA confirms the use of a narrow definition of what constitutes an ''aeronautical use'' for land use purposes. Congress authorized financial assistance for an airport development project to acquire land, including land for future airport development (See 49 U.S.C. 47104, 47107(c)(2)(B)). Congress also authorized the conveyance of Federal non-surplus and surplus property for developing, improving, operating or maintaining a public airport. (See 49 U.S.C. 47125, 47151). The Congressional intent is furthered by a policy that requires aeronautical land to be used for aeronautical purposes unless the FAA discharges the airport sponsor of that obligation. Limiting the use of aeronautical land and facilities for aeronautical purposes ensures that airport land and facilities are available to meet the aeronautical demand of the airport, including future demand. Also, aeronautical users should not be displaced by non-aviation commercial uses, especially those that could be conducted off airport property.

Aeronautical use lands receive additional protection and benefits. They are afforded the protection of the grant assurances and aeronautical users may be charged favorable below market aeronautical rates. Overall, a narrower definition of aeronautical use helps protect the Federal investment in aviation by ensuring that nonaeronautical uses cannot easily displace aeronautical uses and thereby diminish the safety, efficiency, and utility of the entire airport.

Examples of aeronautical use include:

1. Operational uses such as aerial approaches, navaids, runways, taxiways, aprons, hangars, or other aircraft movement areas;

2. Future developmental uses to reserve property interests for foreseeable aeronautical development (*e.g.,* a planned runway extension or a planned terminal building development); and

3. Essential services that directly support flight operations (*e.g.,* aircraft maintenance, fueling, and servicing; mail, passenger, and cargo processing facilities; communications and air traffic control; crash rescue, firefighting, and airport maintenance).

Airport Purpose: Uses of land that are (1) directly related to the actual operation or the foreseeable aeronautical development of a public airport and (2) whose nonaeronautical components do not conflict with existing or foreseeable aeronautical needs/demands. These uses do not require FAA consent or approval of land use. These are situations where a primary aeronautical facility has some nonaeronautical components, including parking, that support that facility's core aeronautical function within its operation. These nonaeronautical components should be paying a fair market value lease rate. Examples of this include:

1. A terminal complex: All components of a terminal complex (including the building, terminal concessions, airline ticket and car rental counters, parking, and roads);

2. A fixed base operator (FBO) facility, including parking and classrooms;

3. Parking associated with the airport purpose (*e.g.,* passenger and employee parking);

4. Airport service roads; and

5. Truck parking for air cargo processing facilities when it is directly related to moving inbound and outbound air cargo on and off the airport.

This does not include certain uses, such as aircraft manufacturing plants and warehouse distribution facilities, which are considered as mixed-use as defined below.

In addition, airport purpose includes land that may be needed in the future for an aeronautical purpose and revenue from an interim use of the land contributes to the financial self-sufficiency of the airport. Such interim uses require FAA approval or consent as described below.

Non-Aeronautical Use: All other uses that are not considered aeronautical or airport purpose. These uses will require FAA consent or approval of the land use. Examples of non-aeronautical use include:

1. Car rental facility (stand-alone);

2. Hotel;

3. Warehouse and distribution center; and

4. Parking associated with non-aeronautical uses (*e.g.,* customer and employee parking for hotel, warehouse and distribution center, car rental).

Non-aeronautical uses commonly occur at airports, but these uses do not have the priority or protection of the grant assurances. There is no Federal requirement that obligated airport sponsors accommodate non-aeronautical uses. This differentiation between aeronautical and non-aeronautical is intended to protect the Federal investment in aviation and ensure that non-aeronautical uses cannot easily displace aeronautical uses and thereby diminish the safety, efficiency, and utility of the airport.[10]

Mixed Uses—A mixed-use facility contains both aeronautical and non-aeronautical uses, but the non-aeronautical use could be located off airport property. These uses will need FAA consent or approval for the land use. The FAA will take into account whether the non-aeronautical component will impact existing uses or conflict with existing or foreseeable aeronautical needs/demand. Examples of mixed uses include:

1. Mail distribution centers that are connected to an air cargo operation;

2. Cargo operations where the primary purpose of the operation goes beyond air cargo processing facilities and expands into non-aeronautical elements, such as office building complexes, sorting facilities, long-term storage (warehousing), freight forwarders, and third-party logistics providers, certain access infrastructure, or certain truck parking/trailer facilities (stalls). Most of these are related to other transportation modes or aspects of the cargo business, not directly and substantially to its ''aeronautical activity'';

3. Aircraft manufacturing facility that includes final assembly, but also significant non-aeronautical uses such as engineering facilities, research and development facilities, parts

[10] FAA has provided guidance on the temporary non-aeronautical use of a hangar in FAA's Hangar Use Policy (*Policy on the Non-Aeronautical Use of Airport Hangars* (81 FR 38906), June 15, 2016). *www.govinfo.gov/content/pkg/FR-2016-06-15/pdf/2016-14133.pdf*).

manufacturing and storage, or office buildings; and

4. Parking associated with the mixed use (*e.g.,* customer and employee parking for mail distribution, cargo operations, aircraft manufacturing).

Federally acquired land—This is land that was acquired with Federal funds including the Airport Improvement Program (AIP), Federal Aid to Airports Program (FAAP), Airport Development Aid Program (ADAP), and as part of an AP–4 agreement.[11] It also includes airport sponsor-acquired land that was used for the airport sponsor match for an AIP project or was swapped for AIP purchased land.

Federally conveyed land—This is land conveyed to the airport sponsor by the Federal government through a written deed of conveyance (sometimes called a patent or included in a lease termination, etc.) that contained specific restrictions or allowances for the use of the land. The FAA recognizes that some Federal conveyance documents specifically permit non-aeronautical use for revenue production or a specific identified use—in these instances, there is not a change in land use. Federally conveyed land includes land transferred under:

1. Surplus Property Act, codified in 49 U.S.C. 47151–47153, including former military airports conveyed to local public entities under 10 U.S.C. 2687 of the Defense Base Closure and Realignment Act (BRAC) program or any other Federal laws; and,

2. Section 16 of the Federal Airport Act of 1946, 119 Public Law 79–377, Section 23 of the Airport and Airway Development Act of 1970, Public Law 91–258, and Section 516 of the Airport and Airway Development Act of 1982, codified in 49 U.S.C. 47125. These are sometimes referred to as non-surplus property transfers.

Release of Federal obligations—The formal, written authorization discharging and relinquishing all or part of the FAA's right to enforce an airport's contractual or deeded obligations. The FAA's authority to release, waive, or amend an obligation is contained in 49 U.S.C. 47153(a) and 47107(h)(2).

Letter of consent or approval—The FAA's action on a proposed land use change will be documented in the form of a letter of consent or a letter of approval, depending upon the obligating deeds or documents and the land at issue. Surplus Property Act deeds require the FAA's written consent for a non-aeronautical use, so a letter of consent is appropriate.

Alternatively, Grant Assurance 5, *Preserving Rights and Powers,* requires prior written approval of the Secretary for the sale or transfer of any property upon which Federal funds have been expended, which would require a letter of approval. In both cases, the letters serve the equivalent purpose of documenting the FAA's action on the airport sponsor's request. These letters also serve to approve interim uses for revenue production on property acquired for an airport purpose.

3. Process for Evaluating Land Use Changes

Uses of airport land will fall into one of four categories: (1) aeronautical use, (2) airport purpose, (3) non-aeronautical use, or (4) mixed-use.

The airport sponsor must obtain FAA approval or consent for all non-aeronautical and mixed uses of federally acquired or federally conveyed land.[12] FAA approval or consent is not needed for a proposed land use that meets the definition of aeronautical use or airport purpose. The following explains the process when an airport sponsor requests a change in land use on federally conveyed or federally acquired land:

A. What Airport Sponsors Must Submit

The airport sponsor's request needs to include the following:[13]

1. identification of the property and documentation on how the land was acquired (*i.e.,* Federal conveyance documents, Federal grant agreements, Exhibit A);

2. current use of the property;

3. current and future aeronautical demand of the airport and the property (*e.g.,* current Master Plan, forecasts, hangar waitlists); and,

4. proposed use of the property, including the anticipated length of the use.

B. FAA's Evaluation of the Request

Upon receipt of all documents, the FAA will promptly review the airport sponsor's request. The review involves a certain level of discretion by the FAA and the airport sponsor. The FAA may request additional information regarding the proposal. Major considerations in granting approval or consent include the:

1. Reasonableness and practicality of the airport sponsor's request,

2. The effect of the request on needed aeronautical facilities,

3. The net benefit to civil aviation, and

4. Compatibility of the proposal with the needs of civil aviation.

(Incompatible land uses on the airport, including residential use, are prohibited by FAA policy and are contrary to federal obligations.)

The distinctions may vary slightly depending on the circumstances of the situation, such as intermodal functionality, business model, project integrity, available airport land, project size and location, airport planning priorities, and funding requirements and restrictions. The land use must benefit the airport and its functions in support of aeronautical uses and must not adversely affect the value of the federal investment in the airport and its facilities. 49 U.S.C. 47107(a)(16)(B), 47125(a), and 47152(1).

The land use should be compatible with the airport's current or future aeronautical use or demand. FAA approval will not be granted if the FAA determines that an aeronautical demand for the land is likely to exist within the period of the requested land use. The duration of FAA's approval or consent will depend on the circumstances at the airport and may be permitted for the duration of the approved use. The approval or consent must state that the land will be returned to aeronautical use at the end of the approved period.

C. Documentation of FAA Decision

Upon completion of the review, the FAA will either issue a letter of approval or consent for the use or deny the request. Where possible, the FAA may issue the letter of approval or consent concurrently with a Section 163 determination letter.

The letter of approval or consent will document the FAA's determination of the land use on federally acquired or federally conveyed airport land. This letter will outline the conditions of the approval or consent and include a requirement that the land must be available for aeronautical use at the end of the approval or consent period. Generally, the approval or consent will remain in effect for the duration of the approved use. The letter of approval or letter of consent does not affect or negate the airport sponsor's Federal obligations.

The requirement for NEPA should be coordinated with the Regions/ADO Environmental Protection Specialist (EPS).

[11] In some instances, an AP–4 Agreement included a federal land purchase. The original agreement and funding should be reviewed to confirm the source of the funds.

[12] The airport sponsor must obtain FAA approval of interim land uses for revenue production on property acquired for an airport purpose (See 49 U.S.C. 47107(c)(1)).

[13] An airport sponsor may reference documents already submitted as part of a review under Section 163 and will not need to resubmit unless there have been changes or information is missing.

After an airport sponsor receives an FAA letter of consent or approval, it will update the Exhibit A.

Issued in Washington, DC, on December 5, 2023.

Kevin C. Willis,

Director, Office of Airport Compliance and Management Analysis.

[FR Doc. 2023–27017 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 738, 740, 742, and 774

[Docket No. 230920–0229]

RIN 0694–AJ29

Allied Governments Favorable Treatment: Revisions to Certain Australia Group Controls; Revisions to Certain Crime Control and Detection Controls

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

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by removing Proliferation of Chemical and Biological Weapons (CB) controls on specified pathogens and toxins that are destined for Australia Group (AG) member countries and by revising the Commerce Country Chart to remove Crime Control and Detection (CC) controls on certain items that are destined for Austria, Finland, Ireland, Liechtenstein, South Korea, Sweden, and Switzerland. These changes are being made as part of a broader effort announced today that will liberalize several categories of export licensing requirements and the availability of export license exceptions for key allied and partner countries, as well as for members of certain multilateral export control regimes.

DATES: This rule is effective December 8, 2023.

FOR FURTHER INFORMATION CONTACT: For questions on pathogens and toxins discussed in this rule, contact Dr. Tara Gonzalez, Chemical and Biological Controls Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Telephone: (202) 482–3343, Email: *Tara.Gonzalez@bis.doc.gov.* For all other questions pertaining to this rule, contact Logan Norton, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce, (202) 482–1762, Email: *RPD2@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Liberalizing Controls for Allies and Partners

Historically, the United States has relied on deep connections with its allies and partners to protect its vital national security and foreign policy interests. In particular, the United States acts in close cooperation with its allies and partners to bring together the international community to address military aggression, threats to sovereignty, and human rights abuses around the world. This is especially true in the context of export controls, in which multilateral and plurilateral controls are typically the most effective path toward accomplishing our national security and foreign policy objectives.

In remarks made at the U.S. State Department on February 4, 2021, regarding America's place in the world, President Biden noted that America's alliances are some of our greatest assets and that leading with diplomacy means standing shoulder to shoulder and working closely with our allies and key partners, thereby protecting the world against nefarious actors. At that time, President Biden highlighted the fact that the United States would be ''more effective in dealing with Russia when we work in coalition and coordination with other like-minded partners.'' (*https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/04/remarks-by-president-biden-on-americas-place-in-the-world/*). Consistent with this direction, a year later, following Russia's unjustifiable further invasion of Ukraine and Belarus's complicity in that invasion, the United States led the formation of and continues to lead alignment within the Global Export Controls Coalition (GECC), now comprising the United States and 38 other global economies. BIS's export controls on Russia and Belarus have been successful because they have been imposed and maintained in coordination with U.S. allies and partners. At the same time, in addition to the GECC, BIS has forged deeper ally and partner country relationships through a series of bilateral and multilateral export controls dialogues, including under the auspices of the U.S.-European Union Trade and Technology Council (TTC) and the U.S.-Japan Commercial and Industrial Partnership (JUCIP).

The changes made with this rule and two other ally and partner rules published today are part of a broad effort to liberalize controls for allies and partner countries under the EAR (15 CFR parts 730–774). Together, these rules will ease several categories of export licensing requirements and increase the availability of export license exceptions for key allied and partner countries, as well as members of certain multilateral export control regimes.

Overview of Regulatory Changes

As described below, in recognition of key allies' and partners' support of our efforts against Russia, along with their leadership in the areas of chemical and biological weapons nonproliferation and the promotion of human rights, BIS is making two sets of amendments to the EAR. First, it is revising the Chemical and Biological Nonproliferation (CB) controls that apply to certain pathogens and toxins that are destined for members of the Australia Group (AG). Second, it is removing Crime Controls (CC) on seven key allied and partner countries, Austria, Finland, Ireland, Liechtenstein, South Korea, Sweden, and Switzerland. These amendments to the EAR eliminate certain controls on allied and partner countries, as well as on AG member countries, thereby facilitating exports and reexports involving these countries and allowing BIS to apply its resources toward reviewing and monitoring more sensitive exports and higher-risk transactions. These amendments are part of a larger effort announced by BIS today that includes several EAR amendments eliminating certain license requirements and broadening the availability of license exceptions for allied and partner countries, including member countries of international regimes.

Pathogens and Toxins

The AG is the multilateral export control regime responsible for controlling chemical and biological items to ensure that such items do not contribute to chemical and biological weapons proliferation. The AG currently has 43 members, including the United States. All items controlled under ECCNs 1C351, 1C353, 1C354, 1E001, and 1E351 on the Commerce Control List (CCL) (supp. no. 1 to part 774 of the EAR) are controlled multilaterally by the AG, except those items controlled under ECCN 1C351.b.

Prior to this rule, entries for pathogens and toxins controlled under ECCNs 1C351, 1C353, 1C354, and their related technologies controlled under ECCNs 1E001, and 1E351, listed CB Column 1 (CB:1) (see Commerce

Country Chart, supp. no. 1 to part 738) as a reason for control applying to each entry. Pursuant to § 742.2(a)(1) of the EAR, ECCNs with a CB:1 reason for control require a BIS license for export or reexport to all destinations, regardless of AG membership. Separately, the controls on ECCNs referring to CB Column 2 (CB:2) are described in § 742.2(a)(2); items with a CB:2 reason for control require a BIS license for all destinations except AG member countries (see Country Group A:3, supp. no. 1 to part 740).

BIS is amending the EAR in recognition of the fact that each of the AG member countries has an effective export control system capable of regulating dual-use exports in a manner consistent with U.S. national security, foreign policy, and nonproliferation objectives. In particular, all AG members implement AG control agreements under their domestic laws, including by imposing stringent biosafety and biosecurity standards and maintaining comparable license requirements. Consequently, exports, reexports, and transfers (in-country) of items controlled under these ECCNs to AG member countries are low-risk transactions. This assessment is evidenced by recent licensing data on approved and denied BIS license applications for the items controlled under these ECCNs to AG member countries. In 2021, BIS approved approximately 1,000 applications for ECCN 1C351, 1C353, 1C354, 1E001, and 1E351 items to AG member countries and did not deny any license applications for such items to AG member countries. Consistent with the demonstrated low risk posed by these items when destined to AG member countries, BIS is amending the reason for control from CB:1 to CB:2 in each of the entries for these items. Although these items remain CB-controlled, they will no longer require a license for CB reasons when destined to AG member countries. By amending the reason for control from CB:1 to CB:2 in each of the entries for these items, BIS estimates that it is alleviating a burden of approximately 1,000 license applications per year. This decrease in burden will benefit both the public, by reducing the need to submit applications and wait for processing, and BIS, by freeing resources for applications involving higher-risk destinations.

Regulatory Change

With this rule, BIS revises ECCNs 1C351, 1C353, 1C354, 1E001, and 1E351 on the CCL. This rule revises the reason for control in each of these ECCNs from CB:1 to CB:2. As a conforming change, BIS revises § 742.2(a) of the EAR such that it reflects the changes to ECCNs 1C351, 1C353, 1C354, 1E001, and 1E351.

This rule does not make changes to the item paragraphs or other reasons for control associated with these ECCNs. Notably, CB:1 will continue to be the reason for control in ECCN 1C351.d.14 and .15 and genetic elements of ECCN 1C353 of toxins controlled in 1C351.d.14 and .15, pursuant to the requirements of the Chemical Weapons Convention. Relatedly, ECCNs 1E001 and 1E351 will retain CB:1 as the reason for control for ''technology'' controlled by the ECCN 1C351.d.14 and .15 and the genetic elements thereof.

This rule makes two conforming changes involving ECCN 1C351 that reflect the easing of licensing requirements described above. Prior to this rule, certain toxins controlled under ECCN 1C351 required a license but were eligible for License Exception Strategic Trade Authorization (STA) when destined to Country Group A:5 countries pursuant to § 740.20(b)(2)(vi). Given the changes made by this rule to ECCN 1C351, there is no longer a license requirement for these toxins when destined for a Country Group A:5 country. Therefore, this rule removes § 740.20(b)(2)(vi) and references to License Exception STA from ECCN 1C351.

Crime Control

Crime controls (CC) on crime control detection equipment, related technology, and software, set forth in § 742.7 of the EAR, support U.S. foreign policy interests that promote the observance of human rights throughout the world. Pursuant to § 742.7(a)(1), ECCNs on the CCL referencing CC Column 1 on the Country Chart (CC:1) require a BIS license for export and reexport. Similarly, § 742.2(a)(3) describes the license requirements for items referencing CC Column 3 on the Country Chart (CC:3). Prior to this rule, Austria, Finland, Ireland, Liechtenstein, South Korea, Sweden, and Switzerland were each subject to license requirements for CC:1 and CC:3 items set forth on the CCL. With this rule, the items specified in § 742.7(a)(1) and (a)(3) will no longer require a license for export and reexport to these seven countries; this reflects—along with their inclusion in Country Group A:5 (see supp. no. 1 to part 740) as well as in supplement no. 3 to part 746 (countries that have implemented export controls on Russia and Belarus that are substantially similar to U.S. export controls)—these seven countries' status as close United States allies and partners. Moreover, these seven countries share the United States' commitment to the observance of human rights worldwide. All seven countries have strong records regarding the safeguarding of civil liberties and individual freedoms and upholding other democratic norms.

In 2021, BIS approved approximately 200 licenses and did not deny any licenses for CC items destined to these seven countries. BIS anticipates that the removal of CC controls on these seven countries will enable the agency to reallocate its licensing application review and processing resources on higher-risk destinations that present human rights concerns.

Regulatory Change

This rule revises the Commerce Country Chart by removing the X for CC reason for control from CC:1 and CC:3 for Austria, Finland, Ireland, Liechtenstein, South Korea, Sweden, and Switzerland. Doing so eliminates the license requirements for items controlled under CC:1 and CC:3. This rule makes no further revisions to the Commerce Country Chart or conforming changes elsewhere in the EAR.

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. BIS has examined the impact of this rule as required by Executive Orders 12866, 13563, and 14094, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This rule is considered a ''significant regulatory action'' under section 3(f) 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 35,739 hours. Total burden hours associated with the PRA and OMB control number 0694–0088 are expected to decrease as a result of this rule. This rule is expected to decrease the licensing burden by approximately 1,200 licenses per year; this will result in an overall reduction in burden house by almost 588 hours per year, for a new total burden estimate of 35,151 hours.

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

15 CFR Part 738

Exports.

15 CFR Part 740

Administrative practice and procedure, Exports, and Reporting and recordkeeping requirements.

15 CFR Part 742

Exports and Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, parts 738, 740, 742, and 774 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 738—COMMERCE CONTROL LIST OVERVIEW AND THE COUNTRY CHART

■ 1. The authority citation for 15 CFR part 738 continues 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.;* 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c; 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 2. In supplement no. 1 to part 738, the table is amended by revising the entries for Austria, Finland, Ireland, Korea, South, Liechtenstein, Sweden, and Switzerland. The revisions read as follows:

Supplement No. 1 to Part 738—Commerce Country Chart

* * * * *

BILLING CODE 3510–33–P

	Commerce Country Chart															
Countries	**Chemical & Biological Weapons**			**Nuclear Nonproliferation**		**National Security**		**Missile Tech**	**Regional Stability**		**Firearms Convention**	**Crime Control**			**Anti-Terrorism**	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
	*		*	*	*		*									
Austria[3 4]	X					X		X	X							
	*		*	*	*		*									
Finland[3 4]	X					X		X	X							
	*		*	*	*		*									
Ireland[3 4]	X					X		X	X							
	*		*	*	*		*									
Korea, South[3 4]	X					X		X	X							
	*		*	*	*		*									
Liechtenstein[5]	X					X		X	X							
	*		*	*	*		*									
Sweden[3 4]	X					X		X	X							
Switzerland[3 4]	X					X		X	X							
	*		*	*	*		*									

BILLING CODE 3510–33–C

* * * * *

[3] See § 742.6(a)(3) for special provisions that apply to ''military commodities'' that are subject to ECCN 0A919.

[4] See § 742.6(a)(2) and (4)(ii) regarding special provisions for exports and reexports of certain thermal imaging cameras to these countries.

[5] Refer to Switzerland for licensing requirements for Liechtenstein under the EAR.

* * * * *

PART 740—LICENSE EXCEPTIONS

■ 3. The authority citation for part 740 continues 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. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 4. Amend § 740.20 by removing and reserving paragraph (b)(2)(vi).

PART 742—CONTROL POLICY—CCL BASED CONTROLS

■ 5. The authority citation for part 742 continues 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; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; 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. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 8, 2022, 87 FR 68015 (November 10, 2022).

■ 6. Amend § 742.2 by revising paragraph (a) to read as follows:

§ 742.2 Proliferation of chemical and biological weapons.

(a) *License requirements.* The following controls are maintained in support of the U.S. foreign policy of opposing the proliferation and illegal use of chemical and biological weapons. (See also § 742.18 of this part for license requirements pursuant to the Chemical Weapons Convention).

(1) If CB Column 1 of the Country Chart (supplement no. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to all destinations, including Canada, for the following:

(i) Toxins identified in ECCNs 1C351.d.14 and .15;

(ii) Genetic elements (ECCN 1C353) of the toxins described in paragraph (a)(1)(i) of this section; and

(iii) Technology (ECCNs 1E001 and 1E351) for the production and/or disposal of toxins described in paragraph (a)(1)(i) of this section.

(2) If CB Column 2 of the Country Chart (supplement no. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to all destinations except countries in Country Group A:3 (see supplement no. 1 to part 740 of the EAR) (Australia Group members) for the following:

(i) Chemicals identified in ECCN 1C350 (precursor and intermediate chemicals used in the production of chemical warfare agents).

(A) This license requirement includes chemical mixtures identified in ECCN 1C350.b, .c, or .d, except as specified in License Requirements Note 2 to that ECCN.

(B) This licensing requirement does not include chemical compounds created with any chemicals identified in ECCN 1C350, unless those compounds are also identified in ECCN 1C350.

(C) This licensing requirement does not apply to any of the following medical, analytical, diagnostic, and food testing kits that consist of pre-packaged materials of defined composition that are specifically developed, packaged, and marketed for diagnostic, analytical, or public health purposes:

(*1*) Test kits containing no more than 300 grams of any chemical controlled by ECCN 1C350.b or .c (CB-controlled chemicals also identified as Schedule 2 or 3 chemicals under the CWC) that are destined for export or reexport to CWC States Parties (destinations listed in supplement no. 2 to part 745 of the EAR). Such test kits are controlled by ECCN 1C395 for CB and CW reasons, to States not Party to the CWC (destinations not listed in supplement no. 2 to part 745 of the EAR), and for AT reasons.

(*2*) Test kits that contain no more than 300 grams of any chemical controlled by ECCN 1C350.d (CB-controlled chemicals not also identified as Schedule 1, 2, or 3 chemicals under the CWC). Such test kits are controlled by ECCN 1C995 for AT reasons.

(ii) Human pathogens, zoonoses, toxins, animal pathogens, genetically modified microorganisms and plant pathogens identified in ECCNs 1C351 (except .d.14 and .15), 1C353 (except genetic elements of toxins in ECCN 1C351.d.14 and .15), and 1C354; and

(iii) Software (ECCN 1D390) for process control that is specifically configured to control or initiate production of the chemical precursors controlled by ECCN 1C350.

(iv) Technology (ECCN 1E001) for the development or production of chemical detection systems and dedicated detectors therefore, controlled by ECCN 1A004.c, that also have the technical characteristics described in ECCN 2B351.a.

(v) Technology (ECCNs 1E001 and 1E350) involving the following for facilities designed or intended to produce chemicals described in 1C350:

(A) Overall plant design;

(B) Design, specification, or procurement of equipment;

(C) Supervision of construction, installation, or operation of complete plant or components thereof;

(D) Training of personnel; or

(E) Consultation on specific problems involving such facilities.

(vi) Technology (ECCNs 1E001 and 1E351) for:

(A) Production and/or disposal of chemical precursors described in ECCN 1C350; and

(B) Production and/or disposal of microbiological commodities described in paragraph (a)(2)(ii) of this section (except toxins and genetic elements of those toxins in ECCN 1C351.d.14 and .15).

(vii) Equipment and materials identified in ECCN 2B350 or 2B351 on the CCL, chemical detection systems controlled by 1A004.c for detecting chemical warfare agents and having the characteristics of toxic gas monitoring systems described in 2B351.a, and valves controlled by ECCN 2A226 having the characteristics of those described in 2B350.g, which can be used in the production of chemical weapons precursors or chemical warfare agents.

(viii) Equipment and materials identified in ECCN 2B352, which can be used in the production of biological agents.

(ix) Software identified in ECCN 2D351 or 2D352, as follows:

(A) Dedicated software identified in ECCN 2D351 for the ''use'' of toxic gas monitoring systems and their dedicated detecting components controlled by ECCN 2B351;

(B) Software designed for nucleic acid assemblers and synthesizers controlled by 2B352.j that is capable of designing and building functional genetic elements from digital sequence data.

(x) Technology identified in ECCN 2E001 for the ''development'' of software controlled by ECCN 2D351 or 2D352.

(xi) Technology identified in ECCN 2E001, 2E002, or 2E301 for:

(A) The development, production, or use of items controlled by ECCN 2B350, 2B351, or 2B352; or

(B) The development or production of valves controlled by ECCN 2A226 having the characteristics of those described in ECCN 2B350.g.

(xii) Technology identified in ECCN 2E201 or 2E290 for the use of valves controlled by ECCN 2A226 having the characteristics of those described in 2B350.g.

(3) If CB Column 3 of the Country Chart (supplement no. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to Country Group D:3 (see supplement no. 1 to part 740 of the EAR) for medical products identified in ECCN 1C991.c.

(4) A license is required, to States not Party to the CWC (destinations not listed in supplement no. 2 to part 745 of the EAR), for mixtures controlled by 1C395.a and test kits controlled by 1C395.b.

* * * * *

PART 774—THE COMMERCE CONTROL LIST

■ 7. The authority citation for part 774 continues 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.;* 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

Supplement No. 1 to Part 774—The Commerce Control List

■ 8. Category 1 is amended by revising ECCNs 1C351, 1C353, 1C354, 1E001, and 1E351 to read as follows:

Category 1—Materials, Chemicals, Microorganisms and Toxins

C. ''Materials''

* * * * *

1C351 Human and animal pathogens and ''toxins,'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, CW, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
CB applies to items controlled by 1C351.d.14 and .15.	CB Column 1
CB applies to entire entry.	CB Column 2

CW applies to 1C351.d.14 and .d.15 and a license is required for CW reasons for all destinations, including Canada, as follows: CW applies to 1C351.d.14 for ricin in the form of (1) Ricinus communis AgglutininII (RCA_{II}), also known as ricin D or Ricinus Communis LectinIII (RCL_{III}) and (2) Ricinus communis LectinIV (RCL_{IV}), also known as ricin E. CW applies to 1C351.d.15 for saxitoxin identified by C.A.S. #35523–89–8. See § 742.18 of the EAR for licensing information pertaining to chemicals subject to restriction pursuant to the Chemical Weapons Convention (CWC). The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons.

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
AT applies to entire entry.	AT Column 1

License Requirement Notes: *1. All vaccines and 'immunotoxins' are excluded from the scope of this entry. Certain medical products and diagnostic and food testing kits that contain biological toxins controlled under 1C351.d, with the exception of toxins controlled for CW reasons under 1C351.d.14 or .d.15, are excluded from the scope of this entry. Vaccines, 'immunotoxins,' certain medical products, and diagnostic and food testing kits excluded from the scope of this entry are controlled under ECCN 1C991.*

2. For the purposes of this entry, only saxitoxin is controlled under 1C351.d.15; other members of the paralytic shellfish poison family (e.g., neosaxitoxin) are designated EAR99.

3. Clostridium perfringens strains, other than the epsilon toxin-producing strains of Clostridium perfringens described in 1C351.c.12, are excluded from the scope of this entry, since they may be used as positive control cultures for food testing and quality control.

4. Unless specified elsewhere in this ECCN 1C351 (e.g., in License Requirement Notes 1–3), this ECCN controls all biological agents and ''toxins,'' regardless of quantity or attenuation, that are identified in the List of Items Controlled for this ECCN, including small quantities or attenuated strains of select biological agents or ''toxins'' that are excluded from the lists of select biological agents or ''toxins'' by the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), or the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services (HHS), in accordance with their regulations in 9 CFR part 121 and 42 CFR part 73, respectively.

5. Biological agents and pathogens are controlled under this ECCN 1C351 when they are an isolated live culture of a pathogen agent, or a preparation of a toxin agent that has been isolated or extracted from any source or material, including living material that has been deliberately inoculated or contaminated with the agent. Isolated live cultures of a pathogen agent include live cultures in dormant form or in dried preparations, whether the agent is natural, enhanced or modified.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) Certain forms of ricin and saxitoxin in 1C351.d.14 and .d.15 are CWC Schedule 1 chemicals (see § 742.18 of the EAR). The U.S. Government must provide advance notification and annual reports to the OPCW of all exports of Schedule 1 chemicals. See § 745.1 of the EAR for notification procedures. See 22 CFR part 121, Category XIV and § 121.7 for CWC Schedule 1 chemicals that are ''subject to the ITAR.'' (2) The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, maintain controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN (for APHIS, see 7 CFR 331.3(b), 9 CFR 121.3(b), and 9 CFR 121.4(b); for CDC, see 42 CFR 73.3(b) and 42 CFR 73.4(b)). (3) See 22 CFR part 121, Category XIV(b), for modified biological agents and biologically derived substances that are ''subject to the ITAR.''

Related Definitions: For the purposes of this entry, 'immunotoxins' are monoclonal antibodies linked to a toxin with the intention of destroying a specific target cell while leaving adjacent cells intact.

Items:

a. Viruses identified on the Australia Group (AG) ''List of Human and Animal Pathogens and Toxins for Export Control,'' as follows:

a.1. African horse sickness virus;

a.2. African swine fever virus;

a.3. Andes virus;

a.4. Avian influenza (AI) viruses identified as having high pathogenicity (HP), as follows:

a.4.a. AI viruses that have an intravenous pathogenicity index (IVPI) in 6-week-old chickens greater than 1.2; *or*

a.4.b. AI viruses that cause at least 75% mortality in 4- to 8-week-old chickens infected intravenously.

Note: *Avian influenza (AI) viruses of the H5 or H7 subtype that do not have either of the characteristics described in 1C351.a.4 (specifically, 1C351.a.4.a or .a.4.b) should be sequenced to determine whether multiple basic amino acids are present at the cleavage site of the haemagglutinin molecule (HA0). If the amino acid motif is similar to that observed for other HPAI isolates, then the isolate being tested should be considered as HPAI and the virus is controlled under 1C351.a.4.*

a.5. Bluetongue virus;

a.6. Chapare virus;

a.7. Chikungunya virus;

a.8. Choclo virus;

a.9. Classical swine fever virus (Hog cholera virus);

a.10. Crimean-Congo hemorrhagic fever virus;

a.11. Dobrava-Belgrade virus;

a.12. Eastern equine encephalitis virus;

a.13. Ebolavirus (includes all members of the Ebolavirus genus);

a.14. Foot-and-mouth disease virus;

a.15. Goatpox virus;

a.16. Guanarito virus;

a.17. Hantaan virus;

a.18. Hendra virus (Equine morbillivirus);

a.19. Japanese encephalitis virus;

a.20. Junin virus;

a.21. Kyasanur Forest disease virus;

a.22. Laguna Negra virus;

a.23. Lassa virus;

a.24. Louping ill virus;

a.25. Lujo virus;

a.26. Lumpy skin disease virus;

a.27. Lymphocytic choriomeningitis virus;

a.28. Machupo virus;

a.29. Marburgvirus (includes all members of the Marburgvirus genus);

a.30. Middle East respiratory syndrome-related coronavirus (MERS-related coronavirus);

a.31. Monkeypox virus;

a.32. Murray Valley encephalitis virus;

a.33. Newcastle disease virus;

a.34. Nipah virus;

a.35. Omsk hemorrhagic fever virus;

a.36. Oropouche virus;

a.37. Peste-des-petits ruminants virus;

a.38. Porcine Teschovirus;

a.39. Powassan virus;

a.40. Rabies virus and all other members of the Lyssavirus genus;

a.41. Reconstructed 1918 influenza virus;

Technical Note: *1C351.a.41 includes reconstructed replication competent forms of the 1918 pandemic influenza virus containing any portion of the coding regions of all eight gene segments.*

a.42. Rift Valley fever virus;

a.43. Rinderpest virus;

a.44. Rocio virus;

a.45. Sabia virus;

a.46. Seoul virus;

a.47. Severe acute respiratory syndrome-related coronavirus (SARS-related coronavirus);

a.48. Sheeppox virus;

a.49. Sin Nombre virus;
a.50. St. Louis encephalitis virus;
a.51. Suid herpesvirus 1 (Pseudorabies virus; Aujeszky's disease);
a.52. Swine vesicular disease virus;
a.53. Tick-borne encephalitis virus (Far Eastern subtype, formerly known as Russian Spring-Summer encephalitis virus—see 1C351.b.3 for Siberian subtype);
a.54. Variola virus;
a.55. Venezuelan equine encephalitis virus;
a.56. Vesicular stomatitis virus;
a.57. Western equine encephalitis virus; *or*
a.58. Yellow fever virus.
b. Viruses identified on the APHIS/CDC ''select agents'' lists (see Related Controls paragraph #2 for this ECCN), but not identified on the Australia Group (AG) ''List of Human and Animal Pathogens and Toxins for Export Control,'' as follows:
b.1. [Reserved];
b.2. [Reserved]; *or*
b.3. Tick-borne encephalitis virus (Siberian subtype, formerly West Siberian virus—see 1C351.a.53 for Far Eastern subtype).
c. Bacteria identified on the Australia Group (AG) ''List of Human and Animal Pathogens and Toxins for Export Control,'' as follows:
c.1. Bacillus anthracis;
c.2. Brucella abortus;
c.3. Brucella melitensis;
c.4. Brucella suis;
c.5. Burkholderia mallei (Pseudomonas mallei);
c.6. Burkholderia pseudomallei (Pseudomonas pseudomallei);
c.7. Chlamydia psittaci (Chlamydophila psittaci);
c.8. Clostriduim argentinense (formerly known as Clostridium botulinum Type G), botulinum neurotoxin producing strains;
c.9. Clostridium baratii, botulinum neurotoxin producing strains;
c.10. Clostridium botulinum;
c.11. Clostridium butyricum, botulinum neurotoxin producing strains;
c.12. Clostridium perfringens, epsilon toxin producing types;
c.13. Coxiella burnetii;
c.14. Francisella tularensis;
c.15. Mycoplasma capricolum subspecies capripneumoniae (''strain F38'');
c.16. Mycoplasma mycoides subspecies mycoides SC (small colony) (a.k.a. contagious bovine pleuropneumonia);
c.17. Rickettsia prowazekii;
c.18. Salmonella enterica subspecies enterica serovar Typhi (Salmonella typhi);
c.19. Shiga toxin producing Escherichia coli (STEC) of serogroups O26, O45, O103, O104, O111, O121, O145, O157, and other shiga toxin producing serogroups;
Note: *Shiga toxin producing Escherichia coli (STEC) includes, inter alia, enterohaemorrhagic E. coli (EHEC), verotoxin producing E. coli (VTEC) or verocytotoxin producing E. coli (VTEC).*
c.20. Shigella dysenteriae;
c.21. Vibrio cholerae; *or*
c.22. Yersinia pestis.
d. ''Toxins'' identified on the Australia Group (AG) ''List of Human and Animal Pathogens and Toxins for Export Control,'' as follows, or their subunits:
d.1. Abrin;
d.2. Aflatoxins;
d.3. Botulinum toxins;
d.4. Brevetoxins;
d.5. Clostridium perfringens alpha, beta 1, beta 2, epsilon and iota toxins;
d.6. Conotoxins;
d.7. Diacetoxyscirpenol;
d.8. Gonyautoxins;
d.9. HT–2 toxin;
d.10. Microcystins (Cyanginosins);
d.11. Modeccin;
d.12. Nodularins;
d.13. Palytoxin;
d.14. Ricin;
d.15. Saxitoxin;
d.16. Shiga toxins (shiga-like toxins, verotoxins, and verocytotoxins);
d.17. Staphylococcus aureus enterotoxins, hemolysin alpha toxin, and toxic shock syndrome toxin (formerly known as Staphylococcus enterotoxin F);
d.18. T–2 toxin;
d.19. Tetrodotoxin;
d.20. Viscumin (Viscum album lectin 1); *or*
d.21. Volkensin.
e. ''Fungi'', as follows:
e.1. Coccidioides immitis; *or*
e.2. Coccidioides posadasii.

* * * * *

1C353 Genetic elements and genetically modified organisms, as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
CB applies to genetic elements of items controlled by 1C351.d.14 and .15.	CB Column 1
CB applies to entire entry.	CB Column 2
AT applies to entire entry.	AT Column 1

License Requirements Notes:
1. Vaccines that contain genetic elements or genetically modified organisms identified in this ECCN are controlled by ECCN 1C991.
2. Unless specified elsewhere in this ECCN 1C353 (*e.g.,* in License Requirement Note 1), this ECCN controls genetic elements or genetically modified organisms for all biological agents and ''toxins,'' regardless of quantity or attenuation, that are identified in the List of Items Controlled for this ECCN, including genetic elements or genetically modified organisms for attenuated strains of select biological agents or ''toxins'' that are excluded from the lists of select biological agents or ''toxins'' by the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, or the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, in accordance with the APHIS regulations in 7 CFR part 331 and 9 CFR part 121 and the CDC regulations in 42 CFR part 73.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, maintain controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN, including (but not limited to) certain genetic elements, recombinant nucleic acids, and recombinant organisms associated with the agents or toxins in ECCN 1C351 or 1C354 (for APHIS, see 7 CFR 331.3(c), 9 CFR 121.3(c), and 9 CFR 121.4(c); for CDC, see 42 CFR 73.3(c) and 42 CFR 73.4(c)). (2) See 22 CFR part 121, Category XIV(b), for modified biological agents and biologically derived substances that are subject to the export licensing jurisdiction of the U.S. Department of State, Directorate of Defense Trade Controls.
Related Definition: N/A
Items:

a. Any genetically modified organism that contains, or any genetic element that codes for, any of the following:
a.1. Any gene, genes, translated product or translated products specific to any virus controlled by 1C351.a or .b or 1C354.c;
a.2. Any gene or genes specific to any bacterium controlled by 1C351.c or 1C354.a, or any fungus controlled by 1C351.e or 1C354.b, and which;
a.2.a. In itself or through its transcribed or translated products represents a significant hazard to human, animal or plant health; *or*
a.2.b. Could endow or enhance pathogenicity; *or*
a.3. Any toxins, or their subunits, controlled by 1C351.d.
b. [Reserved].
Technical Notes:
1. Genetically modified organisms include organisms in which the nucleic acid sequences have been created or altered by deliberate molecular manipulation.
2. ''Genetic elements'' include, inter alia, chromosomes, genomes, plasmids, transposons, vectors, and inactivated organisms containing recoverable nucleic acid fragments, whether genetically modified or unmodified, or chemically synthesized in whole or in part. For the purposes of this ECCN 1C353, nucleic acids from an inactivated organism, virus, or sample are considered to be 'recoverable' if the inactivation and preparation of the material is intended or known to facilitate isolation, purification, amplification, detection, or identification of nucleic acids.
3. This ECCN does not control nucleic acid sequences of shiga toxin producing Escherichia coli of serogroups O26, O45, O103, O104, O111, O121, O145, O157, and other shiga toxin producing serogroups, other than those genetic elements coding for shiga toxin, or for its subunits.
4. 'Endow or enhance pathogenicity' is defined as when the insertion or integration of the nucleic acid sequence or sequences is/are likely to enable or increase a recipient organism's ability to be used to deliberately

cause disease or death. This might include alterations to, *inter alia:* virulence, transmissibility, stability, route of infection, host range, reproducibility, ability to evade or suppress host immunity, resistance to medical countermeasures, or detectability.

* * * * *

1C354 Plant pathogens, as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
CB applies to entire entry.	CB Column 2
AT applies to entire entry.	AT Column 1

License Requirements Notes:

1. All vaccines are excluded from the scope of this ECCN. See ECCN 1C991 for vaccines.

2. Unless specified elsewhere in this ECCN 1C354 (e.g., in License Requirement Note 1), this ECCN controls all biological agents, regardless of quantity or attenuation, that are identified in the List of Items Controlled for this ECCN, including small quantities or attenuated strains of select biological agents that are excluded from the list of PPQ select agents and ''toxins'' by the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, in accordance with their regulations in 7 CFR part 331.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, maintains controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN (see 7 CFR 331.3(c), 9 CFR 121.3(c), and 9 CFR 121.4(c)). (2) See 22 CFR part 121, Category XIV(b), for modified biological agents and biologically derived substances that are subject to the export licensing jurisdiction of the U.S. Department of State, Directorate of Defense Trade Controls.
Related Definitions: N/A
Items:

a. Bacteria, as follows:

a.1. *Xanthomonas albilineans;*

a.2. *Xanthomonas citri pv. citri (Xanthomonas axonopodis* pv. *citri, Xanthomonas campestris* pv. *citri);*

a.3. *Xanthomonas oryzae* [this species of proteobacteria is identified on the APHIS ''select agents'' list (see Related Controls paragraph for this ECCN), but only the pathovar *Xanthomonas oryzae* pv. *oryzae* (syn. *Pseudomonas campestris* pv. *oryzae*) is identified on the Australia Group (AG) ''List of Plant Pathogens for Export Control''];

a.4. *Clavibacter michiganensis* subsp. *sepedonicus* (*Clavibacter sepedonicus, Clavibacter michiganense* subsp. *sepedonicus, Corynebacterium michiganensis* subsp. *sepedonicum, Corynebacterium sepedonicum*);

a.5. *Ralstonia solanacearum,* race 3, biovar 2;

a.6. *Raythayibactor toxicus* [this bacterium is identified on the APHIS ''select agents'' list (see the Related Controls paragraph for this ECCN), but is not identified on the Australia Group (AG) ''List of Plant Pathogens for Export Control''].

b. Fungi, as follows:

b.1. *Bipolaris oryzae* (*Cochliobolus miyabeanus, Helminthosporium oryzae*);

b.2. *Colletotrichum kahawae* (*Colletotrichum coffeanum* var. *virulans*);

b.3. *Pseudocercospora ulei* (*Microcyclus ulei, Dothidella ulei*);

b.4. *Puccinnia graminis* ssp. *graminis* var. *graminis/Puccinia graminis* ssp. *graminis* var. *stakmanii* (*Puccinia graminis* [syn. *Puccinia graminis* f. sp. *tritici*]);

b.5. *Puccinia striiformis* (syn. *Puccinia glumarum*);

b.6. *Magnaporthe oryzae* (Pyricularia oryzae);

b.7. *Peronosclerospora philippinensis* (*Peronosclerospora sacchari*);

b.8. *Sclerophthora rayssiae* var. *zeae;*

b.9. *Synchytrium endobioticum;*

b.10. *Tilletia indica;*

b.11. *Thecaphora solani;*

b.12. *Phoma glycinicola* (formerly *Pyrenochaeta glycines*) [this fungus is identified on the APHIS ''select agents'' list (see the Related Controls paragraph for this ECCN), but is not identified on the Australia Group (AG) ''List of Plant Pathogens for Export Control''].

c. Viruses, as follows:

c.1. Andean potato latent virus (Potato Andean latent tymovirus);

c.2. Potato spindle tuber viroid.

* * * * *

E. ''Technology''

* * * * *

1E001 ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of items controlled by 1A002, 1A003, 1A004, 1A005, 1A006.b, 1A007, 1A008 1A101, 1A231, 1B (except 1B608, 1B613 or 1B999), or 1C (except 1C355, 1C608, 1C980 to 1C984, 1C988, 1C990, 1C991, 1C995 to 1C999).

License Requirements

Reason for Control: NS, MT, NP, CB, RS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to ''technology'' for items controlled by 1A002, 1A003, 1A005, 1A006.b, 1A007, 1B001 to 1B003, 1B018, 1C001 to 1C011, or 1C018.	NS Column 1
NS applies to ''technology'' for items controlled by 1A004.	NS Column 2
MT applies to ''technology'' for items controlled by 1A101, 1B001, 1B101, 1B102, 1B115 to 1B119, 1C001, 1C007, 1C011, 1C101, 1C102, 1C107, 1C111, 1C116, 1C117, or 1C118 for MT reasons.	MT Column 1
NP applies to ''technology'' for items controlled by 1A002, 1A007, 1A231, 1B001, 1B101, 1B201, 1B225, 1B226, 1B228 to 1B234, 1C002, 1C010, 1C111, 1C116, 1C202, 1C210, 1C216, 1C225 to 1C237, or 1C239 to 1C241 for NP reasons.	NP Column 1
CB applies to ''technology'' for items controlled by 1C351.d.14 and .15 and the 1C353 genetic elements of toxins in ECCN 1C351.d.14 and .15.	CB Column 1
CB applies to ''technology'' for items controlled by 1C351, 1C353, or 1C354; and CB applies to ''technology'' for materials controlled by 1C350 and for chemical detection systems and dedicated detectors therefor, in 1A004.c, that also have the technical characteristics described in 2B351.a.	CB Column 2
RS applies to technology for equipment controlled in 1A004.d.	RS Column 2
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: Yes, except for the following:

(1) Items controlled for MT reasons; or

(2) Exports and reexports to destinations outside of those countries listed in Country

Group A:5 (See Supplement No. 1 to part 740 of the EAR) of ''technology'' for the ''development'' or production'' of the following:

(a) Items controlled by 1C001; or

(b) Items controlled by 1A002.a which are composite structures or laminates having an organic ''matrix'' and being made from materials listed under 1C010.c or 1C010.d.

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit ''technology'' according to the General Technology Note for the ''development'' or ''production'' of equipment and materials specified by ECCNs 1A002, 1C001, 1C007.c, 1C010.c or d or 1C012 to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR).

List of Items Controlled

Related Controls (1) Also see ECCNs 1E101, 1E201, and 1E202. (2) See ECCN 1E608 for ''technology'' for items classified under ECCN 1B608 or 1C608 that, immediately prior to July 1, 2014, were classified under ECCN 1B018.a or 1C018.b through .m (note that ECCN 1E001 controls ''development'' and ''production'' ''technology'' for chlorine trifluoride controlled by ECCN 1C111.a.3.f—see ECCN 1E101 for controls on ''use'' ''technology'' for chlorine trifluoride). (3) See ECCN 1E002.g for control libraries (parametric technical databases) ''specially designed'' or modified to enable equipment to perform the functions of equipment controlled under ECCN 1A004.c (Nuclear, biological and chemical (NBC) detection systems) or ECCN 1A004.d (Equipment for detecting or identifying explosives residues). (4) ''Technology'' for lithium isotope separation (see related ECCN 1B233) and ''technology'' for items described in ECCN 1C012 are subject to the export licensing authority of the Department of Energy (see 10 CFR part 810). (5) ''Technology'' for items described in ECCN 1A102 is ''subject to the ITAR'' (see 22 CFR parts 120 through 130).

Related Definitions: N/A

Items:

The list of items controlled is contained in the ECCN heading.

* * * * *

1E351 ''Technology'' according to the ''General Technology Note'' for the disposal of chemicals or microbiological materials controlled by 1C350, 1C351, 1C353, or 1C354.

License Requirements

Reason for Control: CB, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
CB applies to ''technology'' for the disposal of items controlled by 1C351.d.14 and .15 and the 1C353 genetic elements of toxins in ECCN 1C351.d.14 and .15.	CB Column 1
CB applies to ''technology'' for the disposal of items controlled by 1C351, 1C353, or 1C354; and CB applies to ''technology'' for the disposal of items controlled by 1C350.	CB Column 2
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

List of Items Controlled

Related Controls: N/A

Related Definitions: N/A

Items:

The list of items controlled is contained in the ECCN heading.

* * * * *

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

[FR Doc. 2023–26532 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740 and 774

[Docket No. 230926–0234]

RIN 0694–AI66

Export Administration Regulations for Missile Technology Items: 2018, 2019, and 2021 Missile Technology Control Regime Plenary Agreements; and License Exception Eligibility

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to reflect changes to the Missile Technology Control Regime (MTCR) Annex that were agreed to by MTCR member countries at the Technical Experts Meetings (TEMs) in March and November 2018, May and October 2019, and October 2021. This rule also expands the eligibility for the use of license exceptions under the EAR for MT-controlled items. These changes to license exception eligibility are also being made as part of a broader effort announced today that will liberalize several categories of export licensing requirements and the availability of export license exceptions for key allied and partner countries, as well as for members of certain multilateral export control regimes.

DATES: This rule is effective December 8, 2023.

FOR FURTHER INFORMATION CONTACT: Sharon Bragonje, Nuclear and Missile Technology Controls Division, Bureau of Industry and Security, Phone: (202) 482–0434; Email: *sharon.bragonje@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Missile Technology Control Regime (MTCR or Regime) is an export control arrangement among 35 nations, including most of the world's suppliers of advanced missiles and missile-related equipment, materials, software, and technology. The regime establishes a common list of controlled items (the Annex) and a common export control policy (the Guidelines) that member countries implement in accordance with their national export controls. The MTCR seeks to limit the risk of proliferation of weapons of mass destruction by controlling exports of goods and technologies that could make a contribution to delivery systems (other than manned aircraft) for such weapons.

In 1993, the MTCR's original focus on missiles for nuclear weapons delivery was expanded to include the proliferation of missiles for the delivery of all types of weapons of mass destruction (WMD), *i.e.,* nuclear, chemical, and biological weapons. Such proliferation has been identified as a threat to international peace and security. One way to address this threat is to maintain vigilance over the transfer of missile equipment, material, and related technologies usable for systems capable of delivering WMD. MTCR members voluntarily pledge to adopt the Regime's export Guidelines and to restrict the export of items contained in the Regime's Annex. The Regime's Guidelines are implemented through the national export control laws, regulations and policies of the regime members.

Amendments to the Export Administration Regulations (EAR)

This final rule, as further described in section A of this preamble, revises six ECCNs under the EAR to reflect changes to the MTCR Annex agreed to at the March 2018 Technical Experts Meeting (TEM) in Reykjavik, Iceland; November 2018 TEM in Basel, Switzerland; May 2019 TEM in Berlin, Germany; October 2019 TEM in Auckland, New Zealand; and October 2021 TEM in Sochi, Russian Federation. References are provided below for the MTCR Annex changes agreed to at the meetings that correspond to the EAR revisions described below. These changes are primarily editorial corrections to these ECCNs for consistency with the MTCR Annex. This rule also makes changes to the Commerce Control List (CCL) (supplement no. 1 to part 774 of the EAR) to conform with the MTCR Annex. All of the changes in this final rule align the MT controls on the CCL with the MTCR Annex. In the discussion below, BIS identifies the origin of each change in the regulatory text of this final rule by using one the following parenthetical phrases: (Reykjavik 2018 TEM), (Basel 2018 TEM), (Berlin 2019 TEM), (Auckland 2019 TEM), (Sochi 2021 TEM), or (Changes to Align with MTCR Annex).

This final rule expands the eligibility of license exceptions for MT-controlled items, as further described in section B, by amending the EAR to expand the eligibility for the use of four license exceptions under the EAR for MT-controlled items and to add one new license exception authorization under an existing license exception. In addition, this rule revises the general restriction on the use of license exceptions to ensure that the limited set of additional license exception authorizations specified are not available for destinations of concern for missile technology reasons or that are subject to a U.S. arms embargo and makes conforming changes where needed to license exceptions to ensure that only certain license exceptions or portions of license exceptions will be available for MT-controlled items. These changes to license exception eligibility for MT-controlled items will better harmonize the availability of license exceptions for such items with the availability of license exceptions that are available for other items of similar sensitivity under the EAR. Because of the terms and conditions of existing licenses exceptions there will only be a limited number of license exceptions or portions of those license exceptions that will be available for MT-controlled items.

Making these limited additional license exceptions or portions of those license exceptions available will ease the burden on exporters, reexporters, and transferors and allow for BIS, as well as the other agencies that review BIS licenses, to focus its license reviews on transactions that warrant individual reviews through the license review process.

The changes with this rule to license exception eligibility and two other ally and partner rules published today are part of a broad effort to liberalize controls for allies and partner countries under the EAR (15 CFR parts 730–774). Together, these rules will ease several categories of export licensing requirements and increase the availability of export license exceptions for key allied and partner countries, as well as members of certain multilateral export control regimes.

A. Amendments to the Commerce Control List (CCL) To Reflect Changes to the MTCR Annex

This final rule amends the CCL to reflect changes to the MTCR Annex by amending six ECCNs, as follows:

ECCN 1C111. This final rule amends ECCN 1C111 by adding a new ''items'' paragraph e in the List of Items Controlled section to control Dimethylaminoethylazide (DMAZ) (CAS 86147–04–8) as a Hydrazine replacement fuel, and [Reserves] ''items'' paragraph e.2 to conform to **Federal Register** requirements for the addition of ''items'' paragraph e.1 (Changes to Align with MTCR Annex). DMAZ was added to the MTCR Annex in 2014. At the time, it was not added to the United States Munitions List (USML) or the CCL. This change to ECCN 1C111 corrects that oversight, ensuring that DMAZ will be appropriately controlled under the EAR and consistent with U.S. Government commitments to the MTCR. This is consistent with the 2014 rules that transitioned hydrazine and its derivatives to the CCL. These changes are expected to result in an increase of three to five license applications received annually by BIS, due to the low volume of such items exported.

In addition, BIS takes this opportunity to correct the ITAR citation regarding ferrocene derivatives controlled under Category V(f)(4) in paragraph (2) of the Related Controls paragraph in the List of Items Controlled section. Ferrocene derivatives were moved from paragraph (f)(3) to (f)(4) by Department of State Export Control Reform (ECR) rule 79 FR 34, Jan. 2, 2014, but were not included in the companion BIS rule, 79 FR 264, Jan. 2, 2014. To preclude the need for similar amendments in the future, the citation is limited to the higher level USML Category. A corresponding revision is made in reference to Inhibited Red Fuming Nitric Acid in Related Controls paragraph (5).

ECCN 2A101. This final rule amends ECCN 2A101 by revising the heading to add the word ''of'' after the phrase ''having all,'' so this part of the heading will now read as ''having all of the following characteristics.'' This is an editorial correction for consistency with the MTCR Annex that does not substantively change the scope of ECCN 2A101 (MTCR Annex Change, Category II: Item 3.A.7., Reykjavik 2018 TEM). These changes are not expected to have any impact on the number of license applications received by BIS.

ECCN 2B119. This final rule amends ECCN 2B119 by revising ''items'' paragraph a in the List of Items Controlled section. In ''items'' paragraph a, this final rule adds the word ''of'' after the phrase ''having all,'' so the control parameter will now read as ''balancing machines having all of the following characteristics.'' This is an editorial correction for consistency with the MTCR Annex that does not substantively change the scope of ECCN 2B119 (MTCR Annex Change, Category II: Item 9.B.2., Reykjavik 2018 TEM). This change is not expected to have any impact on the number of license applications received by BIS.

ECCN 6A107. This final rule amends ECCN 6A107 by revising ''items'' paragraphs a, in the List of Items Controlled section. In ''items'' paragraphs a, this final rule adds the word ''of'' after the phrase ''having all'' and adds the word ''characteristics'' after the word ''following,'' so the control parameter will now read as ''Gravity meters having all of the following characteristics.'' This is an editorial correction for consistency with the MTCR Annex that does not substantively change the scope of the ECCN (MTCR Annex Change, Category II: Item 12.A.3., Reykjavik 2018 TEM). These changes are not expected to have any impact on the number of license applications received by BIS.

ECCN 9A101. This final rule amends ECCN 9A101 by revising ''items'' paragraphs a.2 in the List of Items Controlled section to remove the parenthetical phrase ''at maximum continuous power at sea level static conditions using the ICAO standard atmosphere.'' This final rule also redesignates Technical notes 2 and 3 as Technical notes 3 and 4, respectively, and adds a new Technical Note 2 in the

List of Items Controlled section (MTCR Annex Change, Category II: Item 3.A.1., Berlin 2019 TEM). This final rule adds new Technical note 2 to specify that specific fuel consumption is determined at maximum continuous thrust for engine type un-installed at sea level static conditions using the ICAO standard atmosphere. This change is a correction on how specific fuel consumption is determined—using thrust rather than power. Additionally, the parenthetical phrase in ''items'' paragraph a.2 is being moved from a parenthetic in the control text to a technical note, where it better belongs in the context of ECCN 9A101. This is a clarification and will not change any scope of control. These changes are not expected to have any impact on the number of license applications received by BIS.

ECCN 9E515. This final rule amends ECCN 9E515 by revising the ''MT'' paragraph in the table in the License Requirements section to add a reference to ECCN 9A515.h to specify the MT control applies to technology for items in ECCN 9A515.h (Change to Align with MTCR Annex). This addition is to correct an oversight to ensure the MT technology control appropriately extends to all the intended MT commodities. The technology for ECCN 9A515.h., which has an MT control, should be controlled under ECCN 9E515. This correction will align the technology control in ECCN 9E515 with 20.A.1.b.2./20.E.1. in the MTCR Annex. These changes are not expected to have any impact on the number of license applications received by BIS.

B. Changes to License Exception Eligibility for MT-Controlled Items

This final rule makes changes to the EAR for license exception eligibility for MT-controlled items. These changes consist of the following: (1) revising the general restriction on the use of license exceptions for MT-controlled items in § 740.2(a)(5); (2) revising the terms and conditions of four license exceptions: License Exceptions TMP under § 740.9(b)(1)(i) and (b)(2)(ii)(C), GOV under § 740.11 introductory text, TSU under § 740.2(d)(2) to add additional requirements or exclusions for items controlled for MT items; and (3) adding a new authorization to existing License Exception AVS under § 740.15(b)(2), under a new paragraph (b)(2)(ii).

BIS emphasizes that it is important to understand that although this final rule revises the general restriction on the use of license exceptions for MT-controlled items to make it more narrowly focused, that the majority of EAR license exceptions will still not be available because the terms and conditions of those license exceptions do not allow for MT-controlled items, *e.g.,* License Exception GBS, which is only available to overcome a license requirement for items that are only controlled for national security (NS) reasons.

BIS identifies here the thirteen License Exceptions that are *not* available for items that are MT controlled:

- § 740.3 Shipments of limited value (LVS);
- § 740.4 Shipments to Country Group B countries (GBS);
- § 740.6 Technology and software under restriction (TSR);
- § 740.7 Computers (APP);
- § 740.8 Notified Advanced Computing (NAC);
- § 740.12 Gift parcels and humanitarian donations (GFT);
- § 740.14 Baggage (BAG);
- § 740.17 Encryption commodities, software, and technology (ENC);
- § 740.18 Agricultural commodities (AGR);
- § 740.19 Consumer Communications Devices (CCD);
- § 740.20 License Exception Strategic Trade Authorization (STA);
- § 740.21 Support for the Cuban People (SCP); *and*
- § 740.22 Authorized Cybersecurity Exports (ACE).

BIS identifies here the six license exceptions, or portions of those license exceptions, that are available for items that are MT controlled (only the referenced paragraphs will be eligible for MT-controlled items) for any destination other than destinations identified under Country Groups D:4 or D:5 in supplement no. 1 to part 740:

- § 740.9 Temporary imports, exports, reexports, and transfers (in-country) (TMP) for paragraphs (a)(1), (a)(3) through (8) and (a)(10), (b)(1) through (b)(3), and Notes 2, 3, and 4 to paragraph (b), excluding any commodity controlled under ECCN 9A012 that is ''capable of'' delivering at least 500 kilograms payload to a range of at least 300 kilometers;
- § 740.10 License Exception Servicing and replacement of parts and equipment (RPL) for paragraphs (a) and (b);
- § 740.11 Governments, international organizations, international inspections under the Chemical Weapons Convention, and the International Space Station (GOV) for paragraph (b)(2) (as described below under section B.2.ii, this final rule adds a new exclusion to the introductory text of License Exception GOV to exclude all other paragraphs under this license exception for MT-controlled items);
- § 740.13 Technology and software—unrestricted (TSU) for paragraphs (a), (b), (c), and (g) (as described below under section B.2.iii, this final rule adds a new exclusion to exclude MT controlled software from paragraph (d));
- § 740.15 Aircraft, vessels and spacecraft (AVS) for paragraphs (b)(1), (b)(2) (including the new authorization this final rule adds to paragraph (b)(2)(ii) (as described below under section B.3 of this final rule)), (b)(3), (b)(4), (c)(1), (c)(2), (e), and (f); *and*
- § 740.16 Additional permissive reexports (APR) for paragraphs (c), (d), (e), and (f).

BIS provides the two lists of license exceptions above to assist with public understanding on the scope and impact of these license exception changes in this final rule for MT-controlled items. BIS notes here that in order to use any EAR license exception at the time of export, reexport, or transfer (in-country), the exporter, reexporter, or transferor must review and make a determination that they meet all of the applicable requirements of the license exception to be used as the authorization and that the export, reexport, or transfer (in-country) is not otherwise restricted under any of the general restrictions under § 740.2.

These changes for license exception eligibility for MT-controlled items described under section B of this final rule are expected to result in a reduction of 400 license applications per year received by BIS.

1. Revising the General Restriction on the Use of License Exceptions for MT-Controlled Items To Allow the Use of Portions of Additional License Exceptions

In § 740.2 Restrictions on all License Exceptions, this final rule revises paragraph (a)(5) to make the general restriction on the use of license exceptions for MT-controlled items to allow the use of portions of additional license exceptions. Prior to this final rule, this provision restricted the use of all EAR license exceptions for MT-controlled items, except for the limited number of ECCNs identified in paragraphs (a)(5)(i) and (ii) for the specified license exceptions or portions of those license exceptions (*i.e.,* when MT-controlled items identified in paragraph (a)(5)(i) are exported as part of a spacecraft, manned aircraft, land vehicle or marine vehicle or in quantities appropriate for replacement parts for such applications under § 740.9(a)(4) (License Exception TMP for kits consisting of replacement parts), § 740.10 (License Exception RPL), § 740.13 (License Exception TSU), or § 740.15(b) (License Exception AVS for

equipment and spare parts for permanent use on a vessel, aircraft or spacecraft; or for ECCNs 2A001 or 2A101 identified in paragraph (a)(5)(ii) are exported under § 740.9(a)(4) (License Exception TMP) or § 740.10 (License Exception RPL) as one-for-one replacement for equipment previously legally exported, reexported, or transferred (in-country)).

The restriction under paragraph (a)(5) was originally included in the EAR to reflect a statutory restriction in the Export Administration Act of 1979 (EAA), which was repealed in 2018. The limited license exceptions previously available were in accordance with provisions of the MTCR Annex that stipulate that controls do not extend to certain items for use in manned aircraft or other non-missile applications. The restriction under paragraph (a)(5) had some effects that are inconsistent with current national security and foreign policy interests. For example, the export of an MT-controlled item to the U.S. Department of Defense for its own use, prior to this final rule, would have required the submission of a BIS license application. BIS is also aware that other MTCR member countries, as permissible under their own national discretion in implementing their MTCR commitments, allow in certain cases for the use of authorizations for certain MT Annex items that would be equivalent to EAR license exceptions, *e.g.,* for trade of MTCR Annex items from the EU or UK to certain other countries, including the United States.

This restriction on the use of license exceptions for MT-controlled items was not included in ECRA. Because there is no longer a statutory restriction and for policy reasons such a general restriction is no longer warranted (*e.g.,* some of the examples referenced in the preceding paragraph of instances in which license exception eligibility for MT items would advance U.S. national security and foreign policy interests), this final rule revises the general restriction on the use of license exceptions for MT-controlled items to allow the use of portions of additional license exceptions. This change will better harmonize the availability of license exceptions for MT-controlled items under the EAR with those available for other EAR items of similar sensitivity and advance U.S. national security and foreign policy interests. BIS considered completely removing the general restriction, but took into account that exporters, reexporters, and transferors were already familiar with the general restriction placement in the EAR and that because many license exceptions, based on the other terms and conditions of those license exceptions would not be eligible for MT-controlled items regardless of whether there was a general restriction, BIS determined it would be easier to identify an exhaustive, positive list of license exceptions and portions of license exceptions that will be available under the EAR for MT-controlled items to overcome the general restriction instead of making exporter, reexporters, and transferors review the terms and conditions of each of the EAR license exceptions to make those determinations.

The revision of the general restriction on the use of license exceptions results in only limited availability of additional license exceptions for MT-controlled items, as specified above under section B introductory text.

In order to implement this change, this final rule revises § 740.2(a)(5)(i) to specify no license exceptions may be used for MT-controlled items and then specifies under new paragraphs (a)(5)(i)(A) through (G) the license exceptions or other license exceptions that will be available for MT-controlled items to destinations other than those identified in Country Groups D:4 or D:5 (see supplement no. 1 to part 740 of the EAR). The purpose of this revision is to limit the expanded license exception eligibility this rule adds to only those destinations that are not of concern for missile technology reasons specified under Country Group D:4 and not subject to a U.S. arms embargo. This final rule will retain the status quo on the license exception restrictions on destinations identified under Country Groups D:4 or D:5. However, to ensure that the very limited license exception eligibility under § 740.2(a)(5)(i) and (ii) that previously was available for all destinations, including those identified under Country Group D:4 or D:5, provided the license exception was not excluded under the respective license exceptions under part 740 or the respective embargoes or sanctions sections under part 746, this final rule revises paragraph (a)(5)(ii) to specify that the ECCNs identified under paragraphs (a)(5)(i) and (ii) prior to this final rule are still available for destinations identified in Country Groups D:4 or D:5, provided the terms and conditions in parts 740 and 746 as applicable are met and none of the part 744 end-use and end-user controls are applicable.

2. Revising the Terms and Conditions of Three License Exceptions To Account for the New Eligibility of MT-Controlled Items

i. License Exception TMP

In § 740.9(a) Temporary imports, exports, reexports, and transfers (in-country) (TMP), this final rule revises the introductory text of paragraphs (a) and (b) to specify that these two paragraphs do not authorize any export, reexport, or transfer (in-country) of a commodity controlled under ECCN 9A012 that is ''capable of'' delivering at least 500 kilograms payload to a range of at least 300 kilometers. This final rule revises the first sentence of paragraph (a)(1), which authorizes exports or certain tools of trade to specify MT controlled commodities or software are not eligible for Country Groups D:4 and D:5, which is also addressed under the restriction this rule adds to § 740.2(a)(5)(ii), but as an additional reminder this rule includes the additional restriction. This final rule under paragraph (b)(1), which authorizes the export of certain items moving in transit through the United States, adds an exclusion for items controlled for MT reasons when the export is to a Country Group D:4 country in supplement no. 1 to part 740. The exclusion under paragraph (b)(1)(i) had already applied to national security (NS) reasons, nuclear proliferation (NP) reasons, and chemical and biological weapons (CB) when the export was to a country of concern for NS, NP, or CB under Country Groups D:1, D:2, or D:3, respectively. Because MT-controlled items under the changes in this final rule are now eligible for this paragraph (b)(1) authorization, the same type of exclusion under paragraph (b)(1)(i) is needed for items controlled for MT reasons when the export is to a destination of concern for missile technology, destinations under Country Group D:4.

This final rule also revises paragraph (b)(2) (Items imported for marketing, or for display at U.S. exhibitions or trade fair), to revise the exclusion under paragraph (b)(2)(ii)(C), to add the same type of exclusion that this final rule adds to paragraph (b)(1)(i), for items controlled for MT reasons to not be allowed to be exported under this paragraph (b)(2)(ii)(C) authorization when the export is to a destination in Country Group D:4.

ii. License Exception GOV

In § 740.11 Governments, international organizations, international inspections under the Chemical Weapons Convention, and the

International Space Station (GOV), this final rule adds one sentence at the end of the introductory text of the section to specify that for items controlled for MT reasons that they are only eligible for transactions described in paragraphs (b)(2) (United States Government) of this section. No other authorizing paragraphs under License Exception GOV will be eligible for items controlled for MT reasons.

iii. License Exception TSU

In § 740.13 Technology and software—unrestricted (TSU), this final rule revises paragraph (d) (General Software Note: mass market software) by adding one sentence to the end of the exclusions under paragraph (d)(2) to specify that the paragraph (d) authorization is not available for any software that is controlled for missile technology (MT) reasons. Because of the terms that must be met in order to use § 740.13(d) prior to this final rule, it is unlikely that software controlled for MT reasons would be eligible for this authorization, but to make it explicit that software controlled for MT reasons is not eligible under paragraph (d) under any case, this final rule specifies that in the paragraph (d)(2) exclusions.

3. Adding a New Authorization to Existing License Exception AVS for ECCNs 7A101, 7A102, and 7A103

In § 740.15 Aircraft, vessels and spacecraft (AVS), this final rule revises paragraph (b)(2) (Aircraft) to redesignate the existing paragraph (b)(2) authorization text as new paragraph (b)(2)(i), including adding the term transferred (in-country) for clarity. This final rule also adds a new paragraph (b)(2)(ii) that will authorize exports, reexports, and transfers (in-country) to any destination identified in Country Group A:2 and supplement no. 3 to part 746 of ECCNs 7A101, 7A102, or 7A103 when the commodities are for use in or for the ''production'' of civil manned aircraft. For commodities controlled for MT reasons, these three ECCNs are the subject of some of the most common license applications that BIS reviews and the specific end uses involving the use of these commodities in civil manned aircraft and for the ''production'' of civil manned aircraft are the most common end uses specified in these licenses. Provided these licenses do not involve a part 744 prohibited end use or end user concern or a destination of missile technology concern identified under Country Group D:4 or subject to a U.S. arms embargo identified under Country Group D:5, these types of license applications are regularly approved. Accordingly, creation of a license exception authorization under new paragraph (b)(2)(ii) to authorize these exports, reexports, and transfers (in-country), provided the terms and conditions of the authorization are met and the general restrictions under § 740.2 are not otherwise applicable, is warranted. As an additional safeguard, this final rule limits the country scope of this new authorization to only destinations that are identified in Country Group A:2 and supplement no. 3 to part 746.

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 December 8, 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), provided the export, reexport, or transfer (in-country) is completed no later than on January 8, 2024.

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) (codified, as amended, at 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. To the extent it applies to certain activities that are the subject of this rule, the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (codified, as amended, at 22 U.S.C. 7201–7211) also serves as authority for this rule.

Rulemaking Requirements

1. BIS has examined the impact of this rule as required by Executive Orders 12866, 13563, and 14094, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This rule is considered a ''significant regulatory action'' under section 3(f) of Executive Order 12866.

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

This rule involves the following OMB-approved collections of information subject to the PRA:

- 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 29.4 minutes for a manual or electronic submission;
- 0694–0096 ''Five Year Records Retention Period,'' which carries a burden hour estimate of less than 1 minute;
- 0694–0122, ''Licensing Responsibilities and Enforcement;'' and
- 0607–0152 ''Automated Export System (AES) Program,'' which carries a burden hour estimate of 3 minutes per electronic submission.

BIS expects the burden hours associated with these collection to decease slightly by 221 hours for an estimated cost decrease of $7,735, which is within the estimated burdens and costs of these collections. Additional information regarding these collections of information—including all background materials—can be found at *https://www.reginfo.gov/public/do/PRAMain* by using the search function to enter either the title of the collection or the OMB Control Number.

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 ECRA (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. While section 1762 of ECRA provides sufficient authority for such an exemption, this action is also independently exempt from these APA requirements because it involves a military or foreign affairs function of the United States (5 U.S.C. 553(a)(1)).

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

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 740 and 774 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 740—LICENSE EXCEPTIONS

■ 1. The authority citation for part 740 continues 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. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 2. Section 740.2 is amended by revising paragraph (a)(5), to read as follows:

§ 740.2 Restrictions on all License Exceptions.

(a) * * *

(5)(i) The item is controlled for missile technology (MT) reasons. Only the following license exceptions may be used to export MT-controlled items to destinations other than those identified in Country Groups D:4 or D:5 (see supplement no. 1 to part 740 of the EAR):

(A) License Exception TMP (§ 740.9(a)(1), (a)(3) through (8), and (a)(10), (b)(1) through (b)(3), and Notes 2, 3, and 4 to paragraph (b) of the EAR);

(B) License Exception RPL (§ 740.10 of the EAR);

(C) License Exception GOV (§ 740.11(b)(2) of the EAR);

(D) License Exception TSU (§ 740.13(a) through (c), and (g) of the EAR);

(E) License Exception AVS (§ 740.15(b)(1) through (b)(4), (c)(1), (2), (e), and (f) of the EAR); *and*

(F) License Exception APR for (§ 740.16(c) through (f) of the EAR).

(ii) The item is controlled for missile technology (MT) reasons. Only the following license exceptions may be used to export MT-controlled items described in paragraphs (a)(5)(ii)(A) and (B) of this section to destinations identified in Country Groups D:4 or D:5 (see supplement no. 1 to part 740 of the EAR), provided the terms and conditions in parts 740 and 746 as applicable are met:

(A) MT-controlled items described in ECCNs 6A008, 7A001, 7A002, 7A004, 7A101, 7A102, 7A103, 7A104, 7A105, 7B001, 7D001, 7D002, 7D003, 7D101, 7D102, 7E003, 7E101 or 9A515, may be exported, reexported, or transferred (in-country) as part of a spacecraft, manned aircraft, land vehicle or marine vehicle or in quantities appropriate for replacement parts for such applications under § 740.9(a)(4) (License Exception TMP for kits consisting of replacement parts), § 740.10 (License Exception RPL), § 740.13 (License Exception TSU), or § 740.15(b) (License Exception AVS for equipment and spare parts for permanent use on a vessel, aircraft or spacecraft, excluding paragraph (b)(2)(ii)), *and*

(B) MT-controlled commodities described in ECCNs 2A001 or 2A101 may be exported, reexported, or transferred (in-country) under § 740.9(a)(4) (License Exception TMP) or § 740.10 (License Exception RPL) as one-for-one replacement for equipment previously legally exported, reexported, or transferred (in-country).

■ 3. Section 740.9 is amended by:

■ a. Adding a sentence at the end of paragraph (a) introductory text;

■ b. Revising the first sentence of paragraph (a)(1);

■ c. Adding a sentence at the end of paragraph (b) introductory text; and

■ d. Revising paragraphs (b)(1)(i) and (b)(2)(ii)(C).

The additions and revisions read as follows:

§ 740.9 Temporary imports, exports, reexports, and transfers (in-country) (TMP).

* * * * *

(a) * * * This paragraph (a) does not authorize any export, reexport, or transfer (in-country) of a commodity controlled under ECCN 9A012 that is ''capable of'' delivering at least 500 kilograms payload to a range of at least 300 kilometers.

(1) * * * Exports, reexports, or transfers (in-country) of commodities and software as tools of trade for use by the exporter or employees of the exporter may be made only to destinations other than Country Group E:1 and for MT controlled commodities or software may be made only to destinations other than Country Groups D:4 and D:5. * * *

* * * * *

(b) * * * This paragraph (b) does not authorize any export, reexport, or transfer (in-country) of a commodity controlled under ECCN 9A012 that is ''capable of'' delivering at least 500 kilograms payload to a range of at least 300 kilometers.

(1) * * *

(i) Items controlled for national security (NS) reasons, nuclear proliferation (NP) reasons, chemical and biological weapons (CB), or missile technology reasons (MT) reasons may not be exported to Country Group D:1, D:2, D:3, or D:4 (see supplement no. 1 to part 740), respectively, under this paragraph (b)(1).

* * * * *

(2) * * *

(ii) * * *

(C) Exports to Country Groups D:1, D:2, D:3, or D:4 (see supplement no. 1 to part 740) of items controlled for national security (NS) reasons, nuclear nonproliferation (NP) reasons, chemical and biological weapons (CB) reasons, or missile technology (MT) reasons, respectively.

* * * * *

■ 4. Section 740.11 is amended by adding one sentence to the end of the introductory text to read as follows:

§ 740.11 Governments, international organizations, international inspections under the Chemical Weapons Convention, and the International Space Station (GOV).

* * * Items controlled for missile technology (MT) reasons are eligible only for transactions described in paragraphs (b)(2) of this section.

* * * * *

■ 5. Section 740.13 is amended by adding a sentence at the end of paragraph (d)(2), to read as follows:

§ 740.13 Technology and software—unrestricted (TSU).

* * * * *

(d) * * *

(2) * * * The provisions of this paragraph (d) are also not available for any software that is controlled for missile technology (MT) reasons.

* * * * *

■ 6. Section 740.15 is amended by revising paragraph (b)(2), to read as follows:

§ 740.15 Aircraft, vessels and spacecraft (AVS).

* * * * *

(b) * * *

(2) *Aircraft.* (i) Equipment and spare parts, for permanent use on an aircraft, when necessary for the proper operation of such aircraft, may be exported or reexported for use on board an aircraft of any registry, except an aircraft registered in, owned or controlled by, or under charter or lease to a country included in Country Group D:1, Cuba, or a national of any of these countries.

(ii) This paragraph (b)(2)(ii) authorizes exports, reexports, and transfers (in-country) to any country that is identified in Country Group A:2 and supplement no. 3 to part 746 of ECCNs

7A101 through 7A103 when the commodities are for use in or for the ''production'' of civil manned aircraft.

* * * * *

PART 774—THE COMMERCE CONTROL LIST

■ 7. The authority citation for part 774 continues 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.;* 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 8. Supplement no. 1 to part 774 is amended by revising ECCNs 1C111, 2A101, 2B119, 6A107, 9A101, and 9E515, to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

1C111 Propellants and constituent chemicals for propellants, other than those specified in 1C011, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, NP, RS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
MT applies to entire entry.	MT Column 1.
NP applies to 1C111.a.3.f only.	NP Column 1.
RS applies to 1C111.d.3 only.	RS Column 1.
AT applies to entire entry.	AT Column 1.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: (1) See USML Category V(e)(7) for controls on HTPB (hydroxyl terminated polybutadiene) with a hydroxyl functionality equal to or greater than 2.2 and less than or equal to 2.4, a hydroxyl value of less than 0.77 meq/g, and a viscosity at 30 °C of less than 47 poise (CAS #69102–90–5). (2) See USML Category V for controls on ferrocene derivatives, including butacene. (3) See ECCN 1C608 for controls on oxidizers that are composed of fluorine and also other halogens, oxygen, or nitrogen, except for chlorine trifluoride, which is controlled under this ECCN 1C111.a.3.f. (4) See ECCN 1C011.b for controls on boron and boron alloys not controlled under this ECCN 1C111.a.2.b. (5) See USML Category V for controls on Inhibited Red Fuming Nitric Acid (IRFNA) (CAS 8007–58–7).

Related Definitions: Particle size is the mean particle diameter on a weight or volume basis. Best industrial practices must be used in sampling, and in determining particle size, and the controls may not be undermined by the addition of larger or smaller sized material to shift the mean diameter.

Items:

a. Propulsive substances:

a.1. Spherical or spheroidal aluminum powder (C.A.S. 7429–90–5) in particle size of less than 200×10^{-6} m (200 μm) and an aluminum content of 97% by weight or more, if at least 10% of the total weight is made up of particles of less than 63 μm, according to ISO 2591–1:1988 or national equivalents.

Technical Note: *A particle size of 63 μm (ISO R–565) corresponds to 250 mesh (Tyler) or 230 mesh (ASTM standard E–11).*

a.2. Metal powders and alloys where at least 90% of the total particles by particle volume or weight are made up of particles of less than 60 μ (determined by measurement techniques such as using a sieve, laser diffraction or optical scanning), whether spherical, atomized, spheroidal, flaked or ground, as follows:

a.2.a. Consisting of 97% by weight or more of any of the following:

a.2.a.1. Zirconium (C.A.S. #7440–67–7);

a.2.a.2. Beryllium (C.A.S. #7440–41–7); *or*

a.2.a.3. Magnesium (C.A.S. #7439–95–4);

a.2.b. Boron or boron alloys with a boron content of 85% or more by weight.

Technical Note: *The natural content of hafnium in the zirconium (typically 2% to 7%) is counted with the zirconium.*

Note: *In a multimodal particle distribution (e.g., mixtures of different grain sizes) in which one or more modes are controlled, the entire powder mixture is controlled.*

a.3. Oxidizer substances usable in liquid propellant rocket engines, as follows:

a.3.a. Dinitrogen trioxide (CAS 10544–73–7);

a.3.b. Nitrogen dioxide (CAS 10102–44–0)/dinitrogen tetroxide (CAS 10544–72–6);

a.3.c. Dinitrogen pentoxide (CAS 10102–03–1);

a.3.d. Mixed oxides of nitrogen (MON);

a.3.e. [Reserved];

a.3.f. Chlorine trifluoride (ClF_3).

Technical Note: *Mixed oxides of nitrogen (MON) are solutions of nitric oxide (NO) in dinitrogen tetroxide/nitrogen dioxide (N_2O_4/NO_2) that can be used in missile systems. There are a range of compositions that can be denoted as MONi or MONij, where i and j are integers representing the percentage of nitric oxide in the mixture (e.g., MON3 contains 3% nitric oxide, MON25 25% nitric oxide. An upper limit is MON40, 40% by weight).*

b. Polymeric substances:

b.1. Carboxy-terminated polybutadiene (including carboxyl-terminated polybutadiene) (CTPB);

b.2. Hydroxy-terminated polybutadiene (including hydroxyl-terminated polybutadiene) (HTPB) (CAS 69102–90–5), except for hydroxyl-terminated polybutadiene as specified in USML Category V (see 22 CFR 121.1) (also see Related Controls Note #1 for this ECCN);

b.3. Polybutadiene acrylic acid (PBAA);

b.4. Polybutadiene acrylic acid acrylonitrile (PBAN) (CAS 25265–19–4/CAS 68891–50–9);

b.5. Polytetrahydrofuran polyethylene glycol (TPEG).

Technical Note: *Polytetrahydrofuran polyethylene glycol (TPEG) is a block copolymer of poly 1,4-Butanediol (CAS 110–63–4) and polyethylene glycol (PEG) (CAS 25322–68–3).*

c. Other propellant energetic materials, additives, or agents:

c.1. [Reserved]

c.2. Triethylene glycol dinitrate (TEGDN);

c.3. 2 Nitrodiphenylamine (2–NDPA);

c.4. Trimethylolethane trinitrate (TMETN);

c.5. Diethylene glycol dinitrate (DEGDN).

d. Hydrazine and derivatives as follows:

d.1. Hydrazine (C.A.S. #302–01–2) in concentrations of 70% or more;

d.2. Monomethyl hydrazine (MMH) (C.A.S. #60–34–4);

d.3. Symmetrical dimethyl hydrazine (SDMH) (C.A.S. #540–73–8);

d.4. Unsymmetrical dimethyl hydrazine (UDMH) (C.A.S. #57–14–7);

d.5. Trimethylhydrazine (C.A.S. #1741–01–1);

d.6. Tetramethylhydrazine (C.A.S. #6415–12–9);

d.7. N,N diallylhydrazine (CAS 5164–11–4);

d.8. Allylhydrazine (C.A.S. #7422–78–8);

d.9. Ethylene dihydrazine (CAS 6068–98–0);

d.10. Monomethylhydrazine dinitrate;

d.11. Unsymmetrical dimethylhydrazine nitrate;

d.12. 1,1-Dimethylhydrazinium azide (CAS 227955–52–4)/1,2-Dimethylhydrazinium azide (CAS 299177–50–7);

d.13. Hydrazinium azide (C.A.S. #14546–44–2);

d.14. Hydrazinium dinitrate (CAS 13464–98–7);

d.15. Diimido oxalic acid dihydrazine (C.A.S. #3457–37–2);

d.16. 2-hydroxyethylhydrazine nitrate (HEHN);

d.17. Hydrazinium diperchlorate (C.A.S. #13812–39–0);

d.18. Methylhydrazine nitrate (MHN) (CAS 29674–96–2);

d.19. 1,1-Diethylhydrazine nitrate (DEHN)/1,2-Diethylhydrazine nitrate (DEHN) (CAS 363453–17–2);

d.20. 3,6-dihydrazino tetrazine nitrate (DHTN), also referred to as 1,4-dihydrazine nitrate.

e. Hydrazine replacement fuels as follows:

e.1. 2-Dimethylaminoethylazide (DMAZ) (CAS 86147–04–8);

e.2. [Reserved]

* * * * *

2A101 Radial Ball Bearings Having all Tolerances Specified in Accordance With ISO 492 Tolerance Class 2 (or ANSI/ABMA Std 20 Tolerance Class ABEC–9 or Other National Equivalents), or Better and Having all of the Following Characteristics (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
MT applies to entire entry.	MT Column 1.
AT applies to entire entry.	AT Column 1.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: See ECCN 2A001.
Related Definitions: N/A
Items:

a. An inner ring bore diameter between 12 and 50 mm;

b. An outer ring outside diameter between 25 and 100 mm; *and*

c. A width between 10 and 20 mm.

* * * * *

2B119 Balancing machines and related equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
MT applies to entire entry.	MT Column 1.
AT applies to entire entry.	AT Column 1.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: See also 7B101.
Related Definitions: N/A
Items:

a. Balancing machines having all of the following characteristics:

a.1. Not capable of balancing rotors/assemblies having a mass greater than 3 kg;

a.2. Capable of balancing rotors/assemblies at speeds greater than 12,500 rpm;

a.3. Capable of correcting unbalance in two planes or more; and

a.4. Capable of balancing to a residual specific unbalance of 0.2 g mm per kg of rotor mass.

Note: *2B119.a. does not control balancing machines designed or modified for dental or other medical equipment.*

b. Indicator heads designed or modified for use with machines specified in 2B119.a.

Note: *Indicator heads are sometimes known as balancing instrumentation.*

* * * * *

6A107 Gravity meters (gravimeters) or gravity gradiometers, other than those controlled by 6A007, designed or modified for airborne or marine use, as follows, (see List of Items Controlled) and ''specially designed'' ''parts'' and ''components'' therefor.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
MT applies to entire entry.	MT Column 1.
AT applies to entire entry.	AT Column 1.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: See USML Category XII(d) for certain gravity meters (gravimeters) or gravity gradiometers subject to the ITAR. See also ECCN 7A611.
Related Definitions: 'Time to steady-state registration' (also referred to as the gravity meter's response time) is the time over which the disturbing effects of platform-induced acceleration (high frequency noise) are reduced.
Items:

a. Gravity meters having all of the following characteristics:

a.1. A static or operational accuracy equal to or less (better) than 0.7 milligal (mgal); *and*

a.2. A 'time to steady-state registration' of two minutes or less.

b. Gravity gradiometers

* * * * *

9A101 Turbojet and turbofan engines, other than those controlled by 9A001, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
MT applies to entire entry.	MT Column 1.
AT applies to entire entry.	AT Column 1.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: 9A101.b controls only engines for non-military unmanned aerial vehicles [UAVs] or remotely piloted vehicles [RPVs], and does not control other engines designed or modified for use in ''missiles'', which are ''subject to the ITAR'' (see 22 CFR parts 120 through 130).
Related Definitions: N/A
Items:

a. Engines having all of the following characteristics:

a.1. 'Maximum thrust value' greater than 400 N (achieved un-installed) excluding civil certified engines with a maximum thrust value greater than 8,890 N (achieved un-installed);

a.2. Specific fuel consumption of 0.15 kg N^{-1} h^{-1} or less;

a.3. 'Dry weight' less than 750 kg; *and*

a.4. 'First-stage rotor diameter' less than 1 m; *or*

Technical Notes:

1. 'Maximum thrust value' in 9A101.a.1 is the manufacturer's demonstrated maximum thrust for the engine type un-installed at sea level static conditions using the ICAO standard atmosphere. The civil type certified thrust value will be equal to or less than the manufacturer's demonstrated maximum thrust for the engine type.

2. Specific fuel consumption is determined at maximum continuous thrust for engine type un-installed at sea level static conditions using the ICAO standard atmosphere.

3. 'Dry weight' is the weight of the engine without fluids (fuel, hydraulic fluid, oil, etc.) and does not include the nacelle (housing).

4. 'First-stage rotor diameter' is the diameter of the first rotating stage of the engine, whether a fan or compressor, measured at the leading edge of the blade tips.

b. Engines designed or modified for use in ''missiles'' or UAVs with a range equal to or greater than 300 km, regardless of thrust, specific fuel consumption, 'dry weight' or 'first-stage rotor diameter'.

* * * * *

9E515 ''Technology'' ''required'' for the ''development,'' ''production,'' operation, installation, repair, overhaul, or refurbishing of ''spacecraft'' and related commodities, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry except 9E515.y.	NS Column 1.
MT applies to technology for items in 9A515.d, 9A515.e.2, 9A515.h, and 9B515.a controlled for MT reasons.	MT Column 1.
RS applies to entire entry except 9E515.y.	RS Column 1.
RS applies to 9E515.y, except to Russia for use in, with, or for the International Space Station (ISS), including launch to the ISS.	China, Russia, or Venezuela (see § 742.6(a)(7)).
AT applies to entire entry.	AT Column 1.

License Requirement Note: *The Commerce Country Chart is not used for determining license requirements for ''technology'' classified ECCN 9E515.f. See § 742.6(a)(9), which specifies that such ''technology'' is subject to a worldwide license requirement.*

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

Special Conditions for STA

STA: (1) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1) of the EAR) may not be used for ECCN 9E515.b, .d, .e, or .f unless determined by BIS to be eligible for License Exception STA in accordance with § 740.20(g) (License Exception STA eligibility requests for certain 9x515 and ''600 series'' items). (2) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any ''technology'' in 9E515.

List of Items Controlled

Related Controls: Technical data directly related to articles enumerated in USML Category XV are subject to the control of USML paragraph XV(f). See also ECCNs 3E001, 3E003, 6E001, and 6E002 for specific ''space-qualified'' items. See ECCNs 9E001 and 9E002 for technology for the International Space Station, the James Webb Space Telescope (JWST) and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor. See USML category XV(f) for controls on technical data and defense services related to launch vehicle integration.

Related Definitions: N/A

Items:

a. ''Technology'' ''required'' for the ''development,'' ''production,'' installation, repair (including on-orbit anomaly resolution and analysis beyond established procedures), overhaul, or refurbishing of commodities controlled by ECCN 9A515 (except 9A515.a.1, .a.2, .a.3, .a.4, .b, .d, .e, or .g), ECCN 9B515, or ''software'' controlled by ECCN 9D515.a.

b. ''Technology'' ''required'' for the ''development,'' ''production,'' failure analysis or anomaly resolution of software controlled by ECCN 9D515.b.

c. [Reserved]

d. ''Technology'' ''required'' for the ''development,'' ''production,'' operation, failure analysis or anomaly resolution of commodities controlled by ECCN 9A515.d.

e. ''Technology'' ''required'' for the ''development,'' ''production,'' failure analysis or anomaly resolution of commodities controlled by ECCN 9A515.e.

f. ''Technology'' ''required'' for the ''development,'' ''production,'' installation, repair (including on-orbit anomaly resolution and analysis beyond established procedures), overhaul, or refurbishing of commodities controlled by ECCN 9A515.a.1, .a.2, .a.3, .a.4, or .g.

g. through x. [Reserved]

y. Specific ''technology'' ''required'' for the ''production,'' ''development,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or software enumerated in ECCN 9A515.y or 9D515.y.

Note 1: [Reserved]

Note 2: *Activities and technology/technical data directly related to or required for the spaceflight (e.g., sub-orbital, orbital, lunar, interplanetary, or otherwise beyond Earth orbit) passenger or participant experience, regardless of whether the passenger or participant experience is for space tourism, scientific or commercial research, commercial manufacturing/production activities, educational, media, or commercial transportation purposes, are not subject to the ITAR or the EAR. Such activities and technology/technical data include those directly related to or required for:*

(i) ''Spacecraft'' access, ingress, and egress, including the operation of all ''spacecraft'' doors, hatches, and airlocks;

(ii) Physiological training (e.g., human-rated centrifuge training or parabolic flights, pressure suit or spacesuit training/ operation);

(iii) Medical evaluation or assessment of the spaceflight passenger or participant;

(iv) Training for and operation by the passenger or participant of health and safety related hardware (e.g., seating, environmental control and life support, hygiene facilities, food preparation, exercise equipment, fire suppression, communications equipment, safety-related clothing or headgear) or emergency procedures;

(v) Viewing of the interior and exterior of the spacecraft or terrestrial mock-ups;

(vi) Observing ''spacecraft'' operations (e.g., pre-flight checks, landing, in-flight status);

(vii) Training in ''spacecraft'' or terrestrial mock-ups for connecting to or operating passenger or participant equipment used for purposes other than operating the ''spacecraft''; or

(viii) Donning, wearing or utilizing the passenger's or participant's flight suit, pressure suit or spacesuit, and personal equipment.

* * * * *

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

[FR Doc. 2023–26682 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–33–P

FEDERAL TRADE COMMISSION

16 CFR Part 423

RIN 3084–AB28

Care Labeling Rule

AGENCY: Federal Trade Commission.

ACTION: Final determination; termination of rulemaking.

SUMMARY: As part of its ongoing, systematic review of all Federal Trade Commission rules and guides, the Commission terminates the Care Labeling Rule review.

DATES: The Care Labeling Rule review and rulemaking (consisting of an ANPRM: July 13, 2011, published at 76 FR 41148 (July 13, 2011), NPRM published at 77 FR 58338 (Sept. 20, 2012), and SNPRM published at 85 FR 44485 (July 23, 2020)) is terminated as of December 8, 2023.

FOR FURTHER INFORMATION CONTACT: For information about this document, please contact Jock Chung (202–326–2984), Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, 600 Pennsylvania Ave. NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: To ensure its rules and industry guides remain relevant and are not unduly burdensome, the Commission reviews each on a ten-year schedule. Every year the Commission publishes its review schedule, with adjustments made in response to public input, changes in the marketplace, and resource demands.

When the Commission reviews a rule or guide, it publishes a document in the **Federal Register** seeking public comment on the continuing need for the rule or guide, as well as the rule's or guide's costs and benefits to consumers and businesses. Based on this feedback, the Commission may modify or repeal the rule or guide to address public concerns, changed conditions, or to reduce undue regulatory burden.

The Commission posts information about its review schedule on its website [1] to facilitate comment. This website contains an updated review schedule, a list of rules and guides previously eliminated in the regulatory review process, and the Commission's regulatory review plan.

[1] *https://www.ftc.gov/enforcement/rulemaking/retrospective-review-ftc-rules-guides.*

The Commission now terminates its review of the Care Labeling Rule, 16 CFR part 423, which has been inactive since 2021. The Commission started this review on July 13, 2011, by publishing an advance notice of proposed rulemaking (''ANPR'') seeking comment on the economic impact of, and the continuing need for, the Rule; the benefits of the Rule to consumers; and any burdens it places on businesses.[2] The Commission also sought comment on proposed amendments.[3]

In response to comments to the ANPR, the Commission published a notice of proposed rulemaking (''NPRM'')[4] in 2012, in which it proposed amending the Rule to: (1) permit manufacturers and importers to provide a care instruction for professional wetcleaning on labels if the garment can be professionally wetcleaned; (2) permit manufacturers and importers to use the symbol system set forth in either ASTM Standard D5489–07, ''Standard Guide for Care Symbols for Care Instructions on Textile Products,'' or ISO 3758:2005(E), ''Textiles—Care labelling code using symbols''; (3) clarify what constitutes a reasonable basis for care instructions; and (4) update the definition of ''dryclean'' to reflect then-current practices and technology.[5]

After analyzing the substantial record, including comments to the NPRM, in 2020, the Commission published a supplemental notice of proposed rulemaking (''SNPRM'')[6] proposing to repeal the Rule. Specifically, the Commission stated that the record suggests the Rule may not be necessary to ensure manufacturers provide care instructions, may have failed to keep up with a dynamic marketplace, and may negatively affect the development of new technologies and disclosures.[7]

The Commission, however, received little support for repealing the Rule.[8] Many commenters argued that if the Commission were to repeal the Rule, cost savings would motivate manufacturers to avoid providing care instructions. Additionally, numerous cleaners commented that care instructions were critical to enable cleaners to avoid damaging customers' garments. Therefore, on July 21, 2021, the Commission published a statement that it determined not to finalize the proposed repeal.[9] The Commission now terminates its review of that Rule.

Authority: 15 U.S.C. 41 through 58.

By direction of the Commission.

Joel Christie,

Acting Secretary.

[FR Doc. 2023–26966 Filed 12–7–23; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2023–0886]

RIN 1625–AA08

Special Local Regulation; Lake Havasu, Lake Havasu City, AZ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation for the 2023 Lake Havasu City Christmas Parade of Lights that will be held on the navigable waters of Lake Havasu, AZ. This action is necessary to provide for the safety of life on these navigable waters of Lake Havasu during a vessel parade. This rule would prohibit spectators from anchoring, blocking, loitering, or transiting through the event area unless authorized by the Captain of the Port San Diego or a designated representative.

DATES: This rule is effective from 5 p.m. through 9 p.m. on December 9, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0886 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Shelley Turner, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because we must establish this special local regulation by December 9, 2023. The Coast Guard did not receive final details regarding the parade route until October 18, 2023. As such, it is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. This regulation is necessary to ensure the safety of life on the navigable waters of Lake Havasu during the marine event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to ensure the safety of life on the navigable waters of Lake Havasu during the marine event on December 9, 2023.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector San Diego (COTP) has determined that the large presence of vessels in Lake Havasu associated with the 2023 Lake Havasu City Christmas Parade of Lights on December 9, 2023, poses a potential safety concern. This rule is needed to protect persons, vessels, and the marine

---

[2] 76 FR 41148 (July 13, 2011) (*https://www.ftc.gov/sites/default/files/documents/federal_register_notices/16-cfr-part-423-care-labeling-textile-wearing-apparel-and-certain-piece-goods-amended-advance-notice/110707carelabelfrn.pdf*).

[3] The Commission solicited comment on whether it should modify the Rule's provision permitting the use of care symbols, and whether it should amend the Rule to address the disclosure of care instructions in languages other than English and the practice of professional wetcleaning. *Id.*

[4] 77 FR 58338 (Sept. 20, 2012) (*https://www.ftc.gov/sites/default/files/documents/federal_register_notices/trade-regulation-rule-care-labeling-textile-wearing-apparel-and-certain-piece-goods-notice-proposed/120911carelabelingfrn.pdf*).

[5] *Id.*

[6] 85 FR 44485 (July 23, 2020) (*https://www.regulations.gov/document/FTC-2020-0058-0001*).

[7] *https://www.regulations.gov/document/FTC-2020-0058-0001.*

[8] Comments at *https://www.regulations.gov/document/FTC-2020-0058-0001/comment.*

[9] *https://www.ftc.gov/system/files/documents/public_statements/1592326/r511915carelabelingrepealstatement.pdf.*

environment in the navigable waters within Lake Havasu while the event is occurring.

IV. Discussion of the Rule

This rule establishes a special local regulation from 5 p.m. until 9 p.m. on December 9, 2023. The special local regulation will cover all navigable waters encompassing the parade route on a pre-determined course through North Lake Havasu, Bridgewater Channel, and Thompson Bay. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the bridge is being repaired. No vessel or person will be permitted to enter the special local regulation without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the regulated area. The affected portion of Lake Havasu will be of very limited duration, during evening hours when vessel traffic is historically low, and is necessary for safety of life to participants in the event. Moreover, the Coast Guard would make a post in the Local Notice to Mariners with details on the regulated area.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the special local regulation may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation lasting only 4 hours that will prohibit entry into a pre-determined course for a vessel parade. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T1199–0137 to read as follows:

§ 100.T1199–0137 2023 Lake Havasu City Christmas Parade of Lights, Lake Havasu, Arizona.

(a) *Regulated area.* The regulations in this section apply to the following area: All waters of Lake Havasu, from surface to bottom, on a predetermined parade route starting in Thompson Bay, proceeding north through the Bridgewater Channel, turning around in North Lake Havasu, proceeding south back through the Bridgewater Channel, and returning to the starting point of the parade in Thompson Bay.

(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 Sector San Diego (COTP) in the enforcement of the regulations in this section.

Participant means all persons and vessels registered with the event sponsor as participants in the parade.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the Captain of the Port Sector San Diego or their designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by calling (619) 278–7000. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the designated representative.

(3) The COTP will provide notice of the regulated area through advanced notice via local notice to mariners.

(d) *Enforcement period.* This section will be enforced from 5 p.m. to 9 p.m. on December 9, 2023.

J.W. Spitler,

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

[FR Doc. 2023–27038 Filed 12–7–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2023–0842]

RIN 1625–AA09

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Addison Point, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the existing drawbridge operation regulation for the John F. Kennedy Space Center Bridge (NASA Causeway), across the Atlantic Intracoastal Waterway (Indian River), mile 885, at Addison Point, FL. The drawbridge was replaced with a fixed bridge in 2023 and the operating regulation is no longer applicable or necessary.

DATES: This rule is effective December 8, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov*. Type the docket number (USCG–2023–0842) in the ''SEARCH'' box and click ''SEARCH''. In the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Leonard Newsom, Coast Guard; telephone 305–415–6946, email *Leonard.D.Newsom@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code
FL Florida
AICW Atlantic Intracoastal Waterway

II. Background Information and Regulatory History

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is unnecessary. The John F. Kennedy Space Center Bridge, that once required the draw operations in 33 CFR 117.261(l), was removed from the Atlantic Intracoastal Waterway (Indian River) and replaced with a fixed bridge in 2023. Therefore, the regulation is no longer applicable and shall be removed from publication. It is unnecessary to publish an NPRM because this regulatory action does not purport to place any restrictions on mariners but rather removes a restriction that has no use or value because the new bridge does not open.

We are issuing this rule under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. The bridge has been removed from the waterway and this rule merely requires an administrative change to the **Federal Register**, in order to omit a regulatory requirement that is no longer applicable or necessary. The modification has already taken place and the removal of the regulation will not affect mariners currently operating on this waterway. Therefore, a delayed effective date is unnecessary.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499.

The John F. Kennedy Space Center bridge was removed and replaced with a fixed bridge in 2023. The elimination of this drawbridge necessitates the removal of the drawbridge operation regulation, 33 CFR 117.261(l), that pertain to the former drawbridge.

The purpose of this rule is to remove the paragraph of 33 CFR 117.261(l) that refers to the John F. Kennedy Space Center Bridge, across the Atlantic Intracoastal Waterway (Indian River) at mile 885, from the Code of Federal Regulations since it governs a bridge that is no longer able to be opened.

IV. Discussion of Final Rule

The Coast Guard is changing the regulation in 33 CFR 117.261 by removing restrictions and the regulatory burden related to draw operations for a bridge that is no longer a drawbridge. The change removes § 117.261(l) of the regulation governing the John F. Kennedy Space Center Bridge since the bridge has been removed from the waterway and replaced with a fixed bridge. This final rule seeks to update the CFR by removing language that governs the operation of the John F.

Kennedy Space Center Bridge. This change does not affect waterway or land traffic. This change does not affect, nor does it alter the operating schedules in 33 CFR 117.261 that govern the remaining active drawbridges on the Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This proposed rule has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the fact that the bridge was replaced and no longer operates as a drawbridge. The removal of the operating schedule from 33 CFR 117 Subpart B will have no effect on the movement of waterway or land traffic.

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 rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above this final rule would not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Government

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security 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 rule promulgates the operating regulations or procedures for drawbridges and is 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.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 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.

§ 117.261 [Amended]

■ 2. Amend § 117.261 by removing and reserving paragraph (l).

Dated: December 5, 2023.

Douglas M. Schofield,

Rear Admiral, U.S. Coast Guard, Commander, Coast Guard Seventh District.

[FR Doc. 2023–26986 Filed 12–7–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0743]

RIN 1625–AA00

Safety Zone; Lahaina Boat Basin, Maui, HI—Emergency Operations and Port Recovery

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters in the vicinity of Lahaina Boat Basin, Maui, Hawaii. The temporary safety zone encompasses all waters extending 200 yards from shore from the northernmost boundary, 60 yards south of the intersection of Front Street and Baker Street, Maui, to the southernmost boundary, 20 yards south of the intersection of Front Street and Shaw Street, Maui. This action is necessary to provide for the safety of persons and the marine environment from the potential safety hazards associated with the damage assessment, debris management, vessel salvage, and port recovery of Lahaina Boat Basin and surrounding waters, through December 15, 2023. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Honolulu or designated representative.

DATES: This rule is effective without actual notice from December 8, 2023 through December 15, 2023. For the purposes of enforcement, actual notice will be used from December 01, 2023, until December 8, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0743 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Wade Thomson, Waterways Management Division, U.S. Coast Guard Sector Honolulu at (808) 541–4359 or *Wade.P.Thomson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Honolulu
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On August 8, 2023, high winds and wildfires struck portions of Maui, Hawaii, causing damage to coastal infrastructure and prompting mass rescue operations for area residents.

On August 9, 2023, the Coast Guard issued a temporary rule establishing a safety zone for all waters extending 1 nautical mile from shore starting from the northernmost point of Kekaa Point, Maui, thenceforth to the southernmost point at Hekili Point, Maui, to protect personnel, vessels, and the marine environment from potential hazards associated with emergency response and port recovery operations after wildfires affected the area. The safety zone was effective through August 23, 2023. A copy of the rulemaking that ended on August 23, 2023, is available in Docket USCG–2023–0669, which can be found using instructions in the **ADDRESSES** section.

On September 22, 2023, the Coast Guard issued a rulemaking creating a temporary safety zone that encompassed all waters extending 200 yards from shore from the northernmost point, 100 yards south of the intersection of Kaniau Road and Honoapiilani Highway (Highway 30), Maui, thenceforth to the southernmost boundary at the southern end of Launiupoko Beach Park, Maui, with an effective end date of December 5, 2023. A copy of the rulemaking ending on December 5, 2023 is available in the Docket USCG–2023–0743, which can be found using instructions in the **ADDRESSES** section. However, additional time is needed to continue to provide protection against hazards in the area due to emergency response and port recovery operations. As a result, the Coast Guard is establishing through temporary regulations a safety zone that will be in effect through December 15, 2023. The safety zone encompasses all waters extending 200 yards from shore from the northernmost boundary, 60 yards south of the intersection of Front Street and Baker Street, Maui, to the southernmost boundary, 20 yards south of the intersection of Front Street and Shaw Street, Maui.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) because it would be impracticable and contrary to the public interest. The Coast Guard was unable to publish an NPRM and hold a reasonable comment period for this rulemaking due to the emergent nature of the continuing damage assessment and salvage operations.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action to restrict vessel traffic within the safety zone is needed to protect life, property, and the environment, therefore a 30-day notice period is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of providing immediate protection to on-scene emergency personal, creating a working buffer necessary to mitigate any safety and potential pollution threats caused by the wildfires and establishing immediate maritime safety in the vicinity of on-scene damage assessments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Coast Guard Captain of the Port Sector Honolulu (COTP) has determined that the potential hazards associated with the emergency response and port recovery efforts connected to wildfires in the area constitute a safety concern for anyone within the designated safety zone. This rule is necessary to protect personnel, vessels, and the marine environment within the navigable waters of the safety zone during ongoing emergency response and port recovery operations.

IV. Discussion of the Rule

This rule establishes a temporary safety zone that will be enforced from December 01, 2023, through December 15, 2023, at 11:59 p.m., or until emergency response and port recovery operations are complete, whichever is earlier. If the safety zone is terminated prior to 11:59 p.m. on December 15, 2023, the Coast Guard will provide notice via a broadcast notice to mariners. The temporary safety zone encompasses all waters extending 200 yards from shore from the northernmost

boundary, 60 yards south of the intersection of Front Street and Baker Street, Maui, to the southernmost boundary, 20 yards south of the intersection of Front Street and Shaw Street, Maui. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with ongoing emergency response and port recovery operations after wildfires affected the area. No vessel or person will be permitted to enter the safety zone absent the express authorization of the COTP or her designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and limited duration of the safety zone. This zone impacts a small, designated area of the Lahaina Harbor and surrounding waters and operations may suspend early at the discretion of the COTP.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit entry within certain navigable waters of Lahaina Boat Basin. It is categorically excluded from further review under paragraph L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T14–0743 to read as follows:

§ 165.T14–0743 Safety Zone; Pacific Ocean, Lahaina Boat Basin, Maui, HI—Emergency Operations and Port Recovery.

(a) *Location.* The following area is a safety zone: All waters extending 200 yards from shore from the northernmost boundary, 60 yards south of the intersection of Front Street and Baker Street, Maui, to the southernmost boundary, 20 yards south of the intersection of Front Street and Shaw Street, Maui.

(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 Sector Honolulu (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 VHF/FM Chanel 16. 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 rule will be enforced December 1, 2023, through December 15, 2023, unless an earlier end is announced by broadcast notice to mariners.

Dated: December 1, 2023.

A.L. Kirksey,

Captain, U.S. Coast Guard, Captain of the Port Sector Honolulu.

[FR Doc. 2023–26808 Filed 12–7–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Parts 662 and 663

RIN 1840–AD90

Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program and Faculty Research Abroad Fellowship Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The U.S. Department of Education (Department or we) issues final regulations governing the Fulbright-Hays Doctoral Dissertation Research Abroad (DDRA) Fellowship Program and the Faculty Research Abroad (FRA) Fellowship Program. This rule revises language proficiency qualifications for DDRA and FRA applicants and clarifies the Secretary's discretionary use of eligibility criteria.

DATES: These regulations are effective January 8, 2024.

FOR FURTHER INFORMATION CONTACT: Pamela J. Maimer, U.S. Department of Education, 400 Maryland Avenue SW, 5th Floor, Washington, DC 20202. Telephone: (202) 453–6891. Email: *pamela.maimer@ed.gov*.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Background

The DDRA Fellowship Program provides opportunities for doctoral students to engage in dissertation research abroad in modern foreign languages and area studies. The program is designed to contribute to the development and improvement of the study of modern foreign languages and area studies in the United States and to increase scholars' knowledge of the culture of the people in the countries or regions of research. The program provides fellowships to doctoral candidates who are planning a teaching career in the United States upon completion of their programs and who possess sufficient foreign language skills in the country or countries of research to carry out the dissertation research project.

The FRA Fellowship Program provides opportunities for faculty members teaching modern foreign languages or area studies at U.S. institutions of higher education (IHEs) to engage in research abroad in those languages or areas studied. The program is designed to contribute to the faculty members' foreign language skills and to increase knowledge of the culture of the people in the countries or regions of research.

On March 21, 2023, the Secretary published a notice of proposed rulemaking (NPRM) for these parts in the **Federal Register**.[1] These final regulations contain changes from the NPRM, which we explain in the *Analysis of Comments and Changes* section of this document.

Public Comment: In response to our invitation in the NPRM, the Department received five comments on the proposed regulations. We address those comments in the *Analysis of Comments and Changes* section below.

[1] 88 FR 16924.

Analysis of Comments and Changes

We group issues according to subject, with appropriate sections of the regulations referenced in parentheses, where applicable. We discuss other substantive issues under the sections of the regulations to which they pertain. Generally, we do not address minor, non-substantive changes (such as renumbering paragraphs, adding a word, or typographical errors). Additionally, we do not address recommended changes that the statute does not authorize the Secretary to make or comments pertaining to operational processes. We generally do not address comments pertaining to issues that were not within the scope of the NPRM.

An analysis of the public comments received and the changes to the regulations since publication of the NPRM follows.

General Support

Comments: Two commenters supported the proposed regulations.

Discussion: We thank the commenters for their support. We believe these changes maintain the statutory goals and the integrity of the programs.

Changes: None.

General Opposition

Comments: One commenter objected to the existence of both the DDRA and the FRA programs.

Discussion: These programs are authorized by statute.[2]

Changes: None.

Secretarial Discretion (§§ 662.21(c) and 663.21(c))

Comments: One commenter asked the Department to explain whether the proposed rule is intended to merely clarify the Secretary's existing discretion to vary selection criteria point values assigned to DDRA or FRA, which was granted in a 2005 rulemaking, or whether the proposed rule would grant new discretion to the Secretary. If the latter, the commenter believed that the Department should explain any additional discretion and give the public an opportunity to comment on the proposed expansion.

The commenter further opined that, as the Fulbright-Hays Act and the Department's eligibility regulations require the Secretary to meaningfully consider foreign language skills, the Department should finalize §§ 662.21(c) and 663.21(c) without the proposed ''one or more'' phrase in the introductory text or otherwise clarify that the Secretary may not ignore foreign language skills when awarding

[2] 22 U.S.C. 2452(b)(6).

DDRA and FRA Fellowships. The commenter objected to the proposed rule to the extent that it would grant discretion to ignore foreign language skills in the DDRA and FRA competitions.

Lastly, this commenter stated that, if finalized as proposed, the revisions to §§ 662.21(c)(3), 662.21(c)(4), 663.21(c)(3), and 663.21(c)(4) would address the concerns identified in a recent lawsuit filed on behalf of DDRA applicants [3] who challenged the weight given to their respective native languages in the selection process.

Discussion: The Department appreciates this commenter's concerns and wishes to clarify that the additional discretion proposed under §§ 662.21(c) and 663.21(c) to allow the Secretary to consider ''one or more'' of the listed applicant qualification criteria, while expanding the Secretary's discretion under these particular programs, is an appropriate exercise of the Secretary's general authority under 34 CFR 75.201 to identify and notify applicants of grant competition selection criteria (an authority which is routinely used, for example, across Departmental programs utilizing the general selection criteria under 34 CFR 75.210) and is consistent with the Fulbright-Hays Act.[4] The Department would only use this flexibility consistent with the programs' statutory requirement to ''promot[e] modern foreign language training and area studies in United States schools[.]'' [5] The Department believes that it is able to discharge this requirement and the purpose of these grants for ''improving [an applicant's] skill in languages'' within the framework of several of the criteria looking at the Qualification of an Applicant, and that this duty does not rest solely on any single criteria under that section. The flexibility to select ''one or more'' of the applicant qualification criteria under §§ 662.21(c) and 663.21(c) will enhance the Department's ability to structure its grant competitions to select the most qualified applicants for funding, because it will allow the Department to focus from year-to-year on those selection criteria that have yielded applications from the most qualified candidates. It also will allow the Department to review the effect of omitting a particular selection criterion in a given year on the quality of applicants, without having to go through additional rulemaking to obtain this information.

Changes: None.

Severability (§§ 662.8 and 663.8)

Comments: None.

Discussion: Current regulations in 34 CFR 662 and 663 do not address severability. The Department seeks to clarify its intent that, with regard to severability, each of the regulations in 34 CFR parts 662 and 663 and its subparts serves one or more important, related, but distinct, purposes. To best serve these purposes, we included this administrative provision in the regulations to make clear that the regulations are designed to operate independently of each other and to convey the Department's intent that the potential invalidity of one provision or any of its subparts should not affect the remainder of the provisions.

Changes: We have added new severability provisions in §§ 662.8 and 663.8.

Executive Orders 12866, 13563, and 14094

Regulatory Impact Analysis

Under Executive Order (E.O.) 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the E.O. and subject to review by the Office of Management and Budget (OMB). Section 3(f) of E.O. 12866, as amended by E.O. 14094, defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $200 million or more (adjusted every three years by the Administrator of the Office of Information and Regulatory Affairs (OIRA) for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, territorial, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles stated in the Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866 (as amended by E.O. 14094).

We have also reviewed these regulations under E.O. 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in E.O. 12866. To the extent permitted by law, E.O. 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

E.O. 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' OMB's OIRA has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

The Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and we are issuing these final requirements only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows and the reasons stated elsewhere in this document, the Department believes that the final requirements are consistent with the principles in E.O. 13563.

[3] *See Lujan* v. *U.S. Dep't of Educ.,* No. 3:22–CV–00159–DCG, F. Supp. 3d__, 2023 WL 2638280 (W.D. Tex. Mar. 24, 2023).

[4] See 34 CFR 75.201 (''[i]n the application package or a notice published in the **Federal Register**, the Secretary informs applicants of . . . [t]he selection criteria chosen[.]'').

[5] 22 U.S.C. 2452(b)(6).

We also have determined that this regulatory action does not unduly interfere with state, local, territorial, or Tribal governments in the exercise of their governmental functions.

In this regulatory impact analysis, we discuss the need for regulatory action, the potential costs and benefits, and net budget impacts.

Elsewhere, under the Paperwork Reduction Act of 1995 (PRA), we identify and explain burdens specifically associated with information collection requirements.

Need for Regulatory Action

The Department amends the DDRA and FRA program regulations to promote fairness in the application review process for native speakers of languages other than English. These revisions are also consistent with the statutory framework for the DDRA and FRA programs and are necessary to support the statutory goal of ''promoting modern foreign language training and area studies in United States schools[.]'' [6] Additionally, revising the introductory language of §§ 662.21(c) and 663.21(c) to allow consideration of ''one or more'' of the listed criteria will enable the Department to administer these competitive grant programs in a manner that prioritizes the most qualified applicants for funding. Finally, the addition of severability clauses to the regulations for these programs will enable the Department to administer these programs more effectively if a component of the regulations is invalidated by a court.

Discussion of Costs, Benefits, and Transfers

The Department believes this regulatory action will not impose significant new cost-bearing requirements on IHEs or other entities. We also believe that the benefits of implementing this regulatory action outweigh any associated costs.

We anticipate a minimal increase of 10–15 DDRA and FRA program applications as a result of eliminating the native language proficiency exclusion and foresee minimal impact on the Department's time and cost for reviewing these additional applications.

Over the last 5 years, the amount of annual funding for the DDRA program has ranged from approximately $3.4 to $5.5 million, with an average of 200 grant applications received per year, and an average of 50 percent of applications ultimately receiving grant awards. With the changes to the regulation, the Department expects an increase of 10–15 applications per year, based on the number of applicants that have applied to study a geographic area that shares their native language skills in recent years.

An increase in the number of applicants or awards granted could result in additional costs to the Department in securing readers to review applications, but if additional costs arise, they will be minimal. The Department pays readers $1,200 to review applications, and the number of applications per reader ranges from 15 to a maximum of 22. An increase in 10–15 applications could increase costs by an additional $1,200 to secure an additional reader. However, the number of DDRA applications has declined over the last several years from a high of almost 250 to a low of just more than 150 in 2022. As a result, an increase in immediate applications would not result in any overall comparative additional costs, as a nominal increase in applications will restore DDRA to the average amount of applications received in prior years. We anticipate no additional costs to grant recipients, as we will continue to pay for grant activities with program funds. We also note that program participation is voluntary.

In fiscal year (FY) 2022, the Department conducted an FRA competition and awarded 22 recipients a total of approximately $1.3 million. The FY 2022 competition was the first FRA competition in more than 10 years. The Fulbright-Hays appropriation decreased from $15.6 million in FY 2010 to $7.5 million in FY 2011; the nearly 50 percent decrease in available funding hindered our ability to conduct competitions and make awards under all four Fulbright-Hays programs. The result was a suspension of the FRA program from 2011 to 2021.

Between 2011 and 2021, the funding level for the Fulbright-Hays programs averaged $7.4 million. In FY 2022, the amount increased to $9.8 million, which enabled us to re-activate the FRA program. Although we will not conduct the FRA competition in FY 2023, we do anticipate conducting another FRA competition in FY 2024, contingent upon funding availability. Given that we held only one FRA competition in the last 10 years, we cannot discuss potential trends in those program applications or potential corresponding costs.

The benefits of these final regulations include better aligning DDRA and FRA applicant qualifications with other comparable grant programs to focus on overall language proficiency and increasing equitable access to research abroad for those demonstrating language proficiency in the language of the countries in which their doctoral-level or faculty research study will occur. This will apply regardless of the applicant's native language. Additionally, we expect that the regulations will lead to an increase in the number of applications overall, which will make the program more competitive and enable the Department to fund even higher quality applications. The increase in applications specifically from individuals with native languages other than English will yield additional applications from individuals speaking a wider variety of native languages, as well as more applications recommended for funding from these individuals. These regulations will also more fully account for proficiency by adding a new selection criterion that considers an applicant's academic record. Under this criterion, we will consider any steps the applicant has taken to improve proficiency in the language of study and ensure adequate preparation for the proposed research project. We believe this criterion will support the programmatic goal of the DDRA and FRA to promote training ''in United States schools, colleges, and universities.'' Allowing applicants to show steps taken to improve their language proficiency in an academic setting will better demonstrate their ability to study in that language abroad. This change may also encourage applicants to complete additional training as a way to strengthen their application.

Finally, providing Secretarial discretion to determine the factors that will be considered when reviewing the qualifications of applicants would increase flexibility to implement the program within statutory requirements while adapting to changing Departmental priorities for international and foreign language education. This change will align DDRA and FRA with other Departmental programs that provide discretion to the Secretary to select among the regulated selection criteria when deciding which criteria to emphasize in a competition year.

We do not anticipate any cost to the Federal government as a result of this particular change, beyond nominal costs associated with updating the application package. We do not expect any impact on the number of applications received as a result of this change, nor do we anticipate any costs to grant recipients. Accordingly, we do not anticipate any burden cost with the addition of this particular criterion.

[6] 22 U.S.C. 2452(b)(6).

Net Budget Impacts

These proposed regulations are not estimated to have a significant net impact on the Federal budget. As noted above, the Department estimates that these final regulations will not result in additional net costs.

Alternatives Considered

In addition to allowing native speakers to receive points based on §§ 662.21(c)(3) and 663.21(c)(3), we considered allowing English as the language for the country of research, which is currently restricted. We did not take that approach because we believe maintaining the requirement that applicants demonstrate proficiency in a language ''other than English'' more appropriately meets the statutory goal of ''promoting modern foreign language training and area studies in United States schools[.]'' [7]

We also considered continuing to solely provide points for language proficiency without consideration of additional steps taken to improve proficiency. We did not take that approach because we believe that including a criterion that considers steps taken to improve proficiency in a domestic academic setting better meets the statutory goal of promoting training ''in United States schools, colleges, and universities'' [8] and will better demonstrate applicants' ability to study in that language abroad. This change may also encourage applicants to complete additional training as a way to strengthen their application. Additionally, we believe that replacing the exclusion for native language skills other than English with a focus on both an applicant's current foreign language skills and efforts to master the language of study will be more effective in increasing the capabilities and diversity of applicants and participants, while remaining consistent with the statutory goals of these programs.

Regulatory Flexibility Act Certification

The Secretary certifies under the Regulatory Flexibility Act [9] that these regulations will not have a significant economic impact on a substantial number of ''small entities.''

The small entities that will be affected by the proposed regulations are IHEs that submit applications to the Department under this program. The final regulations will not have a significant economic impact on the small entities affected because they will not impose excessive regulatory burdens or require unnecessary Federal supervision. The final regulations will impose minimal requirements to ensure the proper expenditure of program funds.

In the NPRM, we invited the public to comment on our proposed certification that these regulations would not have a significant economic impact on a substantial number of small entities. We did not receive any comments on this subject.

The Small Business Administration (SBA) defines ''small institution'' using data on revenue, market dominance, tax filing status, governing body, and population. Most entities to which the Office of Postsecondary Education's regulations apply are postsecondary institutions. However, we do not require institutions to report such data to the Department. As a result, for purposes of this final rule, the Department defines ''small entities'' by reference to enrollment to allow meaningful comparison of regulatory impact across all types of higher education institutions.[10] We consider two-year postsecondary educational institutions with enrollment of fewer than 500 full-time equivalent (FTE) and 4-year postsecondary educational institutions with enrollment of fewer than 1,000 FTE to be small entities.

TABLE 1—SMALL INSTITUTIONS UNDER ENROLLMENT-BASED DEFINITION

Type	Small	Total	Percentage of total
Proprietary	1,973	2,331	85
2-year	1,734	1,990	87
4-year	239	341	70
Private not-for-profit	983	1,831	54
2-year	185	203	91
4-year	798	1,628	49
Public	380	1,924	20
2-year	317	1,145	28
4-year	63	779	8
Total	3,336	6,086	55

Source: Department analysis of 2020–21 IPEDS data.

The Department used Integrated Postsecondary Education Data System (IPEDS) data from fiscal year 2020 reported under the finance data category. This reporting does not include all participating institutions and provides approximate data.

The Regulatory Flexibility Act also requires us to estimate the effect of the final regulations on small entities. We identified 27 of the 97 affected entities as small. As noted above, we estimated that this final rule will result in benefits for all affected entities without regulatory burden. We estimated that small institutions will, on average, see an increase of approximately $952,400 in funding. Similarly, we projected that non-small institutions will receive an increase of approximately $407,900.

In terms of regulatory impact, these regulations are designed to avoid excessive burdens or unnecessary Federal supervision. The minimal cost that these regulations will impose are those associated with grantees' obligation to certify participant eligibility and safeguard the proper expenditure of program funds. Consequently, the Department certifies

[7] 22 U.S.C. 2452(b)(6).

[8] Ibid.

[9] 5 U.S.C. 601 *et seq.*

[10] In some prior regulations, the Department categorized small businesses based on tax status. Those regulations defined ''non-profit organizations'' as ''small organizations'' if they were independently owned and operated and not dominant in their field of operation, or as ''small entities'' if they were institutions controlled by governmental entities with populations below 50,000. Those definitions resulted in the categorization of all private nonprofit organizations as small and no public institutions as small. Under the previous definition, proprietary institutions were considered small if they were independently owned and operated and not dominant in their field of operation with total annual revenue below $7,000,000.

that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA.[11] This helps to ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

Sections 662.21(c)(3) and 663.21(c)(3) of the regulations contain information collection requirements. Under the PRA, the Department submitted a copy of these sections to OMB for review.

A Federal agency may not conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

In these final regulations, we provide the control number assigned by OMB to any information collection requirements. The information collection impacted by these regulatory changes is the Application for the DDRA and FRA Programs, OMB Control Number 1840–0005. Under the DDRA and FRA programs, individual scholars apply through eligible institutions for an institutional grant to support the research fellowship. These institutions administer the program, in cooperation with the Department, pursuant to §§ 102(b)(6) and 104(e)(1) of the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act), 34 CFR parts 662 and 663, the Policy Statements of the J. William Fulbright Foreign Scholarship Board (FSB), and the Education Department General Administrative Regulations (EDGAR).

The Department, U.S. foreign language and area studies specialists, the U.S. Department of State, U.S. Embassies, Fulbright Commissions, host country officials and scholars, and the FSB use these data. This use is necessary to determine the academic qualifications and suitability of the individual applicant, potential political sensitivity and feasibility of the project in the host country, research climate, and adequacy of the proposed budget.

The Department awards grants under these programs annually.

The DDRA and FRA application (1840–0005) will be affected by the regulatory changes in the following ways:

- We will change the application package to eliminate the native language proficiency exclusion.
- We will include additional language in the DDRA and FRA selection criteria (under §§ 662.21(c)(3) and 663.21(c)(3)) that requires minimal changes on the technical review forms.

TABLE 2—ESTIMATED BURDEN HOURS

Program	Number of respondents	Average burden hours per response	Total burden hours	Estimated respondent average hourly wage	Total annual costs (hourly wage × total burden hours)
DDRA Student Respondent	325	25	8,125	$0	$0
DDRA Institution Project Director	50	25	1,250	47.20	59,000
FRA Faculty Respondent	70	25	1,750	36.33	63,578
FRA Institution Project Director	50	15	750	47.20	35,400
Annualized total	495		11,875		157,978

The hour burden for individual DDRA student respondents is estimated at an average of 25 hours for each student. The cost burden for DDRA student applicants is zero. We estimated that the changes to these regulations may result in a small increase in the number of DDRA student respondents from 310 to 325 submitting a single application. When multiplied by 25 hours, this results in an increase in DDRA student burden hours from 7,750 to 8,125.

We estimated the hour burden for the 50 DDRA institutional project directors to be 25 hours for reviewing each DDRA application for a total burden of 1,250. The cost burden of $47.20 for institutional DDRA applicants totals $59,000. We used feedback from DDRA respondents during the last three years to estimate these amounts.

The hour burden for the 70 individual FRA respondents is estimated to average 25 hours for each faculty member to complete the application for a total of 1,750 hours. The cost burden for faculty applicants at $36.33 totals $63,578.

The hour burden for the 50 FRA institutional project directors is estimated to be 15 hours for reviewing each FRA application for a total burden of 750 hours. The cost burden for institutional FRA applicants at $47.20 is $35,400. These estimates are based on feedback from FRA respondents during the last three years.

These estimates incorporate completion of the following tasks:

1. Register in the G5 e-Application system (project director);
2. Complete official forms (student/faculty and project director);
3. Develop the application narrative and budget (student/faculty);
4. Screen individual completed applications (project director); and
5. Transmit completed individual applications to the Department in a single submission via G5 (project director).

We note that the hour burdens for the DDRA and FRA project directors differ because the FRA program is smaller and has fewer applicants. DDRA project directors generally process applications for multiple students; FRA project directors generally process an application for a single faculty member.

The data in Table 2 are an estimate of the time needed for both institutional project directors and individual student and faculty respondents to complete tasks listed.

[11] 44 U.S.C. 3506(c)(2)(A).

TABLE 3—COLLECTION OF INFORMATION

Regulatory section	Information collection	OMB Control #1840–0005—estimated burden
34 CFR § 662.21(c)(3)	This regulatory provision will require changing the application package to eliminate the native language proficiency exclusion.	The number of respondents and the number of annual burden hours will increase to 495 and 11,875 respectively; the annual burden costs will remain at $157,978.
34 CFR § 663.21(c)(3)	This regulatory provision will require new language in the DDRA and FRA selection criteria to consider steps an applicant has taken to improve their language proficiency.	The number of respondents and the number of annual burden hours will increase to 495 and 11,875 respectively; the annual burden costs will remain at $157,978.

We prepared an Information Collection Request (ICR) for these changes to the information collection requirements. We invited the public to comment on the ICR but did not receive any comments.

OMB approved the collection of information contained in these regulations under OMB Control number 1840–0005 on March 2, 2023.

Intergovernmental Review

The proposed regulations are not subject to E.O. 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

Based on our review, we have determined that these regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

Federalism

E.O. 13132 requires us to obtain meaningful and timely input by state and local elected officials in the development of regulatory policies that have federalism implications. ''Federalism implications'' means 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. The proposed regulations do not have federalism implications.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

List of Subjects

34 CFR Part 662

Colleges and universities, Educational research, Educational study programs, Grant programs—education, Scholarships and fellowships.

34 CFR Part 663

Colleges and universities, Educational research, Educational study programs, Grant programs—education, Scholarships and fellowships, Teachers.

Miguel A. Cardona,

Secretary of Education.

For the reasons discussed in the preamble, the Secretary amends parts 662 and 663 of title 34 of the Code of Federal Regulations as follows:

PART 662—FULBRIGHT-HAYS DOCTORAL DISSERTATION RESEARCH ABROAD FELLOWSHIP PROGRAM

■ 1. The authority citation for part 662 continues to read as follows:

Authority: Section 102(b)(6) of the Fulbright-Hays Act, 22 U.S.C. 2452(b)(6), unless otherwise noted.

■ 2. Add § 662.8 to subpart A to read as follows:

§ 662.8 Severability.

If any provision of this part or its application to any person, act, or practice is held invalid, the remainder of the part or the application of its provisions to any person, act, or practice will not be affected thereby.

■ 3. Amend § 662.21 by:

■ a. Revising paragraphs (c) introductory text and (c)(3);

■ b. Redesignating paragraph (c)(4) as (c)(5); and

■ c. Adding a new paragraph (c)(4).

The revisions and addition read as follows:

§ 662.21 What criteria does the Secretary use to evaluate an application for a fellowship?

* * * * *

(c) *Qualifications of the applicant.* The Secretary reviews each application to determine the qualifications of the applicant. In coordination with any priorities established under paragraph (d) of this section, the Secretary considers one or more of the following—

* * * * *

(3) The applicant's proficiency in one or more of the languages (other than English) of the host country or countries of research;

(4) The extent to which the applicant's academic record demonstrates steps taken to further improve advanced language proficiency to overcome any anticipated language barriers relative to the proposed research project;

* * * * *

PART 663—FULBRIGHT-HAYS FACULTY RESEARCH ABROAD FELLOWSHIP PROGRAM

■ 4. The authority citation for part 663 continues to read as follows:

Authority: Section 102(b)(6) of the Fulbright-Hays Act, 22 U.S.C. 2452(b)(6), unless otherwise noted.

■ 5. Add § 663.8 to subpart A to read as follows:

§ 663.8 Severability.

If any provision of this part or its application to any person, act, or practice is held invalid, the remainder of the part or the application of its provisions to any person, act, or practice will not be affected thereby.

■ 6. Amend § 663.21 by:
■ a. Revising paragraphs (c) introductory text and (c)(3);
■ b. Redesignating paragraph (c)(4) as (c)(5); and
■ c. Adding a new paragraph (c)(4).

The revisions and addition read as follows:

§ 663.21 What criteria does the Secretary use to evaluate an application for a fellowship?

* * * * *

(c) *Qualifications of the applicant.* The Secretary reviews each application to determine the qualifications of the applicant. In coordination with any priorities established under paragraph (d) of this section, the Secretary considers one or more of the following—

* * * * *

(3) The applicant's proficiency in one or more of the languages (other than English) of the host country or countries of research;

(4) The extent to which the applicant's academic record demonstrates steps taken to further improve advanced language proficiency to overcome any anticipated language barriers relative to the proposed research project;

* * * * *

[FR Doc. 2023–26991 Filed 12–7–23; 8:45 am]

BILLING CODE 4000–01–P

POSTAL SERVICE

39 CFR Part 111

New Mailing Standards for Domestic Mailing Services Products

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: On October 6, 2023, the Postal Service (USPS®) filed a notice of mailing services price adjustments with the Postal Regulatory Commission (PRC), effective January 21, 2024. This final rule contains the revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) to implement the changes coincident with the price adjustments and other minor DMM changes.

DATES: Effective January 21, 2024.

FOR FURTHER INFORMATION CONTACT: Doriane Harley at (202) 268–2537 or Dale Kennedy at (202) 268–6592.

SUPPLEMENTARY INFORMATION: On November 22, 2023, the PRC favorably reviewed the price adjustments proposed by the Postal Service. The price adjustments and DMM revisions are scheduled to become effective on January 21, 2024. Final prices are available under Docket No. R2024–1 (Order No. 6814) on the Postal Regulatory Commission's website at *www.prc.gov.*

Certificate of Mailing—Automated Solution

Currently, Certificate of Mailing is processed manually at the BMEU for individual pieces of Priority Mail®, First-Class Mail®, USPS Marketing Mail®, and Package Services. Certificate of Mailing provides evidence of mailing only and does not provide a record of delivery.

The Postal Service is adding an automated option for processing forms 3606–D Certificate of Bulk Mailing; 3665 Certificate of Mailing; and 3877 Firm Mailing Book for Accountable Mail at the BMEU when electronically uploaded to PostalOne! and payment via EPS (Enterprise Payment System).

Promotion Eligible Product Identification

Currently, mailers are unable to see the discount breakdown at product level for each promotion; in addition, when a new promotion is added or an existing promotion is enhanced, changes applied to the product line is not readily available to mailers.

The Postal Service will implement an update that will enable mailers to see promotion discounts at the product level for each promotion as well as ensure all updates are applied to applicable systems in sync.

These revisions will provide consistency within postal products and add value for customers.

Market Dominant comments on Proposed changes and USPS responses.

The Postal Service did not receive any formal comments on the October 2023 proposed rule (88 FR 71329–71332).

The Postal Service adopts the described changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations.* We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

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, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the *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)

* * * * *

203 Basic Postage Statement, Documentation, and Preparation Standards

* * * * *

3.0 Standardized Documentation for First-Class Mail, Periodicals, USPS Marketing Mail, and Flat-Size Bound Printed Matter

* * * * *

3.2 Format and Content

For First-Class Mail, Periodicals, USPS Marketing Mail, and Bound Printed Matter, standardized documentation includes:

* * * * *

c. For mail in trays or sacks, list these required elements:

* * * * *

[Revise item 203.3.2c(6) to read as follows:]

6. For all Periodicals mailings, include a separate ''Entry'' column showing the applicable destination entry discount for those copies using the entry abbreviations in *3.6.3.*

* * * * *

d. For bundles on pallets, list these required elements:

* * * * *

[Revise item 203.3.2d(6) to read as follows:]

6. For all Periodicals mailings, include a separate ''Entry'' column showing the entry discount for those copies using the abbreviations in *207.17.4.3.* Report foreign copies separately.

* * * * *

[Revise the first sentence of the introductory text of 203.3.2(e) to read as follows:]

e. At the end of the documentation, a summary report of the number of pieces mailed at each price for each mailing by postage payment method and the number of pieces in each mailing.* * *

* * * * *

[Revise the first sentence of item 203.3.2e(4) to read as follows:]

4. A summary of the number of copies for each entry price.* * *

* * * * *

[Revise the heading of 3.6 to read as follows:]

3.6 Detailed Entry Listing for Periodicals

3.6.1 Definition and Retention

[Revise the text of 3.6.1 to read as follows:]

The publisher must be able to present documentation to support the number of copies of each edition of an issue mailed by entry point at In-County and Outside-County prices. This listing is separate from the standardized documentation required to support presort and may be submitted with each mailing, or a publisher may keep these records for 2 months after the mailing date. A publisher must be able to submit detailed entry listings for specific mailings upon request by the USPS.

3.6.2 Characteristics

Report the number of copies mailed to each 3-digit ZIP Code area using either one of the following formats:

[Revise the text of 203.3.6.2(a) and (b) to read as follows:]

a. Report copies by each 3-digit ZIP Code in ascending numeric order. Include columns for: 3-digit ZIP Code, entry, and number of copies per entry. Include a summary of the number of copies at each entry price at the end of the report. A 3-digit ZIP Code may appear more than once if there are copies at different entry prices (*e.g.,* In-County and Outside-County copies) for that 3-digit ZIP Code.

b. Report copies by each entry and by 3-digit ZIP Code in ascending numeric order. For each entry, include columns for: 3-digit ZIP Code and number of copies. Include a summary of the total number of copies for each entry at the end of each entry listing. A 3-digit ZIP Code may appear under more than one entry if there are copies at different entry prices for that 3-digit ZIP Code.

[Revise the heading of 3.6.3 to read as follows:]

3.6.3 Entry Abbreviations

[Revise the text of 3.6.3 to read as follows:]

Use the actual price name or the authorized entry abbreviation in the listings in *3.0* and *207.17.4.2:*

Entry abbreviation	Price equivalent
ICD	In-County, DDU.
IC	In-County, All Others.
DDU	Outside-County, DDU.
SCF	Outside-County, DSCF.
ADC	Outside-County, DADC.
OC	Outside-County, All Others.

* * * * *

207 Periodicals

* * * * *

2.0 Price Application and Computation

2.1 Price Application

* * * * *

2.1.4 Applying Pound Price

Apply pound prices to the weight of the pieces in the mailing as follows:

[Revise items a and b to read as follows:]

a. Outside-County (including Science-of-Agriculture) pound prices are based on the weight of the advertising portion sent to each destination entry and the weight of the nonadvertising portion to a destination entry.

b. In-County pound prices consist of a DDU entry price and a Non-DDU entry price for eligible copies delivered to addresses within the county of publication.

* * * * *

2.1.5 Computing Weight of Advertising and Nonadvertising Portions

[Revise the text of 2.1.5 to read as follows:]

The pound price charge is the sum of the charges for the computed weight of the advertising portion of copies to each destination entry, plus the sum of the charges for the computed weight of the nonadvertising portion of copies to each destination entry. The following standards apply:

a. The minimum pound price charge for any entry level to which copies are mailed is the 1-pound price. For example, three 2-ounce copies for an entry are subject to the minimum 1-pound charge.

b. Authorized Nonprofit and Classroom publications with an advertising percentage that is 10% or less are considered 100% nonadvertising. When computing the pound prices and the nonadvertising adjustment, use ''0'' as the advertising percentage. Authorized Nonprofit and Classroom publications claiming 0% advertising must pay the nonadvertising pound price for the entire weight of all copies.

* * * * *

2.2 Computing Postage

* * * * *

2.2.3 Computing Other Weights

[Revise the text of 2.2.3 to read as follows:]

To find the total weight of mailed copies per entry level, multiply the corresponding number of copies by the computed weight per copy. Round off each result to the nearest whole pound, except that when the result is under 0.5 pound, round to 1 pound. To find the weight of the advertising portion for each entry, where applicable, multiply the total weight of copies for that entry by the percentage of advertising. Round off each result to the nearest whole pound, except that when the result is under 0.5 pound, round to 1 pound. To find the weight of the nonadvertising portion, subtract the total weight of the advertising portion to all entry levels from the total weight of copies to all entry levels. To find the weight of In-County price copies, multiply the number of copies by the weight per copy and round off the total weight to the nearest whole pound, except that when the result is less than 0.5 pound, round to 1 pound.

* * * * *

5.0 Applying for Periodicals Authorization

* * * * *

5.2 Mailing While Application Pending

* * * * *

[Revise the heading of 5.2.2 to read as follows:]

5.2.2 Pending Periodicals Prices

* * * * *

[Revise the heading of 5.2.3 to read as follows:]

5.2.3 Pending Periodicals Postage

* * * * *

[Revise the heading of Exhibit 5.2.3 to read as follows:]

Exhibit 5.2.3 Pending Periodicals Postage

* * * * *

8.0 Record Keeping Standards for Publishers

8.1 Basic Standards

* * * * *

8.1.2 Information Required

Records must be available so that the USPS can determine: * * *

[Delete item c and renumber items (d and e) as (c and d)]

* * * * *

8.2 Verification

8.2.1 Purpose

[Revise the text of 8.2.1 to read as follows]

A publisher must make records available for USPS review and verification on a periodic basis to evaluate indications of ineligibility for Periodicals entry, to verify that the postage statement shows the correct number of copies mailed and the correct

postage, and to confirm that publications authorized to carry general advertising meet the applicable circulation standards.

* * * * *

11.0 Basic Eligibility

11.1 Outside-County Prices

11.1.1 General

[Revise the text of 11.1.1 to read as follows:]

Outside-County prices apply to copies of an authorized Periodicals publication mailed by a publisher or news agent that are not eligible for In-County prices under 11.3. Outside-County prices consist of an addressed per piece charge, an entry level charge for the weight of the advertising portion of the publication, an entry level charge for the weight of the nonadvertising portion, and a bundle and container charge.

* * * * *

17.0 Documentation

* * * * *

17.2 Additional Standards for Postage Statements

* * * * *

17.2.3 Waiving Nonadvertising Prices

[Revise the first sentence of 17.2.3 to read as follows:]

Instead of marking a copy of each issue to show the advertising portion, the publisher may pay postage at the advertising prices on both portions of all issues or editions of a Periodicals publication (except a requester publication).* * *

* * * * *

[Revise 17.2.7 to read as follows:]

17.2.7 News Agent's Statement

A news agent presenting Periodicals matter subject to ''All Other'' prices must provide a statement showing the percentages of such matter devoted to advertising and nonadvertising.

* * * * *

[Revise the heading of 17.4 to read as follows:]

17.4 Detailed Entry Listing for Periodicals

17.4.1 Basic Standards

[Revise the text of 17.4.1 to read as follows:]

The publisher must be able to present documentation to support the actual number of copies of each edition of an issue, by entry level, at DDU, DSCF, DADC, All Others, and In-County prices. This listing is separated from the standardized presort documentation required under 17.3. This listing may be submitted with each mailing, or a publisher may keep such records for each mailing for 2 months after the mailing date. A publisher must be able to submit detailed entry listings for specific mailings when requested by the USPS.

17.4.2 Format

[Revise the text of 17.4.2 to read as follows:]

Report the number of copies mailed to each 3-digit ZIP Code area at entry prices using one of the following formats:

a. Report copies by 3-digit ZIP Code, in ascending numeric order, for all ZIP Codes in the mailing. The listing must include these columns: 3-digit ZIP Code, entry level, and number of copies. Include a summary of the number of copies at each entry price at the end of the report. A 3-digit ZIP Code may appear more than once if there are copies at different entry prices for that ZIP Code (for example, In-County and Outside-County copies).

b. Report copies by zone (In-County DDU, In-County others, Outside-County DDU, Outside-County DSCF, Outside-County DADC and Outside-County All Others) and by 3-digit ZIP Code, in ascending numeric order, for each entry level. For each entry level, the listing must include these columns: 3-digit ZIP Code and number of copies in the mailing. Include a summary of the total number of copies for each entry level at the end of each entry listing. A 3-digit ZIP Code may appear under more than one entry level if there are copies at different entry prices for that ZIP Code.

[Revise the heading of 17.4.3 to read as follows:]

17.4.3 Entry Abbreviations

[Revise the text of 17.4.3 to read as follows:]

Use the actual price name or the authorized entry abbreviation in the listings in 17.3 and 17.4.2.

Entry abbreviation	Price equivalent
ICD	In-County, DDU.
IC	In-County, All Others.
DDU	Outside-County, DDU.
SCF	Outside-County, DSCF.
ADC	Outside-County, DADC.
OC	Outside-County, All Others.

* * * * *

26.0 Physical Criteria for Nonmachinable Flat-Size Periodicals

* * * * *

26.2 Weight and Size

[Revise to first sentence of 26.2 to read as follows:]

The maximum weight is 4.4 pounds for pieces prepared in 5-digit bundles only.* * *

* * * * *

28.0 Enter and Deposit

* * * * *

28.3 Exceptional Dispatch

* * * * *

28.3.2 Intended Use

[Revise the first sentence of 28.3.2 to read as follows:]

The provision for exceptional dispatch is intended for local distribution (In-County and DDU) of publications with total circulation of no more than 25,000 and is not to be used to circumvent additional entry standards.* * *

* * * * *

500 Additional Mailing Services

503 Extra Services

* * * * *

1.0 Basic Standards for All Extra Services

* * * * *

1.10 Receipts

[Add a sentence after the fourth sentence to read as follows:]

* * * When used for commercial mailings, Form 3877 (firm sheet) may be submitted electronically to PostalOne! and processed at the BMEU.* * *

* * * * *

5.0 Certificates of Mailing

5.1 Basic Standards

5.1.1 Description—Individual Pieces

[Add a sentence at the end of 5.1.1 to read as follows:]

* * * Form 3665 (firm sheet) may be submitted electronically to PostalOne! and processed at the BMEU.

5.1.2 Paying Fees

[Add a sentence at the end of 5.1.2 to read as follows:]

* * * When electronically submitted, postage for Form 3665-Firm must be paid with an EPS (Electronic Payment System) account.

* * * * *

5.1.6 Acceptance

[Revise the last sentence of 5.1.6 to read as follows:]

* * * Certificate of Mailing Form 3665 (including USPS-approved privately printed versions and

electronic Form 3665) with mailings of at least 50 pieces or 50 pounds of corresponding articles presented at one time must be presented to a Post Office business mail entry unit (BMEU) or authorized detached mail unit (DMU).
* * * * *

5.2 Other Bulk Quantities—Certificate of Bulk Mailing

5.2.1 Description

[Add text at the end of 5.2.1 to read as follows:]

* * * Mailers must upload the electronic Form 3606–D prior to presenting the mailing at the BMEU for processing. Each electronic Form 3606–D will receive a watermark date stamped receipt after finalization of the mailing.

5.2.2 Paying Fees

[Add a sentence at the end of 5.2.2 to read as follows:]

* * * Mailers submitting electronic Form 3606–D must pay certificate of mailing fees, at the time of mailing, using an EPS account.

5.2.3 Acceptance

[Revise the last sentence of 5.2.3 to read as follows:]

* * * Certificate of Bulk Mailing Form 3606–D (including USPS-approved facsimiles and electronic Form 3606–D) with identical-weight mailings of at least 50 pieces or 50 pounds must be presented to a business mail entry unit (BMEU) or authorized detached mail unit (DMU).
* * * * *

700 Special Standards

* * * * *

705 Advanced Preparation and Special Postage Payment Systems

* * * * *

15.0 Combining USPS Marketing Mail Flats, Bound Printed Matter Flats, and Periodicals Flats

15.1 Basic Standards

* * * * *

15.1.3 Documentation

Mailers must present standardized electronic documentation according to *203.3.0.* This documentation must accurately reflect the final piece count in the combined mailing. In addition, mailers must provide:
* * * * *

[Revise item (e) to read as follows:]

e. Documentation to support entry and bundle totals, if requested.
* * * * *

Notice 123 (Price List)

[Revise prices as applicable.]
* * * * *

Sarah Sullivan,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2023–26923 Filed 12–7–23; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2023–0272; FRL–11237–03–R8]

Air Plan Disapproval; Colorado; RACT Elements for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is disapproving portions of a state implementation plan (SIP) revision submitted by the State of Colorado to meet Clean Air Act (CAA) requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS) in the Denver Metro/North Front Range nonattainment area (DMNFR Area). Specifically, the EPA is disapproving certain reasonably available control technology (RACT) SIP submittals.

DATES: This rule is effective on January 8, 2024.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2023–0272. All documents in the dockets are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

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

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

I. Background

The background and rationale for this action are discussed in detail in our August 14, 2023 proposed rule and our Response to Comments document for this action.[1] In the proposed rule, we proposed to disapprove certain provisions submitted by the State to meet reasonably available control technology (RACT) requirements in SIP submissions from March 22, 2021, and May 20, 2022. Specifically, we proposed disapproval of the categorical RACT rules for refinery fueled process heaters as well as landfill or biogas fired reciprocating internal combustion engines and the State's RACT determination for the Golden Aluminum facility. We also proposed to approve the enhanced monitoring element and to disapprove the contingency measures element of the March 22, 2021 8-hour ozone attainment plan SIP submission from the State of Colorado for the DMNFR Area. Final action on the enhanced monitoring and contingency measures elements was taken on November 07, 2023.[2] In this action, we are finalizing action on the remaining RACT provisions.

II. Comments

We received comments on the August 14, 2023 proposal from several commenters: the Center for Biological Diversity, the Air Pollution Control Division of the Colorado Department of Public Health and Environment, William Weese Pepple & Ferguson on behalf of Suncor Energy Inc., and one citizen. All comments received are in the docket for this action. The comments included views concerning the timing, process, and approach for EPA to act on Colorado's SIP submittals; supportive and adverse comments related to our proposed action on the contingency measures element; and adverse comments related to our proposed action on certain RACT elements. A summary of the comments that are relevant to this final action and the EPA's responses are provided in the Response to Comments document, which is in the docket for this action.

[1] Proposed rule, Air Plan Approval and Disapproval; Colorado; Serious Attainment Plan Elements and Related Revisions for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 88 FR 54975; the response to comments document is in the docket.

[2] Final rule, Air Plan Approval and Disapproval; Colorado; Serious Attainment Plan Elements and Related Revisions for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 88 FR 76676.

Comments related to contingency measures were addressed in our November 7, 2023 final rule.

III. Final Action

The EPA is disapproving certain provisions submitted by the State to meet RACT requirements in SIP submissions from March 22, 2021, and May 20, 2022, because we find they do not satisfy the requirements under CAA sections 182(b) and 182(c). EPA has previously acted on all other parts of these submittals.[3]

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

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

IV. Environmental Justice Considerations

The EPA reviewed demographic data, which provides an assessment of individual demographic groups of populations living within the DMNFR Area. The EPA then compared the data to the national averages for each of the demographic groups. The results of this analysis are being provided for informational and transparency purposes. The results of the demographic analysis indicate that for populations within the DMNFR Area, there are census block groups in which the percentage of people of color (persons who reported their race as a category other than White alone and/or Hispanic or Latino) is greater than the national average (39%) and above the 80th percentile.[4] There are also census block groups within the DMNFR Area that are below the national average (33%) poverty level and above the 80th percentile.[5]

This final SIP action identifies deficiencies in the State's March 22, 2021 and May 20, 2022 RACT submittals. The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. The EPA's disapproval of these RACT submittals will require that Colorado submit RACT plans for the DMNFR Area consistent with the requirements of the CAA. Such measures may help to improve air quality in the entire affected nonattainment area through reductions of ozone precursor emissions.

The CAA requires this action, and the EPA recognizes the adverse impacts of ozone. Information on ozone and its relationship to negative health impacts can be found in the National Ambient Air Quality Standards for Ozone.[6] We expect that this action and resulting emission reductions will generally be neutral or contribute to reduced environmental and health impacts on all populations in the DMNFR Area, including people of color and low income populations. At a minimum, this action would not worsen any existing air quality and is expected to ensure the area is meeting requirements to attain and/or maintain air quality standards. Further, there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

V. Statutory and Executive Order Reviews

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

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

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

[3] Final rule, Air Plan Approval, Conditional Approval, Limited Approval and Limited Disapproval; Colorado; Serious Attainment Plan Elements and Related Revisions for the 2008 8-Hour Ozone Standard for the Denver Metro/North Front Range Nonattainment Area, 88 FR 29827 (May 9, 2023) and 88 FR 76676 (Nov. 7, 2023).

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

[5] *Id.*

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

disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

The Colorado Air Quality Control Division 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 performed an environmental justice analysis, as is described above in the section titled, ''Environmental Justice Considerations.'' The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 6, 2024. Filing a petition for reconsideration by the Administrator of this final rule will not affect the finality of this action for the purposes of judicial review, nor will it extend the time within which a petition for judicial review may be filed or postpone the effectiveness of this rule. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: December 4, 2023.

KC Becker,

Regional Administrator, Region 8.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart G—Colorado

■ 2. In § 52.320, the table in paragraph (e) is amended by revising the entries ''Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Moderate State Implementation Plan (RACT SIP)'' and ''Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Serious State Implementation Plan (RACT SIP)'' to read as follows:

§ 52.320 Identification of plan.

* * * * *

(e) * * *

Title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	*
Maintenance and Attainment Plan Elements				
*	*	*	*	*
Denver Metropolitan Area				
*	*	*	*	*
Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Moderate State Implementation Plan (RACT SIP).	11/21/2017	1/8/2024	[insert **Federal Register** citation], 12/8/2023.	Previous SIP approvals 7/03/2018, 2/24/2021, and 11/05/2021. Limited approval/limited disapproval of RACT regulations 5/9/2023. Disapproval of refinery fueled process heaters located at major sources of NO_X on December 8, 2023.
*	*	*	*	*
Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) Serious State Implementation Plan (RACT SIP).	2/14/2020	1/8/2024	[insert **Federal Register** citation], 12/8/2023.	Disapproval of RACT for certain major sources of NO_X on December 8, 2023.
*	*	*	*	*

[FR Doc. 2023–26949 Filed 12–7–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 63

[IB Docket No. 23–119, MD Docket No. 23–134; FCC 23–28; DA 23–745; FR ID 171508]

Review of International Authorizations To Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks; Amendment of the Schedule of Application Fees

AGENCY: Federal Communications Commission.

ACTION: Final action; mandatory information collection.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts an Order announcing a requirement that all international section 214 authorization holders respond to a one-time collection to update the Commission's records regarding the foreign ownership of international section 214 authorization holders. The Commission, through its Telecommunications and Analysis Division, Office of International Affairs, further adopts a Supplemental Order exempting qualifying international section 214 authorization holders from having to provide certain items of information as part of the information collection. The Commission also announces that the Office of Management and Budget (OMB) has approved the information collection associated with the Commission's Order, FCC 23–28. Consistent with the Order, this document provides notice of the filing deadline of the information collection.

DATES: *Filing deadline:* January 22, 2024.

FOR FURTHER INFORMATION CONTACT: Gabrielle Kim, Office of International Affairs, Telecommunications and Analysis Division, at (202) 418–0730 or via email at *Gabrielle.Kim@fcc.gov*. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Cathy Williams, Office of Managing Director, at (202) 418–2918 or *Cathy.Williams@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 23–28, adopted on April 20, 2023, and released on April 25, 2023, and the Supplemental Order, DA 23–745, adopted and released on August 22, 2023. The full text of these documents is available on the Commission's website at *https://docs.fcc.gov/public/attachments/FCC-23-28A1.pdf* and *https://docs.fcc.gov/public/attachments/DA-23-745A1.pdf*. This document also announces that, on June 6, 2023, OMB approved, for a period until December 31, 2023, the information collection requirements associated with the Commission's Order, FCC 23–28. The OMB Control Number is 3060–1308. On August 31, 2023, OMB approved the Commission's request for a non-substantive change to the currently approved collection. On November 1, 2023, OMB approved the Commission's request for an emergency extension of this information collection, for a period until June 30, 2024. On December 4, 2023, OMB approved the Commission's request for a non-substantive change to the currently approved collection. The Commission publishes this document as an announcement of the effective date of the information collection required by the Order. The Commission also publishes this document as an announcement of the filing deadline for the information collection requirements in the Order. If you have any comments on the burden estimates, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, 45 L Street NE, Washington, DC 20554. Please include the OMB Control Number, 3060–1308, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov*. 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).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on June 6, 2023, for the information collection requirements associated with the Commission's Order, FCC 23–28. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Pub. L. 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1308.

OMB Approval Date: June 6, 2023.

OMB Expiration Date: June 30, 2024.

Title: Reporting On Foreign Ownership of International Section 214 Authorization Holders.

Form Number: N/A.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 1,500 respondents; 1,500 responses.

Estimated Time per Response: 6 hours.

Frequency of Response: One time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 4(i), 214, 218, 219, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 214, 218, 219, and 403.

Total Annual Burden: 4,500 hours.

Total Annual Cost: $1,350,000.

Needs and Uses: The Commission established a new one-time information collection in the *Review of International Section 214 Authorizations to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks, IB Docket No. 23–119; Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules, MD Docket No. 23–134,* Order and Notice of Proposed Rulemaking, FCC 23–28. Each international section 214 authorization holder is required to identify its 10% or greater direct or indirect foreign interest holders (reportable foreign ownership) as of thirty (30) days prior to the filing deadline. Additionally, the filer will be required to certify as to the accuracy of the information provided. Subsequently, in *Review of International Section 214 Authorizations to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks, IB Docket No. 23–119; Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules, MD Docket No. 23–134,* Order, DA 23–745, the Telecommunications and Analysis Division, Office of International Affairs, as directed by the Commission, exempted qualifying authorization holders from answering questions in the information collection regarding the identities, specific equity and voting interests, and description of controlling interests of their reportable foreign

interest holders, instead requiring them to identify, on an aggregated basis, all of the citizenship(s) or place(s) of organization of their reportable foreign interest holders. The Order and the Supplemental Order are summarized below.

I. Order: Reporting on Foreign Ownership of International Section 214 Authorization Holders

1. The Commission adopts an Order requiring all international section 214 authorization holders to respond to a one-time collection to update the Commission's records regarding the foreign ownership of international section 214 authorization holders.[1] The Commission has incomplete and outdated information about international section 214 authorization holders. For example, the Commission's records in the International Communications Filing System (ICFS) reflect there are approximately 7,000 international section 214 authorization holders, though the Commission estimates the more accurate number is closer to approximately 1,500 active authorization holders. Additionally, the Commission does not have visibility on authorized carriers' current foreign ownership. Thus, the collection of this information is a necessary first step for the Commission to make an informed decision concerning the proposed rules and procedures set forth in the Notice of Proposed Rulemaking (NPRM). Among other things, the information derived from this one-time collection will allow the Commission to determine the number of active authorization holders and whether they have reportable foreign ownership. In addition, the information will enable the Commission to identify those authorization holders that are no longer in business or are in business but discontinued service under their international section 214 authority. Overall, the information will assist the Commission in developing a timely and effective process for prioritizing the review of international section 214 authorizations that are most likely to raise national security, law enforcement, foreign policy, and/or trade policy concerns, as proposed in the NPRM.

2. Under the Commission's current rules, international section 214 authorization holders are not required to periodically report their ownership, including the extent of any foreign ownership interests, the identity of their foreign interest holders, and the countries associated with such foreign ownership. Following the grant of an international section 214 authorization, an authorized U.S.- international carrier can provide service globally to any route for which it is classified as non-dominant pursuant to the terms of its international section 214 authorization.[2] After the grant, the Commission ordinarily does not receive updated information unless an authorization holder files an application for a modification, assignment, or transfer of control of the authorization.[3] Additionally, international section 214 authorization holders only need to notify the Commission of a planned discontinuance of service when the authorization holder seeks to discontinue service for which it has customers. If an international section 214 authorization holder does not have any customers when it discontinues offering service, it may file with the Commission a notification to surrender its authorization, but is not required to do so. In those circumstances, the authorization holder may retain the authorization indefinitely. Following the grant of international section 214 authority, an authorization holder may retain the authorization even if it was never used or the authorization holder is not currently offering service or simply is no longer in business.

3. *One-Time Information Collection.* In furtherance of the Commission's goals in this proceeding and to inform the Commission's consideration of the regulatory approaches on which the Commission seeks comment in the NPRM, the Commission adopts the information collection requirements herein, which are based on the requirements set forth in § 63.18(h) of the Commission's rules.[4] Section 63.18(h) requires international section 214 applicants to provide the name, address, citizenship and principal businesses of any person or entity that directly or indirectly owns at least 10% of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest 1%).[5] Specifically, the Commission directs each authorization holder to identify its 10% or greater direct or indirect foreign interest holders that hold such equity and/or voting interests (reportable foreign ownership)[6] as of thirty (30) days prior to the filing deadline. Additionally, the Commission requires each authorization holder to certify as to the accuracy of the information provided. Such certification requires each authorization holder to conduct appropriate due diligence, thereby increasing the reliability of its information. In the NPRM, the Commission proposes to cancel the authorizations of carriers that fail to respond to this Order and impose

[1] The Commission takes this action pursuant to sections 4(i), 214, 218, 219, and 403 of the Act, 47 U.S.C. 4(i), 214, 218, 219, 403.

[2] Under the Commission's rules, a carrier is classified as non-dominant on a U.S.-international route if it is not affiliated with a foreign carrier with market power on the foreign end of the route or it provides an international switched service on that route solely through the resale of an unaffiliated U.S. facilities-based carrier's international switched services. 47 CFR 63.10(a); *id.* 63.10(a)(1) (''A U.S. carrier that has no affiliation with, and that itself is not, a foreign carrier in a particular country to which it provides service (*i.e.,* a destination country) shall presumptively be considered non-dominant for the provision of international communications services on that route.''); *id.* 63.10(a)(2) (''Except as provided in paragraph (a)(4) of this section, a U.S. carrier that is, or that has or acquires an affiliation with a foreign carrier that is a monopoly provider of communications services in a relevant market in a destination country shall presumptively be classified as dominant for the provision of international communications services on that route . . . .''); *id.* 63.10(a)(4) (''A carrier that is authorized under this part to provide to a particular destination an international switched service, and that provides such service solely through the resale of an unaffiliated U.S. facilities-based carrier's international switched services (either directly or indirectly through the resale of another U.S. resale carrier's international switched services), shall presumptively be classified as non-dominant for the provision of the authorized service . . . .'').

[3] The Commission refers to ''application'' in this context to include an application to modify an international section 214 authorization; an application for substantial assignment or transfer of control of an international section 214 authorization; and a notification of *pro forma* assignment or transfer of control of an international section 214 authorization. *See* 47 CFR 63.18, 63.24(e)(1), 63.24(f)(2).

[4] *Id.* 63.18(h). In the *Executive Branch Process Reform Order,* the Commission amended § 63.18(h) to require that applicants must identify the voting interests, in addition to the equity interests, of individuals or entities with 10% or greater direct or indirect ownership in the applicant. *Executive Branch Process Reform Order,* 35 FCC Rcd at 10965, para. 95; *id.* at 10985, Appx. B, para. 11; *Order Erratum,* 35 FCC Rcd at 13173, para. 11. The amended rule is not yet effective.

[5] 47 CFR 63.18(h); *see 2016 Executive Branch Process Reform NPRM,* 31 FCC Rcd at 7475, para. 49 (''These rules originated when equity and voting ownership were usually the same. Today, applicants often have multiple classes of ownership and equity interests that differ from the voting interests. It is important for the Commission to know for potential control purposes who has voting interests in the applicant. The Commission has recognized this in other rules, where it requires an applicant to provide both equity and voting interests in an applicant.''); *Executive Branch Process Reform Order,* 35 FCC Rcd at 10985, Appx. B, para. 11; *Order Erratum,* 35 FCC Rcd at 13173, para. 11 (amending § 63.18(h) to read, ''[t]he name, address, citizenship, and principal businesses of any individual or entity that directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, and the percentage of equity and/or voting interest owned by each of those entities (to the nearest one percent) . . . .'').

[6] 47 CFR 63.18(h); *Executive Branch Process Reform Order,* 35 FCC Rcd at 10985, Appx. B, para. 11; *Order Erratum,* 35 FCC Rcd at 13173, para. 11.

forfeitures or other measures where a carrier fails to respond in a timely or complete manner.

4. The Commission anticipates that its information collection will not be unduly burdensome as international section 214 authorization holders, including small entities, would have information about their ownership available for purposes of compliance with the Commission's rules, *e.g.,* to ascertain whether their ownership requires approval for, or notification of, a substantive or non-substantive assignment or transfer. Most businesses likely maintain records of their 10% or greater direct or indirect equity and/or voting interest holders in the ordinary course of business. An authorization holder that is a privately held entity likely knows its investors. An authorization holder that is a publicly held company is also required to identify its interest holders in requisite filings with the U.S. Securities and Exchange Commission (SEC).

5. Pursuant to this Order, the Commission requires an international section 214 authorization holder to submit information based on the categories below.

(1) Reportable Foreign Ownership—Foreign Adversary—China (including Hong Kong), Cuba, Iran, North Korea, Russia, Maduro Regime. Where there are interest holders that are entities and individuals that are a government organization or citizen of a ''foreign adversary'' country, an authorization holder must identify its 10% or greater direct or indirect foreign interest holders, including any 10% or greater direct or indirect foreign interest holders outside the foregoing ''foreign adversary'' countries. A ''foreign adversary'' country is defined in the Department of Commerce's rule, 15 CFR 7.4.[7] The authorization holder must:

- identify each interest holder and the foreign country or countries, including countries that are not foreign adversary countries;
- disclose whether any interest holder has dual or more citizenships and identify all countries where citizenship is held;[8] and
- certify to the truth and accuracy of all information.

(2) Reportable Foreign Ownership—No Foreign Adversary. Where there are no interest holders that are entities or individuals that are a government organization or citizen of any foreign country that is a ''foreign adversary'' country defined in the Department of Commerce's rule, 15 CFR 7.4, an authorization holder must identify its 10% or greater direct or indirect foreign interest holders. The authorization holder must:

- identify each interest holder and the foreign country or countries;
- disclose whether any interest holder has dual or more citizenships and identify all the countries where citizenship is held;[9] and
- certify to the truth and accuracy of all information.

(3) No Reportable Foreign Ownership. An authorization holder that has no reportable foreign ownership must certify to the truth and accuracy of this information.

6. *Information Collection Process and Deadline.* The Commission directs the Office of International Affairs to conduct this information collection, including the creation of the forms, submit the information collection for Office of Management and Budget (OMB) review[10] and, following OMB review, publish notice of the effective date of the information collection requirement and the filing deadline in the **Federal Register**. In so doing, the Office of International Affairs should take into account information recently provided to the Commission on the record that has not materially changed.[11] The filing deadline shall be no fewer than thirty (30) days following the effective date of this Order. The Office of International Affairs also will issue a Public Notice announcing the deadline and will provide instructions for filing this information with the Commission.

7. *FCC Registration Number (FRN).* All authorization holders must have an FCC Registration Number (FRN) in order to file their response in ICFS.[12] An FRN is the 10-digit number assigned to all entities (individual and corporate) that transact business with the Commission, and it must be provided any time an authorization holder submits a filing or application in ICFS. The Commission notes that many international section 214 authorizations were granted to entities prior to the Commission requiring an FRN in 2001.[13] Such entities will need to obtain an FRN prior to filing their response to the information collection.

8. *Surrender of Authorizations.* Authorization holders that surrender their international section 214 authorizations before the filing deadline do not need to respond to the one-time information collection. Accordingly, the Commission strongly encourages international section 214 authorization holders that no longer need or use their authorizations to do so before the filing deadline. International section 214 authorization holders may file a surrender letter in ICFS.

II. Supplemental Order: Exemption From Information Collection

9. Pursuant to the Commission's directive to take into account recently-provided information that has not changed, the Office of International Affair adopts an exemption (Exemption) for Authorization Holders whose applications were granted within three years prior to the deadline of the One-Time Information Collection. The Exemption will reduce the burden for qualifying Authorization Holders while still allowing the Commission to collect necessary information from the One-Time Information Collection. Under this Exemption, qualifying Authorization Holders are exempt from answering questions in the One-Time Information Collection regarding the identities,

[7] 15 CFR 7.4 (stating ''[t]he Secretary has determined that the following foreign governments or foreign non-government persons have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons and, therefore, constitute foreign adversaries solely for the purposes of the Executive Order, this rule, and any subsequent rule'' promulgated pursuant to the Executive Order); *see* 15 CFR 7.2 (''Foreign adversary means any foreign government or foreign non-government person determined by the Secretary to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons.''); *see* Executive Order 13873 of May 15, 2019, Securing the Information and Communications Technology and Services Supply Chain, 84 FR 22689 (May 15, 2019).

[8] This requirement applies to United States citizens who hold dual citizenship or multiple citizenships and foreign persons who are citizens of two or more countries.

[9] This requirement applies to United States citizens who hold dual citizenship or multiple citizenships and foreign persons who are citizens of two or more countries.

[10] To the extent required, the Office of International Affairs would also modify the applicable System of Records Notice under the Privacy Act. *See* Federal Communications Commission, Privacy Act of 1974; System of Records, IB–1, International Bureau Filing System, 86 FR 43237 (Aug. 6, 2021).

[11] *See, e.g.,* Letter from Angie Kronenberg, President, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 23–119, at 1–2 (filed Apr. 14, 2023).

[12] 47 CFR 1.8002(a) (''The FRN must be obtained by anyone doing business with the Commission, see 31 U.S.C. 7701(c)(2) . . . .''). An authorization holder may obtain an FRN through the Commission's CORES web page. FCC, *Commission Registration System (CORES), https://apps.fcc.gov/cores/userLogin.do* (last visited Apr. 18, 2023).

[13] Federal Communications Commission, Adoption of a Mandatory FCC Registration Number, 66 FR 47890 (Sept. 14, 2001) (amending the Commission's rules to require persons and entities doing business with the Commission to obtain a unique identifying number, called the FCC Registration Number (FRN), through the Commission Registration System (CORES), and to provide the number when doing business with the Commission, effective December 3, 2001).

specific equity and voting interests, and description of controlling interests, of their Reportable Foreign Interest Holders. Instead, Authorization Holders that qualify for the Exemption will be required to identify, on an aggregated basis, all of the citizenship(s) or place(s) of organization of their Reportable Foreign Interest Holders. Specifically, to qualify for the Exemption:

(1) The Authorization Holder must have filed an application for an initial International Section 214 Authorization, modification, or *substantial* (not a *pro forma* filing) assignment or transfer of control of the authorization that was reviewed by the Executive Branch agencies and was granted by the Commission on or after [date 3 years before date of filing deadline, 2020]; and

(2) There are no Reportable Foreign Interest Holders of the Authorization Holder other than those disclosed in the application (including any amendment), and there are no changes to the Reportable Foreign Interest Holders disclosed in the application (including any amendment) as of [date 30 days prior to filing deadline, 2023].[14]

10. To qualify for the Exemption, Authorization Holders will also need to supply the File Number of the application that fulfills all of these requirements.

III. Procedural Issues

11. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (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.'' Because the Order does not adopt a rule and therefore does not require notice and comment, no Final Regulatory Flexibility Analysis is required.

12. *Final Paperwork Reduction Act Analysis.* This document contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. On June 6, 2023, OMB approved, for a period until December 31, 2023, the information collection requirements in this document. On November 1, 2023, OMB approved an emergency extension of this information collection, for a period until June 30, 2024. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission considers how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. In the Order, the Commission has assessed the effects of requiring international section 214 authorization holders to identify reportable foreign ownership and to certify as to the accuracy of the information provided and find that they would have information about their ownership available in the ordinary course of business, for instance, for purposes of compliance with the Commission's rules. Further, although the Commission does not have an estimated number of authorization holders that will need to obtain an FRN number or to file a surrender letter, the burdens are also low. For instance, obtaining an FRN for this purpose entails only a minimal burden. Therefore, the Commission anticipates that the new collection will not be unduly burdensome.

13. *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).

IV. Ordering Clauses

14. Accordingly, *it is ordered* that, pursuant to sections 4(i), 214, 218, 219, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 214, 218, 219, and 403, this Order *is hereby adopted.*

15. *It is further ordered* that this Order *shall be effective* after the Office of Management and Budget completes review of any information collection requirements that the Office of International Affairs determines are required under the Paperwork Reduction Act.

16. *It is further ordered* that the Office of International Affairs shall conduct the information collection required by the Order, including the creation of any information collection forms or other instrument, and shall publish notice of the effective date of the information collection required by the Order and the filing deadline in the **Federal Register**. The filing deadline shall be no fewer than 30 days following the effective date of the Order. The Office of International Affairs shall announce the effective date and the filing deadline for the requirements in this Order by subsequent Public Notice.

17. *It is further ordered,* pursuant to sections 4(i), 214, 218, 219, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 214, 218, 219, and 403, and §§ 0.19, 0.204, and 0.351 of the Commission's rules, 47 CFR 0.19, 0.204, 0.351, that the Exemption from responding to certain portions of the One-Time Information Collection, as described herein, is *adopted.*

Federal Communications Commission

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–26981 Filed 12–7–23; 8:45 am]

BILLING CODE 6712–01–P

[14] To qualify for the Exemption, there must be no changes to the Reportable Foreign Interest Holders disclosed in the application (including any amendment), including but not limited to: no change in the reported citizenship(s), including dual or multiple citizenships, and/or place(s) of organization of any Reportable Foreign Interest Holder; no removal of any Reportable Foreign Interest Holder from an Authorization Holder's chain of ownership; and no change in a Reportable Foreign Interest Holder's ownership interests to less than 10% equity and/or voting interests or less than a controlling interest. *See Evolving Risks Order and NPRM* at *10–11, paras. 18–20 & nn.72–74, 78–80.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220919–0193; RTID 0648–XD474]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Closure of the General Category December Fishery for 2023

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the General category fishery for large medium and giant (*i.e.,* measuring 73 inches (185 cm) curved fork length or greater) Atlantic bluefin tuna (BFT) for the remainder of the December time period. This action applies to Atlantic Tunas General category (commercial) permitted vessels and highly migratory species (HMS) Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT. Fishermen aboard General category permitted vessels and HMS Charter/Headboat permitted vessels may tag and release BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs. On January 1, 2024, the fishery will reopen automatically.

DATES: Effective 11:30 p.m., local time, December 6, 2023, through December 31, 2023.

FOR FURTHER INFORMATION CONTACT: Becky Curtis, *becky.curtis@noaa.gov,* 301–427–8503; or Larry Redd, Jr., *larry.redd@noaa.gov,* 301–427–8503.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries, including BFT fisheries, are managed under the 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). HMS implementing regulations are at 50 CFR part 635. Section 635.27 divides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated HMS FMP and its amendments. NMFS is required under the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

As described in § 635.27(a), the current baseline U.S. BFT quota is 1,316.14 metric tons (mt) (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). The current baseline quota for the General category is 710.7 mt. The General category baseline quota is suballocated to different time periods. Relevant to this action, the baseline subquota for the December time period is 37 mt. To date for 2023, NMFS published two actions that adjusted the General category December 2023 time period quota, most recently to 48.7 mt (88 FR 786, January 5, 2023; 88 FR 77903, November 14, 2023).

Under § 635.28(a)(1), NMFS files a closure action with the Office of the Federal Register for publication when a BFT quota (or subquota) is reached or is projected to be reached. Retaining, possessing, or landing BFT under that quota category is prohibited on or after the effective date and time of a closure notice for that category until the opening of the relevant subsequent quota period or until such date as specified.

Closure of the December 2023 General Category Fishery

To date, reported landings for the General category December time period total 38.6 mt. Based on these landings, NMFS has determined that the adjusted December time period subquota of 48.7 mt is projected to be reached and exceeded shortly. Therefore, retaining, possessing, or landing large medium or giant (*i.e.,* measuring 73 inches (185 cm) curved fork length or greater) BFT by persons aboard vessels permitted in the Atlantic Tunas General category and HMS Charter/Headboat permitted vessels (while fishing commercially) must cease at 11:30 p.m. local time on December 6, 2023. This action applies to Atlantic Tunas General category (commercial) permitted vessels and HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT and is taken consistent with the regulations at § 635.28(a)(1). The General category will automatically reopen January 1, 2024, for the January through March 2024 time period with a retention limit of one large medium or giant BFT per vessel per day/trip.

Fishermen aboard General category permitted vessels and HMS Charter/Headboat permitted vessels may tag and release BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. All BFT that are released must be handled in a manner that will maximize their survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the ''Careful Catch and Release'' brochure available at *https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure/.*

Monitoring and Reporting

NMFS will continue to monitor the BFT fisheries closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustments, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General and HMS Charter/Headboat category vessel owners are required to report the catch of all BFT retained or discarded dead within 24 hours of the landing(s) or end of each trip, by accessing *https://www.hmspermits.noaa.gov,* using the HMS Catch Reporting app, or calling 888–872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

After the fishery reopens on January 1, depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments are necessary to ensure available subquotas are not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may access *https://www.hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act and regulations at 50 CFR part 635 and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and opportunity to provide comment on this action, as notice and comment would be impracticable and contrary to the public interest for the following reasons. Specifically, the regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Providing for prior notice and an opportunity to comment is impracticable and contrary to the public interest as this fishery is currently underway and, based on landings information, the available time period subquota is projected to be reached shortly. Delaying this action could result in BFT landings exceeding the adjusted December time period subquota. Taking this action does not raise conservation or management concerns. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota and the inseason adjustment criteria.

For all of the above reasons, the AA also finds that pursuant to 5 U.S.C. 553(d), there is good cause to waive the 30-day delay in effective date.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: December 4, 2023.

Kelly Denit,

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

[FR Doc. 2023–26933 Filed 12–5–23; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 88, No. 235
Friday, December 8, 2023

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 923

[Doc. No. AMS–SC–23–0055]

Sweet Cherries Grown in Designated Counties in Washington; Continuance Referendum

AGENCY: Agricultural Marketing Service. United States Department of Agriculture.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among eligible Washington sweet cherry growers to determine whether they favor continuance of the marketing order regulating the handling of sweet cherries grown in designated counties in Washington.

DATES: The referendum will be conducted from February 5 through February 26, 2024. Only current sweet cherry growers that also grew sweet cherries within the designated production area during the period April 1, 2022, through March 31, 2023, are eligible to vote in this referendum. Ballots returned via express mail must show proof of delivery by no later than 11:59 p.m. Eastern Time on February 26, 2024, to be counted.

ADDRESSES: Copies of the marketing order may be obtained from the office of the referendum agents at 1220 SW 3rd Avenue, Suite 305, Portland, Oregon 97212; Telephone: (503) 326–2724; or the Office of the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–8085; or on the internet *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Virginia Tjemsland, Marketing Specialist, or Barry Broadbent, Senior Marketing Specialist, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA, 1220 SW 3rd Avenue, Suite 305, Portland, Oregon 97212; Telephone: (503) 326–2724, or email: *virginia.l.tjemsland@usda.gov* or *barry.broadbent@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Order No. 923, as amended (7 CFR part 923), hereinafter referred to as the ''Order,'' and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act,'' it is hereby directed that a referendum be conducted to determine whether continuance of the Order is favored by Washington sweet cherry growers. The referendum shall be conducted from February 5 to February 26, 2024, among eligible sweet cherry growers in the production area. Only current sweet cherry growers that were also engaged in the production of sweet cherries during the period of April 1, 2022, through March 31, 2023, may participate in the continuance referendum.

USDA has determined that continuance referenda are an effective means for determining whether growers favor continuation of marketing order programs. USDA would consider termination of the Order if less than two-thirds of growers voting in the referendum, or growers of less than two-thirds of the volume of Washington sweet cherries represented in the referendum, favor continuance. In evaluating the merits of continuation versus termination, USDA will not exclusively consider the results of the continuance referendum. USDA will also consider all other relevant information concerning the operation of the Order and the relative benefits and costs to growers, handlers, and consumers to determine whether continued operation of the Order would tend to effectuate the declared policy of the Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the ballot materials used in the referendum have been approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0189, Fruit Crops. It has been estimated that it will take an average of 20 minutes for each of the approximately 1,350 Washington sweet cherry growers to cast a ballot. Participation is voluntary. Ballots postmarked after February 26, 2024, will not be included in the vote tabulation.

Virginia Tjemsland and Barry Broadbent of the West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA, are hereby designated as the referendum agents of the Secretary of Agriculture to conduct this referendum. The procedure applicable to the referendum shall be the ''Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended'' (7 CFR 900.400 *et seq.*).

Ballots will be mailed to all Washington sweet cherry growers of record and may also be obtained from the referendum agents or their appointees.

List of Subjects in 7 CFR Part 923

Cherries, Fruits, Marketing agreements, Reporting and recordkeeping requirements.

(Authority: 7 U.S.C. 601–674.)

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2023–26964 Filed 12–7–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2326; Airspace Docket No. 23–AGL–21]

RIN 2120–AA66

Amendment of VOR Federal Airways V–13, V–133, and V–300, and United States RNAV Route T–331; Establishment of Canadian RNAV Routes Q–924, T–765, T–776, and T–810; and Revocation of Jet Route J–533 and VOR Federal Airway V–348; Northcentral United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Very High Frequency Omnidirectional Range (VOR) Federal airways V–13, V–133, and V–300, and

United States (U.S.) Area Navigation (RNAV) route T–331; establish Canadian RNAV routes Q–924, T–765, T–776, and T–810 in U.S. airspace; and revoke Jet Route J–533 and VOR Federal airway V–348. The FAA is proposing this action due to the planned decommissioning of the Thunder Bay, Ontario (ON), Canada, VOR navigational aid (NAVAID). This action is in support of NAV CANADA's NAVAID Modernization Program within Canada.

DATES: Comments must be received on or before January 22, 2024.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–2326 and Airspace Docket No. 23–AGL–21 using any of the following methods:

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

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

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

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

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

FAA Order JO 7400.11H, 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: Colby Abbott, 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 would modify the National Airspace System (NAS) as necessary to preserve the safe and efficient flow of air traffic.

Comments Invited

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

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

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

Availability of Rulemaking Documents

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

Jet Routes are published in paragraph 2004, Canadian Area Navigation Routes (Q-routes) are published in paragraph 2007, VOR Federal airways are published in paragraph 6010(a), United States Area Navigation Routes (T-routes) are published in paragraph 6011, and Canadian Area Navigation Routes (T-routes) are published in paragraph 6013 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 proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates would be published in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

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

Background

NAV CANADA, which operates Canada's civil air navigation service, is implementing changes to Canada's instrument flight rules (IFR) navigation infrastructure as part of their NAVAID Modernization Program. This modernization program is designed to enhance the efficiency of Canada's flying operations by taking advantage of performance-based navigation and RNAV avionics capabilities. The changes being implemented by NAV CANADA affect Jet Route J–533 and portions of VOR Federal airways V–13, V–133, V–300, and V–348 that extend across the U.S./Canada border through U.S. airspace over Lake Superior, MI.

NAV CANADA is planning to decommission the Thunder Bay, ON, Canada, VOR in July 2024 as part of their NAVAID Modernization Program. As a result, amendments to V–13, V–133, and V–300, and revocation of J–533 and V–348 in U.S. airspace are required

due to the loss of navigational guidance provided by the Thunder Bay VOR and to match airway changes planned by NAV CANADA within Canadian airspace. Additionally, NAV CANADA plans to establish new Canadian RNAV routes, Q–924 in the high altitude enroute structure and T–765, T–776, and T–810 in the low altitude enroute structure, as route segment replacements for the affected Air Traffic Service (ATS) routes within Canadian and U.S. airspace.

To mitigate the loss of the J–533, V–13, V–133, V–300, and V–348 route segments over Lake Superior and support NAV CANADA's planned RNAV route replacements for these affected routes, the FAA must establish portions of Canadian RNAV routes Q–924, T–765, T–776, and T–810 within U.S. airspace. The new Canadian RNAV route segments in U.S. airspace would provide airway continuity with NAV CANADA's RNAV routes being established within Canadian airspace and provide cross-border airway connectivity between the U.S. and Canada. Existing NAVAIDs that provide conventional enroute structure in the affected area are limited and alternate, parallel, or adjacent Jet Routes or VOR Federal airways to use as mitigations are not available. To compensate for the loss of the conventional enroute structure, IFR pilots with RNAV-equipped aircraft could navigate using the Canadian RNAV routes proposed in this action or fly point-to-point using the Fixes and waypoints (WP) that would remain in place. Additionally, IFR pilots could request air traffic control (ATC) radar vectors to fly through or around the affected area. Visual flight rules pilots who elect to navigate airways could also take advantage of the ATC services listed previously.

Finally, proposed modifications to U.S. RNAV route T–331 would mitigate proposed modifications to V–13 due to the planned Thunder Bay VOR decommissioning. The route would be extended northward within U.S. airspace to the U.S./Canada border to address the proposed removal of the affected V–13 airway segment. The extended T–331 would provide pilots with RNAV-equipped aircraft a route alternative through the affected area to the U.S./Canada border and then cross-border connectivity with NAV CANADA's further extension of T–331 within Canadian airspace to the Thunder Bay, ON, area.

The Proposal

The FAA is proposing to amend 14 CFR part 71 to amend VOR Federal airways V–13, V–133, and V–300, and U.S. RNAV route T–331; establish Canadian RNAV routes Q–924, T–765, T–776, and T–810 in U.S. airspace; and revoke Jet Route J–533 and VOR Federal airway V–348. This action is required due to the planned decommissioning of the Thunder Bay, ON, Canada, VOR by NAV CANADA in support of their NAVAID Modernization Program. The proposed ATS route actions are described below.

J–533: J–533 currently extends between the Duluth, MN, VOR/Tactical Air Navigation (VORTAC) and the U.S./Canadian border via the Duluth to Thunder Bay, ON, direct radial. The FAA proposes to remove the route in its entirety.

Q–924: Q–924 is a new Canadian RNAV route proposed to be established within U.S. airspace extending between the Duluth, MN, VORTAC and the BEKRR, MI, WP that would replace the ''MPCEG'' Computer Navigation Fix (CNF) on the U.S./Canada border. The new RNAV route would mitigate the proposed J–533 revocation and provide route continuity and cross-border connectivity with the Q–924 route segment being established by NAV CANADA within Canadian airspace between the BEKRR WP and the Thunder Bay, ON, area.

V–13: V–13 currently extends between the Mc Allen, TX, VOR/DME and the Razorback, AR, VORTAC; between the Butler, MO, VORTAC and the Farmington, MN, VORTAC; and between the Duluth, MN, VORTAC and the Thunder Bay, ON, Canada, VOR/DME. The airspace outside the United States is excluded. The FAA proposes to remove the airway segment between the Duluth VORTAC and the Thunder Bay VOR/DME. As amended, the airway would be changed to extend between the Mc Allen VOR/DME and the Razorback VORTAC, and between the Butler VORTAC and the Farmington VORTAC.

V–133: V–133 currently extends between the intersection of the Charlotte, NC, VOR/DME 305° and Barretts Mountain, NC, VOR/DME 197° radials (LINCO Fix) and the Zanesville, OH, VOR/DME; and between the Saginaw, MI, VOR/DME and the Red Lake, ON, Canada VOR. The airspace within Canada is excluded. The FAA proposes to remove the airway segment between the Houghton, MI, VOR/DME and the International Falls, MN, VOR/DME. As amended, the airway would be changed to extend between the Charlotte VOR/DME 305° and Barretts Mountain VOR/DME 197° radials (LINCO Fix) and the Zanesville VOR/DME, between the Saginaw VOR/DME and the Houghton VOR/DME, and between the International Falls VOR/DME and the Red Lake, ON, VOR. The airspace within Canada would continue to be excluded.

V–300: V–300 currently extends between the Victoria, British Columbia (BC), Canada, VOR/DME and the Vancouver, BC, Canada, VOR/DME; between the Thunder Bay, ON, Canada, VOR/DME and the Wiarton, ON, Canada, VOR/DME; and between the Sherbrooke, Quebec (PQ), Canada, VOR and the Fredericton, New Brunswick (NB), Canada, VORTAC. The airspace within Canada is excluded. The FAA proposes to remove the airway segment between the Thunder Bay VOR/DME and the Sault Ste Marie, MI, VOR/DME. Additionally, the FAA proposes to remove the airway segment between the Victoria VOR/DME and the Vancouver VOR/DME to match the airway segment removal action NAV CANADA is taking to be effective November 30, 2023. Finally, the FAA proposes to remove the airway segment between the Sherbrooke VOR and the Fredericton VORTAC due to NAV CANADA's actions removing the segments west and east of the portion of the airway segment within U.S. airspace and the previously existing cross-border connectivity no longer being provided. As amended, the airway would be changed to extend between the Victoria VOR/DME and the Vancouver VOR/DME, and between the Sault Ste Marie VOR/DME and the Wiarton, ON, VOR/DME. The airspace within Canada would continue to be excluded.

V–348: V–348 currently extends between the Thunder Bay, ON, Canada VOR/DME and the Sudbury, ON, Canada VOR. The airspace within Canada is excluded. The FAA proposes to remove the airway segment between the Thunder Bay VOR/DME and the Sault Ste Marie, MI, VOR/DME due to the planned decommissioning of the Thunder Bay VOR/DME. Additionally, the FAA proposes to remove the airway segment between the Sault Ste Marie VOR/DME and the Sudbury VOR due to the Sudbury VOR having been decommissioned by NAV CANADA in 2021. As amended, the airway would be removed in its entirety.

T–331: T–331 currently extends between the FRAME, CA, Fix and the MECNU, MN, Fix. The FAA proposes to extend the route to the BEKRR, MN, WP replacing the ''CFGDB'' CNF on the U.S./Canada border and remove the MECNU Fix route point from the Part 71 route description. The MECNU Fix will remain charted and appear to be on the route, but it will not be listed as a route point in the Part 71 description. As

amended, the route would be changed to extend between the FRAME Fix and the BEKRR WP and provide mitigation for the proposed V–13 airway segment removal.

T–765: T–765 is a new Canadian RNAV route proposed to be established within U.S. airspace extending between the Houghton, MI, VOR/DME and the BBLUE, MI, WP replacing the ''KJDRS'' CNF on the U.S./Canada border; and between the ASIXX, MN, WP replacing the ''KJDPL'' CNF on the U.S./Canada border and the International Falls, MN, VOR/DME. The new RNAV route would mitigate the proposed V–133 airway segment removal and provide route continuity and cross-border connectivity with the T–765 route segment being established by NAV CANADA within Canadian airspace between the BBLUE WP and the ASIXX WP.

T–776: T–776 is a new Canadian RNAV route proposed to be established within U.S. airspace between the KAYCY, MI, WP replacing the ''CFZSV'' CNF on the U.S./Canada border and the KMNGO, MI, WP replacing the ''CFXKN'' CNF on the U.S./Canada border; between the NCOLY, MI, WP replacing the ''CWSKQ'' CNF on the U.S./Canada border and the RRBEE, MI, WP replacing the ''KJSCR'' CNF on the U.S./Canada border; and between the SKOWT, MI, WP replacing the ''KJSTL'' CNF on the U.S./Canada border and the Sault Ste Marie, MI, VOR/DME. The new RNAV route would mitigate the proposed V–348 revocation and provide route continuity and cross-border connectivity with the T–776 route segments being established by NAV CANADA within Canadian airspace between the Thunder Bay, ON, area and the SKOWT WP.

T–810: T–810 is a new Canadian RNAV route proposed to be established within U.S. airspace extending between the BERDD, MI, WP replacing the ''KJNGG'' CNF on the U.S./Canada border and the JEORG, MI, WP replacing the ''CFKJR'' CNF on the U.S./Canada border; and between the CATGA, MI, WP replacing the CATGA, MI, Fix on the U.S./Canada border and the Sault Ste Marie, MI, VOR/DME. The new RNAV route would mitigate the proposed V–300 airway segment removal and provide route continuity and cross-border connectivity with the T–810 route segments being established by NAV CANADA within Canadian airspace between the Thunder Bay, ON, area and the CATGA WP.

The NAVAID radials listed in the VOR Federal airway descriptions in the proposed regulatory text of this NPRM are unchanged and stated in degrees True north.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 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 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 2004 Jet Routes.

* * * * *

J–533 [Removed]

* * * * *

Paragraph 2007 Canadian Area Navigation Routes.

* * * * *

Q–924 DULUTH, MN (DLH) TO BEKRR, MN [NEW]

Duluth, MN (DLH)	VORTAC	(Lat. 46°48′07.79″ N, long. 092°12′10.33″ W)
BEKRR, MN	WP	(Lat. 48°00′25.78″ N, long. 089°55′39.40″ W)

* * * * *

Paragraph 6010(a) VOR Federal Airways.

* * * * *

V–13 [Amended]

From Mc Allen, TX; INT Mc Allen 060° radial and Corpus Christi, TX, 178° radials; Corpus Christi; INT Corpus Christi 039° and Palacios, TX, 241° radials; Palacios; Humble, TX; Lufkin, TX; Belcher, LA; Texarkana, AR; Rich Mountain, OK; Fort Smith, AR; INT Fort Smith 006° and Razorback, AR, 190° radials; to Razorback. From Butler, MO; Napoleon, MO; Lamoni, IA; Des Moines, IA; Mason City, IA; to Farmington, MN.

* * * * *

V–133 [Amended]

From INT Charlotte, NC, 305° and Barretts Mountain, NC, 197° radials; Barretts Mountain; Charleston, WV; to Zanesville, OH. From Saginaw, MI; Traverse City, MI; Escanaba, MI; Sawyer, MI; to Houghton, MI. From International Falls, MN; to Red Lake, ON, Canada. The airspace within Canada is excluded.

* * * * *

V–300 [Amended]

From Sault Ste Marie, MI; to Wiarton, ON, Canada. The airspace within Canada is excluded.

* * * * *

V–348 [Removed]

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–331 FRAME, CA TO BEKRR, MN [AMENDED]

FRAME, CA	FIX	(Lat. 36°36′46.74″ N, long. 119°40′25.53″ W)

NTELL, CA	WP	(Lat. 36°53′58.99″ N, long. 119°53′22.21″ W)
KARNN, CA	FIX	(Lat. 37°09′03.79″ N, long. 121°16′45.22″ W)
VINCO, CA	FIX	(Lat. 37°22′35.11″ N, long. 121°42′59.52″ W)
NORCL, CA	WP	(Lat. 37°31′02.66″ N, long. 121°43′10.60″ W)
MOVDD, CA	WP	(Lat. 37°39′40.88″ N, long. 121°26′53.53″ W)
EVETT, CA	WP	(Lat. 38°00′36.11″ N, long. 121°07′48.14″ W)
TIPRE, CA	WP	(Lat. 38°12′21.00″ N, long. 121°02′09.00″ W)
Squaw Valley, CA (SWR)	VOR/DME	(Lat. 39°10′49.16″ N, long. 120°16′10.60″ W)
TRUCK, CA	FIX	(Lat. 39°26′15.67″ N, long. 120°09′42.48″ W)
Mustang, NV (FMG)	VORTAC	(Lat. 39°31′52.60″ N, long. 119°39′21.87″ W)
Lovelock, NV (LLC)	VORTAC	(Lat. 40°07′30.95″ N, long. 118°34′39.34″ W)
Battle Mountain, NV (BAM)	VORTAC	(Lat. 40°34′08.69″ N, long. 116°55′20.12″ W)
TULIE, ID	WP	(Lat. 42°37′58.49″ N, long. 113°06′44.54″ W)
AMFAL, ID	WP	(Lat. 42°45′56.67″ N, long. 112°50′04.64″ W)
Pocatello, ID (PIH)	VOR/DME	(Lat. 42°52′13.38″ N, long. 112°39′08.05″ W)
VIPUC, ID	FIX	(Lat. 43°21′09.64″ N, long. 112°14′44.08″ W)
Idaho Falls, ID (IDA)	VOR/DME	(Lat. 43°31′08.42″ N, long. 112°03′50.10″ W)
SABAT, ID	FIX	(Lat. 44°00′59.71″ N, long. 111°39′55.04″ W)
Billings, MT (BIL)	VORTAC	(Lat. 45°48′30.81″ N, long. 108°37′28.73″ W)
EXADE, MT	FIX	(Lat. 47°35′56.78″ N, long. 104°32′40.61″ W)
JEKOK, ND	WP	(Lat. 47°59′31.05″ N, long. 103°27′17.51″ W)
FONIA, ND	FIX	(Lat. 48°15′35.07″ N, long. 103°10′37.54″ W)
Minot, ND (MOT)	VOR/DME	(Lat. 48°15′37.21″ N, long. 101°17′13.46″ W)
GICHI, ND	WP	(Lat. 48°06′54.20″ N, long. 098°54′45.14″ W)
Grand Forks, ND (GFK)	VOR/DME	(Lat. 47°57′17.40″ N, long. 097°11′07.33″ W)
Thief River Falls, MN (TVF)	VOR/DME	(Lat. 48°04′09.53″ N, long. 096°11′11.31″ W)
BLUOX, MN	FIX	(Lat. 47°34′33.13″ N, long. 095°01′29.11″ W)
Duluth, MN (DLH)	VORTAC	(Lat. 46°48′07.79″ N, long. 092°12′10.33″ W)
BEKRR, MN	WP	(Lat. 48°00′25.78″ N, long. 089°55′39.40″ W)

* * * * * *Paragraph 6013 Canadian Area Navigation Routes.*

* * * * *

T–765 HOUGHTON, MI (CMX) TO INTERNATIONAL FALLS, MN (INL) [NEW]

Houghton, MI (CMX)	VOR/DME	(Lat. 47°10′12.94″ N, long. 088°29′07.41″ W)
BBLUE, MI and	WP	(Lat. 48°01′10.44″ N, long. 089°13′39.22″ W)
ASIXX, MN	WP	(Lat. 48°30′56.17″ N, long. 092°37′34.98″ W)
International Falls, MN (INL)	VOR/DME	(Lat. 48°33′56.87″ N, long. 093°24′20.44″ W)

* * * * * * *

T–776 KAYCY, MI TO SAULT STE MARIE, MI [NEW]

KAYCY, MI	WP	(Lat. 48°10′13.28″ N, long. 088°51′36.53″ W)
KMNGO, MI and	WP	(Lat. 47°57′14.09″ N, long. 087°27′15.24″ W)
NCOLY, MI	WP	(Lat. 47°01′58.21″ N, long. 085°11′47.29″ W)
RRBEE, MI and	WP	(Lat. 46°45′54.88″ N, long. 084°48′45.86″ W)
SKOWT, MI	WP	(Lat. 46°29′46.17″ N, long. 084°25′57.74″ W)
Sault Ste Marie, MI (SSM)	VOR/DME	(Lat. 46°24′43.60″ N, long. 084°18′53.54″ W)

* * * * * * *

T–810 BERDD, MI TO SAULT STE MARIE (SSM) [NEW]

BERDD, MI	WP	(Lat. 48°06′41.75″ N, long. 089°00′14.29″ W)
AVALE, MI	FIX	(Lat. 46°44′02.48″ N, long. 085°07′59.96″ W)
SRADE, MI	FIX	(Lat. 46°39′29.38″ N, long. 084°56′42.98″ W)
JEORG, MI and	WP	(Lat. 46°32′50.81″ N, long. 084°39′34.39″ W)
CATGA, MI	WP	(Lat. 46°28′11.51″ N, long. 084°27′41.15″ W)
Sault Ste Marie, MI (SSM)	VOR/DME	(Lat. 46°24′43.60″ N, long. 084°18′53.54″ W)

Issued in Washington, DC, on December 1, 2023.

Karen L. Chiodini,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2023–26801 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2175; Airspace Docket No. 23–ANM–16]

RIN 2120–AA66

Establishment of Class E Airspace; Green River Municipal Airport, Green River, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace area extending upward from 700 feet or more above the surface of the earth at Green River Municipal Airport, Green River, UT. This action would support the airport's operations transition from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received on or before January 22, 2024.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–2175 and Airspace Docket No. 23–ANM–16 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the

online instructions for sending your comments electronically.

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

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

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

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

FAA Order JO 7400.11H, 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: Keith T. Adams, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2428.

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 would establish Class E airspace to support IFR operations at Green River Municipal Airport, Green River, UT.

Comments Invited

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

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

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

Availability of Rulemaking Documents

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198.

Incorporation by Reference

Class E5 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 proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates would be published in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

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

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to establish Class E airspace extending upward from 700 feet or more from the surface of the earth at Green River Municipal Airport, Green River, UT.

The airport is transitioning from VFR to IFR operations. Class E airspace should be established with a 5.5-mile radius and extensions to the south-through-north to contain arriving IFR aircraft descending below 1,500 feet above the surface and departing aircraft until it reaches 1,200 feet above the surface.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and

Procedures,'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 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 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

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

* * * * *

ANM UT E5 Green River, UT [New]

Green River Municipal Airport, UT
(Lat. 38°57′42″ N, long. 110°13′38″ W)

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the airport, from the 145° bearing clockwise to the 278° bearing within 6.8 miles southwest of the airport, and from the 278° bearing clockwise to the 337° bearing within 8.5 miles northwest of the airport.

* * * * *

Issued in Des Moines, Washington, on November 30, 2023.

B.G. Chew,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2023–26798 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 425

RIN 3084–AB60

Negative Option Rule

AGENCY: Federal Trade Commission.

ACTION: Initial notice of informal hearing; final notice of informal hearing; list of Hearing Participants; requests for submissions from Hearing Participants.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') has proposed amendments to the ''Rule Concerning the Use of Prenotification Negative Option Plans,'' to be retitled the ''Rule Concerning Subscriptions and Other Negative Option Plans'' (''Negative Option Rule'' or ''Rule''). The proposed changes are calculated to combat unfair or deceptive business practices, including recurring charges for products or services consumers do not want and cannot cancel without undue difficulty. In response to the notice of proposed rulemaking, several commenters requested an informal hearing. The informal hearing will be conducted virtually on January 16, 2024, at 10 a.m. Eastern, and the Commission's Chief Presiding Officer, the Chair, has appointed Administrative Law Judge for the Securities and Exchange Commission, the Honorable Carol Fox Foelak, to serve as the presiding officer of the informal hearing.

DATES: The informal hearing will be conducted virtually starting at 10 a.m. Eastern on January 16, 2024.

ADDRESSES: Hearing participants may submit their oral presentations in writing or file supplementary documentary submissions online or on paper by following the instructions in Part IV of the **SUPPLEMENTARY INFORMATION** section below. Write ''Negative Option Rule (16 CFR part 425) (Project No. P064202)'' on your request or documentary submission, and file it online through *https://www.regulations.gov.* If you prefer to file your request or documentary submission on paper, please send it via overnight service to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex N), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Katherine Johnson, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580 (*phone:* 202–326–2185).

SUPPLEMENTARY INFORMATION:

I. Background

Following public comment on an advance notice of proposed rulemaking (ANPR), 84 FR 52393 (Oct. 2, 2019), the FTC proposed amending the Negative Option Rule as described in a notice of proposed rulemaking (NPRM), 88 FR 24716 (Apr. 24, 2023). The Commission posted 1,163 public comments in response to the NPRM.[1]

II. The Requests for an Informal Hearing; Presentation of Oral Submissions

Section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a, and the Commission's Rules of Practice, 16 CFR 1.11(e), provide interested persons the opportunity to make an oral statement at an informal hearing upon request.[2] To make such a request, a commenter must submit, no later than the close of the comment period for the NPRM, (1) a request to make an oral submission, if desired; (2) a statement identifying the interested person's interests in the proceeding; and (3) any proposal to add disputed issues of material fact to be addressed at the hearing.[3]

The Commission received six[4] such requests in response to the NPRM from:

1. International Franchise Association (IFA)[5]
2. TechFreedom[6]
3. Performance Driven Marketing Institute (PDMI)[7]
4. NCTA—The Internet & Television Association (NCTA)[8]

[1] *See* FTC, Negative Option Rule, *https://www.regulations.gov/document/FTC-2023-0033-0001/comment.*

[2] The FTC Act provides that ''an interested person is entitled to present his position orally or by documentary submission (or both).'' 15 U.S.C. 57a(c)(2)(A).

[3] 16 CFR 1.11(e)(1)–(3).

[4] All but one—TechFreedom—identified their interest in the proceeding either as industry groups or as private companies with vested interests in the outcome of this rulemaking. *See* TechFreedom comment (June 23, 2023), *https://www.regulations.gov/comment/FTC-2023-0033-0872.*

[5] IFA identified itself as ''the world's oldest and largest organization representing franchising'' whose members include ''franchise companies, individual franchises, and companies that support franchise companies,'' explaining that ''IFA is particularly concerned on [sic] the potential adverse effects of the proposed amendments to the Rule on franchised small businesses.'' IFA comment at 1 (June 23, 2023), *https://www.regulations.gov/comment/FTC-2023-0033-0856.*

[6] Although TechFreedom failed to identify its interests in the rulemaking proceeding, according to a recent internet search, ''TechFreedom is a non-profit, non-partisan technology think tank launched in 2011, . . . [f]ocusing on issues of internet freedom and technological progress.'' *See* TechFreedom, *About, https://techfreedom.org/about/* (last visited Nov. 30, 2023).

[7] PDMI explained that its more than 130 member companies, doing business in performance and direct-to-consumer marketing, ''market their goods or services using the types and styles of marketing covered by the FTC's proposed Rule changes.'' PDMI comment at 1 (June 23, 2023), *https://www.regulations.gov/comment/FTC-2023-0033-0864.*

[8] NCTA stated that its members provide consumers with ''cable, broadband, voice, video streaming, and other services'' and ''is the principal trade association for the U.S. cable industry,'' and

Continued

5. FrontDoor [9]
6. Interactive Advertising Bureau (IAB) [10]

The Commission finds that these requests were adequate and therefore will hold an informal hearing. These commenters constitute the Commission's list of interested persons, pursuant to Commission Rule 1.12(a)(4), who will make oral presentations or additional submissions (or both) during the hearing.[11] The Commission has not determined whether there are any groups of interested persons with the same or similar interests in the proceeding, so it does not include any such list in this Notice.[12]

III. Disputed Issues of Material Fact; Final Notice

In the NPRM, the Commission did not identify any disputed issues of material fact that need to be resolved at an informal hearing. The Commission may still do so, however, after the NPRM, either on its own initiative or in response to a persuasive showing from a commenter.[13] Two interested persons, NCTA and IAB, proposed that the Commission consider several potential disputed issues of material fact.[14] Specifically, NCTA proposed the following (reprinted verbatim): [15]

- Is there substantial evidence that (1) broadband, cable, voice (including both VoIP and mobile wireless services), and video streaming service providers have failed to provide consumers with material information relating to their services and any negative option features and (2) such practices are prevalent?
- Is there substantial evidence that (1) broadband, cable, voice (including both VoIP and mobile wireless services), and video streaming service providers have imposed unwanted services on consumers through deceptive statements made during enrollment and (2) such practices are prevalent?
- Is there substantial evidence that (1) broadband, cable, voice (including both VoIP and mobile wireless services), and video streaming service providers have imposed unwanted services on consumers through deceptive communications when consumers seek to cancel one or more of their services and (2) such practices are prevalent?
- Is there substantial evidence that (1) broadband, cable, voice (including both VoIP and mobile wireless services), and video streaming service providers have misrepresented their billing practices relating to automatic renewal and (2) such practices are prevalent?
- Is there substantial evidence that (1) broadband, cable, voice (including both VoIP and mobile wireless services), and video streaming service providers have failed to obtain consent from consumers before enrolling them for automatically renewing services and (2) such practices are prevalent?
- Is there substantial evidence that (1) consumers have difficulty cancelling their broadband, cable, voice, or video streaming services and (2) such difficulty is due to practices and processes of providers that are prevalent?
- Is there substantial evidence that (1) a click-to-cancel approach for multi-faceted, complex, and often bundled broadband, cable, voice, and video streaming services benefits consumers and (2) such benefits outweigh the downsides and consumer harms?
- Is there substantial evidence that (1) consumers often forget they have purchased broadband, cable, voice, or video streaming services, warranting an annual notice to remind them they are not incurring charges for services they do not want to use and (2) such practices are prevalent?
- Is there substantial evidence that broadband, cable, voice, or video streaming service transactions have distinctive characteristics which place consumers in a disadvantaged bargaining position and leave them especially vulnerable to prevalent unfair and deceptive practices?
- Is there substantial evidence that (1) consumers are burdened by listening to ''saves'' or ''upsells'' and (2) burdensome ''saves'' or ''upsells'' are prevalent?
- Do consumers who hear a ''save'' often decide to retain or modify service?
- If the proposed Rule is adopted, will (1) the ''click to cancel'' mechanism as required by proposed section 425.6(c) impose significant costs on businesses that must change systems and user interfaces and (2) these costs on businesses result in higher costs for consumers?
- If the proposed Rule is adopted, will (1) a prohibition on ''saves'' as required by proposed section 425.6(d) impose significant costs on businesses and (2) these costs on businesses result in higher costs or less access to discounts for consumers?

IAB,[16] for its part, indicated that it ''intended to raise several disputed issues of material fact,'' first with respect to the compliance costs and the accuracy of the Commission's estimates as follows (reprinted verbatim):

- Whether the costs associated with implementing these new requirements will be significantly higher than the FTC estimates; and
- Whether the NPRM makes compliance easier for businesses, in light of the lack of preemption of state law.

And, as ''to each of the major substantive sections in the NPRM'':

- Whether the disclosure requirements proposed by the NPRM improve customer understanding of the terms of an automatic renewal across devices and contexts;
- Whether the double opt-in consent requirement improves consumer understanding, even if sellers disclose the autorenewal feature per the proposed disclosure requirements;
- Whether a cancellation flow that complies with the Commission's requirements (*i.e.,* that asks the consumer for consent to receive a save) is easier for a consumer to navigate and understand than a cancellation flow that simply provides the offer or discount;
- Whether consumers are actually confused or burdened by a reasonable number of ''saves''; and
- Whether the deceptive practices identified in the rulemaking record are limited to certain media (*e.g.,* phone or in-person).

To be appropriate for cross-examination or rebuttal, a disputed issue of material fact must raise

expressed concern the ''proposed rule will have unintended consequences that would burden, confuse, and harm consumers, and would prohibit Members from providing consumers with key information that could inform their decisions about whether to modify or cancel their services.'' NCTA comment at 1–2 (June 23, 2023), *https://www.regulations.gov/comment/FTC-2023-0033-0858*.

[9] FrontDoor stated that it and its subsidiaries ''have served millions of customers for over fifty years by offering comprehensive home repair and maintenance services through an extensive network of pre-qualified professional contractors'' and that many of the contracts it offers come with an automatic renewal option. FrontDoor comment at 1 (June 23, 2023), *https://www.regulations.gov/comment/FTC-2023-0033-0862*.

[10] IAB represents ''over 700 leading media companies, brand marketers, agencies, and technology companies'' responsible for ''selling, delivering, and optimizing digital advertising and marketing campaigns,'' and whose members ''account for 86 percent of online advertising expenditures'' in the United States. IAB comment at 1 (June 23, 2023), *https://www.regulations.gov/comment/FTC-2023-0033-1000*.

[11] *See infra* Part IV. These interested persons are referred to herein as the ''Hearing Participants.''

[12] Commission Rule 1.12(a)(5) requires the initial notice of informal hearing to include a ''list of the groups of interested persons determined by the Commission to have the same or similar interests in the proceeding.'' 16 CFR 1.12(a)(5).

[13] 88 FR 24716, 24730 (Apr. 24, 2023).

[14] FrontDoor requested that the Commission ''hold an informal hearing to engage in further factfinding on the disputed issues of material fact that have been raised in comments'' but FrontDoor failed to identify any specific disputed issues of material fact as required by Commission Rule 1.11(e)(3). FrontDoor comment at 3.

[15] NCTA comment at 35–37.

[16] IAB comment at 20–21.

''specific facts'' and not ''legislative facts'' [17] and must be not only ''material'' but also ''necessary to be resolved.'' [18] The relevant legislative history explains ''disputed issues of material fact necessary to be resolved'' should be interpreted narrowly.[19] As explained below, the Commission has reviewed the two interested persons' proposed disputed issues of material fact and has determined that they are not ''disputed,'' ''material,'' or ''specific facts'' ''necessary to be resolved.''

In this context, ''disputed'' and ''material'' are given the same meaning as in the standard for summary judgment.[20] As in summary judgment, the challenging party must do more than simply assert there is a dispute regarding the Commission's findings. If those findings are otherwise adequately supported by record evidence, they must come forward with sufficient evidence to show there is a genuine, bona fide dispute over material facts that will affect the outcome of the proceeding.[21] As discussed below, NCTA and IAB proposed disputed issues of material fact challenging the Commission's findings as to (1) the prevalence of unfair or deceptive acts or practices in negative option marketing; (2) the sufficiency of the evidence supporting the various Rule provisions and the Commission's statements on the proposed Rule's economic impact. However, these findings are supported by ample evidence in the record, and neither interested person identified any evidence challenging the FTC's conclusions.

As to prevalence, the Commission must make two findings on prevalence if it promulgates a rule under Section 18. First, it must explain its ''reason to believe that the unfair or deceptive acts or practices which are the subject of the proposed rulemaking are prevalent'' when, after an ANPR, it issues an NPRM.[22] The Commission did that.[23] The second is that, in the statement of basis and purpose to accompany any final rule, the Commission must include ''a statement as to the prevalence of the acts or practices treated by the rule.'' [24] The Commission's prevalence findings need only have ''some basis or evidence'' to show ''the practice the FTC rule seeks to regulate does indeed occur.'' [25] The Commission based its first prevalence finding on its extensive record of law enforcement cases challenging deceptive or unfair negative option practices. The robust rulemaking record also included comments from State Attorneys General, who also have vast experience in this area, as well as comments from consumer advocates and individual consumers. There is no genuine dispute as to the fact that, if the Commission decides, after the informal hearing, to promulgate a final rule, it will be able to include a statement as to the prevalence of the negative-option practices treated by the rule with far more than some basis or evidence that they do indeed occur.

As to evidentiary sufficiency, the Commission's factual findings are supported by substantial evidence if the record contains ''such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'' [26] Again, based on evidence cited in the NPRM and from FTC cases, State Attorneys General, and commenters, the Commission has more than adequate evidence from which one could find unfair or deceptive practices in negative option marketing. No interested person identified any evidence showing otherwise. For instance, both NCTA and IAB suggested there is insufficient evidence to support the Commission's initial finding that costs imposed by implementing the Rule's disclosure and other requirements are not significant. However, this statement, without more, does not rise to the level of a bona fide dispute, and no reasonable factfinder could conclude the Commission has failed to meet the applicable standard given its vast experience in this area and the extensive rulemaking record.

Further, NCTA's and IAB's proposed disputed issues of material fact challenge the Commission's findings as to quintessentially ''legislative facts''—''facts which help the tribunal determine the content of law and of

[17] Commission Rule 1.12(b)(1) (''An issue for cross-examination or the presentation of rebuttal submissions, is an issue of specific fact in contrast to legislative fact.''). This Commission Rule follows directly from the legislative history of the adoption of Section 18 of the FTC Act: ''The only disputed issues of material fact to be determined for resolution by the Commission are those issues characterized as issues of specific fact in contrast to legislative fact. It was the judgment of the conferees that more effective, workable and meaningful rules will be promulgated if persons affected by such rules have the opportunity afforded by the bill, by cross-examination and rebuttal evidence or other submissions, to challenge the factual assumptions on which the Commission is proceeding and to show in what respect such assumptions are erroneous.'' H.R. Rep. No. 93–1606, at 34 (Dec. 16, 1974) (Conf. Rep.). As further explained in *Association of National Advertisers, Inc.* v. *FTC,* 627 F.2d 1151 (D.C. Cir. 1979), the distinction between ''specific fact'' and ''legislative fact'' grew out of a recommendation from the Administrative Conference of the United States (ACUS):

Conference Recommendation 72–5 is addressed exclusively to agency rulemaking of general applicability. In such a proceeding, almost by definition, adjudicative facts are not at issue, and the agency should ordinarily be free to, and ordinarily would, proceed by the route of written comments, supplemented, perhaps, by a legislative-type hearing. Yet there may arise occasionally in such rulemaking proceedings factual issues which, though not adjudicative, nevertheless justify exploration in a trial-type format because they are sufficiently narrow in focus and sufficiently material to the outcome of the proceeding to make it reasonable and useful for the agency to resort to trial-type procedure to resolve them. These are what the Recommendation refers to as issues of specific fact. *Id*. at 1164.

[18] 16 CFR 1.13(b) (addressing issues that ''must'' be considered for cross-examination or rebuttal are only those disputed issues of fact the Commission determines ''material'' and ''necessary to be resolved''). See *also* 15 U.S.C. 57a(c)(2)(B) (providing that cross-examination and rebuttal are available only ''if the Commission determines that there are disputed issues of material fact it is necessary to resolve'').

[19] *See, e.g.,* H.R. Rep. No. 93–1107, 93d Cong., 2d Sess., *reprinted in* [1974] U.S.C.C.A.N. 7702, 7728; *Ass'n of Nat'l Advertisers, Inc.* v. *FTC,* 627 F.2d 1151, 1163 (D.C. Cir. 1979) (quoting H.R. Rep. No. 93–1606, at 33 (1974) (Conf. Report)).

[20] As explained in the legislative history:

The words 'disputed issues of material fact' are intended to describe and limit the scope of cross-examination in a rulemaking proceeding. Thus, the right of participants in the proceeding to cross-examine Commission witnesses does not include cross-examination on issues as to which there is not a bona fide dispute. In this connection, the Committee considers the rules of summary judgment applied by the courts analogous. Where the weight of the evidence is such that there can be no bona fide dispute over the facts, summary judgment is proper. Similarly, in such a situation cross-examination would not be permitted; neither is a participant entitled to cross-examination where the disputed issues do not involve material facts. This language in the bill is used to distinguish facts which might be relevant to the proceeding but not of significant enough import to rise to the level of materiality. The word material is used here with the same meaning it is given under the common law rules of evidence. Also of importance is the word 'fact.' Cross-examination is not required regarding issues in rulemaking proceedings which are not issues of fact. Examples of such issues are matters of law or policy or matters whose determination has been primarily vested by Congress in the Federal Trade Commission. Thus, unless the subject matter with regard as to which cross-examination is sought relates to disputed issues, which are material to the proposed rule and which are fact issues, there is no right to cross-examination on the part of any party to the proceeding. H.R. REP. No. 93–1107, 93d Cong., 2d Sess., *reprinted in* [1974] U.S. CODE CONG. & AD. NEWS 7702, 7728.

[21] *Id. See also Anderson* v. *Liberty Lobby, Inc.,* 477 U.S. 242, 248 (1986) (explaining the standard as ''[o]nly disputes over facts that might affect the outcome''); *Matsushita Elec. Indus. Co.* v. *Zenith Radio Corp.,* 475 U.S. 574, 586 (1986).

[22] 15 U.S.C. 57a(b)(3).

[23] 88 FR 24716, 24725 & n.60 (collecting cases). *See also* ANPR, 84 FR 52393, 52396 (noting that ''recent cases and the high volume of ongoing complaints suggests there is prevalent, unabated consumer harm in the marketplace'' and soliciting comment on prevalence).

[24] 15 U.S.C. 57a(d)(1). ''The contents and adequacy of any statement required'' in the statement of basis and purpose, such as the statement as to prevalence, ''shall not be subject to judicial review in any respect.'' *Id.* 57a(e)(5)(C).

[25] *Pa. Funeral Dirs.* v. *FTC,* 41 F.3d 81, 87 (3d Cir. 1994).

[26] *Id.,* 41 F.3d at 85 (citing cases).

policy.'' [27] Because such facts ''combine empirical observation with application of administrative expertise to reach generalized conclusions, they need not be developed through evidentiary hearings.'' [28] Thus, because these do not raise questions of ''specific fact,'' they do not warrant cross-examination and rebuttal submissions.[29]

Accordingly, the Commission finds that the issues raised by NCTA and IAB are not genuinely disputed or material within the narrow meaning set forth in the case law and legislative history and that they do not require a ''trial-type'' proceeding for their proper determination because they are not issues of ''specific fact.'' Therefore, the Commission finds that there are no ''disputed issues of material fact'' to resolve at the informal hearing [30] and no need for cross-examination or rebuttal submissions.[31]

This initial notice of informal hearing also serves as the ''final notice of informal hearing.'' [32] A final notice of informal hearing is limited in its substance to matters that arise only when the Commission designates disputed issues of material fact: who will conduct cross-examination; whether any interested persons with similar interests will be grouped together for such purposes; and who will make rebuttal submissions.[33] Because cross-examination and submission of rebuttal evidence are not anticipated to occur in this informal hearing, no separate final notice of informal hearing is necessary.

IV. List of Hearing Participants; Making an Oral Statement; Requests for Documentary Submissions

Pursuant to Commission Rule 1.12(a)(4), 16 CFR 1.12(a)(4), the following is the list of interested persons (''Hearing Participants'') who will have the opportunity to make oral presentations at the informal hearing:

1. International Franchise Association (IFA)
2. TechFreedom
3. Performance Driven Marketing Institute (PDMI)
4. NCTA—The Internet & Television Association (NCTA)
5. FrontDoor
6. Interactive Advertising Bureau (IAB)

Oral statements will be limited to 10 minutes, although they may be supplemented by documentary submissions as described below, and the presiding officer may grant an extension of time for good cause shown. Transcripts of the oral statements will be placed in the rulemaking record. Hearing Participants will be provided with instructions as to how to participate in the virtual hearing.

If you are a Hearing Participant and would like to submit your oral presentation in writing or file a supplementary documentary submission, you can do so by submitting a comment on this rulemaking docket. You must do so on or before December 22, 2023. Write ''Negative Option Rule (16 CFR part 425) (Project No. P064202)'' on your submission. If you file a documentary submission under this Section, your documentary submission—including your name and your state—will be placed on the public record of this proceeding, including on the website *https://www.regulations.gov.* To ensure the Commission considers your online documentary submission, please follow the instructions on the web-based form.

Because your documentary submission will be placed on the public record, you are solely responsible for making sure that it does not include any sensitive or confidential information. In particular, your documentary submission should not contain sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your documentary submission does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your documentary submission should not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential''—as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Documentary submissions containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with Commission Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the documentary submission must include the factual and legal basis for the request and must identify the specific portions to be withheld from the public record. *See* Commission Rule 4.9(c). Your documentary submission will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your documentary submission has been posted publicly at *https://www.regulations.gov*—as legally required by Commission Rule 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove it, unless you submit a confidentiality request that meets the requirements for such treatment under Commission Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of documentary submissions to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive documentary submissions it receives on or before December 22, 2023. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site information/privacypolicy.*

Hearing Participants who need assistance should indicate as much in their comment, and the Commission will endeavor to provide accommodations. Hearing Participants without the computer technology necessary to participate in video conferencing will be able to participate in the informal hearing by telephone; they should indicate as much in their comments.

V. Conduct of the Informal Hearing; Role of Presiding Officer

The Commission's Chief Presiding Officer, the Chair, has appointed and designates Administrative Law Judge for the Securities and Exchange Commission, the Honorable Carol Fox Foelak, to serve as the presiding officer of the informal hearing. Judge Foelak will conduct the informal hearing virtually using video conferencing starting at 10:00 a.m. Eastern on January 16, 2024. The informal hearing will be available for the public to watch live from the Commission's website, *https://www.ftc.gov,* and a recording or

---

[27] *Ass'n of Nat'l Advertisers,* 627 F.2d at 1161–62 (D.C. Cir. 1979) (internal citation omitted).

[28] *Id.* at 1162.

[29] *See generally supra* nn.18–22.

[30] If any interested person seeks to have disputed issues of material fact designated by the presiding officer, the interested person may make such request pursuant to Commission Rule 1.13(b)(1)(ii), 16 CFR 1.13(b)(1)(ii).

[31] 16 CFR 1.12(b).

[32] 16 CFR 1.12(c).

[33] *Id.*

transcript of the informal hearing will be placed in the rulemaking record.

Because there are no ''disputed issues of material fact'' to resolve at the informal hearing, the presiding officer is not anticipated to make a recommended decision.[34] The role of the presiding officer therefore will be to preside over and to ensure the orderly conduct of the informal hearing, including selecting the sequence in which oral statements will be heard, and to place the transcript and any additional written submissions received into the rulemaking record. The presiding officer may prescribe additional procedures or issue rulings in accordance with Commission Rule 1.13, 16 CFR 1.13. In execution of the presiding officer's obligations and responsibilities under the Commission Rules, the presiding officer may issue additional public notices.

VI. Communications by Outside Parties to the Commissioners or Their Advisors

Pursuant to Commission Rule 1.18(c)(1), 16 CFR 1.18(c)(1), the Commission has determined that communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner advisor shall be subject to the following treatment. Written communications and summaries or transcripts of oral communications shall be placed on the rulemaking record if the communication is received before the end of the comment period. They shall be placed on the public record if the communication is received later. Unless the outside party making an oral communication is a member of Congress, such communications are permitted only if advance notice is published in the Weekly Calendar and Notice of ''Sunshine'' Meetings.[35]

By direction of the Commission.

Joel Christie,

Acting Secretary.

[FR Doc. 2023–26946 Filed 12–7–23; 8:45 am]

BILLING CODE 6750–01–P

[34] *See* 16 CFR 1.13(d) (''The presiding officer's recommended decision will be limited to explaining the presiding officer's proposed resolution of disputed issues of material fact.'').

[35] *See* 15 U.S.C. 57a(i)(2)(A); 16 CFR 1.18(c).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 115 and 125

[Docket No. FR–6355–N–02]

RIN 2529–AB07

Removing Criminal Conviction Restrictions for Testers in FHIP- and FHAP-Funded Testing Programs; Extension of Comment Period

AGENCY: Office of Fair Housing and Equal Opportunity, HUD.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On October 31, 2023, HUD published in the **Federal Register** a notice of proposed rulemaking entitled ''Removing Criminal Conviction Restrictions for Testers in FHIP- and FHAP-Funded Testing Programs,'' proposing to eliminate the tester restrictions for Fair Housing Initiatives Program (FHIP) grantees and for Fair Housing Assistance Program (FHAP) agencies that forbid FHIP and FHAP recipients from using fair housing testers with prior felony convictions or convictions of crimes involving fraud or perjury. The proposed rule provided for a 60-day comment period, which would have ended January 2, 2024. HUD has determined that a 9-day extension of the comment period, until January 11, 2024, is appropriate. This extension will allow interested persons additional time to analyze the proposal and prepare their comments.

DATES: The comment period for the proposed rule published on October 31, 2023, at 88 FR 74381, is extended. Comments should be received on or before January 11, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments: Facsimile (FAX) comments are not acceptable.

Public Inspection of Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Demetria McCain, Principal Deputy Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 451 7th Street SW, Room 5250, Washington, DC 20410–8000, telephone number 202–402–7861 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone calls, please visit: *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

SUPPLEMENTARY INFORMATION: On October 31, 2023, at 88 FR 74381, HUD published a notice of proposed rulemaking entitled ''Removing Criminal Conviction Restrictions for Testers in FHIP- and FHAP-Funded Testing Programs,'' which proposes to eliminate restrictions for Fair Housing Initiatives Program (FHIP) grantees and

for Fair Housing Assistance Program (FHAP) agencies that forbid FHIP and FHAP recipients from using fair housing testers with prior felony convictions or convictions of crimes involving fraud or perjury. This proposed rule would make HUD's programs as inclusive as possible for people with criminal records, consistent with Secretary Marcia Fudge's April 12, 2022, Memorandum, ''Eliminating Barriers That May Unnecessarily Prevent Individuals with Criminal Histories from Participating in HUD Program.'' It would also ensure that FHIP and FHAP funded entities are able to fully investigate criminal background screening policies that are potentially discriminatory under federal civil rights laws by using testers with actual criminal backgrounds. In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov/document/HUD-2023-0091-0076*.

While the proposed rule had a 60-day comment period, HUD has received feedback from commenters requesting additional time to review and provide comments on this rule. In response, HUD is extending the deadline for comments to January 11, 2024.

Aaron Santa Anna,

Associate General Counsel for Legislation and Regulations.

[FR Doc. 2023–27025 Filed 12–7–23; 8:45 am]

BILLING CODE 4210–67–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[EPA–HQ–OW–2023–0378; FRL–10761–01–OW]

RIN 2040–AG31

Water Quality Standards To Protect Human Health in Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) proposes to establish new and revised human health water quality criteria for certain pollutants in the state of Florida. On December 1, 2022, the EPA issued an Administrator's Determination that Florida's existing human health criteria (HHC) are not protective of Florida's designated uses and that additional HHC are needed for certain priority toxic pollutants for which Florida currently lacks any HHC. Accordingly, the EPA is proposing new and revised HHC to protect the human health designated uses of Florida's waters.

DATES: Comments must be received on or before February 6, 2024. *Public Hearing:* The EPA will hold two public hearings during the public comment period. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public hearings.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OW–2023–0378, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Mail*: U.S. Environmental Protection Agency, EPA Docket Center, Standards and Health Protection Division 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. to 4:30 p.m., Monday through Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. EPA–HQ–OW–2023–0378 for this rulemaking. Comments received may be posted without change to *https://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 EPA is offering two public hearings on this proposed rulemaking. Refer to the **SUPPLEMENTARY INFORMATION** section below for additional information.

FOR FURTHER INFORMATION CONTACT: Erica Weyer, Office of Water, Standards and Health Protection Division (4305T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 566–2793; email address: *weyer.erica@epa.gov.* Additional information is also available online at *https://www.epa.gov/wqs-tech/water-quality-standards-protect-human-health-florida.*

SUPPLEMENTARY INFORMATION: This proposed rulemaking is organized as follows:

I. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OW–2023–0378, at *https://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 *https://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 *https://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.

B. Participation in Public Hearings

The EPA is offering two online public hearings so that interested parties may provide oral comments on this proposed rulemaking. For more details on the online public hearings and to register to attend the hearings, please visit *https://www.epa.gov/wqs-tech/water-quality-standards-protect-human-health-florida.* If, due to unforeseen circumstances, either of these public hearings are canceled or rescheduled, the EPA will provide an update on this website.

II. General Information

A. Does this action apply to me?

Entities that discharge pollutants to surface waters under the state of Florida's jurisdiction—such as industrial facilities and municipalities that manage stormwater or separate sanitary sewer systems—could be indirectly affected by this rulemaking because the Federal water quality standards (WQS) in this rulemaking, once finalized, will be the applicable WQS for surface waters in Florida for CWA purposes. Categories and entities that could potentially be affected by this rulemaking include the following:

Category	Examples of potentially affected entities
Industry	Industrial point sources discharging pollutants to waters in Florida.
Municipalities, including those with stormwater or separate sanitary sewer system outfalls.	Publicly owned treatment works or similar facilities responsible for managing stormwater or separate sanitary sewer systems that discharge pollutants to waters in Florida.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that could be indirectly affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

III. Background

A. Statutory and Regulatory Background

CWA section 101(a)(2) establishes a national goal of ''water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water,'' wherever attainable. See also 40 CFR 131.2. The EPA interprets ''fishable'' to mean that, at a minimum, the designated uses promote the protection of fish and shellfish communities and that, when caught, these can be safely consumed by humans.[1]

Under the CWA, states have the primary responsibility for reviewing, establishing, and revising WQS applicable to their waters (CWA section 303(c)). WQS define the desired condition of a water body, in part, by designating the use or uses to be made of the water (40 CFR 131.2 and 131.10) and by setting the numeric or narrative water quality criteria to protect those uses (40 CFR 131.2 and 131.11). There are two primary categories of water quality criteria: human health criteria (HHC) and aquatic life criteria. HHC protect designated uses such as public water supply, recreation, and fish and shellfish consumption. Aquatic life criteria protect designated uses such as survival, growth, and reproduction of fish, invertebrates, and other aquatic species. Water quality criteria ''must be based on sound scientific rationale and must contain sufficient parameters or constituents to protect the designated use. For waters with multiple use designations, the criteria shall support the most sensitive use'' (40 CFR 131.11(a)(1)).

Section 304(a) of the CWA directs the EPA to periodically develop and publish recommended water quality criteria ''accurately reflecting the latest scientific knowledge'' on the effects of pollutants on human health and welfare, including effects on aquatic life, as well as information on those pollutants, including their concentration and dispersal and how pollutants affect receiving waters (CWA section 304(a)(1)). Those recommendations are available to states for use in developing their own water quality criteria (CWA section 304(a)(3)). In 2015, the EPA updated its CWA section 304(a) national recommended criteria for human health for 94 pollutants.[2] When states establish criteria, the EPA's regulation at 40 CFR 131.11(b)(1) specifies that they should establish numeric criteria based on: (1) the EPA's CWA section 304(a) recommended criteria, (2) modified 304(a) recommended criteria that reflect site-specific conditions or (3) other scientifically defensible methods.

CWA section 303(c)(2)(B), added to the CWA in the 1987 amendments to the Act,[3] requires states to adopt numeric criteria, where available, for all toxic pollutants listed pursuant to CWA section 307(a)(1) (*i.e.,* priority toxic pollutants[4]) for which the EPA has published CWA section 304(a) recommended criteria, the discharge or presence of which could reasonably be expected to interfere with the states' designated uses. As articulated in the EPA's December 12, 1988, *Guidance for State Implementation of Water Quality Standards for CWA Section 303(c)(2)(B)* ('1988 Guidance'), the EPA identified three options that states could use to meet the requirements of CWA section 303(c)(2)(B).[5] Option 1 is to adopt statewide numeric water quality criteria for all priority toxic pollutants for which the EPA has issued CWA section 304(a) recommendations, regardless of whether those pollutants are known to be present in a state's waters.[6] Option 2 is to adopt chemical-specific numeric water quality criteria for those priority toxic pollutants for which the EPA has issued CWA section 304(a) recommendations, and ''where the State determines based on available information that the pollutants are present or discharged and can reasonably be expected to interfere with

[1] USEPA. (2000, October 24). *Memorandum from Geoffrey Grubbs and Robert Wayland, #WQSP–00–03. https://www.epa.gov/sites/default/files/2015-01/documents/standards-shellfish.pdf.*

[2] USEPA. *Final Updated Ambient Water Quality Criteria for the Protection of Human Health,* 80 FR 36986 (June 29, 2015); *see also* USEPA. (2015). *Final 2015 Updated National Recommended Human Health Criteria. https://www.epa.gov/wqc/national-recommended-water-quality-criteria-human-health-criteria-table.*

[3] Water Quality Act Amendments of 1987, Public Law 100–4, 101 Stat. 7.

[4] See 40 CFR part 423, Appendix A—126 Priority Pollutants.

[5] USEPA. (December 1988). *Transmittal of Final ''Guidance for State Implementation for Water Quality Standards under CWA Section 303(c)(2)(B),'' https://www.epa.gov/sites/production/files/2014-10/documents/cwa303c-hanmer-memo.pdf; see also* USEPA. (1992, December 22). *Establishment of Numeric Criteria for Priority Toxic Pollutants,* 57 FR 60848, 60853.

[6] *Id.*

designated uses.'' [7] Option 3 is to adopt a procedure to be applied to a narrative water quality standard to be used in calculating derived numeric criteria.[8] In the 1992 National Toxics Rule, the EPA promulgated water quality criteria for priority toxic pollutants for 14 states based on the Administrator's Determination that new or revised criteria were needed to bring those states into compliance with the requirements of CWA section 303(c)(2)(B).[9]

States are required to hold a public hearing to review applicable WQS at least once every three years and, if appropriate, revise or adopt new standards (CWA section 303(c)(1); 40 CFR 131.20(a)). This includes adopting criteria for additional priority toxic pollutants and revising existing priority toxic pollutant criteria as appropriate based on new information.[10] Any new or revised WQS must be submitted to the EPA for review and approval or disapproval (CWA section 303(c)(2)(A) and (c)(3)). CWA section 303(c)(4)(B) independently authorizes the Administrator to determine that a new or revised standard is necessary to meet CWA requirements.

Finally, in exercising its CWA section 303(c) authority, the EPA has an obligation to ensure that its actions are consistent with treaties, statutes, and executive orders reflecting Tribal reserved rights. Tribal reserved rights to aquatic resources could be impaired by water quality levels that limit right holders' ability to utilize their rights.

B. General Recommended Approach for Deriving Human Health Criteria

The EPA's 2000 *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health* [11] (2000 Methodology) describes the methods the EPA uses when developing national CWA section 304(a) recommended HHC and when promulgating Federal HHC. The 2000 Methodology also serves as guidance to states and authorized Tribes for developing their own HHC. The EPA's 2000 Methodology informs, but does not dictate, the EPA's implementation of the applicable statutory and regulatory requirements noted above. The EPA's 2000 Methodology recommends that HHC be designed to reduce the risk of adverse cancer and non-cancer health effects occurring from lifetime exposure to pollutants through the ingestion of drinking water and consumption of fish/shellfish obtained from inland and nearshore waters. Consistent with the 2000 Methodology, the EPA's practice is to establish a criterion for both drinking water ingestion and consumption of fish/shellfish from inland and nearshore waters combined and a separate criterion based on ingestion of fish/shellfish from inland and nearshore waters alone. This latter criterion applies in cases where the designated uses of a waterbody include supporting fish/shellfish for human consumption but not drinking water supply sources (*e.g.,* non-potable estuarine waters).

Consistent with the EPA's 2000 Methodology, the EPA establishes HHC based on two types of toxicological endpoint categories: (1) carcinogenicity; and (2) noncancer toxicity (*i.e.,* all adverse effects other than cancer). Where sufficient data are available, the EPA derives criteria using both carcinogenic and non-carcinogenic toxicity endpoints and selects the lower (*i.e.,* more health-protective) value for the HHC. The EPA calculates HHC for carcinogenic effects using the following input parameters: cancer slope factor (CSF), cancer risk level (CRL), body weight, drinking water intake rate, fish consumption rate (FCR), and a bioaccumulation factor(s). The EPA calculates HHC for both non-cancer and nonlinear carcinogenic effects using a reference dose (RfD) and relative source contribution (RSC) in place of a CSF and CRL (the remaining inputs are the same for both toxicology endpoints). The RSC is applied to apportion the RfD among the media and exposure routes of concern for a particular chemical to ensure that an individual's total or aggregate exposure from all exposure sources does not exceed the RfD.[12] Each of these inputs is discussed in more detail in Sections III.B.1 through III.B.4 of this preamble and in the EPA's 2000 Methodology.[13]

1. Cancer Risk Level

Consistent with the 2000 Methodology, the EPA generally assumes, in the absence of data to indicate otherwise, that carcinogens exhibit linear ''non-threshold'' dose-responses which means that there are no ''safe'' or ''no-effect'' levels. Therefore, the EPA calculates HHC for carcinogenic effects as pollutant concentrations corresponding to lifetime increases in the risk of developing cancer. The EPA calculates national recommended HHC using a CRL of 10^{-6} (one in one million) and recommends that states and authorized Tribes use CRLs of 10^{-6} or 10^{-5} (one in one hundred thousand) when deriving HHC for the general population.[14] The EPA notes that states and authorized Tribes can also choose a more health protective risk level, such as 10^{-7} (one in ten million), when deriving HHC.

2. Cancer Slope Factor and Reference Dose

For carcinogenic effects, the EPA uses an oral CSF to derive the HHC. The oral CSF is an upper bound, approximating a 95 percent confidence limit, on the increased cancer risk from a lifetime oral exposure to a pollutant. For non-carcinogenic effects, the EPA uses a chronic-duration oral RfD to calculate the HHC. A RfD is an estimate of a daily oral exposure of an individual to a substance that is likely to be without an appreciable risk of deleterious effects during a lifetime. A RfD is often derived from a laboratory animal toxicity multi-dose study from which a no-observed-adverse-effect level (NOAEL), lowest-observed-adverse-effect level (LOAEL), or benchmark dose level can be identified. Human epidemiology studies can also be used to derive a RfD. Uncertainty factors are applied to account for gaps or deficiencies in the available data (*e.g.,* differences in response among humans) for a chemical. For the majority of the EPA's 2015 recommended 304(a) HHC, the EPA's Integrated Risk Information

[7] *Id.*

[8] *Id.*

[9] *Id.* at 60857.

[10] *Id.* at 60873 (Explaining that ''EPA expects to request States to continue to focus on adopting criteria for additional toxic pollutants and revising existing criteria in future triennial reviews which new information indicates is appropriate.'').

[11] USEPA. (October 2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health.* EPA–822–B–00–004. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf.*

[12] While the FCR input is based on fish and shellfish from inland and nearshore waters, the RSC component accounts for other exposures where relevant, including from consumption of other species (*e.g.,* reptiles, birds, marine fish). Alternatively, consumption of these other species could be included in the FCR input if data are available to determine the consumption rates and the associated bioaccumulation factor(s) for these other species. If the FCR includes additional species beyond fish and shellfish from inland and nearshore waters, EPA recommends that states adjust the RSC component accordingly.

[13] USEPA. (2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health.* EPA–822–B–00–004. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf.*

[14] The EPA's 2000 Methodology also states: ''Criteria based on a 10^{-5} risk level are acceptable for the general population as long as states and authorized tribes ensure that the risk to more highly exposed subgroups (sport fishers or subsistence fishers) does not exceed the 10^{-4} level.''

System (IRIS) [15] was the source of both cancer and noncancer toxicity values (*i.e.,* RfD and CSF).[16] For some pollutants, the EPA selected risk assessments produced by other EPA program offices (*e.g.,* Office of Pesticide Programs), other national and international programs, and state programs.

3. Exposure Assumptions

The EPA's general population default exposure assumptions provide an overall level of protection targeted at the high end of the general population, as stated in the 2000 Methodology. The EPA selects a combination of high-end and central tendency inputs to the criteria derivation equation. Consistent with the 2015 recommended 304(a) HHC, for the general population the EPA uses a default drinking water intake rate of 2.4 liters per day (L/day) and default rate of 22 grams per day (g/day) for consumption of fish and shellfish from inland and nearshore waters, multiplied by pollutant-specific bioaccumulation factors (BAFs) to account for the amount of the pollutant in the edible portions of the ingested species.

The EPA's national default drinking water intake rate of 2.4 L/day represents the per capita estimate of combined direct and indirect community water ingestion at the 90th percentile for adults ages 21 and older.[17] The EPA's national FCR of 22 g/day represents the 90th percentile consumption rate of fish and shellfish from inland and nearshore waters for the U.S. adult population 21 years of age and older, based on National Health and Nutrient Examination Survey (NHANES) data from 2003 to 2010.[18] The EPA's national default FCR is based on the total rate of consumption of fish and shellfish from inland and nearshore waters (including fish and shellfish from local, commercial, aquaculture, interstate, and international sources). This is consistent with a health protective principle that each state does its share to protect people who consume fish and shellfish that originate from multiple jurisdictions.[19] The EPA calculates national recommended HHC using a default body weight of 80 kilograms (kg), the average weight of a U.S. adult age 21 and older, based on NHANES data from 1999 to 2006.

For subsistence fishers, EPA recommends a default FCR of 142 g/day in the absence of local data.[20] This rate is the estimated 99th percentile FCR from the 1994–96 Continuing Survey of Food Intake by Individuals (CSFII) conducted by the U.S. Department of Agriculture.[21] The EPA's 2000 Methodology noted that at the time, 142 g/day was ''representative of average rates for highly exposed groups such as subsistence fishermen, specific ethnic groups, or other highly exposed people.'' [22]

Prior to publication of the 2000 Methodology, in which the EPA began recommending the use of BAFs to reflect the uptake of a contaminant from all sources by fish and shellfish,[23] the EPA relied on bioconcentration factors (BCFs) to estimate chemical accumulation of waterborne chemicals by aquatic organisms. However, BCFs only account for chemical accumulation in aquatic organisms through exposure to chemicals in the water column. In 2000, the EPA noted that ''there has been a growing body of scientific knowledge that clearly supports the observation that bioaccumulation and biomagnification occur and are important exposure issues to consider for many highly hydrophobic organic compounds and certain organometallics.'' [24] For that reason, the EPA observed that ''[f]or highly persistent and bioaccumulative chemicals that are not easily metabolized, BCFs do not reflect what the science indicates.'' [25] Therefore, consistent with the 2000 Methodology, when data are available, the EPA uses measured or estimated BAFs. BAFs account for chemical accumulation in aquatic organisms from all potential exposure routes, including, but not limited to, food, sediment, and water.[26] The EPA uses separate BAFs for each trophic level to account for potential biomagnification of chemicals in aquatic food webs, as well as physiological differences among organisms that may affect bioaccumulation.[27]

The EPA derives national default BAFs, in part, as a resource for states and authorized Tribes with limited resources for deriving site-specific BAFs.[28] The EPA's approach for developing national BAFs represents the long-term average bioaccumulation potential of a pollutant in aquatic organisms that are commonly consumed by humans across the United States. In the 2015 recommended 304(a) HHC update, the EPA relied on field-measured BAFs and laboratory-measured BCFs available from peer-reviewed, publicly available databases to develop national BAFs for three trophic levels of fish.[29] If this information was not available, the EPA selected octanol-water partition coefficients (K_{ow} values; *i.e.,* the ratio of a pollutant's solubility in fat vs. water)

[15] USEPA. *Integrated Risk Information System (IRIS). https://www.epa.gov/iris.*

[16] USEPA. *Final Updated Ambient Water Quality Criteria for the Protection of Human Health,* 80 FR 36986 (June 29, 2015); *see also* USEPA. (2015). *Final 2015 Updated National Recommended Human Health Criteria. https://www.epa.gov/wqc/human-health-water-quality-criteria.*

[17] USEPA. (2011). *EPA Exposure Factors Handbook. 2011 edition.* EPA 600/R–090/052F. *https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=236252.*

[18] USEPA. (2014). *Estimated Fish Consumption Rates for the U.S. Population and Selected Subpopulations* (NHANES 2003–2010). EPA 820–R–14–002. *https://www.epa.gov/sites/default/files/2015-01/documents/fish-consumption-rates-2014.pdf.*

[19] USEPA. (2013). *Human Health Ambient Water Quality Criteria and Fish Consumption Rates: Frequently Asked Questions. https://www.epa.gov/sites/default/files/2015-12/documents/hh-fish-consumption-faqs.pdf.*

[20] USEPA. (2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health.* EPA–822–B–00–004. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf* at 1–13.

[21] Jacobs, H.L., Kahn, H.D., Stralka, K.A., and Phan, D.B. (1998). *Estimates of per capita fish consumption in the U.S. based on the continuing survey of food intake by individuals (CSFII).* Risk Analysis: An International Journal 18(3).

[22] USEPA. (2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health.* EPA–822–B–00–004. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf* at 4–27.

[23] USEPA. (2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health.* EPA–822–B–00–004. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf* at 5–4. (Explaining that ''[t]he 1980 Methodology for deriving 304(a) criteria for the protection of human health emphasized the assessment of bioconcentration (uptake from water only) through the use of the BCF . . . The 2000 Human Health Methodology revisions contained in this chapter emphasize the measurement of bioaccumulation (uptake from water, sediment, and diet) through the use of the BAF.'').

[24] USEPA. *Revisions to the Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health (2002),* 65 FR 66444, 66475 (November 3, 2000).

[25] *Id.*

[26] USEPA. (2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health.* EPA–822–B–00–004. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf.*

[27] USEPA. (2003). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health (2000). Technical Support Document Volume 2: Development of National Bioaccumulation Factors.* EPA–822–B–03–030. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000-volume2.pdf.*

[28] USEPA. *Revisions to the Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health (2002),* 65 FR 66444 (November 3, 2000).

[29] USEPA. *Final Updated Ambient Water Quality Criteria for the Protection of Human Health,* 80 FR 36986 (June 29, 2015). *See also* USEPA. (2015). Final 2015 Updated National Recommended Human Health Criteria. *https://www.epa.gov/wqc/human-health-water-quality-criteria.*

from publicly available, published peer-reviewed sources for use in calculating national BAFs. As an additional line of evidence, the EPA reported model-estimated BAFs for every chemical to support the field-measured or predicted BAFs.[30]

Finally, although the EPA uses national default exposure-related input values to calculate national CWA section 304(a) recommended criteria, the EPA's methodology encourages states to use local data, when available, to calculate HHC (*e.g.,* locally derived FCRs, drinking water intake rates and body weights, and waterbody-specific bioaccumulation rates) over national default values. Using local data helps ensure that HHC represent local conditions.[31] Where sufficient data are available, selecting a FCR that reflects consumption that is unsuppressed by factors such as concerns about the safety of available fish furthers the restoration goals of the CWA and ensures protection of human health as pollutant levels decrease and fish habitats and populations are restored.[32]

4. Relative Source Contribution

The inclusion of an RSC[33] is important for protecting public health from exposure to certain chemicals from multiple sources and routes. When deriving HHC for non-carcinogens and nonlinear carcinogens, the EPA recommends including an RSC to account for sources of exposure other than drinking water and consumption of fish and shellfish from inland and nearshore waters. These other sources of exposure include ocean fish consumption (which is not included in the EPA's default national FCR), non-fish food consumption (*e.g.,* fruits, vegetables, grains, meats, poultry), dermal exposure, and inhalation exposure. Using an RSC ensures that the level of a chemical allowed by a water quality criterion, when combined with other exposure sources, will not result in exposures that exceed the RfD (toxic threshold level) and helps prevent adverse health effects from exposure to a given chemical over a person's lifetime. The EPA's 2000 Methodology[34] includes an approach for determining an appropriate RSC for a given pollutant ranging in value from 0.2 to 0.8 to ensure that drinking water and fish consumption alone are not apportioned the entirety of the RfD. This approach, known as the Exposure Decision Tree, considers the adequacy of available exposure data, levels of exposure, relevant sources/media of exposure, and regulatory agendas. As noted in the EPA's January 2023, *EPA Legal Tools to Advance Environmental Justice: Cumulative Impacts Addendum,*[35] the RSC is one way that the EPA considers aggregate chemical exposure to potentially affected communities, including communities with environmental justice concerns.

C. History of Florida's Human Health Criteria

1. Florida's Existing Human Health Criteria for Priority Toxic Pollutants

Florida elected to comply with CWA section 303(c)(2)(B) by following Option 2 in the EPA's 1988 Guidance.[36] In accordance with Option 2, in 1992 Florida adopted HHC for 43 priority toxic pollutants that it determined were present or discharged, and could reasonably be expected to interfere with designated uses, utilizing EPA-recommended procedures and science available at that time.[37] Additionally, the EPA promulgated HHC for Florida for the priority toxic pollutant dioxin in its 1992 National Toxics Rule (40 CFR 131.36).

Florida's existing HHC apply to four classifications of waterbodies in the state with potable water supply and fish consumption uses (Chapter 62–302, Florida Administrative Code):

—Class I—Potable Water Supplies;
—Class II—Shellfish Propagation or Harvesting;
—Class III—Fish Consumption; Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife; or
—Class III—Limited—Fish Consumption; Recreation or Limited Recreation; and/or Propagation and Limited Maintenance of a Limited Population of Fish and Wildlife.

In 1992, EPA recommended a national default FCR of 6.5 g/day, based on the average per-capita consumption rate of fish from inland and nearshore waters for the U.S. population, for states to consider inputting into their calculation of HHC. Florida used this national default 6.5 g/day FCR, which was not based on any Florida-specific data, to derive its HHC in 1992 and did not subsequently revise those HHC. As noted above in Section III.B.3. of this preamble, the EPA's national default FCR for the general U.S. adult population 21 years of age and older is now 22 g/day.

2. Florida's Actions To Reexamine Its Existing Human Health Criteria

In accordance with CWA section 303(c)(1) and 40 CFR 131.20, Florida is required to review all of its applicable WQS, including its existing HHC, at least once every three years and, if appropriate, revise those WQS or adopt new WQS. This includes evaluating whether its existing HHC should be updated to account for more recent data on FCRs, and whether additional priority toxic pollutants are now present in or discharged to Florida's waters such that new HHC for those pollutants are warranted.[38]

---

[30] *Id.*

[31] USEPA. (2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health.* EPA–822–B–00–004. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf.*

[32] As noted by the National Environmental Justice Advisory Council in the 2002 publication *Fish Consumption and Environmental Justice,* ''a suppression effect may arise when fish upon which humans rely are no longer available in historical quantities (and kinds), such that humans are unable to catch and consume as much fish as they had or would. Such depleted fisheries may result from a variety of affronts, including an aquatic environment that is contaminated, altered (due, among other things, to the presence of dams), overdrawn, and/or overfished. Were the fish not depleted, these people would consume fish at more robust baseline levels.''). National Environmental Justice Advisory Council. (2002). *Fish Consumption and Environmental Justice* at 44, 46. *https://www.epa.gov/sites/default/files/2015-02/documents/fish-consump-report_1102.pdf* (''NEJAC Fish Consumption Report'').

[33] ''The RSC is the percentage of total exposure to a pollutant attributed to drinking water and eating fish and shellfish.'' USEPA. May 2023 Virtual WQS Academy: Human Health Ambient Water Quality Criteria. *https://www.epa.gov/system/files/documents/2023-06/06_HumanHealthCriteri_Pres_VirtualWQSA_May2023_508c.pdf.*

[34] USEPA. (2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health.* EPA–822–B–00–004. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf.*

[35] USEPA. (2023). *EPA Legal Tools to Advance Environmental Justice: Cumulative Impacts Addendum.* Publication No.: 360R22002. *https://www.epa.gov/system/files/documents/2022-12/bh508-Cumulative%20Impacts%20Addendum%20Final%202022-11-28.pdf.*

[36] USEPA. (December 1988). *Transmittal of Final ''Guidance for State Implementation for Water Quality Standards under CWA Section 303(c)(2)(B).'' https://www.epa.gov/sites/production/files/2014-10/documents/cwa303c-hanmer-memo.pdf.*

[37] USEPA. (1991). *Amendments to the Water Quality Standards Regulation to Establish the Numeric Criteria for Priority Toxic Pollutants Necessary to Bring All States Into Compliance With Section 303(c)(2)(B),* 56 FR 58420, November 19, 1991. *https://www.epa.gov/sites/production/files/2015-06/documents/ntr-proposal-1991.pdf; see also* USEPA. *Establishment of Numeric Criteria for Priority Toxic Pollutants,* 57 FR 60848, 60853 (December 22, 1992).

[38] *See* 40 CFR 131.20 (''State review and revision of water quality standards''); 40 CFR 131.11(a)(2) (''States must review water quality data and information on discharges to identify specific water bodies where toxic pollutants may be adversely affecting water quality or the attainment of the designated water use or where the levels of toxic

In 2016, Florida conducted a review of its criteria using updated science including updated FCRs based on state- and region-specific data.[39] In particular, Florida found in 2016 that ''more recent fish consumption survey information indicates that consumption patterns have changed over time, necessitating a re-evaluation of the criteria.'' [40] As an example, Florida cited a 1994 FCR study of Florida residents that ''suggested that Floridians eat significantly more fish than [EPA's 1992 national default FCR of 6.5 g/day].'' [41] In addition, in response to public comments, in 2016 Florida evaluated the majority of the priority toxic pollutants for which the EPA has national recommendations, and documented the uses of each chemical, data on concentrations of each of the pollutants in Florida's waters and fish, and information on environmental releases of those pollutants in Florida and neighboring states.[42] As a result of this review, Florida determined that new HHC for 36 priority toxic pollutants were warranted.[43]

Florida's 2016 revised and new HHC were never finalized or submitted to the EPA. Then in 2018, Florida initiated a rulemaking to consider proposed revisions to its HHC, stating its intent to conduct a state-wide fish consumption survey ''to accurately determine the amount and types of fish commonly eaten by Floridians in advance of criteria development and adoption.'' [44] However, the survey plans were disrupted and ultimately terminated.[45]

3. December 1, 2022, Administrator's Determination That Florida's Existing Health Criteria for Priority Toxic Pollutants Are Not Protective of Its Designated Uses

Based on the information above, on December 1, 2022, the EPA issued an Administrator's Determination that new and revised HHC for Florida were necessary pursuant to CWA section 303(c)(4)(B).[46] As the EPA stated in that determination, one of the primary deficiencies with Florida's existing HHC is their reliance on the EPA's national default FCR from 1992. As Florida has acknowledged, its existing HHC are based on an FCR that is far lower than national, regional or state-specific studies suggest Floridians consume.[47] This finding is consistent with the EPA's 2014 analysis of NHANES data from 2003 to 2010, which indicates that the 90th percentile consumption rate of fish and shellfish from Florida's inland and nearshore waters ranges from approximately 22 g/day to 30 g/day.[48] In 2016, Florida used these same data from the EPA's 2014 report [49] as the basis for the FCRs to derive the HHC that the state ultimately did not finalize.[50]

Regarding new HHC, the EPA determined that Florida needs new HHC for 37 additional priority toxic pollutants. Available information included in the state's rulemaking record and other state actions related to priority toxic pollutants [51] indicates that more of these pollutants are likely present in state waters than originally understood in 1992. As the EPA has explained, ''the criteria development and the standards programs are iterative,'' and states are expected to adopt ''criteria for additional toxic pollutants . . . which new information indicates is appropriate.'' [52] These additional HHC are necessary in order to ensure that the state's designated uses are protected.

IV. Derivation of Human Health Criteria for Florida

A. Scope of EPA's Proposal

In the process of developing this proposed rulemaking, the EPA concluded that there are instances where Florida's existing HHC for certain pollutants listed in EPA's December 1, 2022, Administrator's Determination are as stringent as or more stringent than the HHC the EPA found would be protective of the state's designated uses and based on sound scientific rationale, using the approaches and inputs outlined below. CWA section 510 (33 U.S.C. 1370) preserves the authority of states to adopt more stringent standards than otherwise required by the CWA, and, pursuant to 40 CFR 131.21(c), EPA-approved WQS remain in effect ''unless or until EPA has promulgated a *more stringent* water quality standard.'' (Emphasis added). Therefore, the EPA is not proposing Federal HHC where Florida's existing HHC are as stringent as or more stringent than the HHC that the EPA calculated using the approaches and inputs below, consistent with CWA requirements and the EPA's implementing regulations, specifically 40 CFR 131.11.

As noted in Section III.C.1 of this preamble, the EPA promulgated HHC for Florida for the priority toxic pollutant dioxin in its 1992 National Toxics Rule (40 CFR 131.36). For clarity in organization, the EPA is proposing to withdraw Florida from 40 CFR 131.36 and to incorporate Florida's CWA-effective dioxin criteria from the National Toxics Rule into this rulemaking so there would be a single comprehensive set of federally promulgated HHC for Florida. The EPA is not proposing to revise Florida's CWA-effective dioxin criteria from the National Toxics Rule; this proposal to move Florida's existing dioxin criteria into this rulemaking is purely administrative. The EPA did not determine in the agency's December 1,

pollutants are at a level to warrant concern and must adopt criteria for such toxic pollutants applicable to the water body sufficient to protect the designated use.'')

[39] Florida Department of Environmental Protection. (2016). *Technical Support Document: Derivation of Human Health-Based Criteria and Risk Impact Statement. https://floridadep.gov/sites/default/files/HH_TSD.pdf.* Note that Florida's 2016 Technical Support Document refers to 43 revised HHC and 39 new HHC; however, a small subset of the HHC in each of those groups were for non-priority toxic pollutants.

[40] *Id.*

[41] *Id.*

[42] *Id.* at 5–7.

[43] *Id.*

[44] Florida Department of Environmental Protection. (February 9, 2018). *Notice of Development of Rulemaking: 62–302.530—Surface Water Quality Criteria. https://www.flrules.org/Gateway/View_notice.asp?id=20029450* (last accessed September 9, 2022).

[45] Florida Department of Environmental Protection. *Fish Consumption Survey Project. https://floridadep.gov/dear/water-quality-standards/content/fish-consumption-survey-project* (last accessed September 15, 2022).

[46] Letter from Radhika Fox, Assistant Administrator of the EPA Office of Water, to Shawn Hamilton, Secretary of the Florida Department of Environmental Protection, Re: EPA's Administrator's Determination that new and revised water quality standards in Florida are necessary to satisfy the requirements of the CWA (December 1, 2022) (Administrator's Determination or Determination).

[47] Florida Department of Environmental Protection. (2016). *Technical Support Document: Derivation of Human Health-Based Criteria and Risk Impact Statement. https://floridadep.gov/sites/default/files/HH_TSD.pdf* at 2 (''At the time the criteria were first adopted, the U.S. EPA assumed fish consumption and surface water drinking rates of 6.5 g/day and 2.0 L/day, respectively. The HHC currently listed in Rule 62–302.530, F.A.C., were developed based on these point values. However, more recent fish consumption survey information indicates that consumption patterns have changed over time, necessitating a re-evaluation of the criteria.'').

[48] USEPA. (2014). *Estimated Fish Consumption Rates for the U.S. Population and Selected Subpopulations* (NHANES 2003–2010), EPA 820–R–14–002. *https://www.epa.gov/sites/default/files/2015-01/documents/fish-consumption-rates-2014.pdf.*

[49] *Id.*

[50] Florida Department of Environmental Protection. (2016). *Technical Support Document: Derivation of Human Health-Based Criteria and Risk Impact Statement. https://floridadep.gov/sites/default/files/HH_TSD.pdf.*

[51] *See* Florida Department of Environmental Protection (October 24, 2013). *Final Report: Mercury TMDL for the State of Florida. https://floridadep.gov/sites/default/files/Mercury-TMDL.pdf.*

[52] 57 FR 60848 at 60873, December 22, 1992.

2022, Administrator's Determination that revised dioxin HHC were needed in Florida and any substantive comments on HHC for dioxin in Florida would be outside the scope of this rulemaking.

The final criteria resulting from this proposed rulemaking would supersede the state's corresponding HHC for these pollutants. The HHC in this proposed rulemaking, including the new Federal HHC for pollutants where Florida lacks any corresponding HHC, would apply to surface waters in the state of Florida, excluding waters within Indian country.[53]

B. Tribal Reserved Rights Applicable to Florida's Waters

In accordance with EPA's 2016 *Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights,*[54] the EPA initiated consultation with Tribes that may be affected by this proposed rulemaking to seek information and recommendations about any Tribal reserved rights applicable to Florida's waters. Based on information shared with and reviewed by the EPA, and as set forth in the docket for this proposed rule, the agency understands that the two federally recognized Tribes in Florida—the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida—hold federally reserved rights to hunt, fish, and trap on a subsistence basis and for use in traditional Tribal ceremonials in Big Cypress National Preserve and Everglades National Park.[55] The Miccosukee Tribe also has the right to hunt and fish for subsistence purposes and to take frogs for food and for commercial purposes in the lands it leases from the state of Florida within Water Conservation Area 3A (WCA–3A).[56] The Seminole Tribe has the right to hunt, trap, fish and frog in the portions of WCA–3A that it transferred to the state of Florida pursuant to a 1987 agreement.[57] The docket for this rulemaking includes copies of the Federal laws and other documents that reflect these reserved rights. It also includes a map depicting, as of the date of publication of this proposed rulemaking, the areas with reserved rights based on the relevant statutes and related documents provided by the Tribes, Tribal reservation and trust lands, and associated geographical information system (GIS) layers. The EPA requests comment on whether these maps accurately reflect the relevant reserved rights.

As noted in Section III.B. of this preamble, HHC are designed to protect humans from lifetime exposure to pollutants through the ingestion of drinking water and consumption of fish/shellfish obtained from inland and nearshore waters. The RSC component accounts for sources of exposure other than drinking water and consumption of fish and shellfish from inland and nearshore waters (*e.g.,* consumption of frogs and other foods, dermal and inhalation exposure, and other potential exposure sources/routes). The specific Tribal reserved rights that the EPA has concluded could be affected by this HHC rulemaking in Florida are the Seminole Tribe's and Miccosukee Tribe's reserved rights to fish for subsistence purposes and to take frogs for food. The EPA requests comment on this conclusion. While Florida has other types of criteria in place that are relevant to protection of the aquatic and aquatic-dependent resources that the Seminole Tribe and Miccosukee Tribe may hunt and trap pursuant to their reserved rights (*e.g.,* amphibians, reptiles, birds, and mammals), those other types of criteria are not the subject of, nor are they affected by, this rulemaking. See Section IV.C.1. of this preamble for a discussion of how the EPA considered the Tribes' rights to fish for subsistence purposes and to take frogs for food in certain waters in Florida when selecting the FCR input to derive the proposed HHC in this rulemaking.

C. Human Health Criteria Inputs

1. Fish Consumption Rate

a. General Population Rate

As discussed, both state-specific and national data show that fish consumption rates within the state have increased since Florida first established its existing HHC.[58] For protection of the general population in all waters of the state except in those waters where the Seminole Tribe and Miccosukee Tribe have reserved rights to fish for their subsistence, EPA proposes to derive new and revised HHC for Florida using the national default FCR of 22 g/day (comprised of 8, 9 and 5 g/day for consumption of trophic level 2, 3, and 4 fish, respectively).[59] The selected FCR is based on consideration of the following information:

- A 1994 state-specific study, *Per Capita Fish and Shellfish Consumption in Florida*[60]
- The EPA's 2014 analysis of 2003–2010 NHANES data.[61]

The only state-specific FCR study the EPA is aware of is a 1994 study funded by the Florida Department of Environmental Protection (Florida DEP) and conducted by Dr. Robert Degner of the University of Florida.[62] This study reported average FCRs ranging from approximately 20–60 g/day for different population groups in the state. While Florida used this comprehensive 1994 study to inform its 2016 HHC, the state ultimately decided that it could not use it as the sole basis for determining a Florida-specific FCR, in large part because the 1994 study had been superseded by newer data and study methodologies. The EPA has similarly concluded that it would be preferable to select a FCR based on newer data and methodologies and therefore is not proposing to use the 1994 study to calculate the HHC in this rulemaking. However, the EPA notes that its selected FCR of 22 g/day is within the range of FCRs from the 1994 study.

As mentioned above, the EPA's national default general population FCR of 22 g/day represents the 90th

---

[53] *See* 18 U.S.C. 1151 for definition of Indian Country.

[54] *See* USEPA. (2016). EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights. *https://www.epa.gov/sites/default/files/2016-02/documents/tribal_treaty_rights_guidance_for_discussing_tribal_treaty_rights.pdf.*

[55] 16 U.S.C. 698(j); 16 U.S.C. 410(b). The Miccosukee Tribe of Indians of Florida was originally part of the Seminole Tribe, but the Tribes split due to disagreements over dealings with the United States government. See *Miccosukee Tribe of Indians of Fla.* v. *United States,* 716 F.3d 535, 545 n.21 (11th Cir. 2013). In 1957, the Seminole became a federally-recognized Tribe. In 1962, the Federal government distinguished between the Seminole and the Miccosukee Tribes, and granted the Miccosukee Federal recognition. *Id.* at 547. Therefore, references to the ''Seminole Indians'' in the Everglades National Park Enabling Act can be construed to also pertain to the present-day Miccosukee Tribe of Indians of Florida.

[56] 25 U.S.C. 1741 *et seq.* (''Florida Indian (Miccosukee) Land Claims Settlement Act'' or ''FILCSA''), Public Law 97–399, 96 Stat. 2012 (1982).

[57] 25 U.S.C. 1772 *et seq.* (''Florida Indian (Seminole) Land Claims Settlement Act'' or ''SILCSA''), Public Law 100–228, 101 Stat. 1556 (1987).

[58] Florida Department of Environmental Protection. (2016). *Technical Support Document: Derivation of Human Health-Based Criteria and Risk Impact Statement. https://floridadep.gov/sites/default/files/HH_TSD.pdf.*

[59] USEPA. (2014). *Estimated Fish Consumption Rates for the U.S. Population and Selected Subpopulations (NHANES 2003–2010).* EPA 820–R–14–002. *https://www.epa.gov/sites/default/files/2015-01/documents/fish-consumption-rates-2014.pdf.*

[60] Degner et al. (1994). *Per Capita Fish and Shellfish Consumption in Florida.* Florida Agricultural Market Research Center, University of Florida.

[61] USEPA. (2014). *Estimated Fish Consumption Rates for the U.S. Population and Selected Subpopulations* (NHANES 2003–2010), EPA 820–R–14–002. *https://www.epa.gov/sites/default/files/2015-01/documents/fish-consumption-rates-2014.pdf.*

[62] Degner et al. (1994). *Per Capita Fish and Shellfish Consumption in Florida.* Florida Agricultural Market Research Center, University of Florida.

percentile consumption rate of fish and shellfish from inland and nearshore waters for the U.S. adult population 21 years of age and older and is based on the EPA's analysis of NHANES data from 2003 to 2010.[63] The EPA also analyzed the 2003–2010 NHANES data based on geographic areas in the U.S., four of which are relevant to the selection of a FCR for Florida.[64] Each of these FCRs are based on the consumption of fish and shellfish from inland and nearshore waters for adults 21 years of age and older. The 90th percentile FCR for those living in the South is 26.3 g/day. The 90th percentile FCR for those living in the Atlantic Coast region—or coastal counties in the 16 states that border the Atlantic Coast—is 30.8 g/day. The 90th percentile FCR for those living in the Gulf of Mexico Coast region—those coastal counties in the five states that border the Gulf of Mexico—is 28.6 g/day. Finally, the 90th percentile FCR for those living in the Inland South region—the remaining non-coastal counties in the South—is 22.8 g/day. While each of these FCRs is likely representative of certain areas in Florida, the EPA concluded that they were not different enough from the EPA's national default FCR of 22 g/day to warrant the increased uncertainty that these smaller geographic-specific datasets would introduce.[65] Therefore, the EPA is proposing to use the national default FCR of 22 g/day to calculate HHC in this rule to protect the general population in the state. The EPA requests comment on whether it should consider using one of the geographic-specific FCRs to derive HHC for Florida, and if so, how the EPA should account for the smaller sample sizes and associated uncertainty.

b. Subsistence Rate

For protection of subsistence consumers in the geographic areas where the Seminole Tribe and Miccosukee Tribe have reserved rights to fish for subsistence purposes and to take frogs for food, the EPA proposes to derive new and revised HHC for Florida using the national default subsistence FCR of 142 g/day.[66] The selected FCR is based on consideration of the following information, which the EPA discusses in turn below:

- A 2016 *Seminole Tribe of Florida Tissue Contaminant Study for Big Cypress and Brighton Reservations*[67]
- A 2017 *Evaluation of Heritage Aquatic Species Consumption Rates for the Seminole Tribe of Florida*[68]
- The EPA's 2000 default FCR for subsistence fishers[69]

In 2016, EPA Region 4 published the report *Seminole Tribe of Florida Tissue Contaminant Study for Big Cypress and Brighton Reservations,* which had been requested by the Seminole Tribe.[70] The study analyzed fish tissue samples from the Big Cypress and Brighton Reservations for toxic pollutants and, based on the level of toxins found, proposed species-specific meal frequencies that the Tribe could use to post fish consumption advisories. The study used a suggested meal size from the EPA's Guidance for Assessing Chemical Contaminant Data for Use in Fish Advisories, Volumes 1 and 2 (EPA 823–B–00–007 and 008) of 227 g. However, the study does not identify a meal frequency to pair with the 227 g meal size and therefore the EPA could not determine an appropriate FCR from this study. The EPA requests comment on whether, as a potential alternative to the proposed default FCR of 142 g/day, 227 g/day is an appropriate meal size for Tribal subsistence consumers in Florida, and if so, whether there are data and information to support a meal frequency, such as one or two meals per day, to associate with subsistence practices.

The 2017 Ridolfi, Inc. study *Evaluation of Heritage Aquatic Species Consumption Rates for the Seminole Tribe of Florida* identifies heritage consumption rates for the Seminole Tribe, based on a literature review of historical and ethnographic materials.[71] A heritage rate is the amount of fish consumed prior to non-indigenous or modern sources of contamination and interference with the natural lifecycle of fish, in addition to changes in human society.[72] While often thought of as a historic rate, heritage rates may be useful in establishing a subsistence consumption baseline (*i.e.,* unsuppressed consumption level) in areas where Tribes have reserved rights to fish for subsistence (such as the case here for the two Tribes in Florida).[73] The 2017 Ridolfi, Inc. study estimated a heritage consumption rate of 800 g/day for freshwater fish, amphibians and reptiles, and a heritage consumption rate of 47 g/day for anadromous fish and marine shellfish.

The EPA is proposing to rely on the default subsistence FCR of 142 g/day, rather than the heritage rates from the 2017 Ridolfi, Inc. study, for the following reasons. First, the 2017 Ridolfi, Inc. study focuses solely on historic consumption patterns, and does not contain information indicating that the heritage rates in the study are consistent with the Tribes' anticipated exercise of their subsistence rights moving forward.[74] Namely, the EPA lacks information indicating that these heritage rates reflect the amount of aquatic species that the Tribes would actually consume in the absence of factors such as, for example, concerns

[63] USEPA. (2014). *Estimated Fish Consumption Rates for the U.S. Population and Selected Subpopulations* (NHANES 2003–2010), EPA 820–R–14–002. *https://www.epa.gov/sites/default/files/2015-01/documents/fish-consumption-rates-2014.pdf.*

[64] See *Id.* p. 7–8 for which states comprise each region, based on the regions as defined by the U.S. Census Bureau.

[65] The 95% confidence interval increases as the sample size decreases. In all but one instance, the 95% confidence interval associated with the national default FCR (19.1–25.4 g/day) overlaps with the 95% confidence interval for the geographic regions relevant to Florida, suggesting that the geographic-specific FCRs may not be meaningfully different from the national default FCR: (South (21.6–32 g/day), Atlantic (25.3–37.5 g/day), Gulf of Mexico (22.5–36.4) and Inland South (18.6–27.9).

[66] USEPA. (2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health.* UEPA–822–B–00–004. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf* at 1–13. EPA proposes to apply the same ratios of trophic level-specific consumption to the 142 g/day as to the 22 g/day. For the 142 g/day total consumption rate, the trophic level-specific consumption rates for trophic levels 2, 3, and 4 are 52, 58 and 32 g/day, respectively.

[67] USEPA. (2016). *Seminole Tribe of Florida Tissue Contaminant Study for Big Cypress and Brighton Reservations.* U.S. Environmental Protection Agency, Region 4, Science and Ecosystem Support Division. SESD Project ID #: 16–0380.

[68] Ridolfi Environmental. (2017). *Evaluation of Heritage Aquatic Species Consumption Rates,* Seminole Tribe of Florida.

[69] USEPA. (2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health.* EPA–822–B–00–004. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf.*

[70] USEPA. (2016). *Seminole Tribe of Florida Tissue Contaminant Study for Big Cypress and Brighton Reservations.* U.S. Environmental Protection Agency, Region 4, Science and Ecosystem Support Division. SESD Project ID #: 16–0380.

[71] Ridolfi Environmental. 2017. *Evaluation of Heritage Aquatic Species Consumption Rates,* Seminole Tribe of Florida.

[72] USEPA. (2016). *Guidance for Conducting Fish Consumption Surveys.* EPA–823B16002.

[73] *Id.*

[74] The Tribes' anticipated future exercise of those rights could be informed by the importance of fish consumption as a protein source as well as realistic potential consumption rates that reflect the modern-day availability of alternative protein sources and current lifestyles. For example, the EPA approved the Spokane Tribe's HHC based on a FCR of 865 g/day. This FCR maintains the caloric intake characteristic of a traditional subsistence lifestyle while accounting for the lesser quantity and diversity of fish currently available to the Tribe as a result of the construction of the Grand Coulee Dam. *See* U.S. EPA Region 10. (December 11, 2013). *Technical Support Document for Action on the Revised Surface Water Quality Standards of the Spokane Tribe of Indians Submitted April 2010.*

about water quality.[75] Further, a relevant data point regarding the Tribes' anticipated future exercise of their rights is the FCR of either 17.5 g/day or 22 g/day used by the Tribes in their federally approved WQS applicable on their reservations.[76] Based on information obtained through consultation and coordination with both Tribes, reflected in the docket for this rulemaking, the EPA does not have sufficient information to conclude that the heritage rates identified in the 2017 Ridolfi, Inc. study are representative of the anticipated exercise of those rights moving forward for both the Seminole Tribe and Miccosukee Tribe.

Second, as noted in Section III.B.3. of this preamble, in the 2015 national recommended 304(a) HHC, the EPA developed national BAFs for three trophic levels of fish.[77] These BAFs reflect the uptake of each contaminant by fish and shellfish and would not be appropriate to use to reflect uptake by amphibians or reptiles. At this time, the EPA does not have available data to calculate BAFs for amphibians or reptiles for the pollutants of concern in this proposed rulemaking such that the agency could utilize the corresponding heritage consumption rates for amphibians and reptiles in the 2017 Ridolfi, Inc. study. The EPA concluded that its proposed HHC for the geographic areas where the Seminole Tribe and Miccosukee Tribe have reserved rights to fish on a subsistence basis are health protective because the agency applied an RSC of 0.2, which allows for 80% of a chemical's exposure to come from sources other than drinking water and inland and nearshore fish and shellfish. This health protective approach is consistent with the EPA's longstanding practice and peer reviewed 2000 Methodology.[78]

For these reasons, the EPA is not proposing to use the heritage consumption rates from the 2017 Ridolfi, Inc. study to calculate the HHC in this rulemaking. The EPA requests comment on whether, as a potential alternative to the proposed default FCR of 142 g/day, there are data and appropriate methodologies with which to re-evaluate the heritage rates based on the anticipated exercise of applicable tribal reserved rights moving forward where the two Tribes have reserved rights to fish for subsistence purposes and to take frogs for food.

Finally, as noted above, the EPA's 2000 Methodology recommends a default FCR of 142 g/day for subsistence fishers, based on the 1994–1996 Continuing Survey of Food Intake by Individuals conducted by the U.S. Department of Agriculture, in the absence of local data.[79] Due to the lack of local fish consumption data to determine a current unsuppressed subsistence FCR, the EPA is proposing to use the default subsistence rate for the geographic areas where the Seminole Tribe and Miccosukee Tribe have reserved rights to fish for subsistence purposes and to take frogs for food. One way to evaluate the reasonableness of the default FCR of 142 g/day for application to subsistence rights is to consider the nutritional needs of those relying on fish and shellfish as a dietary staple. The Recommended Dietary Allowance (RDA) for protein intake for nutritional needs is 0.8 g per kg body weight per day.[80] However, research suggests that a protein intake rate of 1.0 g/kg/day may be more appropriate for older adults.[81] This rate would also benefit individuals who are more physically active regardless of age.[82] Using data for U.S. adults from NHANES for 2007–2010, researchers found that the percentages of total protein intake derived from animal, dairy, and plant protein were 46%, 16%, and 30%, respectively (8% of intake could not be classified).[83] The same study found that fish comprise 5% of (non-dairy) animal protein intake (2.5% of total protein intake). This puts the high-end of protein intake from all animal/dairy sources at 70% (assuming all unclassified protein intake is from animal sources). There may be many potential ways to determine an appropriate percent of protein from animal sources that come from fish as a staple food. A United Nations synthesis study highlighted that in certain parts of the world where fish protein is a crucial nutritional component and considered a staple, fish contributes (or exceeds) 50% of total animal protein intake.[84] Considering that protein comprises approximately 20% of fish wet weight,[85] then putting together the figures cited above yields a subsistence FCR of 140 g/day (1 g/kg/day protein allowance * 80 kg body weight/20% protein content in fish * 70% of protein from all animal/dairy sources * 50% of animal protein from fish (for high consuming fish populations)). This example calculation provides additional support for using the default FCR for subsistence fishers of 142 g/day. Further support is provided by the Dietary Guidelines for Americans, which recommends adults consume 5–7 ounces of ''protein foods'' daily depending on total calorie intake.[86] Since 142 grams equals 5 ounces, this level of fish consumption would reflect 70–100% of this recommendation, consistent with use of fish as a staple protein food.

Additionally, the EPA evaluated whether 142 g/day is still representative of current consumption rates for highly exposed groups, as noted in the 2000 Methodology. Post-2000 consumption surveys of high fish consuming populations (*e.g.,* Tribes and Asian Pacific Islanders) resulted in mean FCRs ranging from 18.6 g/day to 233 g/day

[75] USEPA. (2016). *Guidance for Conducting Fish Consumption Surveys.* EPA–823B16002.

[76] The EPA understands that both Tribes are currently considering their plans for each of their next WQS triennial reviews and whether revisions to their on-reservation HHC, which are currently based on default FCRs that the EPA has recommended for the general population, would be warranted. On their own reservations, the Tribes are responsible for determining the criteria to protect their designated uses, based on a sound scientific rationale. If the Tribes were in the future to each develop an FCR to protect subsistence fishing on their reservations, such information could help inform a future revision to Florida's HHC in the geographic areas where the two Tribes have off-reservation reserved rights to fish for subsistence purposes and to take frogs for food.

[77] USEPA. *Final Updated Ambient Water Quality Criteria for the Protection of Human Health,* 80 FR 36986 (June 29, 2015). *See also* USEPA. (2015). *Final 2015 Updated National Recommended Human Health Criteria. https://www.epa.gov/wqc/human-health-water-quality-criteria.*

[78] USEPA. (2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health.* EPA–822–B–00–004. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf.*

[79] Jacobs, H.L., Kahn, H.D., Stralka, K.A., and Phan, D.B. (1998). *Estimates of per capita fish consumption in the U.S. based on the continuing survey of food intake by individuals (CSFII).* Risk Analysis: An International Journal 18(3).

[80] Institute of Medicine. (2005). *Dietary Reference Intakes for energy, carbohydrate, fiber, fat, fatty acids, cholesterol, protein and amino acids.* Washington (DC): National Academies Press.

[81] Richter, M., Baerlocher, K., Bauer, J.M., Elmadfa, I., Heseker, H., Leschik-Bonnet, E., Stangl, G., Volkert, D., Stehle, P. (2019). *Revised Reference Values for the Intake of Protein.* Annals of Nutrition and Metabolism 74(3):242–250.

[82] Hudson, J.L., Wang, Y., Bergia, I., R.E., Campbell, WW. (2020). *Protein Intake Greater than the RDA Differentially Influences Whole-Body Lean Mass Responses to Purposeful Catabolic and Anabolic Stressors: A Systematic Review and Meta-analysis.* Advances in Nutrition 11(3):548–558.

[83] Pasiakos, S.M., Agarwal, S., Lieberman, H.R., Fulgoni III, V.L. (2015). *Sources and Amounts of Animal, Dairy, and Plant Protein Intake of US Adults in 2007–2010.* Nutrients 7(8): 7058–7069.

[84] Food and Agriculture Organization of the United Nations (FAO). (2014). *The state of world fisheries and aquaculture.* Opportunities and challenges. Rome, Italy.

[85] Ahmed, I., Jan, K., Fatma, S., Dawood, M.A.O. (2022). *Muscle proximate composition of various food fish species and their nutritional significance: A review.* Journal of Animal Physiology and Animal Nutrition. Volume 106, Issue 3 (690–719).

[86] U.S. Department of Agriculture and U.S. Department of Health and Human Services. (December 2020). *Dietary Guidelines for Americans, 2020–2025. https://www.dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf* at 96.

and 90th percentile FCRs ranging from 48.9 g/day to 528 g/day.[87] Therefore, 142 g/day appears to still be representative of current consumption rates for certain highly exposed groups, albeit possibly on the low end. These data are for illustrative purposes only; the surveyed populations cited here are not local to Florida and these current consumption rates may be suppressed by fish availability or concerns about the safety of available fish.

2. Body Weight

The EPA proposes to calculate new and revised HHC for Florida using a body weight of 80 kg. As noted above, this represents the average weight of a U.S. adult age 21 and older, based on NHANES data from 1999 to 2006 (see Section III.B.3. of this preamble).

3. Drinking Water Intake

The EPA proposes to calculate new and revised HHC for Florida using a drinking water intake rate of 2.4 L/day. In 2015, the EPA updated its national default drinking water intake rate to 2.4 L/day based on national survey data (see Section III.B.3. of this preamble). The EPA is not aware of any local data applicable to Florida that suggest a different rate.

4. Pollutant-Specific Reference Doses and Cancer Slope Factors

As part of the EPA's 2015 updates to its 304(a) recommended HHC, the EPA conducted a systematic search of eight peer-reviewed, publicly available sources to obtain the most current toxicity values for each pollutant (RfDs for non-carcinogenic effects and CSFs for carcinogenic effect).[88] The EPA proposes to calculate new and revised HHC for Florida using the same toxicity values that the EPA used in its 2015 recommended 304(a) HHC update, to ensure that the resulting criteria are based on a similar, sound scientific rationale.[89]

For benzene, the EPA's 2015 304(a) recommended HHC are presented as a range, based on a range of CSFs. In this rule, the EPA proposes to use the upper end of the range of CSFs to derive the HHC for benzene as the approach resulting in the most health-protective value. EPA requests comment on this decision.

Where the EPA did not update criteria for certain pollutants in 2015, the EPA proposes to use the toxicity values that the agency used the last time it updated its 304(a) criteria for those pollutants as the best available scientific information. For beryllium, where the EPA has no 304(a) recommended HHC,[90] the EPA calculated draft HHC using the most recent toxicity value from IRIS, which is an RfD from 1998.[91] This is consistent with the approach that Florida was proposing to follow in 2016.[92] When using the 1998 RfD for beryllium, in conjunction with the other inputs described above and below, the resulting HHC are less stringent than Florida's existing HHC for beryllium. Therefore, as noted above consistent with CWA section 510, EPA is not proposing Federal HHC for beryllium in this rule. See Table 1 of this preamble, columns B1 and B3 for a list of pollutant-specific toxicity factors that the EPA proposes to use to calculate new and revised HHC for Florida. If the resulting draft HHC values are less stringent than Florida's existing HHC, those values are noted with an asterisk in Table 1 of this preamble and are excluded from the EPA's proposed HHC.

5. Cancer Risk Level

The EPA proposes to derive HHC for Florida using a CRL of 10^{-6} for all pollutants and for all waters in the state, including waters where Tribes have reserved rights to fish on a subsistence basis. The EPA's selection of a 10^{-6} CRL is consistent with EPA's 2000 Methodology, which states that the EPA intends to use the 10^{-6} level when promulgating water quality criteria for states and Tribes.[93] In addition, Florida's existing HHC are based on a 10^{-6} CRL.[94]

Moreover, as noted above, the Miccosukee Tribe and Seminole Tribe have reserved rights to fish for subsistence in certain waters of the state. The EPA's selection of a 10^{-6} CRL ensures that Tribal members exercising their legal rights to harvest and consume fish and shellfish at subsistence levels are protected to the same risk level as the general population is protected in other state waters.

6. Relative Source Contribution

When developing national recommended HHC, the EPA applies an RSC for non-carcinogens and nonlinear carcinogens to account for sources of exposure other than drinking water and consumption of inland and nearshore fish and shellfish (see Section III.B.4. of this preamble). In 2015, after evaluating information on chemical uses,

[87] Polissar, N.L., Salisbury, A., Ridolfi, C., Callahan, K., Neradilek, M., Hippe, D.S., and Beckley, W.H. (2016). *A Fish Consumption Survey of the Nez Perce Tribe.* The Mountain-Whisper-Light Statistics, Pacific Market Research, Ridolfi, Inc. *https://www.epa.gov/sites/production/files/2017-01/documents/fish-consumption-survey-nez-perce-dec2016.pdf;* Polissar, N.L., Salisbury, A., Ridolfi, C., Callahan, K., Neradilek, M., Hippe, D.S., and W.H. Beckley. (2016). *A Fish Consumption Survey of the Shoshone-Bannock Tribes.* The Mountain-Whisper-Light Statistics, Pacific Market Research, Ridolfi, Inc. *https://www.epa.gov/sites/production/files/2017-01/documents/fish-consumption-survey-shoshone-bannock-dec2016.pdf;* Seldovia Village Tribe. (2013). *Assessment of Cook Inlet Tribes Subsistence Consumption.* Seldovia Village Tribe Environmental Department; Suquamish Tribe. (2000). *Fish Consumption Survey of The Suquamish Indian Tribe of The Port Madison Indian Reservation, Puget Sound Region.* Suquamish, W.A.; Sechena, R., Liao, S., Lorenzana, R., Nakano, C., Polissar, N., Fenske., R. (2003). *Asian American and Pacific Islander seafood consumption—a community-based study in King County, Washington.* J of Exposure Analysis and Environ Epidemiology. (13): 256–266; Lance, T.A., Brown, K., Drabek, K., Krueger, K., and S. Hales. (2019). *Kodiak Tribes Seafood Consumption Assessment: Draft Final Report,* Sun'aq Tribe of Kodiak, Kodiak, AK. *https://sunaq.org/wp-content/uploads/2016/09/Kodiak-Tribes-Seafood-Consumption-Assessment-DRAFT-Final-Report-26Feb19-FINAL.pdf.*

[88] USEPA. (June 29, 2015). *Final Updated Ambient Water Quality Criteria for the Protection of Human Health,* 80 FR 36986. *See also* USEPA. (2015). *Final 2015 Updated National Recommended Human Health Criteria. https://www.epa.gov/wqc/national-recommended-water-quality-criteria-human-health-criteria-table.*

[89] While there may be new toxicity information available for certain pollutants that is not yet reflected in the EPA's CWA section 304(a) national recommended HHC, such information has not yet been reviewed through the EPA's CWA section 304(a) criteria development process and therefore is not incorporated into this proposal. For example, there is new toxicity information available for benzo(a)pyrene, the index PAH used to derive the toxicity values for six other PAHs. The EPA is considering this new toxicity information. Once EPA has developed updated CWA section 304(a) criteria for these pollutants, the State should evaluate its HHC for these pollutants during its next triennial review. *See* 40 CFR 131.20(a).

[90] The EPA issued a recommended HHC for beryllium in 1980 (USEPA. [October 1980]. *Ambient Water Quality Criteria for Beryllium.* EPA 440 5–80–024) but then withdrew that HHC recommendation in the 1992 National Toxics Rule (USEPA. [December 1992]. *Establishment of Numeric Criteria for Priority Toxic Pollutants,* 57 FR 60848, December 22, 1992). The EPA cited the need to further evaluate whether beryllium in water could pose a carcinogenic risk to humans as the basis for the withdrawal. The EPA calculated the HHC for beryllium using the non-carcinogenic endpoint (*i.e.,* the RfD) for the purposes of this rulemaking.

[91] USEPA. *IRIS Assessments: Beryllium and compounds. https://iris.epa.gov/ChemicalLanding/&substance_nmbr=12* (last accessed July 5, 2023).

[92] Florida Department of Environmental Protection. (2016). *Technical Support Document: Derivation of Human Health-Based Criteria and Risk Impact Statement. https://floridadep.gov/sites/default/files/HH_TSD.pdf.*

[93] EPA 2000 Methodology, p. 2–6. The Methodology recommends that states set human health criteria CRLs for the target general population at either 10^{-5} or 10^{-6} (p. 2–6) and also notes that states and authorized tribes can always choose a more stringent risk level, such as 10^{-7} (p. 1–12).

[94] Florida Department of Environmental Protection. (2016). *Technical Support Document: Derivation of Human Health-Based Criteria and Risk Impact Statement. https://floridadep.gov/sites/default/files/HH_TSD.pdf* at 11.

properties, occurrences, releases to the environment and regulatory restrictions, the EPA developed chemical-specific RSCs for non-carcinogens and nonlinear carcinogens ranging from 0.2 (20 percent) to 0.8 (80 percent) following the Exposure Decision Tree approach described in the EPA's 2000 Human Health Methodology.[95] [96] For these pollutants, the EPA proposes to use the same RSCs to derive the HHC. For pollutants where the EPA did not update the 304(a) HHC in 2015, the EPA proposes to use an RSC of 0.2 to derive HHC following the Exposure Decision Tree approach described in the EPA's 2000 Methodology; this approach takes into consideration potential significant exposure sources to Floridians other than drinking water and inland and nearshore fish and shellfish and results in the most health protective HHC. In the case of antimony (for which the EPA did not update the 304(a) recommended HHC in 2015), EPA proposes to use an RSC of 0.4 consistent with the RSC value used the last time the agency updated this criterion.[97]

7. Pollutant-Specific Bioaccumulation Factors

Where data are available, the EPA uses BAFs to account for the uptake and retention of waterborne chemicals by aquatic organisms from all surrounding media and to ensure that resulting criteria are science-based and protect designated uses for human health. For the 2015 recommended 304(a) HHC update, the EPA estimated chemical-specific BAFs for three different trophic levels of fish (levels 2 through 4), using a framework for deriving national BAFs described in EPA's 2000 Methodology.[98] The EPA proposes to use those BAFs to calculate the proposed HHC. Where BAFs are not available at this time for certain pollutants, the EPA proposes to use the bioconcentration factors (BCFs) that the EPA used the last time it updated its CWA section 304(a) recommended criteria for those pollutants as the best available scientific information. The EPA specifically invites comment on whether there are any robust, publicly available state-specific BAF data that the EPA should consider. See Table 1 of this preamble, columns B4 through B7 for a list of EPA's proposed bioaccumulation factors by pollutant. As noted above, if the resulting draft HHC values are less stringent than Florida's existing HHC, those values are noted with an asterisk in Table 1 of this preamble and are excluded from the EPA's proposed HHC.

As mentioned above, the EPA no longer has 304(a) recommended HHC for beryllium after having withdrawn its 1980 beryllium 304(a) recommendations.[99] However, the EPA is not aware of any science-based BAFs or even more recent BCFs to suggest that the BCF of 19 from the EPA's 1980 304(a) recommended criteria [100] is not the best available scientific information for beryllium. A 1968 study by Chapman et al. reports a BCF of 100 for fish, but this study pre-dates the EPA's 1980 criteria document.[101] Additionally, the Agency for Toxic Substances and Disease Registry's January 2022 draft *Toxicological Profile for Beryllium* notes that beryllium does not bioconcentrate in aquatic organisms, and that the agency did not find evidence of beryllium bioaccumulation in the food chain of humans.[102] Therefore, the EPA calculated draft HHC for beryllium using the BCF of 19 from the EPA's withdrawn 1980 304(a) recommended beryllium criteria document. This is consistent with the approach that Florida was proposing to follow in 2016.[103] When using this BCF for beryllium, in conjunction with the other inputs described above, the resulting draft HHC are less stringent than Florida's existing HHC for beryllium. Therefore, as noted above consistent with CWA section 510, the EPA is not proposing Federal HHC for beryllium in this rulemaking.

D. Proposed Human Health Criteria for Florida

The EPA proposes new HHC for 37 priority toxic pollutants and revised HHC for 36 priority toxic pollutants to protect the designated uses of Florida's waters (see Table 1 of this preamble).[104] The criteria in columns C1 and C2 of Table 1 of this preamble apply to state waters where the Seminole Tribe and Miccosukee Tribe do not have reserved rights to fish on a subsistence basis. The criteria in columns D1 and D2 of Table 1 of this preamble apply to state waters where the Seminole Tribe and Miccosukee Tribe have reserved rights to fish on a subsistence basis. The water-plus-organism criteria in either column C1 or D1 of Table 1 of this preamble are the applicable criteria for any waters that include the Class I use (potable water supplies) defined in Florida's WQS (Chapter 62–302, Florida Administrative Code). The organism-only criteria in either column C2 or D2 of Table 1 of this preamble are the applicable criteria for any waters that do not include the Class I use and that are defined at Chapter 62–302 of the Florida Administrative Code as the following:

—Class II—Shellfish Propagation or Harvesting;

—Class III—Fish Consumption; Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife; or

—Class III—Limited—Fish Consumption; Recreation or Limited Recreation; and/or Propagation and Limited Maintenance of a Limited Population of Fish and Wildlife.

The EPA solicits comment on the criteria and the inputs the EPA used to derive these criteria.

BILLING CODE 6560–50–P

[95] USEPA. (2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health.* EPA–822–B–00–004. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf.*

[96] USEPA, *Final Updated Ambient Water Quality Criteria for the Protection of Human Health,* 80 FR 36986 (June 29, 2015). *See also* USEPA. (2015). Final 2015 Updated National Recommended Human Health Criteria. *https://www.epa.gov/wqc/human-health-water-quality-criteria.*

[97] USEPA. (2002). *National Recommended Water Quality Criteria: 2002 Human Health Criteria Calculation Matrix.* EPA–822–R–02–012. *https://water.epa.gov/scitech/swguidance/standards/upload/2002_12_30_criteria_wqctable_hh_calc_matrix.pdf.*

[98] USEPA. (2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health.* EPA–822–B–00–004. *https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf.*

[99] USEPA. (October 1980). *Ambient Water Quality Criteria for Beryllium.* EPA 440 5–80–024.

[100] *Id.*

[101] Chapman, W.H., Fisher, H.L. & Pratt, M.W. (1968). *Concentration factors of chemical elements in edible aquatic organisms.* Lawrence Radiation Laboratory.; Shigematsu et al. *Spectrophotometric Determination of Beryllium in biomaterials and Natural Water.* Eunseki Kagaku.

[102] ATSDR. (January 2022). *Toxicological Profile for Beryllium. https://www.atsdr.cdc.gov/ToxProfiles/tp4.pdf.*

[103] Florida Department of Environmental Protection. (2016). *Technical Support Document: Derivation of Human Health-Based Criteria and Risk Impact Statement. https://floridadep.gov/sites/default/files/HH_TSD.pdf.*

[104] Table 1 of this preamble includes the 77 pollutants that EPA identified in its December 2022 Administrator's Determination as needing new or revised HHC. As explained further above (see Section IV.A. of this preamble), when EPA calculated the new and revised HHC for those 77 pollutants using a sound scientific rationale, including a revised FCR of either 22 g/day or 142 g/day, the resulting draft criteria that the agency found would be protective of the State's designated uses were in some cases less stringent than Florida's existing HHC. For four pollutants—1,1-Dichloroethylene, Beryllium, Chrysene and Phenol—all four of the associated HHC were less stringent than Florida's existing HHC. EPA has included those pollutants in Table 1 here for clarity and transparency on the approach that the EPA followed, but not in the proposed regulatory text where the agency is not proposing any HHC associated with those pollutants.

Table 1. EPA Proposed Human Health Criteria for Florida

	A		B							C		D	
	Chemical	CAS Number	Cancer Slope Factor, CSF (per mg/kg·d) (B1)	Relative Source Contribution, RSC (-) (B2)	Reference Dose, RfD (mg/kg·d) (B3)	Bioaccumulation Factor for Trophic Level 2 (L/kg tissue) (B4)	Bioaccumulation Factor for Trophic Level 3 (L/kg tissue) (B5)	Bioaccumulation Factor for Trophic Level 4 (L/kg tissue) (B6)	Bioconcentration Factor (L/kg tissue) (B7)	Water & Organisms (µg/L) (C1)	Organisms Only (µg/L) (C2)	Water & Organisms (µg/L) – Areas with Reserved Rights (D1)	Organisms Only (µg/L) – Areas with Reserved Rights (D2)
1	1,1,1-Trichloroethane	71556	-	0.20	2	6.9	9.0	10	-	10000	200000	9000	30000
2	1,1,2,2-Tetrachloroethane	79345	0.2	-	-	5.7	7.4	8.4	-	(0.2)*	3	0.1	0.4
3	1,1,2-Trichloroethane	79005	0.057	-	-	6.0	7.8	8.9	-	0.55	8.60	0.41	1.30
4	1,1-Dichloroethylene	75354	-	0.20	0.05	2.0	2.4	2.6	-	(300)*	(20000)*	(300)*	(2000)*
5	1,2,4-Trichlorobenzene	120821	0.029	-	-	2,800	1,500	430	-	0.068	0.072	0.011	0.011
6	1,2-Dichlorobenzene	95501	-	0.20	0.3	52	71	82	-	1000	3000	400	500
7	1,2-Dichloroethane	107062	0.0033	-	-	1.6	1.8	1.9	-	9.9	630	9.2	98
8	1,2-Dichloropropane	78875	0.036	-	-	2.9	3.5	3.9	-	0.9	30	0.77	4.6
9	1,2-Diphenylhydrazine	122667	0.8	-	-	18	24	27	-	0.03	0.2	0.02	0.03
10	1,2-Trans-Dichloroethylene	156605	-	0.20	0.02	3.3	4.2	4.7	-	100	4000	100	600
11	1,3-Dichlorobenzene	541731	-	0.20	0.002	31	120	190	-	7	10	2	2
12	1,3-Dichloropropene	542756	0.122	-	-	2.3	2.7	3.0	-	0.27	11	0.24	1.8
13	1,4-Dichlorobenzene	106467	-	0.20	0.07	28	66	84	-	300	900	100	100
14	2,4,6-Trichlorophenol	88062	0.011	-	-	94	130	150	-	1.4	2.7	0.37	0.42
15	2,4-Dichlorophenol	120832	-	0.20	0.003	31	42	48	-	10	60	6	9
16	2,4-Dimethylphenol	105679	-	0.20	0.02	4.8	6.2	7.0	-	100	2000	100	400
17	2,4-Dinitrophenol	51285	-	0.20	0.002	4.4	4.4	4.4	-	10	300	10	50
18	2,4-Dinitrotoluene	121142	0.667	-	-	2.8	3.5	3.9	-	0.048	1.6	0.042	0.25
19	2-Chloronaphthalene	91587	-	0.80	0.08	150	210	240	-	800	1000	200	200
20	2-Chlorophenol	95578	-	0.20	0.005	3.8	4.8	5.4	-	30	(800)*	30	100
21	2-Methyl-4,6-Dinitrophenol	534521	-	0.20	0.0003	6.8	8.9	10	-	2	30	1	4
22	3,3'-Dichlorobenzidine	91941	0.45	-	-	44	60	69	-	0.049	0.14	0.017	0.022
23	3-Methyl-4-Chlorophenol	59507	-	0.20	0.1	25	34	39	-	500	2000	200	400
24	4,4'-DDT	50293	0.34	-	-	35,000	240,000	1,100,000	-	3.0E-05	3.0E-05	5.0E-06	5.0E-06
25	Acenaphthene	83329	-	0.20	0.06	510	510	510	-	70	90	10	10
26	Acrolein	107028	-	0.20	0.0005	1.0	1.0	1.0	-	3	400	3	60
27	Acrylonitrile	107131	0.54	-	-	1.0	1.0	1.0	-	0.061	6.7	0.058	1

28	Aldrin	309002	17	-	-	18,000	310,000	650,000	-	7.6E-07	7.6E-07	1.2E-07	1.2E-07
29	Anthracene	120127	-	0.20	0.3	610	610	610	-	300	400	50	60
30	Antimony	7440360	-	0.40	0.0004	-	-	-	1	5	600	5	90
31	Benzene	71432	0.055	-	-	3.6	4.5	5.0	-	0.58	15	0.48	2.4
32	Benzidine	92875	230	-	-	1.4	1.6	1.7	-	0.00014	0.01	0.00013	0.0016
33	Benzo(a) Anthracene	56553	0.73	-	-	3,900	3,900	3,900	-	0.001	0.009	0.0002	0.009
34	Benzo(a) Pyrene	50328	7.3	-	-	3,900	3,900	3,900	-	0.0001	0.0009	2.0E-05	0.0009
35	Benzo(b) Fluoranthene	205992	0.73	-	-	3,900	3,900	3,900	-	0.001	0.009	0.0002	0.009
36	Benzo(k) Fluoranthene	207089	0.073	-	-	3,900	3,900	3,900	-	(0.01)*	(0.09)*	0.002	(0.09)*
37	Beryllium	7440417	-	0.20	0.002	-	-	-	19	(10)*	(80)*	(6)*	(10)*
38	beta-Hexachlorocyclohexane (HCH)	319857	1.8	-	-	110	160	180	-	0.0079	0.014	0.0019	0.0021
39	Bis(2-Chloroethyl) Ether	111444	1.1	-	-	1.4	1.6	1.7	-	0.03	2.1	0.028	0.33
40	Bis(2-Chloro-1-Methylethyl) Ether	108601	-	0.20	0.04	6.7	8.8	10	-	200	4000	200	500
41	Bis(2-Ethylhexyl) Phthalate	117817	0.014	-	-	710	710	710	-	0.32	0.37	0.055	0.057
42	Bromoform	75252	0.0045	-	-	5.8	7.5	8.5	-	(7)*	110	(5.2)*	18
43	Butylbenzyl Phthalate	85687	0.0019	-	-	19,000	19,000	19,000	-	0.1	0.1	0.016	0.016
44	Carbon Tetrachloride	56235	0.07	-	-	9.3	12	14	-	(0.4)*	(5)*	(0.3)*	0.7
45	Chlordane	57749	0.35	-	-	5,300	44,000	60,000	-	0.00031	0.00031	5.0E-05	5.0E-05
46	Chlorobenzene	108907	-	0.20	0.02	14	19	22	-	100	800	60	100
47	Chlorodibromomethane	124481	0.040	-	-	3.7	4.8	5.3	-	(0.80)*	20	(0.66)*	3.1
48	Chloroform	67663	-	0.20	0.01	2.8	3.4	3.8	-	(60)*	(2000)*	(60)*	300
49	Chrysene	218019	0.0073	-	-	3,900	3,900	3,900	-	(0.1)*	(0.9)*	(0.02)*	(0.9)*
50	Dibenzo(a,h)anthracene	53703	7.3	-	-	3,900	3,900	3,900	-	0.0001	0.0009	2.0E-05	0.0009
51	Dichlorobromomethane	75274	0.034	-	-	3.4	4.3	4.8	-	(0.94)*	(26)*	(0.79)*	4.1
52	Dieldrin	60571	16	-	-	14,000	210,000	410,000	-	1.2E-06	1.2E-06	2.0E-07	2.0E-07
53	Diethyl Phthalate	84662	-	0.20	0.8	920	920	920	-	600	600	100	100
54	Dimethyl Phthalate	131113	-	0.20	10	4,000	4,000	4,000	-	2000	2000	300	300
55	Di-n-Butyl Phthalate	84742	-	0.20	0.1	2,900	2,900	2,900	-	20	30	4	4
56	Ethylbenzene	100414	-	0.20	0.022	100	140	160	-	67	120	17	19
57	Fluoranthene	206440	-	0.20	0.04	1,500	1,500	1,500	-	20	20	3	3
58	Fluorene	86737	-	0.20	0.04	230	450	710	-	50	70	10	10
59	Heptachlor	76448	4.1	-	-	12,000	180,000	330,000	-	5.8E-06	5.8E-06	9.0E-07	9.0E-07
60	Heptachlor Epoxide	1024573	5.5	-	-	4,000	28,000	35,000	-	3.2E-05	3.2E-05	5.0E-06	5.0E-06

61	Hexachlorobutadiene	87683	0.04	-	-	23,000	2,800	1,100	-	0.009	0.009	0.001	0.001
62	Hexachlorocyclopentadiene	77474	-	0.20	0.006	620	1,500	1,300	-	4	4	0.6	0.6
63	Hexachloroethane	67721	0.04	-	-	1,200	280	600	-	0.1	0.1	0.02	0.02
64	Indeno(1,2,3-cd) Pyrene	193395	0.73	-	-	3,900	3,900	3,900	-	0.001	0.001	0.0002	0.0002
65	Isophorone	78591	0.00095	-	-	1.9	2.2	2.4	-	34	1800	31	280
66	Methyl Bromide	74839	-	0.20	0.02	1.2	1.3	1.4	-	100	10000	100	2000
67	Methylene Chloride	75092	0.002	-	-	1.4	1.5	1.6	-	(20)*	1000	(20)*	200
68	Methylmercury	22967926	-	2.70E-05	0.0001	-	-	-	-	-	0.3	-	0.04
69	Nitrobenzene	98953	-	0.20	0.002	2.3	2.8	3.1	-	10	500	10	80
70	Pentachlorophenol (PCP)	87865	0.4	-	-	44	290	520	-	0.03	0.04	0.005	0.006
71	Phenol	108952	-	0.20	0.6	1.5	1.7	1.9	-	(4000)*	(300000)*	(4000)*	(40000)*
72	Polychlorinated Biphenyls (PCBs)		2	-	-	-	-	-	31,200	(6.0E-05)*	(6.0E-05)*	1.0E-05	1.0E-05
73	Pyrene	129000	-	0.20	0.03	860	860	860	-	20	30	4	4
74	Tetrachloroethylene	127184	0.0021	-	-	49	66	76	-	(10)*	(28)*	(3.4)*	4.3
75	Toluene	108883	-	0.20	0.0097	11	15	17	-	57	500	35	78
76	Trichloroethylene	79016	0.05	-	-	8.7	12	13	-	0.6	7	0.4	1
77	Vinyl Chloride	75014	1.5	-	-	1.4	1.6	1.7	-	0.022	1.6	0.020	0.24

* Calculated draft HHC value is less stringent than FL's corresponding HHC. Therefore, the EPA is not proposing these HHC. Draft HHC provided for reference.

BILLING CODE 6560–50–C

E. Applicability

Under the CWA, Congress gave states primary responsibility for developing and adopting WQS for their navigable waters (CWA section 303(a) through (c)). Although the EPA is proposing revised HHC for Florida, Florida continues to have the option to adopt and submit to the EPA revised HHC for the state's waters consistent with CWA section 303(c) and the EPA's implementing regulations at 40 CFR part 131. Consistent with CWA section 303(c)(4), if Florida adopts and submits revised HHC and the EPA approves such criteria before finalizing this proposed rulemaking, the EPA would not proceed with the final rule for those waters and/or pollutants for which the EPA approves Florida's criteria.

If the EPA finalizes this proposed rulemaking, and Florida subsequently adopts and submits new HHC, the EPA's federally promulgated criteria will remain applicable for purposes of the CWA until the EPA withdraws the federally promulgated criteria. The EPA would undertake such a rulemaking to withdraw the Federal criteria for those waters and/or pollutants if and when Florida adopts and the EPA approves corresponding criteria that meet the requirements of section 303(c) of the CWA and EPA's implementing regulations at 40 CFR part 131.

F. Alternative Regulatory Approaches and Implementation Mechanisms

The Federal WQS regulation at 40 CFR part 131 provides several approaches that Florida may utilize, at its discretion, when implementing or deciding how to implement the final HHC resulting from this proposed rulemaking. Among other things, the EPA's WQS regulation: (1) allows states and authorized Tribes to authorize the use of compliance schedules in NPDES permits to meet water quality-based effluent limits (WQBELs) derived from the applicable WQS (40 CFR 131.15); (2) specifies the requirements for adopting criteria to protect designated uses, including criteria modified to reflect site-specific conditions (40 CFR 131.11); (3) authorizes and provides a regulatory framework for states and authorized Tribes to adopt WQS variances where it is not feasible to attain the applicable designated use and criterion for a period of time (40 CFR 131.14); and (4) specifies how states and authorized Tribes adopt, revise, or remove designated uses (40 CFR 131.10). Each of these approaches is discussed in more detail in the next sections.

1. NPDES Permit Compliance Schedules

The EPA's regulations at 40 CFR 122.47 and 131.15 address how permitting authorities can use schedules for compliance if the discharger needs additional time to undertake actions like facility upgrades or operation changes that will lead to compliance with the WQBEL based on the applicable WQS. The EPA's regulation at 40 CFR 122.47 allows a permitting authority to include a compliance schedule in the NPDES permit, when appropriate as long as it requires compliance with the WQBEL as soon as possible and any schedule longer than 1 year includes interim requirements and the dates for their achievement. The EPA's regulation at 40 CFR 131.15 requires that a state that intends to allow the use of NPDES permit compliance schedules adopt specific provisions authorizing their use and obtain the EPA's approval under CWA section 303(c) to ensure that a decision to allow a permit compliance schedule is transparent and allows for public input.[105] Consistent with 40 CFR 131.15, Florida is authorized to grant permit compliance schedules to meet WQBELs based on the Federal HHC in Florida, if such permit compliance schedules are consistent with 40 CFR 122.47.

2. Site-Specific Criteria

The regulation at 40 CFR 131.11 specifies requirements for modifying water quality criteria to reflect site-specific conditions. In the context of this rulemaking, a site-specific criterion (SSC) is an alternative value to the Federal HHC that would be applied on an area-wide or water body-specific basis that meets the regulatory standard of protecting the designated uses, being based on sound science, and ensuring the protection and maintenance of downstream WQS. A SSC may be more or less stringent than the otherwise applicable Federal criterion. A SSC may be called for when further scientific data and analyses indicate that a different criterion may be needed to protect the human health designated uses in a particular water body or portion of a water body.

3. WQS Variances

Florida could adopt and submit for the EPA's approval WQS variances, consistent with 40 CFR 131.14, to aid in implementation of the Federal HHC once promulgated. The Federal regulation at 40 CFR 131.3(o) defines a WQS variance as a time-limited designated use and criterion, for a specific pollutant or water quality parameter, that reflects the highest attainable condition during the term of the WQS variance. A WQS variance may be appropriate if attaining the use and criterion would not be feasible during the term of the WQS variance because of one of the seven factors specified in 40 CFR 131.14(b)(2)(i)(A) but may be attainable in the future. These factors include where complying with NPDES permit limits more stringent than technology-based effluent limits would result in substantial and widespread economic and social impact. When adopting a WQS variance, states and authorized Tribes specify the interim requirements by identifying a quantifiable expression that reflects the highest attainable condition (HAC) during the term of the WQS variance, establishing the term of the WQS variance, and justifying the term by describing the pollutant control activities expected to occur over the specified term of the WQS variance. WQS variances provide a legal avenue by which NPDES permit limits can be written to comply with the WQS variance rather than the underlying WQS for the term of the WQS variance. WQS variances adopted in accordance with 40 CFR 131.14 (including a public hearing consistent with 40 CFR 25.5) provide a flexible but defined pathway for states and authorized Tribes to issue NPDES permits with limits that are based on the highest attainable condition during the term of the WQS variance, thus allowing dischargers to make incremental water quality improvements. If dischargers are still unable to meet the WQBELs derived from the applicable designated use and criterion once a WQS variance term is complete, the regulation allows the state to adopt a subsequent WQS variance if it is adopted consistent with 40 CFR 131.14.

4. Designated Uses

The EPA's proposed HHC apply to waters that Florida has designated for the following:

- Class I—Potable Water Supplies;
- Class II—Shellfish Propagation or Harvesting;
- Class III—Fish Consumption; Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife; or
- Class III—Limited—Fish Consumption; Recreation or Limited Recreation; and/or Propagation and Limited Maintenance of a Limited Population of Fish and Wildlife.

The Federal regulation at 40 CFR 131.10 provides requirements for adopting, revising, and removing

[105] 80 FR 51022 (August 21, 2015).

designated uses related to HHC when attaining the use is not feasible based on one of the six factors specified in the regulation. If Florida removes the human health-related designated use to which the EPA is proposing this HHC to apply for any waters, the state must adopt the highest attainable human health-related use [106] and criteria to protect the newly designated highest attainable use for those waters consistent with 40 CFR 131.11. It is possible that criteria other than the federally promulgated criteria would protect the highest attainable use. If the EPA were to find Florida's designated use revision to be consistent with CWA section 303(c) and the implementing regulation at 40 CFR part 131, the agency would approve the revised WQS. The HHC promulgated here, once finalized, would not apply to those waters to which the human health-related use no longer applies upon the EPA's approval.

V. Economic Analysis

The EPA focused its economic analysis on the potential cost impacts to current holders of individual NPDES permits and costs the state of Florida may bear to further assess waters identified as having exceedances and to develop Total Maximum Daily Loads (TMDLs) for waters newly identified as impaired under CWA section 303(d) using the proposed WQS. In its analysis of point sources, the EPA did not include facilities with individual permits for concentrated animal feeding operations or stormwater discharges or facilities covered under general permits. These permits typically focus on best management practices and relevant data for such facilities are limited. Costs might arise to facilities covered under these permits should the state modify the permits as a result of the final WQS. In addition, costs might arise to sectors with operations that include nonpoint sources of pollutants through implementation of TMDLs or through other voluntary, incentivized, or state-imposed controls. The proposed rulemaking does not directly regulate nonpoint sources, and under the CWA states are responsible for the regulation of nonpoint sources. The EPA recognizes that controls for nonpoint sources may be part of future TMDLs, but such future decisions will be made by the state. Nonpoint sources are intermittent, variable, and occur under hydrologic or climatic conditions associated with precipitation events. Data to model and evaluate the potential cost impacts associated with nonpoint sources were not available and any estimate would be too uncertain to be informative.

A. Identifying Affected Entities

Any HHC finalized as a result of this proposed rulemaking may serve as a basis for development of NPDES permit limits. Florida has NPDES permitting authority and retains considerable discretion in implementing WQS. The EPA evaluated the potential costs to NPDES dischargers associated with state implementation of the EPA's proposed HHC. This analysis is documented in ''Economic Analysis for Water Quality Standards Applicable to the State of Florida'' (Economic Analysis), which can be found in the record for this rulemaking. Any NPDES permitted facility that discharges pollutants for which the proposed HHC are more stringent than Florida's current criteria (or for which Florida has no currently applicable criteria) could potentially incur compliance costs. The types of affected facilities include sewerage systems and industrial facilities discharging wastewater to surface waters (*i.e.,* point sources).

The EPA identified 376 point source facilities that could be affected by this proposed rulemaking. Of these potentially affected facilities, 171 are major dischargers and 205 are minor dischargers. As noted, the EPA did not include concentrated animal feeding operations with individual permits, stormwater discharges with individual permits, or facilities covered under general permits in its analysis because of limited data for such facilities and permit requirements that typically focus on best management practices.

Of the potentially affected facilities, the EPA evaluated a sample of 78 major facilities (38 wastewater treatment facilities categorized under Standard Industrial Classification (SIC) Code 4952 and 40 facilities categorized under other SIC Codes). Most facilities categorized under SIC Code 4952 are publicly owned treatment works (POTWs), but some are privately owned. Minor facilities are less likely to monitor for proposed HHC parameters and are less likely to incur costs as a result of implementation of the rule because of the reduced potential for significant presence of toxic pollutants in their effluent. The EPA did not evaluate minor facilities for this analysis. Table 2 of this preamble summarizes these potentially affected facilities by type and category.

TABLE 2—POTENTIALLY AFFECTED FACILITIES

Category	Minor	Major	All
Sewerage Systems (SIC Code 4952)	76	92	168
Industrial (Other SIC Codes)	129	79	208
Total	205	171	376

B. Method for Estimating Costs

The EPA selected a certainty sample consisting of the 6 facilities in SIC Code 4952 (Sewerage Systems) with design flows greater than 50 million gallons per day (mgd) and the industrial facility with the largest reported flow (which was in SIC Code 4911—Electric Services) to capture the facilities with the potential for the largest costs. The EPA evaluated a stratified random sample of the remaining major facilities. For facilities in SIC Code 4952, EPA grouped facilities by design flow range and took a random sample of facilities from each group. The EPA grouped industrial facilities by SIC Code and took a random sample of industrial facilities by SIC Code grouping. For all sample facilities, the EPA evaluated existing baseline permit conditions, assessed whether the discharge would cause, have the reasonable potential to cause, or contribute to an exceedance of

[106] If a state or authorized Tribe adopts a new or revised WQS based on a required use attainability analysis, then it must also adopt the highest attainable use (40 CFR 131.10(g)). The highest attainable use is the modified aquatic life, wildlife, or recreation use that is both closest to the uses specified in section 101(a)(2) of the CWA and attainable, based on the evaluation of the factor(s) in 40 CFR 131.10(g) that preclude(s) attainment of the use and any other information or analyses that were used to evaluate attainability. There is no required highest attainable use where the state demonstrates the relevant use specified in section 101(a)(2) of the Act and sub-categories of such a use are not attainable (see 40 CFR 131.3(m)).

the proposed HHC, and evaluated the potential to exceed projected effluent limitations derived from the proposed HHC based on the last five years of effluent monitoring data (if available). Only the costs of compliance actions above the level of controls needed to comply with existing Florida criteria are attributable to the proposed rulemaking.

The EPA assumed that dischargers would pursue the least cost means of compliance with WQBELs derived from the proposed HHC. Compliance actions attributable to the proposed rulemaking may include one-time costs (*e.g.,* conducting a mixing zone study, completing a treatment optimization study) or annualized costs (*e.g.,* treatment modification, additional treatment). To determine annual costs for a specific facility, the EPA annualized capital costs over 20 years using discount rates of 3 percent and 7 percent and added incremental operation and maintenance costs to obtain total annual costs. To obtain an estimate of total costs to point sources, the EPA extrapolated both the one-time and annualized costs for the random sample based on the flow volume for the sample facilities in a facility group and the flow volume for facilities outside the sample for that facility group.

The EPA also evaluated potential administrative costs to the state for additional water body assessment and for developing additional TMDLs under CWA section 303(d) for waters that may be newly identified as impaired as a result of the proposed HHC. Using available ambient monitoring data, the EPA compared pollutant concentrations to existing Florida criteria and the proposed HHC, identifying waterbodies that may be incrementally impaired (*i.e.,* impaired under the proposed HHC but not under the existing Florida criteria). An exceedance of a criterion is sufficient to place an assessment unit (Waterbody Identification Number or WBID) on Florida's Planning List and allows Florida DEP to collect additional data and information to evaluate whether the water is impaired and a TMDL is needed for the WBID. The EPA considered any exceedance of the proposed HHC that did not also exceed Florida's current criteria a new exceedance. If the annual average concentration for a pollutant in a WBID exceeds the corresponding HHC, that WBID is placed on Florida's Impaired Waters Rule (IWR) Verified List and would require developing a TMDL. To calculate an annual average there must be a minimum of three samples in the year collected over a minimum of three quarters of the year. If these data requirements are not met, an annual average is not calculated.

C. Results

Based on the results for the 78 sample facilities across SIC Code 4952 and 11 industrial SIC code categories, the EPA estimated a range of total one-time and total annual costs to point sources as shown in Table 3.

TABLE 3—ESTIMATED ONE-TIME AND ANNUAL COSTS TO POINT SOURCES

[2022 Dollars]

Total estimated one-time cost		Total estimated annual cost (20 years, 3 percent discount rate)	
Low	High	Low	High
$622,000	$1,390,000	$0	$5,990,000

The low end of the one-time cost range reflects an assumption that most facilities potentially impacted would be able to comply with revised effluent limitations or would conduct a mixing zone study and request a revised mixing zone in order to achieve compliance. The high end of the one-time cost range assumes that these facilities would conduct a study to determine how to optimize or modify existing treatment. For example, the estimated costs for most facilities in SIC Code 4952 are attributable to chlorodibromomethane, a disinfection byproduct. A potential one-time cost for these facilities would be a study to determine how to optimize existing chlorine disinfection processes or assess the feasibility of using an alternative disinfectant.

The low end of the annual cost range reflects an assumption that one-time actions (*e.g.,* mixing zone studies, process optimization) result in compliance with revised effluent limitations. The high end of the annual cost range assumes that facilities incur capital and operation and maintenance costs associated with installing and operating new or additional treatment. For example, for chlorodibromomethane the high end of the annual cost range assumes that some facilities replace chlorine disinfection with ultraviolet (UV) disinfection in order to comply with revised WQBELs derived from the proposed HHC.

The EPA identified 65 instances of new exceedances in WBIDs under the proposed HHC, which would place the WBIDs and pollutants on Florida's Planning List. Of these 65 exceedances, an assessment of available annual average data indicated 45 potential incremental impairments, which could place these WBIDs and pollutants on Florida's IWR Verified List. To determine whether the remaining 20 WBIDs and pollutants would be placed on the IWR Verified List, Florida DEP staff would need to collect three additional samples from at least three different quarters of the same year. The EPA estimated the total costs associated with this determination, which include the cost of staff time to collect the samples, costs associated with travel (*e.g.,* gasoline), the cost of shipping the samples to the Florida DEP's Bureau of Laboratories for analysis, and the cost of the laboratory analysis. The EPA also estimated a range for the total cost to develop TMDLs for the 45 WBIDs and pollutants potentially placed on Florida's IWR Verified List. These costs were based on single-cause single-waterbody TMDL development costs. Actual costs may be lower if the state develops multi-cause or multi-waterbody TMDLs. Table 4 of this preamble summarizes the administrative costs associated with additional assessment of waters on Florida's Planning List and TMDL development for waters potentially placed on the IWR Verified List.

TABLE 4—ESTIMATED TOTAL COSTS ASSOCIATED WITH INCREMENTAL IMPAIRMENTS

[2022 Dollars]

Total additional assessment costs for WBIDs and pollutants on planning list	Total TMDL development costs for incrementally impaired WBIDs
$28,100	$1.99–2.14 million

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* OMB has previously approved the information collection activities contained in the existing regulations at 40 CFR part 131 and has assigned OMB control number 2040–0049.

C. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (RFA). Small entities, such as small businesses or small governmental jurisdictions, are not directly regulated by this rule. This proposed rulemaking will not impose any requirements on small entities.

D. Unfunded Mandates Reform Act

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

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the 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. This rule does not alter Florida's considerable discretion in implementing these WQS, nor would it preclude Florida from adopting WQS that the EPA concludes meet the requirements of the CWA, either before or after promulgation of the final rule, which would eliminate the need for Federal standards. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132 and consistent with the EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicits comments on this proposed action from state and local officials.

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

This action has Tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized Tribal governments, nor preempt Tribal law. This rule could affect federally recognized Indian Tribes in Florida because the numeric criteria for Florida will apply to waters adjacent to Tribal waters and to waters where Tribes have reserved rights to fish for subsistence.

The EPA consulted with Tribal governments under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this regulation to ensure meaningful and timely input into its development. In March and May 2023, the EPA held consultation and coordination meetings with Tribal environmental staff and leadership to share information, hear their views and answer questions on the rulemaking.

A *Summary of Consultation, Coordination and Outreach with Federally Recognized Tribes on EPA's Proposed Water Quality Standards to Protect Human Health in Florida* is available in the docket for this proposed rulemaking.

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

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. As noted in Section III.B of this preamble, the EPA recommends that HHC be designed to reduce the risk of adverse cancer and non-cancer effects occurring from lifetime exposure to pollutants through the ingestion of drinking water and consumption of fish/shellfish obtained from inland and nearshore waters. The EPA's proposed HHC for Florida are similarly based on reducing the chronic health effects occurring from lifetime exposure and therefore are expected to be protective of a person's exposure during both childhood and adult years.

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

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

I. National Technology Transfer and Advancement Act of 1995

This proposed rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing our Nation's Commitment to Environmental Justice for All

The EPA believes that the human health or environmental conditions that exist prior to this action result in or have the potential to result in disproportionate and adverse human health or environmental effects on communities with environmental justice concerns. Florida's current FCR of 6.5 g/day is far lower than national, regional or state-specific studies suggest Floridians consume. In addition, Florida does not have HHC for certain priority toxic pollutants that are likely to be present in Florida's waters. As a result, Florida's HHC are not protective of Florida's designated uses. Many groups in Florida, such as subsistence and recreational Tribal and non-Tribal fishers, consume self-caught fish and

shellfish. Florida's current HHC expose these higher fish consumers to greater risk from toxic pollutants. Florida's low FCR and lack of HHC for additional priority toxic pollutants potentially present in the state's waters disproportionately affect these groups.

The EPA believes that this action is likely to reduce existing disproportionate and adverse effects on communities with environmental justice concerns. Specifically, this rule would establish HHC based on a FCR of 142 g/day in areas where Tribes have reserved rights to fish for subsistence, which would help protect higher fish consumers, and it would increase the statewide FCR to 22 g/day in areas where Tribes do not have reserved rights to fish for subsistence, which would help protect the general population of fish consumers in the state. Additionally, it would establish new HHC for priority toxic pollutants for which there are currently no HHC. This will ensure that Florida's HHC protect all users of Florida's waters, including Tribes who engage in subsistence fishing where they have a reserved right to do so.

To achieve the benefits associated with a final rule, the EPA recognizes that some facilities may need to add pollution control measures and incur additional compliance costs over time to meet any WQBELs needed to achieve the HHC. As discussed in Section V of this preamble, the EPA estimates that there are 376 point source facilities that could be affected by this proposed rulemaking. Due to the large number of potentially affected facilities and the time intensive nature of ascertaining potential costs for each individual facility, the EPA did not perform a facility-by-facility analysis of potential environmental justice impacts and instead only costed for a sample of facilities. To assess generally whether compliance costs would overburden any regions of the state, the EPA mapped the 376 point source facilities (see the Economic Analysis in the docket for this rule for more information). In mapping the facilities, the EPA did not find that the facilities were concentrated in such a way that particular regions of the state were likely to be financially overburdened by the rulemaking. The potentially affected facilities are spread across the state, though they tend to be concentrated in more populated areas. However, in more populous areas, costs can be shared more broadly across the larger population size.

In addition, the EPA analyzed the potential environmental justice impacts on some of those facilities in the sample for which it estimated potential costs, in order to better understand the range of potential impacts to affected communities. The EPA finds that there is a considerable range of potential impacts. Many facilities are estimated to have no potential new costs (see Section V of this preamble). Others sampled had relatively low costs per household. For illustration, the Howard F. Curren Advanced Wastewater Treatment Plant treats all wastewater discharged to Tampa's collection system from both Tampa and surrounding suburbs.[107] Using EJScreen, the EPA examined income levels and the unemployment rate in the area served. Some areas showed low environmental justice concerns (not low income and low unemployment rate), whereas other areas in the county had slightly higher environmental justice concerns (low income and higher unemployment). The EPA estimates that the facility could potentially incur annual costs of up to $559,317 per year.[108] The facility serves over 100,000 customers,[109] which could result in a per-customer cost of $5.59 per year, if costs are distributed evenly across all customers. This potentially modest increase in the per customer sewerage bill is unlikely to disproportionally impact low-income populations and/or communities with high unemployment rates.

On the other end, some facilities have higher projected per-household costs. The City of Bonifay's Waste Water Treatment Facility is projected to have annual costs of $221,253. Bonifay has 1110 households,[110] resulting in annual per-household costs of $199.68 per year, assuming that all costs are passed onto residential customers. According to EJScreen, Bonifay ranks between the 70th and 100th percentile—depending on the area of the City—in terms of the percentage of the population that is low income.[111] Significant portions of Bonifay rank high in terms of the percentage of the population experiencing unemployment, as well. Such large costs, then, have the potential to disproportionately affect low-income households or people experiencing unemployment. However, actual impacts depend on a number of factors, including how the state implements the new criteria, how costs are financed, and how costs are distributed among rate-payers. States have wide latitude in how they implement the criteria, including the authority to adopt variances for those facilities for which meeting the standards would cause substantial and widespread economic and social impact. Some communities could apply for grants for such upgrades or the state may share part of the cost burden. In addition, the Bipartisan Infrastructure Law included $50 billion in funding for infrastructure improvements to the Nation's wastewater and drinking water systems. Moreover, some municipalities have customer assistance programs [112] or could implement progressive rate structures that reduce the cost burden on low-income households.[113] Finally, the costs of any such upgrades must be balanced against the potential benefits of having access to cleaner water. The EPA seeks comment on potential environmental justice impacts of the rulemaking.

To ensure that this rulemaking considers the interests and perspective of Tribes, the EPA engaged with Tribes that may be affected by this action to receive meaningful and timely input from Tribal officials. See Section VI.F of this preamble for a summary of Tribal consultation.

In addition to Executive Orders 12898 and 13175, and in accordance with Title VI of the Civil Rights Act of 1964, each Federal agency shall ensure that all programs or activities receiving Federal financial assistance that affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin. With that directive in mind, in August 2011 the Environmental Justice Interagency Working Group established a Title VI Committee to address the intersection of agencies' environmental justice efforts with their Title VI enforcement and

[107] Tampa Wastewater Department, *Howard F. Curren Advanced Wastewater Treatment Plant, https://www.tampa.gov/wastewater/info/advanced-wastewater-treatment-plant?utm_source=direct&utm_medium=alias&utm_campaign=tampagovnet* (last accessed July 17, 2023).

[108] See the *Economic Analysis for Water Quality Standards to Protect Human Health in Florida* in the docket for this rulemaking.

[109] Tampa Wastewater Department, About Us—Wastewater, *https://www.tampa.gov/wastewater/about-us* (last accessed July 17, 2023).

[110] U.S. Census, *Bonifay City, Florida, https://data.census.gov/profile?g=160XX00US1207450* (last accessed July 24, 2023).

[111] USEPA, the EPA's Environmental Justice Screening and Mapping Tool (EJScreen), *https://ejscreen.epa.gov/mapper/* (last accessed July 24, 2023).

[112] Florida Commerce, *Find Your Local Low-Income Household Water Assistance Program Provider for Help, https://www.floridajobs.org/community-planning-and-development/community-services/low-income-household-water-assistance-program/find-your-local-low-income-household-water-assistance-program-provider-for-help* (last accessed July 28, 2023).

[113] USEPA. (February 2023). *Clean Water Act Financial Capability Assessment Guidance, https://www.epa.gov/system/files/documents/2023-01/cwa-financial-capability-assessment-guidance.pdf.*

compliance responsibilities. If Florida receives Federal funds for CWA implementation, they are legally prohibited from discriminating on the basis of race, color or national origin under Title VI when engaging in CWA implementation activities. Additionally, and in compliance with Executive Order 12898, the EPA expects that Florida will consider disproportionately high adverse human health and environmental effects on communities with environmental justice concerns when implementing this rule under the CWA.

The information supporting this Executive Order review is contained in the above preamble, the document titled *Summary of Consultation, Coordination and Outreach with Federally Recognized Tribes on EPA's Proposed Water Quality Standards to Protect Human Health in Florida* and the Economic Analysis for this rule. The latter two documents can be found in the docket for this action.

List of Subjects in 40 CFR Part 131

Environmental protection, Indians—lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 131 as follows:

PART 131—WATER QUALITY STANDARDS

■ 1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

Subpart D—Federally Promulgated Water Quality Standards

§ 131.36 [Amended]

■ 2. Amend § 131.36 by removing and reserving paragraph (d)(6).

■ 3. Add § 131.XX to read as follows:

§ 131.XX Water quality standards to protect human health in Florida.

(a) *Scope.* This section promulgates human health criteria for priority toxic pollutants in surface waters in Florida.

(b) *Criteria for priority toxic pollutants in Florida.* The applicable human health criteria are shown in Table 1 to Paragraph (b).

BILLING CODE 6560–50–P

	A		B							C		D	
	Chemical	CAS Number	Cancer Slope Factor, CSF (per mg/kg·d) (B1)	Relative Source Contribution, RSC (-) (B2)	Reference Dose, RfD (mg/kg·d) (B3)	Bioaccumulation Factor for Trophic Level 2 (L/kg tissue) (B4)	Bioaccumulation Factor for Trophic Level 3 (L/kg tissue) (B5)	Bioaccumulation Factor for Trophic Level 4 (L/kg tissue) (B6)	Bioconcentration Factor (L/kg tissue) (B7)	Water & Organisms (µg/L) (C1)	Organisms Only (µg/L) (C2)	Water & Organisms (µg/L) – Areas with Reserved Rights (D1)	Organisms Only (µg/L) – Areas with Reserved Rights (D2)
1	1,1,1-Trichloroethane	71556	-	0.20	2	6.9	9.0	10	-	10000	200000	9000	30000
2	1,1,2,2-Tetrachloroethane	79345	0.2	-	-	5.7	7.4	8.4	-	-	3	0.1	0.4
3	1,1,2-Trichloroethane	79005	0.057	-	-	6.0	7.8	8.9	-	0.55	8.90	0.41	1.30
4	1,2,4-Trichlorobenzene	120821	0.029	-	-	2,800	1,500	430	-	0.068	0.072	0.011	0.011
5	1,2-Dichlorobenzene	95501	-	0.20	0.3	52	71	82	-	1000	3000	400	500
6	1,2-Dichloroethane	107062	0.0033	-	-	1.6	1.8	1.9	-	9.9	630	9.2	98
7	1,2-Dichloropropane	78875	0.036	-	-	2.9	3.5	3.9	-	0.9	30	0.77	4.6
8	1,2-Diphenylhydrazine	122667	0.8	-	-	18	24	27	-	0.03	0.2	0.02	0.03
9	1,2-Trans-Dichloroethylene	156605	-	0.20	0.02	3.3	4.2	4.7	-	100	4000	100	600
10	1,3-Dichlorobenzene	541731	-	0.20	0.002	31	120	190	-	7	10	2	2
11	1,3-Dichloropropene	542756	0.122	-	-	2.3	2.7	3.0	-	0.27	11	0.24	1.8
12	1,4-Dichlorobenzene	106467	-	0.20	0.07	28	66	84	-	300	900	100	100
13	2,3,7,8-TCDD (Dioxin)[a]	1746016	156,000						5,000	1.3E-08	1.4E-08	1.3E-08	1.4E-08
14	2,4,6-Trichlorophenol	88062	0.011	-	-	94	130	150	-	1.4	2.7	0.37	0.42
15	2,4-Dichlorophenol	120832	-	0.20	0.003	31	42	48	-	10	60	6	9
16	2,4-Dimethylphenol	105679	-	0.20	0.02	4.8	6.2	7.0	-	100	2000	100	400
17	2,4-Dinitrophenol	51285	-	0.20	0.002	4.4	4.4	4.4	-	10	300	10	50
18	2,4-Dinitrotoluene	121142	0.667	-	-	2.8	3.5	3.9	-	0.048	1.6	0.042	0.25
19	2-Chloronaphthalene	91587	-	0.80	0.08	150	210	240	-	800	1000	200	200
20	2-Chlorophenol	95578	-	0.20	0.005	3.8	4.8	5.4	-	30	-	30	100
21	2-Methyl-4,6-Dinitrophenol	534521	-	0.20	0.0003	6.8	8.9	10	-	2	30	1	4
22	3,3'-Dichlorobenzidine	91941	0.45	-	-	44	60	69	-	0.049	0.14	0.017	0.022
23	3-Methyl-4-Chlorophenol	59507	-	0.20	0.1	25	34	39	-	500	2000	200	400
24	4,4'-DDT	50293	0.34	-	-	35,000	240,000	1,100,000	-	3.0E-05	3.0E-05	5.0E-06	5.0E-06
25	Acenaphthene	83329	-	0.20	0.06	510	510	510	-	70	90	10	10
26	Acrolein	107028	-	0.20	0.0005	1.0	1.0	1.0	-	3	400	3	60

27	Acrylonitrile	107131	0.54	-	-	1.0	1.0	1.0	-	0.061	6.7	0.058	1
28	Aldrin	309002	17	-	-	18,000	310,000	650,000	-	7.6E-07	7.6E-07	1.2E-07	1.2E-07
29	Anthracene	120127	-	0.20	0.3	610	610	610	-	300	400	50	60
30	Antimony	7440360	-	0.40	0.0004	-	-	-	1	5	600	5	90
31	Benzene	71432	0.055	-	-	3.6	4.5	5.0	-	0.58	15	0.48	2.4
32	Benzidine	92875	230	-	-	1.4	1.6	1.7	-	0.00014	0.01	0.00013	0.0016
33	Benzo(a) Anthracene	56553	0.73	-	-	3,900	3,900	3,900	-	0.001	0.009	0.0002	0.009
34	Benzo(a) Pyrene	50328	7.3	-	-	3,900	3,900	3,900	-	0.0001	0.0009	2.0E-05	0.0009
35	Benzo(b) Fluoranthene	205992	0.73	-	-	3,900	3,900	3,900	-	0.001	0.009	0.0002	0.009
36	Benzo(k) Fluoranthene	207089	0.073	-	-	3,900	3,900	3,900	-	-	-	0.002	-
37	beta-Hexachlorocyclohexane (HCH)	319857	1.8	-	-	110	160	180	-	0.0079	0.014	0.0019	0.0021
38	Bis(2-Chloroethyl) Ether	111444	1.1	-	-	1.4	1.6	1.7	-	0.03	2.1	0.028	0.33
39	Bis(2-Chloro-1-Methylethyl) Ether	108601	-	0.20	0.04	6.7	8.8	10	-	200	4000	200	500
40	Bis(2-Ethylhexyl) Phthalate	117817	0.014	-	-	710	710	710	-	0.32	0.37	0.055	0.057
41	Bromoform	75252	0.0045	-	-	5.8	7.5	8.5	-	-	110	-	18
42	Butylbenzyl Phthalate	85687	0.0019	-	-	19,000	19,000	19,000	-	0.1	0.1	0.016	0.016
43	Carbon Tetrachloride	56235	0.07	-	-	9.3	12	14	-	-	-	-	0.7
44	Chlordane	57749	0.35	-	-	5,300	44,000	60,000	-	0.00031	0.00031	5.0E-05	5.0E-05
45	Chlorobenzene	108907	-	0.20	0.02	14	19	22	-	100	800	60	100
46	Chlorodibromomethane	124481	0.040	-	-	3.7	4.8	5.3	-	-	20	-	3.1
47	Chloroform	67663	-	0.20	0.01	2.8	3.4	3.8	-	-	-	-	300
48	Dibenzo(a,h)anthracene	53703	7.3	-	-	3,900	3,900	3,900	-	0.0001	0.0009	2.0E-05	0.0009
49	Dichlorobromomethane	75274	0.034	-	-	3.4	4.3	4.8	-	-	-	-	4.1
50	Dieldrin	60571	16	-	-	14,000	210,000	410,000	-	1.2E-06	1.2E-06	2.0E-07	2.0E-07
51	Diethyl Phthalate	84662	-	0.20	0.8	920	920	920	-	600	600	100	100
52	Dimethyl Phthalate	131113	-	0.20	10	4,000	4,000	4,000	-	2000	2000	300	300
53	Di-n-Butyl Phthalate	84742	-	0.20	0.1	2,900	2,900	2,900	-	20	30	4	4
54	Ethylbenzene	100414	-	0.20	0.022	100	140	160	-	67	120	17	19
55	Fluoranthene	206440	-	0.20	0.04	1,500	1,500	1,500	-	20	20	3	3
56	Fluorene	86737	-	0.20	0.04	230	450	710	-	50	70	10	10
57	Heptachlor	76448	4.1	-	-	12,000	180,000	330,000	-	5.8E-06	5.8E-06	9.0E-07	9.0E-07
58	Heptachlor Epoxide	1024573	5.5	-	-	4,000	28,000	35,000	-	3.2E-05	3.2E-05	5.0E-06	5.0E-06
59	Hexachlorobutadiene	87683	0.04	-	-	23,000	2,800	1,100	-	0.009	0.009	0.001	0.001

60	Hexachlorocyclopentadiene	77474	-	0.20	0.006	620	1,500	1,300	-	4	4	0.6	0.6
61	Hexachloroethane	67721	0.04	-	-	1,200	280	600	-	0.1	0.1	0.02	0.02
62	Indeno(1,2,3-cd) Pyrene	193395	0.73	-	-	3,900	3,900	3,900	-	0.001	0.001	0.0002	0.0002
63	Isophorone	78591	0.00095	-	-	1.9	2.2	2.4	-	34	1800	31	280
64	Methyl Bromide	74839	-	0.20	0.02	1.2	1.3	1.4	-	100	10000	100	2000
65	Methylene Chloride	75092	0.002	-	-	1.4	1.5	1.6	-	-	1000	-	200
66	Methylmercury[b]	22967926	-	2.70E-05	0.0001	-	-	-	-	-	0.3	-	0.04
67	Nitrobenzene	98953	-	0.20	0.002	2.3	2.8	3.1	-	10	500	10	80
68	Pentachlorophenol (PCP)	87865	0.4	-	-	44	290	520	-	0.03	0.04	0.005	0.006
69	Polychlorinated Biphenyls (PCBs)[c]		2	-	-	-	-	-	31,200	-	-	1.0E-05	1.0E-05
70	Pyrene	129000	-	0.20	0.03	860	860	860	-	20	30	4	4
71	Tetrachloroethylene	127184	0.0021	-	-	49	66	76	-	-	-	-	4.3
72	Toluene	108883	-	0.20	0.0097	11	15	17	-	57	500	35	78
73	Trichloroethylene	79016	0.05	-	-	8.7	12	13	-	0.6	7	0.4	1
74	Vinyl Chloride	75014	1.5	-	-	1.4	1.6	1.7	-	0.022	1.6	0.020	0.24

[a] These criteria were promulgated for Florida in the National Toxics Rule at 40 CFR 131.36 and are moved here to have one comprehensive human health criteria rule for Florida.

[b] This criterion is expressed as the fish tissue concentration of methylmercury (mg methylmercury/kg fish). See *Water Quality Criterion for the Protection of Human Health: Methylmercury* (EPA-823-R-01-001, January 3, 2001) for how this value is calculated using the criterion equation in EPA's 2000 Human Health Methodology rearranged to solve for a protective concentration in fish tissue rather than in water.

[c] This criterion applies to total PCBs (e.g., the sum of all congener or isomer or homolog or Aroclor analyses.

(c) *Applicability.* (1) The criteria in paragraph (b) of this section apply to waters with Florida's designated uses cited in paragraph (d) of this section and apply concurrently with other applicable water quality criteria.

(2) The criteria established in this section are subject to Florida's general rules of applicability in the same way and to the same extent as are other federally promulgated and state-adopted numeric criteria when applied to the same use classifications in paragraph (d) of this section.

(i) For all waters with mixing zone regulations or implementation procedures, the criteria apply at the appropriate locations within or at the boundary of the mixing zones; otherwise the criteria apply throughout the waterbody including at the end of any discharge pipe, conveyance or other discharge point within the waterbody.

(ii) When determining critical low flows, the state must not use a low flow value below which numeric non-carcinogen and carcinogen human health criteria can be exceeded that is less stringent than the harmonic mean flow for waters suitable for the establishment of low flow return frequencies (*i.e.,* streams and rivers). Harmonic mean flow is a long-term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows.

(iii) If the state does not have such a low flow value for numeric criteria, then none will apply and the criteria in paragraph (b) of this section herein apply at all flows.

(d) *Applicable use designations.* (1) All waters in Florida assigned to the following use classifications are subject to the criteria identified in paragraph (d)(2) of this section:

(i) Class I—Potable Water Supplies;

(ii) Class II—Shellfish Propagation or Harvesting;

(iii) Class III—Fish Consumption; Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife; or

(iv) Class III—Limited—Fish Consumption; Recreation or Limited Recreation; and/or Propagation and Limited Maintenance of a Limited Population of Fish and Wildlife.

(2) The criteria in columns C1 and C2 of Table 1 in paragraph (b) of this section apply to Florida waters where the Seminole Tribe and Miccosukee Tribe do not have reserved rights to fish on a subsistence basis. Where these waters include the use classification of Class I—Potable Water Supplies, the criteria in column C1 of Table 1 in paragraph (b) of this section apply. Where these waters do not include the use classification of Class I—Potable Water Supplies, the criteria in column C2 of Table 1 in paragraph (b) of this section apply.

(3) The criteria in columns D1 and D2 of Table 1 in paragraph (b) of this section apply to Florida waters where the Seminole Tribe and Miccosukee Tribe have reserved rights to fish on a subsistence basis. Where these waters include the use classification of Class I—Potable Water Supplies, the criteria in column D1 of Table 1 in paragraph (b) of this section apply. Where these waters do not include the use classification of Class I—Potable Water Supplies, the criteria in column D2 of Table 1 in paragraph (b) of this section apply.

[FR Doc. 2023–26734 Filed 12–7–23; 8:45 am]

BILLING CODE 6560–50–C

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 25

[IB Docket Nos. 22–411, 22–271; FCC 23–73; FR ID 188524]

Expediting Initial Processing of Satellite and Earth Station Applications

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) continues its long-standing practice of reviewing its licensing rules and practices in light of innovation and development in the satellite industry and seeks further comment on possible further streamlining and expediting of its rules. Proposals include: elimination of the procedural requirement to print and maintain a paper copy of a license; changing the default status of space and earth station proceedings to permit-but-disclose; allowing earth station operators to apply for and receive a limited license without an identified satellite point of communication. The Commission also seeks comment on: additional minor modifications to be made by operators without prior authorization from the Commission; whether to provide a process for market access petitioners to seek the equivalent of a special temporary authorization (STA); whether to expand the window for operators to file renewal applications for existing licenses; further streamlining some of its coordination requirements for earth and space station operators; expanding the conditions under which earth station operators could access the new, streamlined ''deemed-granted'' process for adding points of communications; timeframes for taking action on license applications; allowing operators to file STA extensions concurrently with an STA application; and on the creation of a permitted list that would include NGSO operators.

DATES: Comments are due January 8, 2024. Reply comments are due February 6, 2024.

ADDRESSES: You may submit comments, identified by IB Docket Nos. 22–411, 22–271, by any of the following methods:

- *FCC Website: http://apps.fcc.gov/ecfs.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Julia Malette, Satellite Programs and Policy Division, Space Bureau, 202–418–2453 or *julia.malette@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM), FCC 23–73, adopted September 21, 2023, and released September 22, 2023. The full text is available online at *https://docs.fcc.gov/public/attachments/FCC-23-73A1.pdf.* To request materials in accessible formats for people with disabilities (*e.g.,* Braille, large print, electronic files, audio format, etc.), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Procedural Matters

Comment Filing Requirements

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments in response to this further notice of proposed rulemaking on or before the dates indicated in the **DATES** section above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

○ Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

○ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

○ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

○ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

Persons 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).

Ex Parte Presentations

Pursuant to 47 CFR 1.1200(a), this proceeding will be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with 47 CFR 1.1206(b). In proceedings governed by 47 CFR 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Providing Accountability Through Transparency Act

The Providing Accountability Through Transparency Act, Public Law 118–9, requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. The required summary of this Further Notice of Proposed Rulemaking is available at *https://www.fcc.gov/proposed-rulemakings.*

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, as amended (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.'' The Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential impact of the rule and policy changes contained in the FNPRM. The IRFA is set forth in Section IV below. Written public comments are requested on the IRFA. Comments must be filed by the deadlines for comments on the FNPRM indicated on the **DATES** section of this document and must have a separate and distinct heading designating them as responses to the IRFA.

Paperwork Reduction Act

This document contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

I. Introduction

1. In this document, the Federal Communications Commission (Commission) continues its long-standing practice of reviewing Commission licensing rules and practices in light of innovation and development in the satellite industry and seek further comment on possible further streamlining of Commission rules. Specifically, the Commission seeks further comment on several proposals raised by commenters in response to the NPRM, but which require more development of the record and opportunity for public input.

II. Background

2. As we enter the new space age, applications for space services before the Commission continue to increase in complexity and number. In response to this unprecedented era of growth in the space industry, the Commission launched the Space Bureau on April 11, 2023. Space activities are increasing in almost every industry sector. The Commission must, therefore, make expediting the processing of applications a priority of its Space Innovation Agenda. If the current rate of filings for applications continues in 2023, the Commission will receive approximately four times the number of space station applications and three times the number of earth station applications than it received in 2015. In addition, the complexity of applications continues to increase as new and novel space technologies are presented for consideration. The commercial space industry is evolving at a rapid pace, and it is critical that the Commission keeps up with the cadence of applications and complexity of regulatory issues presented.

III. Discussion

A. Allowing Additional Minor Modifications Without Prior Authorization

3. The Commission seeks comment on whether to expand upon the list of minor modifications that can be made

by operators without prior authorization by the Commission. Currently, the section of the Commission's part 25 rules addressing minor modifications provides for various circumstances in which operators can make minor modifications without prior Commission approval. In response to the NPRM, numerous commenters suggest additions to this list of modifications. Intelsat proposes that earth station modifications including removal of a satellite point of communication or modification of an earth station's antenna identification should be included as minor modifications. SpaceX suggests that NGSO system operators should be able to modify space station antenna parameters without prior Commission authorization so long as those changes fall within the authorized parameters of the satellite system, with notice after the fact. Intelsat also suggests that the Commission consider revising the existing provision allowing certain relocation of GSO space stations with prior notification to the Commission to permit operation of service links during the drift period to the new location, rather than limiting operations to 'tracking, telemetry, and command functions during the drift period.''

3. The Commission seeks comment on expanding the list of minor modifications not requiring prior authorization, and if it does expand this list, what the appropriate notification process should be. Should the Commission permit earth station operators to remove satellite points of communication and modify antenna identification without prior authorization? If so, should the additions be included in the existing provision allowing earth station licensees to make certain modifications without prior authorization provided that the licensee notify the Commission within 30 days of the modification? Or is a different notification process appropriate? What certifications should be made in connection with any notification? Should the Commission consider allowing satellite operators to change antenna parameters without prior authorization? If so, what notification process might be appropriate, and if so, what certifications should be required in connection with this type of modification? The Commission seeks comment by way of examples, information, and other data that would demonstrate that such a change would not require Commission prior approval. Are there types of space station antenna changes or other changes that should be excluded from potential consideration under this minor modification rule? For any proposed additions to the list of minor modifications, the Commission asks commenters to address how such minor modifications should be handled in the event of a temporary freeze on applications for new or modified space stations in a particular band.

4. Finally, the Commission seeks comment on Intelsat's proposal suggesting that operations beyond tracking, telemetry, and command functions (TT&C) should be able to continue during certain satellite drifts so long as the operator provides ''certification that operations are limited to coordinated transmissions during the relocation and drift transition period.'' The Commission observes that under current rules addressing certain GSO satellite relocations as minor modifications, the operators would be able to resume full satellite operations, including provision of service, once the space station arrives at its new destination without prior Commission approval, *i.e.* it may continue normal operations within the technical parameters authorized and coordinated for the space station previously assigned to that location. The Commission seeks comment on whether continued operations during relocation, provided the operator certifies that operations are limited to transmissions that have been coordinated with other potentially affected operators, would result in an important benefit to licensees? The Commission also seeks comment on any potential interference concerns that may arise during relocation and whether the risk of potential interference outweighs any temporary benefits to allow continued operations during drift. Would it be sufficient for the operator to conduct such operations on a non-interference, unprotected basis? Would any additional certifications to the Commission be required before the operator initiates the drift? Additionally, The Commission seeks comment on whether it should limit operations to instances of short drift periods only, *e.g.* less than 30-days total duration. Finally, the Commission seeks comment on additional conditions that might be appropriately placed on any operations during drift beyond TT&C to protect other operators in the GSO arc.

B. Market Access and Requests for Special Temporary Authority

5. In an effort to continue its streamlining goals, the Commission seeks further comment on the suggestion for a type of temporary authorization that could be sought by U.S. market access grantees whose operations are authorized through a space station grant. U.S. licensees may apply for an STA to operate under certain circumstances. Under current rules, market access grantees may file the equivalent of an amendment and a modification to petitions for declaratory ruling via § 25.137(e) and (f) respectively. However, although earth station licensees may request special temporary authority to reflect changes to the communications with non-U.S. licensed space stations, there is no such provision for an STA to be filed as part of the space station application process for market access grantees. This is consistent with the distinction between market access grants and licensees. Nonetheless, since the Commission frequently issues grants of U.S. market access to space station operators through action on petitions for declaratory ruling, the Commission seeks further comment on some type of special temporary grant that could be sought by the space station operator.

6. Nearly three decades ago the Commission began efforts to consider how to expand competition and provide opportunities for foreign entities to deliver satellite services in this country. This effort coincided with broader U.S. government negotiations through the World Trade Organization to establish the WTO Basic Telecom Agreement. In the order establishing rules to implement U.S. commitments to the WTO Basic Telecom Agreement, the Commission explained that ''[e]nhanced competition in the U.S. market, in turn, will provide users more alternatives in choosing communications providers and services, as well as reduce prices and facilitate technological innovation.'' The Commission further noted that ''in addition to encouraging a more competitive satellite market in the United States, this new environment will spur development of broader, more global satellite systems[,]'' and that ''these advancements will foster greater global community benefits by providing users, ranging from individual consumers and businesses to schools and hospitals, increased access to people, places, information, and ideas worldwide.'' The public interest goals articulated by the Commission at that time are just as relevant today. Additionally, as the Commission seeks to keep pace with the ever expanding satellite communications market, is continuously evaluating whether and where the Commission can streamline rules and procedures to provide for greater clarity and accessibility for applicants seeking to engage in satellite operations in the United States.

7. As such, the Commission seeks comment on whether it is in the public interest to amend Commission rules to allow for an equivalent to special temporary authority for space station market access grantees to communicate with U.S. licensed earth stations. For example, should the Commission include a new paragraph in § 25.137 to allow market access space station grantees to seek some type of temporary authorization related to their grant of market access? If so, would applications for such authority be subject to the Commission's application public notice requirements in all cases? Under any new process the Commission would continue to consider public interest factors in reviewing requests, and would treat market access applicant petitions for declaratory ruling the same as a satellite application, consistent with WTO commitments to treat non-U.S. satellite operators no less favorably than the Commission treats U.S. satellite operators. Alternatively, are the current procedures by which STA requests can be filed by earth station operators sufficient? The Commission invites comment.

C. Considering STA Extension Requests Concurrently With Initial STA Applications

8. In response to the NPRM, several commenters suggest that grants of STA should continue automatically while an underlying application is being considered. The Commission observed in the accompanying Report and Order that the Space Bureau's STA process stems from the Communications Act, which allows the Commission to grant STAs for up to 180 days if they are placed on public notice and to grant up to 30 and 60-day STAs in certain circumstances without public notice. SpaceX raises an additional proposal to allow operators to request multiple extensions of an initial 60-day STA as part of the same initial STA application. The Commission seeks comment on this proposal. Would such a process conform with statutory requirements under section 309(f) (*e.g.,* the obligations for operators to file for an extension of an STA even though they would effectively do so at the same time and in the same application as the initial STA; authorizing the Commission to extend authorization of temporary operations for a period not exceeding 180 days and upon making like findings for an extension for additional periods) and section 309(c)(2)(G) (*e.g.,* allowing the Commission to grant up to 30 and 60-day STAs in certain circumstances without public notice)? Are there public interest or policy concerns that are implicated by allowing automatic extensions of STAs while an underlying application is being considered? Additionally, the Commission seeks comment on whether allowing such a process might present conflict or confusion with regard to the provisions of the Communications Act regarding STAs and the assessment of filing fees.

D. Expanding Timeframes for Filing License Renewal Applications

9. In response to general streamlining queries in the NPRM, the Commission received a suggestion to expand or eliminate the current 60-day window for earth station licensees to submit a renewal application. Under current Commission rules, earth station license holders may seek a renewal of their license between 90 and 30 days prior to their license expiration. Intelsat suggests that the Commission remove this 60-day window, or in the alternative, provide operators a 365-day window in the year leading up to the license expiration. The Commission notes that renewal applications must be placed on a 30-day public notice and tentatively declines to expand the renewal application period up to the license expiration date, as this change would create a potentially larger administrative burden for Commission staff reviewing applications. Nonetheless, the Commission believes that a longer window for filing renewals could provide more flexibility for operators without negatively impacting Commission processing. As such, the Commission proposes to amend its rules to expand the window for earth station operators to file an application for renewal from no earlier than 180 days, and no later than 30 days, prior to the expiration of the existing license. The Commission seeks comment on this proposal and any alternatives.

10. The Commission notes that NGSO space station licensees are required to file applications for renewal no earlier than 90 days, and no later than 30 days, prior to the end of the twelfth year of the existing 15 year license term. The Commission seeks comment on whether it should consider similarly expanding the filing window within the twelfth year of the existing term for these space station operators as another means of providing flexibility and streamlining the application process. For example, should the Commission amend its rules to include a window of no earlier than 180 days and no later than 30 days prior to the end of the twelfth year of the license for filing a renewal? The Commission seeks comment this proposal as well as any alternatives.

E. Timing for Completion of Application Review

11. In the NPRM, the Commission briefly sought comment on timeframes for application review, including whether to impose shot clocks for final action on certain types of satellite or earth station applications. As noted in the accompanying Report and Order, the record on this issue was divided on whether the Commission should consider shot clocks, and if so, for what types of applications and for what length of time.

12. Given the significant additional volume of space and earth station applications in today's burgeoning satellite service market and the Commission's goals of supporting innovation in space, the Commission believes it is imperative to seek additional comment on this issue. The Commission also notes that it has considered such timelines and shot clocks in other contexts, such as for the processing of applications related to major transactions and state and local review of applications for siting of wireless facilities, and may consider how such contexts are applicable or distinct from the needs of satellite operators and the unique complexities of space and earth station operation considerations. In support of this inquiry, the Commission seeks further comment on any relevant comparisons to other forms of timelines and shot clocks that could shed light on this inquiry. Additionally, the Commission notes that satellite licensing often requires coordination with federal entities in order to protect U.S. national interests, as well as international considerations, to comply with ITU obligations, for example. The Commission is also subject to various statutory requirements. The Commission seeks input on these considerations and how they should affect the consideration of shot clocks or other specific timeframes. The Commission seeks comment, data, and information on circumstances, such as the need for operators to file amendments to their application, that would need to be considered in developing an appropriate timeline for shot clocks or other specific timeframes for action on the merits. What events would warrant pausing the clock? Should the clock run during a public notice period, for example? In the context of shot clocks, the Commission also seeks comment on whether applications would be deemed granted at the close of the relevant time period, or if the Commission should revise its dismissal criteria or other practices, in

order to meet potential shot clock obligations. Finally, while the record on this issue was inconclusive on the appropriate use of shot clocks, the Commission will continue to gather data on applications and processing timelines that could inform on the appropriate length of future shot clocks.

F. Earth Station Licensing Without an Identified Satellite Point of Communication

13. In the NPRM the Commission asked whether it should consider allowing earth station operators to receive a license without having first identified a satellite point of communication. The Commission received limited, but supportive comments for creating such a procedure. The Commission seeks to expand the record on this issue, considering what some operators have described as ''ground stations as a service'' (GSaaS) operations in particular. The Commission tentatively concludes that issuing a limited license for earth station operators who do not yet have an identified point of communication would align with the Commission's goals to support innovation in the satellite industry and increase accessibility to services. However, the Commission envisions that such a license would need to be limited and include a mechanism for modification once a point of communication has been established, prior to initiation of operations. In addition, for frequency bands shared with terrestrial systems (for example, bands shared with point-to-point microwave stations licensed under Part 101 of the Commission's rules), the Commission is not proposing to confer first-in-time rights to earth stations without an identified satellite point of communication on what could effectively be a multi-band, full-arc basis. Furthermore, in bands shared with UMFUS, earth stations would need to make a showing under § 25.136 of the Commission's rules in order to limit their obligation to protect UMFUS or to receive interference protection. The Commission seeks comment on how this process may affect coordination processes. The Commission proposes to create a new provision in Commission rules that would allow earth station operators to apply for and receive a limited license under the condition that the license will require modification prior to operations with a specific point of communication, unless the point of communication is already on the Permitted List and the operations fit within the parameters specified therein. The Commission seeks comment on this proposal, as well as on any alternatives to facilitate licensing where a satellite point of communication has not been identified, or perhaps a point of communication has been identified but a space station application has not yet been granted.

G. Feasibility of a Permitted List for NGSO Operators

14. In response to the NPRM, commenters suggested the Commission consider allowing earth station applicants to specify that they will communicate with certain authorized NGSO systems, in a procedure similar to the Permitted List, which is currently available to routinely granted earth station operators for communications with GSO space stations that are licensed by the FCC or that have been granted U.S. market access, and that provide fixed-satellite service in certain frequency bands where GSO fixed-satellite service has primary status. The Commission seeks comment on this suggestion.

H. Inter-Bureau and Inter-Agency Review and Coordination Streamlining

15. In the NPRM the Commission sought comment on various coordination considerations, including how the Commission might better streamline inter-Bureau reviews in shared-spectrum bands, and how the Commission might eliminate duplicative coordination requirements. Although the Commission did not specifically ask about it, multiple commenters offered suggestions on streamlining the inter-agency coordination and review process with NTIA. The Commission seeks to further expand the record on coordination considerations and the suggestions raised by commenters.

16. With respect to the coordination within the Commission, for coordination with other bureaus and offices, several commenters suggested updates to timeframes, or other limitations on inter-bureau review. Recognizing the establishment of the Space Bureau, the Commission expects that the Bureau will continue to look at means to make the inter-bureau and office coordination process more efficient, taking into consideration certain types of applications and the unique issues that those applications present from a coordination perspective. The Commission notes that such improvements to the inter-bureau coordination process do not require any rule changes. The Commission will plan, however, to continue the practice of conducting coordination at the bureau/office level once the draft authorization, including proposed conditions, is ready to share within the Commission and to pursue ways to improve the internal coordination processes.

17. Several commenters also offered suggestions to improve the inter-agency coordination process. Often, applications must be coordinated with NTIA because the applicant requests use of a frequency band that is also allocated for use by Federal stations. The Commission notes as a general matter that broader issues regarding coordination are addressed through the Memorandum of Understanding (MOU) between the Commission and NTIA. At the bureau level, the Space Bureau facilitates the coordination process by engaging directly with NTIA both for earth stations and space stations applications, as well as applications for special temporary authority in certain instances. The bureau-level coordination process varies slightly depending on the type of application presented for review.

18. Among the suggestions on the record, SpaceX states that the Commission could streamline coordination, in particular for earth station applications, by preparing specific shared databases for coordination and by adopting a ''green light/yellow light'' system for coordination with federal users. Similarly, Turion Space argues that standardized input documents and processing would ease the inter-agency application coordination process. Intelsat suggests that applications that have been pre-coordinated between an applicant and federal user should not require an additional referral from the Commission to NTIA and otherwise suggests that the Commission consider automating the referral process and eliminating manual data entry. SIA suggests that the Commission provide applicants with NTIA contact information or share specifics of concerns raised by NTIA during the application review process so that applicants can address any concerns expeditiously. AWS proposes that the Commission provide applicants with a template and guidance for the information needed for NTIA coordination. Some commenters also suggest that coordination and review would be faster if applications are sent to other reviewers as soon as they are filed or as soon as they are placed on public notice. To the extent that such a practice would involve the inter-agency coordination process, the Commission observes that sending a large amount of application information for coordination to NTIA without direction from the Bureau on what the yet-to-be-proposed

authorization would entail has the potential to encumber review and slow down deliberations on the application. Therefore, the Commission will plan to continue the practice of conducting coordination once the draft authorization, including proposed conditions, is ready to share with NTIA reviewers.

19. As part of the transparency initiative described above, there may be opportunities to provide additional information to applicants regarding processes for the coordination of specific application requests. The Commission does not seek to unilaterally adopt changes to the overall inter-agency coordination process. The Commission further notes the interests of NTIA and appropriate federal stakeholders in the process and recognize that implementation may not be achievable considering technological limitations and various agency security needs. However, the Commission agrees with commenters that providing increased information regarding federal coordination may aid in streamlining the application process. Commission staff will continue to engage in their regular and ongoing dialogue with colleagues at NTIA and other federal agencies to identify and consider ways to improve the inter-agency coordination process. In support of such discussions, the Commission seeks comment on the proposals above made by commenters, as well as any additional proposals for improvements regarding inter-agency coordination of space station and earth station applications.

I. Eliminating Potentially Duplicative Coordination Requirements

20. The Commission seeks further comment on whether it can further streamline some of the coordination requirements for earth and space station operators in instances in which the earth station and space station sides must engage in potentially duplicative coordination. In the NPRM the Commission asked about any duplicative coordination processes that could be streamlined and received several comments pointing to areas in which earth and space station applications are part of separate coordinations related to the same underlying set of operations. AWS suggests that the Commission could reduce duplicative coordination in cases where a space station's downlinks have already been coordinated and the same frequencies and points of communication corollate with earth station applications and provided an example of the requirements for EESS operators in the X-band (8025–8400 MHz). Similarly, Microsoft asserts that authorization process for communications in the S-, X-, and Ka-bands between EESS space stations and earth stations requires a space station operator to engage in the same coordination to add an earth station to its authorized list that an earth station operator is also required to engage in to add the space station to its authorized list.

21. The Commission seeks comment on how to expedite the coordination process where the Commission has already required a space-station operator to coordinate its communications with each earth station, for operations where the space station operator has identified earth stations and where such a list of such earth stations is provided to NTIA during the space station licensing process or coordinated with NTIA after licensing. Specifically, the Commission considers whether it is possible to coordinate the earth station sites and frequencies utilized with those earth stations once, as part of either just the space station or earth station coordination with NTIA? Again, the Commission does not seek to change these processes unilaterally and note this will involve continued dialogue to assess whether such changes are feasible given the need to coordinate operations in frequency bands that are shared with federal users. If the Commission determines that such streamlining is possible, the Commission seeks comment on how to ensure that the earth stations have been previously coordinated. For example, should the Commission allow earth station applicants to certify that a new satellite point of contact the earth station operator seeks to add has already been coordinated with NTIA in the relevant frequency bands in connection with a space station application? Additionally, the Commission seeks further comment on any additional situations in which identical coordination is required and could be eliminated without creating any gaps in coordination and interference protection.

J. Earth Station Applications Adding a Satellite Point of Communication

22. The Commission also inquires as to how this proposal on eliminating potentially duplicative coordination may affect the new streamlined modification procedure for earth station operators adding points of communication that was adopted in the accompanying Order. While the Commission has initially determined that this new, deemed-granted process can move forward in the limited set of circumstances identified in the Report and Order at this time, the Commission seeks to expand the record on this issue to determine whether and how it might be able to broaden the universe of operators that could access the new process created in § 25.117(i). For example, should the Commission enable earth station licensees operating in bands shared with federal users to take advantage of the streamlined modification procedure to add a new point of communication that has already been coordinated with federal users through the space station licensing process? Assuming that the Commission determines that coordinating certain earth stations with federal users through the space station process is possible, are there other change to Commission licensing rules should be considered? Similarly, should the Commission allow operators in a band shared with non-federal services to take advantage of this expedited process if they certify, or otherwise demonstrate, that they have successfully completed coordination with other users prior filing their application? Are there any other mechanisms that could be implemented to expand access to this process without creating new interference concerns or circumventing the need for coordination in shared bands?

23. Additionally, the Commission seeks further comment on whether expedited treatment might be appropriate in bands that require coordination, even without a demonstration of pre-coordination, if applicants must demonstrate both that the addition of a new point of communication will not cause earth station transmissions to exceed the highest equivalent EIRP, EIRP density, and bandwidth prescribed for any already authorized emission, and that the modification would not cause earth station to repoint the earth station's antenna beyond any coordinated range. If so, for what subset of applications subject to coordination would expedition be appropriate, and would a mechanism of expedition short of a ''deemed grant'' be better suited to those applications? Whether such applications are eligible for a ''deemed grant'' or otherwise expedited, what processing timeframe would be realistic to ensure any required coordination is completed? With respect to federal coordination in particular, how can the Commission ensure that expedition does not unreasonably or unilaterally curtail the federal coordination review process given the important scientific, safety, and security-related federal

operations at play? Finally, if the Commission expands the list of applicants who could access this deemed-granted process to include bands that are shared with other services and additional operators, the Commission seeks comment on whether a notification process rather than public notice may be appropriate in some circumstances, and on how to address objections or other comments that may be filed.

K. Eliminating Printed, Hardcopies Requirement

24. Intelsat suggests eliminating a current part 25 rule that requires operators to keep an original paper copy of an electronically filed application. The Commission agrees that this requirement, found in § 25.110(e) of Commission rules, is outdated and unnecessary and therefore proposes to amend the rules to eliminate this procedural requirement. Applicants of course are free to continue such practice if they so choose, but the Commission believes that removal of the requirement would fit squarely into its application streamlining goals as well as conform with long-standing broader government initiatives to reduce reliance on hard copy paper filings. The Commission seeks comment on this proposed change.

L. Change of Default Ex Parte Status of Space and Earth Station Applications

25. The Commission proposes to change the default status of all space and earth station applications from ''restricted'' to ''permit but disclose'' under Commission rules governing *ex parte* presentations and seeks comment on this proposal. Currently, space and earth station applications are by default classified as ''restricted'' proceedings under the rules, since they are applications for authority under Title III of the Communications Act, and *ex parte* presentations are prohibited. Commission rules regarding *ex parte* presentations give Commission staff discretion to modify applicable ex parte rules, where it is in the public interest to do so in a particular proceeding, and Commission staff has frequently done so, sometimes at the request of parties. The reasons for changing the *ex parte* status of a particular application can include, but are not limited to, the fact that the application covers the same subject area as a related rulemaking proceeding, or the topic to be discussed in a particular application has applicability across a wide number of applications. The change of status of an application from ''restricted'' to ''permit-but-disclose'' requires resources to draft and release an order, letter, or public notice. Modifying the *ex parte* status of an application is an ancillary task that requires Space Bureau resources that could otherwise be spent on placing applications on public notice or acting on the merits of applications. In addition, applicants—especially new space industry entrants or entrants from countries outside the United States—are often unaware of the Commission's *ex parte* rules and can inadvertently make impermissible presentations in restricted proceedings, which further diverts staff resources from processing applications.

26. The Commission proposes to amend part 1 of the rules by adding ''applications for space and earth station authorizations, including requests for U.S. market access through non-U.S. licensed space stations'' to the list of proceedings that are ''permit-but-disclose'' proceedings from the outset. Specifically, the Commission would propose to amend § 1.1206(a) by adding a new subparagraph. As ''permit-but-disclose'' proceedings, applications for space and earth station authorizations would be subject to the disclosure requirements that apply to *ex parte* presentations in such proceedings. The Commission seeks comment on this proposed implementation.

IV. Initial Regulatory Flexibility Analysis

27. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (FNPRM). The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines provided on the first page of the FNPRM. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

A. Need for, and Objectives of, the Proposed Rules

28. In recent years, the Commission has received an unprecedented number of applications for earth and space station licenses. The FNPRM continues to and will facilitate the application streamlining process and promote competition and innovation among satellite and earth station operators, including the market entry of new competitors. The FNPRM seeks public comment on proposed revisions to the Commission's rules governing satellite and earth station applications under 47 CFR part 25. Specifically, the FNPRM proposes to eliminate the procedural burden of printing and maintaining a paper copy of license applications by removing and reserving § 25.110(e) and amend § 25.118 of the Commission's rules, which allows operators to make certain minor modifications without prior authorization from the Commission. In addition, the FNPRM proposes to create a new provision in Commission rules that would allow earth station operators to apply for and receive a limited license under the condition that the license will require modification prior to operations with a specific point of communication, unless the point of communication is already on the Permitted List and the operations fit within the parameters specified therein. Further, the FNPRM seeks comment on whether to provide an equivalent to special temporary authority for space station market access grantees to communicate with U.S. licensed earth stations. The FNPRM also seeks comment on whether to expand the window for operators to file renewal applications for existing licenses. Additionally, the FNPRM seeks further comment on whether the Commission can further streamline some of its coordination requirements for earth and space station operators in instances in which the earth station and space station sides must engage in potentially duplicative coordination. And, finally, the FNPRM proposes to change the default status of space and earth station proceedings to permit-but-disclose as a means of further streamlining the licensing process.

B. Legal Basis

29. The proposed action is authorized under sections 4(i), 7(a), 301, 303, 307, 308(b), 309, 310, 332, of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 301, 303, 307, 308(b), 309, 310, 332.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

30. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.

A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

31. *Satellite Telecommunications.* This industry comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with $38.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than $25 million. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 65 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, a little more than half of these providers can be considered small entities.

32. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with annual receipts of $35 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts of less than $25 million and 15 firms had annual receipts of $25 million to $49,999,999. Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by Commission action can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

33. The FNPRM seeks public comment on proposed revisions to the Commission's rules governing satellite and earth station applications under 47 CFR part 25. Specifically, the FNPRM proposes to eliminate the procedural burden of printing and maintaining a paper copy of license applications by removing and reserving § 25.110(e) and amend § 25.118 of the Commission's rules, which allows operators to make certain minor modifications without prior authorization from the Commission. In addition, the FNPRM proposes to create a new provision in Commission rules that would allow earth station operators to apply for and receive a limited license under the condition that the license will require modification prior to operations with a specific point of communication, unless the point of communication is already on the Permitted List and the operations fit within the parameters specified therein.

34. Further, the FNPRM seeks comment on whether to provide an equivalent to special temporary authority for space station market access grantees to communicate with U.S. licensed earth stations. The FNPRM also seeks comment on whether the Commission could allow operators to file STA extensions concurrently with an STA application. Additionally, the FNPRM seeks comment on whether to consider a permitted list type process for NGSO operators. The FNPRM also seeks comment on whether to expand the window for operators to file renewal applications for existing licenses and asks about establishing timeframes for action on the merits of applications. Additionally, the FNPRM seeks further comment on whether the Commission can further streamline some of its coordination requirements for earth and space station operators in instances in which the earth station and space station sides must engage in potentially duplicative coordination and expand the possibilities for earth station operators to take advantage of the new, expedited deemed-granted process for adding points of communication. And, finally, the FNPRM proposes to change the default status of space and earth station proceedings to permit-but-disclose as a means of further streamlining the licensing process.

35. In the FNPRM, the Commission seeks comment on whether any of the burdens associated with the filing, recordkeeping and reporting requirements can be minimized for small entities. The Commission therefore expects the information received in comments to include cost and benefit data, and to help the Commission further identify and evaluate relevant matters for small entities, including compliance costs, and other burdens that may result from the proposals and inquiries the Commission makes in this proceeding.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

36. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

37. In the FNPRM, the proposal to remove and reserve § 25.110(e) should minimize the economic impact for small entities by eliminating the administrative burdens associated with printing and maintaining a paper copy of license applications. Likewise amending § 25.118 of the Commission's rules to allows operators to make certain minor modifications without prior authorization from the Commission should reduce administrative costs for small entities. In addition, small entities should benefit if the proposal to add a provision allowing earth station operators to apply for and receive a limited license under the condition that the license will require modification prior to operations with a specific point of communication, subject to the limitations described above in section A, is adopted.

38. An alternative the Commission considered and seeks comment on involved the elimination of potentially duplicative coordination requirements. More specifically, the Commission inquired if some of its coordination requirements for earth and space station operators in situations where the earth

station and space station sides must engage in potentially duplicative coordination can be streamlined. The Commission also considered whether or not to expand timeframes for filing license renewal applications in efforts to provide small and other entities flexibility, and further streamline the application process. The Commission considers whether or not to expand the renewal filing window of the existing term for earth and space station operators.

39. The Commission also considers the possibility of allowing applicants to file STAs concurrently with an initial application, which may reduce filing burdens on small entities in particular. And the Commission is considering several possibilities for expanding the universe of operators who could access a streamlined process for adding satellite points of communication, which could also provide a benefit to a greater number of entities. And in considering timelines for taking action, including possible shot clocks, the Commission asks several questions to consider whether timeframes, and which timeframes are appropriate.

40. The Commission projects that the changes considered in the FNPRM will be cost-neutral or result in lower costs for small entities and other operators. Additionally, while the Commission believes the possible rule changes considered in the FNPRM will generally reduce costs and burdens for the regulated community, the Commission seeks comment on whether any of the costs associated with any possible rule changes would have a significant negative economic impact on small entities. The Commission expects to more fully consider the economic impact and alternatives for small entities based on its review of the record and any comments filed in response to the FNPRM and this IRFA.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

41. None.

V. Ordering Clauses

42. *It is ordered,* pursuant to Sections 4(i), 7(a), 301, 303, 307, 309, 310, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 301, 303, 307, 309, 310, 332, that this Further Notice of Proposed Rulemaking *is adopted.*

43. *It is further ordered* that the Office of the Secretary, *shall send* a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Federal Communications Commission.

Marlene Dortch,

Secretary.

For the reasons discussed in the document, the Federal Communications Commission proposes to amend 47 CFR parts 1 and 25 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461.

■ 2. Amend § 1.1206 by adding paragraph (a)(14) to read as follows:

§ 1.1206 Permit-but-disclose proceedings.

(a) * * *

(14) Applications for space and earth station authorizations, including requests for U.S. market access through non-U.S. licensed space stations.

* * * * *

PART 25—SATELLITE COMMUNICATIONS

■ 3. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

§ 25.110 [Amended]

■ 4. Amend § 25.110 by removing and reserving paragraph (e).

[FR Doc. 2023–26700 Filed 12–7–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 215

[Docket No. FRA–2023–0021, Notice No. 1]

RIN 2130–AC94

Freight Car Safety Standards Implementing the Infrastructure Investment and Jobs Act

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA is proposing to amend the Freight Car Safety Standards (FCSS) to implement section 22425 of the Infrastructure Investment and Jobs Act (Act). The Act places certain restrictions on newly built freight cars placed into service in the United States (U.S.) including limiting content that originates from a country of concern (COC) or is sourced from a state-owned enterprise (SOE) and prohibiting the use of sensitive technology that originates from a COC or SOE. The Act mandates that FRA issue a regulation to monitor and enforce industry's compliance with the standards of the Act.

DATES: Comments on the proposed rule must be received by February 6, 2024. Comments received after that date will be considered to the extent practicable.

ADDRESSES:

Comments: Comments related to Docket No. FRA–2023–21 may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to *https://www.regulation.gov;* this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Check Kam, Mechanical Engineer, Office of Railroad Safety at (202) 366–2139, email: *check.kam@dot.gov;* or Michael Masci, Senior Attorney, Office of the Chief Counsel, telephone: (202) 302–7117, email: *michael.masci@dot.gov.*

SUPPLEMENTARY INFORMATION:

Abbreviations and Terms Used in This Document

CBP—Customs and Border Protection
CE—Categorical Exclusion
CFR—Code of Federal Regulations
COC—Country of Concern
DOT—Department of Transportation
EA—Environmental Assessment
EIS—Environmental Impact Statement
FCSS—Freight Car Safety Standards
FR—Federal Register
FRA—Federal Railroad Administration
FTA—Federal Transit Administration
GS—General Schedule
IIJA Infrastructure Investment and Jobs Act
IP—Intellectual Property
IRFA—Initial Regulatory Flexibility Analysis

NAFTA—North American Free Trade Agreement
NEPA—National Environmental Policy Act
NPRM—Notice of Proposed Rulemaking
OMB—Office of Management and Budget
PRA—The Paperwork Reduction Act
RSA—Rail Security Alliance
SOE—State-owned enterprise
Umler—Universal Machine Language Equipment Register
U.S.—United States
U.S. DOC—United States Department of Commerce
U.S.C.—United States Code
USITC—U.S. International Trade Commission
USMCA—United States-Mexico-Canada Agreement
USTR—U.S. Trade Representative

Table of Contents for Supplementary Information

I. Executive Summary

Purpose of the Regulatory Action

FRA is issuing this rulemaking as required by the Act.[1] The Act provides that a railroad freight car, wholly manufactured on or after the date that is 1 year after the date of issuance of regulations, may only operate on the U.S. general railroad system if: (1) the railroad freight car is manufactured, assembled, and substantially transformed, as applicable, by a qualified manufacturer in a qualified facility; (2) none of the sensitive technology located on the railroad freight car, including components necessary to the functionality of the sensitive technology, originates from a COC or is sourced from a SOE; and (3) none of the content of the railroad freight car, excluding sensitive technology, originates from a COC or is sourced from a SOE that has been determined by a recognized court or administrative agency of competent jurisdiction and legal authority to have violated or infringed valid United States intellectual property rights of another including such a finding by a Federal district court under title 35 or the U.S. International Trade Commission under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).[2]

The Act further provides percentage limitations on freight car contents so that not later than one year after the date of issuance of regulations, a railroad freight car, even if complying with the requirements in the preceding paragraph, may not operate on the U.S. general railroad system if more than 20 percent of the content of the railroad freight car, calculated by the net cost of all components of the car and excluding the cost of sensitive technology, originates from a COC or is sourced from a SOE. After three years from the date of issuance of regulations, the percentage may not be more than 15 percent.[3]

Summary of the Regulatory Action

The Act requires regulations to be issued to implement its mandate and for freight car manufacturers to certify that freight cars covered by the Act are in compliance.[4] This regulation would codify a process for FRA to monitor and enforce compliance with the Act. To carry out the Act's certification requirement, FRA is proposing to require railroad freight car manufacturers to electronically certify to FRA that each freight car complies with the Act before it operates on the U.S. general railroad system of transportation. The certification would be required to identify each car being offered for operation, and include the manufacturer's name and the name of the individual responsible for certifying compliance with the Act. In addition, the manufacturers would be required to maintain all records showing information to support certification, including content calculations, and such records would be made available to FRA upon request.

Costs and Benefits of the Proposed Regulatory Action

This proposed rule would fulfill FRA's obligation to issue a rulemaking that would implement the Act. In section ''VI. A. Executive Order 12866 as Amended by Executive Order 14094'' of this proposed rule, FRA describes the benefits and costs that would come from issuing this regulation.

Over a 10-year period of analysis, FRA quantifies the following costs to the freight car manufacturing industry and FRA that would come from issuing this proposed rule: (1) limiting content sourced from COCs or SOEs; (2) prohibiting the use of sensitive technology from these sources; (3) industry compliance costs; and (4) government administrative monitoring and enforcement costs. As shown in table 1, the cost from issuing the proposed rule is approximately $143,300 (undiscounted), $123,600 (present value (PV), 3%), and $89,500 (PV, 7%). The annualized net costs are approximately $14,500 (PV, 3%) and $12,800 (PV, 7%).[5]

TABLE 1—INDUSTRY AND FRA BURDEN FROM ISSUING THE PROPOSED RULE, TOTAL COST, ROUNDED ($100)

Entity	Total cost ($)			Annualized ($)	
	Undiscounted	PV 3%	PV 7%	PV 3%	PV 7%
Industry costs	40,100	34,000	23,800	4,000	3,400
FRA costs	103,200	89,600	65,700	10,500	9,400

[1] The Infrastructure Investment and Jobs Act (IIJA), Sec. 22425, Public Law 117–58, 135 Stat. 752 (Nov. 15, 2021) (codified at 49 U.S.C. 20171) and generally referred to in this proposed rule as the Act, or section 20171).

[2] 49 U.S.C. 20171(b)(1).

[3] *Id.* at (b)(2).

[4] The Act requires certification to the ''Secretary of Transportation.'' Pursuant to 49 CFR 1.89(a), the Secretary has delegated that authority to FRA.

[5] All cost and benefits estimates are in 2022 dollars.

TABLE 1—INDUSTRY AND FRA BURDEN FROM ISSUING THE PROPOSED RULE, TOTAL COST, ROUNDED ($100)—Continued

Entity	Total cost ($)			Annualized ($)	
	Undiscounted	PV 3%	PV 7%	PV 3%	PV 7%
Total cost	143,300	123,600	89,500	14,500	12,800

In the economic analysis section, FRA qualitatively explains the potential benefits that may result from implementing the proposed rule. Issuing the proposed rule would protect the U.S. rail system from risks that come from manufacturing freight cars with sensitive technology and technological components, necessary to the functionality of the sensitive technology, from a COC or SOE such as potential vulnerabilities in information security. As such, this proposed rule would mitigate potential issues related to compromised national security and corporate espionage. Issuing the proposed rule would also fulfill FRA's duties as required by the Act. As mentioned in the economic analysis section, FRA welcomes public comment to assess the potential costs and benefits associated with implementing this proposed rule.

II. Infrastructure Investment and Jobs Act Background

On November 15, 2021, President Biden signed the Act,[6] which includes a mandate that FRA issue regulations to implement it.[7] In general, the Act allows freight cars, wholly manufactured after a certain date, to operate in the U.S. only if the cars are manufactured by a ''qualified manufacturer'' in a ''qualified facility.'' [8] The Act defines ''qualified manufacturer'' as a ''freight car manufacturer that is not owned or under the control of a state-owned enterprise.'' [9] Similarly, the Act defines ''qualified facility'' as ''a facility that is not owned or under the control of a state-owned enterprise.'' [10] The Act defines ''state-owned enterprise'' as an entity that is owned by, or under the control of, a government or agency of a COC or an individual acting under the direction or influence of a government or agency of a COC.[11]

The Act provides a three-pronged definition of a COC. First, to be a COC under the Act, a country must have been identified by the U.S. Department of Commerce as a nonmarket economy country as of the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021 (*i.e.,* as of November 15, 2021).[12] Second, a country must have been identified by the USTR in the most recent report under section 182 of the Trade Act of 1974 (Section 301 Report) as a foreign country included on the ''priority watch list.'' [13] Finally, a country must also be subject to USTR monitoring under section 306 of the Trade Act.

In recent years, Congress has taken action concerning rail equipment and components manufactured by or sourced from COCs or SOEs.[14] Generally, these laws limit the availability of Federal funds for certain equipment or projects funded or controlled by foreign entities. For example, the National Defense Authorization Act limits the use of FTA funds, and in some circumstances, local funds, to procure rolling stock from certain transit vehicle manufacturers who ''are owned or controlled by, is a subsidiary of, or is otherwise related legally or financially to a corporation based in'' certain foreign countries.[15] However, because the freight rail car sector and its equipment are privately owned, those laws do not apply to the freight rail car industry. Congress has now extended similar limitations on rail equipment and components manufactured by or sourced from COCs or SOEs to the freight rail car industry by issuing the Act.

Similarly, President Biden issued Executive Order 14005 of January 25, 2021 ''Ensuring the Future Is Made in All of America by All of America's Workers,'' [16] stating ''the United States Government should, whenever possible, procure goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.'' [17] The President also issued Executive Order 14028 of May 12, 2021 ''Improving the Nation's Cybersecurity'' [18] stating that ''prevention, detection, assessment, and remediation of cyber incidents is a top priority and essential to national and economic security.'' [19] While the Act is consistent with those Executive orders, the Act has more stringent content limitations than those provided in the Executive orders.

The Act has a similar legal framework as the United States-Mexico-Canada Agreement (USMCA),[20] which replaced the North American Free Trade Agreement (NAFTA). The USMCA contains a certification process for certifying the origin of materials used in products.[21] The Act builds on the certification process of the USMCA, by requiring manufacturers to certify the origins and sources of railroad freight car components.[22] The Act also directly borrows many terms from the USMCA, including the definitions for ''net cost'' and ''substantially transformed,'' two key terms that help set parameters for the limitations built into the Act and help instruct manufacturers how to comply with it.[23] These similarities have helped inform FRA's understanding of the requirements of the Act. The similarities also help eliminate certain potential burdens

[6] 49 U.S.C. 20171. *See https://www.whitehouse.gov/briefing-room/presidential-actions/2021/11/15/executive-order-on-implementation-of-the-infrastructure-investment-and-jobs-act/.*

[7] *Id.* at (c)(1).

[8] *Id.* at (b)(1)(A).

[9] *Id.* at (a)(7).

[10] *Id.* at (a)(6).

[11] *Id.* at (a)(10).

[12] *Id.* at (a)(4)(A).

[13] *Id.* at (a)(4)(B). Section 182 of the Trade Act of 1974 (19 U.S.C. 2242), commonly known as the ''Special 301 provisions,'' requires the U.S. Trade Representative (USTR) to identify countries that deny adequate and effective IP protections or fair and equitable market access to U.S. persons who rely on IP protection. The Trade Act requires the USTR to determine which, if any, of these countries to identify as Priority Foreign Countries. Such a designation can subject those countries to particular processes under the Trade Act.

[14] *See, e.g.,* the National Defense Authorization Act (49 U.S.C. 5323(u)).

[15] Section 7613 of the National Defense Authorization Act for Fiscal Year 2020 (NDAA 2020), Public Law 116–92 (Dec. 20, 2019), which added a new subsection, 49 U.S.C. 5323(u), to Federal public transportation law.

[16] 86 FR 7475.

[17] *Id.*

[18] 86 FR 26633.

[19] *Id.*

[20] USMCA, July 1, 2020, *https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement.*

[21] USMCA chapters 4 and 5, July 1, 2020, *https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement.*

[22] 49 U.S.C. 20171(c)(2).

[23] *Id.* at (a).

arising from this proposed rulemaking. As such, FRA expects that the steps involved certifying compliance under the USMCA will be substantially the same as those needed to certify compliance with the Act. FRA welcomes comments to this NPRM to help further develop its understanding of the issues.

III. Application of the Infrastructure Investment and Jobs Act to Railroad Freight Car Manufacturers Including Discussions With RSA

To understand how railroad industry manufacturers were complying with other Congressional requirements concerning equipment and components manufactured by or sourced from COCs or SOEs and the certification requirements of the USMCA, FRA conducted a series of listening sessions with RSA, including two in person meetings on September 26, 2022, and March 3, 2023. While the proposals in this NPRM are FRA's alone, based on its independent assessments of the issues, the meetings with RSA helped FRA analyze the requirements of the Act. A summary of the meetings is in the public docket for this rulemaking (Docket Number FRA–2023–21).

A. The Infrastructure Investment and Jobs Act Content Limitations Apply Only at the Time of Manufacture

Section 20171(b)(2) of the Act sets forth certain content limitations that must be met for ''railroad freight cars'' (as defined in the statute) ''wholly'' manufactured after a certain date to operate on the U.S. general railroad system of transportation. Understanding this subsection within the context of the Act as a whole (49 U.S.C. 20171), FRA concluded that the Act regulates railroad freight cars by imposing such requirements at the time of initial manufacture but does not require FRA to ensure that the content limitations set forth in section 20171(b)(2) are met throughout the useful life of the equipment or at each re-entry into service following any changes to the railroad freight car including, repair, alteration, modification, rebuild, refurbishment, restoration, or reconstruction.

First, in the Act's definitions, Congress explicitly defined *who* would be qualified to *manufacture* railroad freight cars eligible to operate on the general railroad system of transportation by limiting the manufacturing process to ''qualified manufacturers'' in ''qualified facilities.'' [24] The statute does not define those who would be qualified to perform repairs or maintenance or otherwise address such ''aftermarket'' activities. References to the manufacturing process are also found in the definition of ''substantially transformed,'' which is a trade term of art used to describe a ''change in tariff classification as a result of the manufacturing process.'' [25]

Second, the Act requires *manufacturers* to provide an annual certification that any railroad freight cars they provide for operation on the U.S. general railroad system of transportation meet the Act's requirements.[26] Manufacturers are capable of making such a certification, particularly with respect to the content limitations, only in connection with the initial manufacturing process.

Third, the Act requires manufacturers to have a valid certification *at the time a railroad freight car begins operation*.[27] Given the emphasis on manufacturers and the manufacturing process, it is reasonable to interpret this phrase to mean at the time a railroad freight car *first begins* operation, but not *every time* the car is returned to service.

Accordingly, reading the Act as a whole, content limitations imposed by Congress apply to only newly-manufactured railroad freight cars at the point when cars first enter the U.S. general railroad system of transportation.[28] The Act does not impose a continuing obligation on the manufacturer to certify to the content limitations throughout the useful life of the assets and does not require FRA to enforce section 20171(b)(2)'s content limitations at all times a railcar is in service.

B. After-Manufacture Changes to a Railroad Freight Car Are Not Covered by the Infrastructure Investment and Jobs Act

Because the Act regulates railroad freight cars at the time a railcar first begins operation, the content limitations set forth in section 20171(b)(2) do not apply at the time of repair. As a result, the statute does not contemplate FRA enforcing the content limitations at the time of repair.

The Act limits by whom and where a railroad freight car is ''manufactured, assembled, or substantially transformed.'' [29] As noted above, Congress focused on who may perform the manufacturing or assembly of a railroad freight car and sought to ensure such activity was not carried out in a facility that is owned or controlled by a state-owned enterprise. Congress also sought to regulate who may ''substantially transform'' a component of a railroad freight car during the manufacturing process. ''Substantially transformed'' is a defined term of art, borrowed from trade law, that relates to tariff classification as a result of the manufacturing process.

Requiring enforcement of the content limitations for the railroad freight car's entire useful life—including repairs—would be a departure from the compliance scheme dictated by the statute, which is tied to manufacturer certifications. If Congress intended FRA to enforce content limitations in section 20171(b)(2) throughout the life of the railcar, including upon repair, it would have explicitly said so.[30] Moreover, Congress does not define or reference any type of repair or aftermarket component replacement within the scope of the Act at any place. Because terms like ''for the life of the asset,'' ''at all times,'' or ''at the time of repair'' are absent from the text of the Act, FRA has concluded that its enforcement obligation does not extend beyond the time of manufacture for the content limitations in section 20171(b)(2).

C. Railroad Freight Cars Already Placed in Service in the U.S. Are Not Subject to the Infrastructure Investment and Jobs Act

The Act requires FRA to issue regulations to implement the requirements set forth in the Act.[31] For purposes of this analysis, FRA has

[24] *Id.* at (a)(7) and (6).

[25] This term refers to the manufacturing process and is generally used to help determine the country of origin for a product in international trade. Generally, substantial transformation means that the good underwent a fundamental change (normally as a result of processing or manufacturing in the country claiming origin) in form, appearance, nature, or character, which adds to its value an amount or percentage that is significant in comparison to the value which the good (or its components or materials) had when exported from the country in which it was first made or grown. Usually a new article of commerce—normally one with a different name—is found to result from any process that Customs decides has brought about a ''substantial transformation'' in the pre-existing components. Thus, leading to a change in the tariff classification of the substantially transformed item. *See https://www.trade.gov/rules-origin-substantial-transformation.*

[26] 49 U.S.C. 20171(c)(2).

[27] *Id.* at (c)(3).

[28] *Id.* at (b)(2).

[29] *Id.* at (b)(1)(A).

[30] *Whitman* v. *American Trucking Ass'n,* 531 U.S. 457, 468 (2001) (''Congress, we have held, does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions—it does not, one might say, hide elephants in mouseholes.'').

[31] 49 U.S.C. 20171(c)(1).

proposed to define the date on which FRA promulgates regulations as the ''Issuance Date.'' With respect to applicability, the plain language of section 20171 states that only railroad freight cars that are wholly manufactured on or after a date that is one year after the Issuance Date are subject to Act's requirements.[32] Thus, if FRA promulgates regulations on June 1, 2023, the only railroad freight cars that are wholly manufactured on or after June 1, 2024, are subject to the Act's requirements. Using this hypothetical issuance date of June 1, 2023, as an example, existing railroad freight cars manufactured prior to June 1, 2024, and new railroad freight cars that were partially manufactured prior to June 1, 2024, are not subject to the Act. Thus, railroad freight cars that are currently in-use are not subject to the Act, including when parts are replaced during maintenance or repair; because the Act only imposes forward-looking requirements.

D. The Act's Requirements Apply Only to Manufacturers, Not Railroads

The Act imposes certification and compliance obligations on manufacturers, not railroads. Specifically, the certification requirement set forth in section 20171(c)(2) and the prohibition on false registration in Umler[33] both attach to a railroad freight car manufacturer.[34] Further, FRA is permitted to prohibit a railroad freight car *manufacturer* from providing additional railroad freight cars for operation in the U.S. if the manufacturer is a repeat violator of section 20171.[35] The statute does not impose obligations on a railroad to ensure the railroad freight cars meet content limitations nor does the statute require FRA to hold railroads accountable for compliance with the Act. FRA requests comments on whether a railroad should be responsible for the operation of freight cars known to be in noncompliance with the Act.

[32] *Id.* at (b)(1) and (2).

[33] Railinc Corp.'s Umler system is an electronic resource that contains critical data for the North American rail fleet, such as internal and external dimensions, cubic or gallon capacity, and weight information for each unit. *See* Association of American Railroads Rule 93 and UMLER Data Specification Manual; *see also* The Umler® System at *https://public.railinc.com/products-services/umler-system#:~:text=Umler%C2%AE%20is%20the%20source,to%20logistics%20partners%20and%20customers.*

[34] 49 U.S.C. 20171(c)(2) and 20171(c)(3).

[35] *Id.* at (c)(4).

IV. Overview of the Proposal To Implement the Infrastructure Investment and Jobs Act Requirement for Freight Car Compliance Certification

The Act requires manufacturers to annually certify to FRA, as delegated by the Secretary, that any railroad freight cars it offers for operation on the U.S. general railroad system of transportation meet the requirements of the Act.[36] This rulemaking proposes to incorporate the certification requirement into the FCSS[37] and establish a process for FRA to access necessary information to determine compliance with the Act.

FRA proposes to require manufacturers' certifications to be submitted electronically to FRA's Office of Railroad Safety. The certifications would include the manufacturer's name and address, the name, signature and contact information for the person responsible for certifying compliance, and a car identification number for each car being certified. Manufacturers would be required to maintain records to support their compliance and FRA would be able to access those records upon request. FRA expects freight car manufacturers to certify groups of cars together coinciding with bulk orders for equipment. For convenience, manufacturers may submit the certification to FRA at the same time as they request a safety appliance drawing review and/or courtesy sample base car inspection for the same build order.[38] At its discretion, FRA may request the percentage break down on the content for a specific car, as needed, to determine compliance for that car.[39]

FRA is also proposing that manufacturers maintain records showing the calculations made to support certification under this section and such records shall be made available to FRA upon request. This would provide FRA access to the information necessary to determine the percentage of components originating form COCs and SOE for each freight car. FRA understands that manufacturers currently generate such a break down for their cars to comply with the USMCA and does not anticipate that assembling the information will result in an additional burden to the industry.

FRA anticipates that certain documents submitted by manufacturers pursuant to 49 U.S.C. 20171(c)(3) may contain proprietary or other confidential business information. Manufacturers should follow the procedures in 49 CFR 209.11 to ensure proper handling of such information, and manufacturers may redact portions of submitted information so long as FRA is able to accurately ascertain the manufacturer's compliance with the Act. However, FRA retains the right to make its own determinations regarding disclosure of submitted information. In making these determinations, FRA will consider all exemptions to Freedom of Information Act disclosure, including the exemption on disclosure of commercial or financial information and privileged or confidential information.[40]

[36] *Id.* at (c)(3).

[37] 49 CFR part 215.

[38] FRA performs sample car inspections as a courtesy to the manufacturers, to better ensure equipment is built in accordance with all applicable Federal railroad safety laws. Generally, manufacturers that desire to have FRA review their equipment for compliance with safety appliance standards are to submit their safety appliance arrangement drawings, prints, etc., to FRA's Office of Railroad Safety, Office of Railroad Infrastructure and Mechanical Equipment for review, at least 60 days prior to construction. FRA reviews the documents submitted and advises the manufacturer if any specifications laid out in the drawings do not conform with the applicable regulation(s). The sample base car inspection generally provides the manufacturer an opportunity to make any necessary changes in the design or manufacturing process to meet compliance before building the remaining cars of that order. *See https://railroads.dot.gov/sites/fra.dot.gov/files/2020-05/MPECompliance Manual2013.pdf.*

[39] The percentage breakdown for evaluating content is the net cost of materials (excluding the cost of sensitive technology) compared to total cost of the freight car.

V. Section-by-Section Analysis

This section-by-section analysis is intended to explain the rationale for each revised or new provision FRA is proposing to incorporate into the FCSS. The proposed regulatory changes are organized by section number. FRA seeks comments on all proposals in this NPRM.

Section 215.5 Definitions

FRA proposes to incorporate several new, defined terms into the FCSS, most pulled directly from the Act and some proposed as necessary to effectively implement the Act. FRA also proposes to organize the existing FCSS definitions along with the newly proposed definitions in alphabetical order to conform with FRA's other regulations. The Act's definition for the term ''railroad freight car'' mirrors the definition for the same term in the current FCSS. Accordingly, this rulemaking would keep the definition in the FCSS unchanged. The new definitions FRA proposes to add are discussed below:

Component is defined by the Act,[41] and FRA is proposing to adopt it in the

[40] 5 U.S.C. 552(b)(4).

[41] 49 U.S.C. 20171(a)(1).

FCSS. Although the proposed definition does not identify specific parts and subassemblies of freight cars as ''components,'' FRA believes Congress intends this definition to include the major components of freight cars (*e.g.,* trucks, wheel sets, center sills, draft gears, couplers, walkways, running boards) when calculating content limitations under proposed section 49 CFR 215.401(b)(1). FRA does not intend the definition of ''component'' to include smaller parts that do not significantly impact manufacturing costs (*e.g.,* wear plates, roof liners, or small pieces of hardware such as screws). FRA welcomes comment on how freight car items fit into this definition.

Control is defined by the Act,[42] and FRA is proposing to adopt it in the FCSS. This definition relates to the definitions of ''qualified facility'' and ''qualified manufacturer'' discussed below.

Cost of sensitive technology is defined by the Act,[43] and FRA is proposing to adopt it in the FCSS.

Country of concern is defined by the Act [44] and FRA is proposing to adopt it in the FCSS.[45] As noted in the *Infrastructure Investment and Jobs Act Background* section above a country must meet all three criteria to qualify as a ''country of concern.'' Each of the criteria within the definition of ''country of concern'' are separated by ''and'' instead of ''or,'' meaning a country must meet all three criteria to meet the definition.

First, to qualify as a ''country of concern'' under section 20171, the U.S. DOC must have identified that country as a nonmarket economy country pursuant to the Tariff Act of 1930 *at the date* of enactment (*i.e.,* as of Nov. 15, 2021).[46] In 2021, when the Act became law, the U.S. DOC had named eleven countries as nonmarket economy countries: Armenia, Azerbaijan, Belarus, China, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Uzbekistan, and Vietnam.[47] FRA notes that this criterion is tied to the Passenger Rail Expansion and Rail Safety Act of 2021 enactment date and accordingly, the countries that meet this first prong of the definition will not change.

Second, to constitute a ''country of concern,'' the USTR must also name that country on the priority watch list in the most recent report required by the Trade Act of 1974.[48] In the most recently required report, the USTR identified seven countries on the priority watch list: Argentina, Chile, China, India, Indonesia, Russia, and Venezuela.[49]

Third, a country is deemed a ''country of concern'' only if it is subject to monitoring by the USTR under section 306 of the Trade Act of 1974.[50] In the 2022 Special 301 Report, the USTR identifies seven countries that are on the priority watch list: Argentina, Chile, China, India, Indonesia, Russia, and Venezuela. Of these seven, only China is monitored pursuant to section 306.

Accordingly, China is currently the only country that meets all three criteria and therefore is the only ''country of concern'' as defined in the Act.

Net cost is defined by the Act,[51] [52] and FRA is proposing to adopt it in the FCSS. Currently, chapter 4 of the USMCA defines *net cost.*[53]

Qualified facility is defined by the Act,[54] and FRA is proposing to adopt it in the FCSS. When read in combination with the definition of the term *control* the Act provides, FRA finds that the Act intends for general corporate law principles to apply to determine whether a particular railroad freight car or component manufacturer is ''owned or controlled by, is a subsidiary of, or is otherwise related legally or financially to a corporation based in'' a country that meets the statutory criteria.

Qualified manufacturer is defined by the Act,[55] and FRA is proposing to adopt it in the FCSS. For the purpose of this definition, a supplier, component and repair part manufacturer, or other entity may be a railroad freight car manufacturer, if it manufactures, assembles, of substantially transforms a freight car, as described in proposed 49 CFR 215.401(a)(1). Like the definition of *qualified* facility, when read in combination with the Act's definition of the term *control,* FRA again finds that the Act intends for general corporate law principles to apply to determine whether a particular railroad freight car or component manufacturer is ''owned or controlled by, is a subsidiary of, or is otherwise related legally or financially to a corporation based in'' a country that meets the statutory criteria.

Sensitive technology is defined by the Act,[56] and FRA is proposing to adopt it in the FCSS. While FRA understands the list of devices included in this definition to be examples that can be considered sensitive technology, FRA is not currently aware of any additional devices that should be included in the list.

State-owned enterprise is defined by the Act,[57] and FRA is proposing to adopt it in the FCSS.

Substantially transformed is defined by the Act,[58] and FRA is proposing to adopt it in the FCSS. FRA understands that a manufacturing process which changes an article's name, character, or use will often result in a change in the article's tariff classification. Accordingly, FRA understands the Act's definition of *substantially transformed* to mean a manufacturing process that changes an article's name, character, or use. FRA notes that the U.S. Customs and Border Protection (CBP) is an implementing agency for USMCA and although CBP uses a slightly different definition of *substantially transformed* than that provided in the Act, CBP explains that substantial transformation ''occurs when, as a result of manufacturing processes, a new and different article emerges, having a distinctive name, character, or use, which is different from that originally possessed by the article or material before being subject to the manufacturing process.'' [59] FRA finds that the definition of *substantially*

---

[42] *Id.* at (a)(2).

[43] *Id.* at (a)(3).

[44] *Id.* at (a)(4).

[45] These same criteria are used to define ''country of concern'' in 49 U.S.C. 5323(u) (placing limitations on certain rolling stock procurements for public transportation that qualify for financial assistance), and the FTA has published Frequently Asked Questions Regarding Section 7613 of the National Defense Authorization Act for Fiscal Year 2020 that discusses the criteria and the definition of ''country of concern.'' *https://www.transit.dot.gov/funding/procurement/frequently-asked-questions-regarding-section-7613-national-defense.*

[46] 49 U.S.C. 20171(a)(4)(A).

[47] Int'l Trade Admin, *Countries Currently Designated by Commerce as Non-Market Economy Countries, https://www.trade.gov/nme-countries-list* (identifying the **Federal Register** notices wherein a country was designated as a non-market economy country).

[48] 49 U.S.C. 20171(a)(4)(B).

[49] Office of the U.S. Trade Rep., *2022 Special 301 Report,* 5 (2022), (2022 Special 301 Report.pdf (*ustr.gov*)).

[50] 49 U.S.C. 20171(a)(4)(C). *See* Office of the U.S. Trade Rep., *2022 Special 301 Report,* 44 (2022), *https://ustr.gov/issue-areas/intellectual-property/special-301/2022-special-301-review,* (listing countries included on the priority watch list and whether such countries are subject to monitoring under section 306 of the Trade Act of 1974).

[51] USMCA chapter 4, July 1, 2020, *https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement.*

[52] 49 U.S.C. 20171(a)(5).

[53] *Uniform Regulations Regarding the Interpretation, Application, and Administration of Chapter 4 (Rules or Origin) and Related Provisions in Chapter 6 (Textile and Apparel Goods) of the Agreement Between the United States of America, The United Mexican States, and Canada. https://ustr.gov/sites/default/files/files/agreements/usmca/UniformROO.pdf.*

[54] 49 U.S.C. 20171(a)(6).

[55] *Id.* at (a)(7).

[56] *Id.* at (a)(9).

[57] *Id.* at (a)(10).

[58] *Id.* at (a)(11).

[59] *https://www.trade.gov/rules-origin-substantial-transformation.*

transformed provided in the Act and CBP's definition of the same term are compatible in that a manufacturing process which changes an article's name, character, or use will often also result in a change in the article's tariff classification.

USMCA is defined by the Act,[60] and FRA is proposing to adopt it in the FCSS.

Section 215.401 Requirements for Railroad Freight Cars Placed Into Service in the United States

This section proposes to incorporate the requirements of paragraph (b)(1) of the Act into the FCSS. Paragraph (b)(1) of the Act provides that for a railroad freight car to operate on the U.S. general railroad system of transportation: (1) any car wholly manufactured after a certain date must be manufactured, assembled, and substantially transformed by a qualified manufacturer in a qualified facility; (2) none of the sensitive technology located on the car may originate from a COC or be sourced from a SOE; and (3) none of the content of the car (except sensitive technology) may originate from a COC or be sourced from a SOE with a history of problematic trade practices or respect for IP rights.

Proposed paragraph (a)(1) mirrors paragraph (b)(1)(A) of the Act and mandates that any railroad freight car to be operated on the U.S. general railroad system of transportation and wholly constructed one year from a final rule in this proceeding, must be manufactured, assembled, and substantially transformed by a qualified manufacturer or a qualified facility.

Sensitive Technology Prohibition

Proposed paragraph (a)(2) mirrors paragraph (b)(1)(B) of the Act and addresses sensitive technology. This paragraph proposes to incorporate the Act's general prohibition on operating a freight car on the U.S. general railroad system of transportation, if any of its ''sensitive technology'' or ''components necessary to the functionality of the sensitive technology'' originates from a COC or is sourced from a SOE.

As noted above, the Act defines ''sensitive technology,'' but does not define or provide any guidance on what constitutes ''components necessary to the functionality of the sensitive technology.'' FRA understands this phrase to generally include the active components that work with the sensitive technology, because they may also be able to collect and transmit data. Passive components are excluded from this phrase because they cannot collect or transmit data. Examples of *active* components include, but are not limited to, any type of processor, transmitter, receiver, or data storage device. While the *passive* components are still necessary for the device to function as a whole, these components do not play a vital role in the storage, collection, exchange, transmittal, or manipulation of any data. Examples of *passive* components include, but are not limited to, printed circuit boards, power supplies, temperature sensors, pressure gauges, resistors, capacitors, etc. FRA welcomes comments to this NPRM about what constitutes ''components necessary to the functionality of the sensitive technology'' under the Act.

Intellectual Property Infringement Prohibition

Proposed paragraph (a)(3) mirrors paragraph (b)(1)(C) of the Act and addresses IP infringement. This language forbids the inclusion in any railroad freight car of any content from a COC or SOE ''that has been determined by a recognized court or administrative agency of competent jurisdiction and legal authority to have violated or infringed valid U.S. intellectual property rights of another.'' The Act includes both ''a finding by a Federal district court under title 35'' and a finding by the U.S. International Trade Commission (ITC) under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) as determinations sufficient to trigger the prohibition.

For the purposes of this requirement, the ITC makes a finding that an entity has violated or infringed valid U.S. IP rights when the ITC issues a final determination under section 337. Under ITC procedure, an administrative law judge, who concludes that an entity violated section 337 of the Tariff Act, first files an initial determination.[61] This initial determination becomes a final determination of the ITC 60 days after it is filed, unless the ITC orders review of the initial determination, in which case the ITC's ultimate finding would be the final determination.[62] These determinations are available on the ITC's website.[63] FRA does not anticipate tracking determinations on an ongoing basis; manufacturers seeking certification are responsible for researching determinations against their own suppliers.

As an example, in October 2009, the ITC issued a 10-year Limited Exclusion Order against two Chinese companies (Tianrui Group Company Limited and Tianrui Group Foundry Company Limited) and two U.S. companies (Standard Car Truck Company, Inc. and Barber Tianrui Railway Supply, LLC) that an administrative law judge determined had violated section 337.[64] The U.S. Court of Appeals for the Federal Circuit upheld the ITC's decision on October 11, 2021.[65]

Furthermore, FRA finds that section 20171(b)(1)(C)'s prohibition applies not only to the entity determined to be the IP infringer, but to the content of that infringement as well. For example, in 2009, the ITC determined that four respondents violated section 337 of the Tariff Act by misappropriating numerous Amsted trade secrets relating to the manufacture of cast steel railway wheels, importing into the U.S. cast steel railway wheels and substantially injuring, and threatening substantial injury to, Amsted's domestic cast steel railway wheel operations, which manufacture Amsted's Griffin® wheels.[66] The ITC determination excluded any such steel railway wheels from entering into the U.S. for ten years. On appeal, the Federal Circuit upheld the ITC's decision.[67] FRA understands that section 20171(b)(1)(C) would prohibit a railroad freight car to be equipped with steel wheels that were manufactured using the stolen IP that was the subject of this case. The Act does not expressly provide a timeframe for the prohibitions under this section or connect it to the length of the ITC exclusion or any other time limitations. As such, FRA understands the prohibition to be permanent.

Content Limitations

Proposed paragraph (b) mirrors section 20171(b)(2) of the Act and addresses content limitations from COCs and SOEs generally. Consistent with the Act, beginning 1 year after this regulation is issued, proposed paragraph (b)(1)(i) would initially prohibit newly manufactured freight cars from operating on the U.S. general railroad system of transportation if more than 20 percent of the car's content originates from a COC or is sourced from a SOE. After 3 years, proposed paragraph (b)(1)(ii) would reduce that threshold to

[60] 49 U.S.C. 20171(a)(12).

[61] 19 CFR 210.42(a)(1)(i).

[62] *Id.* at (h)(2).

[63] *https://usitc.gov/intellectual_property/337_determinations.htm.*

[64] *See In the matter of Certain Cast Steel Railway Wheels,* et al. USITC Inv. No. 337–TA–655 (U.S. Intern. Trade Com'n), 2009 WL 10693128.

[65] *Tianrui Group Co. Ltd.* v. *Intl. Trade Comm'n,* 661 F.3d 1322 (Fed. Cir. 2011).

[66] *In the matter of Certain Cast Steel Railway Wheels,* et al. USITC Inv. No. 337–TA–655 (U.S. Intern. Trade Com'n), 2009 WL 4261206.

[67] *Tianrui Group Co. Ltd.* v. *Intl. Trade Comm'n,* 661 F.3d 1322 (Fed. Cir. 2011).

no more than 15 percent. Cars not meeting these thresholds would be noncompliant and the manufacturer would be subject to civil penalties under proposed § 215.407. Consistent with the Act, as proposed, the percent of content is measured by the net cost of materials (excluding the cost of sensitive technology).[68] Proposed paragraph (b)(2) mirrors paragraph (b)(2)(B) of the Act and explains that the content limitations provided in the Act shall apply notwithstanding any apparent conflict with provisions of chapter 4 of the USMCA. Chapter 4 of the USMCA and the Act both establish rules for the country of origin for a product in international trade. This paragraph clarifies that compliance with chapter 4 of the USMCA does not constitute, or in any way affect, the content limitations in the Act, which apply independently.

Section 215.403 Certification of Compliance

This proposed section incorporates the requirements of paragraph (c) of the Act and includes requirements designed to help FRA monitor and enforce the Act's standards.

Consistent with paragraph (c)(2) of section 20171, proposed paragraph (a) requires railroad freight car manufacturers to annually certify to FRA, as delegated by the Secretary of Transportation, that any railroad freight car it provides for operation in the United States, meets the requirements of section 20171.

Proposed paragraph (a)(1) would require railroad freight car manufacturers to submit a certification report to FRA, identifying and certifying compliance for, each freight car before it can operate on the U.S. general railroad system of transportation. Each certification report submitted to FRA may identify a single freight car or multiple freight cars based on the manufacturer's preference. For convenience, a manufacturer may submit its certification report directly to the Office of Railroad Safety along with any customary request to FRA for a sample base car inspection or safety appliance arrangement drawing review. Paragraph (a)(1)(i) would require the report to include a statement certifying compliance, the manufacturer's name, the individual responsible for certifying compliance with the Act and this rule, and the car identification number for each car being certified. Paragraph (a)(1)(ii) would require the freight car manufacturer to maintain all records showing the information, including calculations, made to support certification under this section and such records shall be made available to FRA upon request.

Section 215.405 Prohibition on Registering Noncompliant Railroad Freight Cars

This section proposes to incorporate the requirements in 49 U.S.C. 20171(c)(3)(B) into the FCSS. FRA will review registration records when there is evidence of noncompliance with the Act. For example, when FRA determines a railroad freight car manufacturer is not in compliance with the Act's substantive requirements (*e.g.,* it is equipped with sensitive technology, or 20 percent or 15% of its components, sourced from an SOE and operating on the U.S. general railroad system of transportation), FRA would request documentation to determine whether the freight car was registered with the Umler system. If the freight car was so registered, the freight car would also be in noncompliance with this section.

Section 215.407 Civil Penalties

This section proposes to incorporate the requirements in 49 U.S.C. 20171(c)(4) into the FCSS. The Act specifies penalty amounts for violations of its substantive requirements and specifies that the unit of violation is the freight car. FRA anticipates utilizing the *Railroad Safety Enforcement Procedures* to enforce these penalties in the same manner as other civil penalties enforced by FRA.[69]

VI. Regulatory Impact and Notices

A. Executive Orders 12866 as Amended by Executive Order 14094

This proposed rule is not a significant regulatory action within the meaning of Executive Order (E.O.) 12866 (''Regulatory Planning and Review''), as amended by Executive Order 14094, Modernizing Regulatory Review,[70] and DOT Order 2100.6A (''Rulemaking and Guidance Procedures''). This proposed rule aims to enforce the Act's restrictions on content and technology originating from COCs and SOEs in newly built freight cars entering service on the U.S. general railroad system of transportation. Issuing this proposed rulemaking would authorize FRA to monitor and enforce industry compliance with the Act. This section qualitatively explains benefits and quantitatively explains costs for the freight car industry and FRA associated with implementing this proposed rule over a 10-year period, considering discount rates of 7 percent and 3 percent.[71]

FRA has concluded that the Act does not impose a continuing obligation on manufacturers or railcar owners related to certifying content and technology limitations throughout the useful life of each freight car. As such, the proposed rule would not require FRA to enforce the requirements set forth in the Act at all times a freight railcar is in service on the U.S. general railroad system of transportation. Therefore, this proposed rule would only impact original freight car manufacturers related to the initial entry of freight cars into service in the U.S. general railroad system of transportation.

Based on discussions with FRA subject matter experts in the Office of Motive Power and Equipment, this analysis estimates that the proposed rule would impact six freight car manufacturers that have manufacturing facilities within North America. This proposed rule would not significantly impact any other entity. Over a 10-year period, this analysis estimates the impact of issuing this proposed rule on freight car manufacturing industry and FRA related to: (1) limiting content sourced from COCs or SOEs; (2) prohibiting the use of sensitive technology and components necessary to the functionality of the sensitive technology from a COC or SOE; (3) compliance costs; and (4) government administrative costs associated with enforcing this proposed rule. Additionally, this analysis provides a summary of the regulatory impact and describes some alternative regulatory options that FRA considered.

(1) Limit Content Sourced From COCs or SOEs

Based on conversations with RSA and FRA subject matter experts, all six freight car manufacturers currently comply with the 15 percent content limitation, which would be required three years after this proposed rule's implementation date. Also, absent FRA issuing this proposed rule, over the next 10 years, this analysis forecasts that no freight car manufacturer plans to change its materials sourcing whereby a freight car manufacturer would not be in compliance with the content limitation set forth in this proposed rule. Lastly, this analysis does not anticipate any

[68] The proposed definition of ''net cost'' is provided in section 215.5 of this proposed rule. For a discussion of ''net cost,'' see the section-by-section analysis above.

[69] 49 CFR part 209.

[70] 88 FR 21879 (April 6, 2023) located at *https://www.federalregister.gov/documents/2023/04/11/2023-07760/modernizing-regulatory-review.*

[71] All costs are expressed in 2022 base year dollars.

new freight car manufacturers entering the North American freight car industry over the next 10 years (during the period of analysis). Therefore, related to complying with content limitation, issuing this proposed rule would not result in any costs or benefits. FRA welcomes public comment related to this conclusion.

(2) Prohibit the Use of Sensitive Technology From COCs or SOEs

As explained earlier in this NPRM, FRA understands the prohibition on the use of sensitive technology that originates from a COC or SOE to also include any *active* technological components necessary to the functionality of the sensitive technology (excluding *passive* technological components) that originates from a COC or SOE. Based on this understanding and input from the RSA and FRA subject matter experts, all six freight car manufacturers currently comply with the limitations on use of sensitive technological components as set forth in this proposed rule. Also, absent FRA issuing this proposed rule, over the next 10 years, this analysis forecasts that no freight car manufacturer plans to change its materials sourcing whereby a freight car manufacturer would not comply with the sensitive technology limitation set forth in this proposed rule. Further, over the next 10 years (during the period of analysis), this analysis does not anticipate any new freight car manufacturer entering the North American freight car industry. Therefore, the provision that would prohibit the use of sensitive technology, or *active* technological components necessary to the functionality of the sensitive technology that originates from a COC or SOE for freight cars entering service in the U.S. general railroad system of transportation would not result in any costs. FRA welcomes public comment related to this conclusion.

However, issuing this provision (prohibiting the use of sensitive technology from COCs or SOEs) may provide benefit. That is, issuing this proposed rule would mitigate concerns related to compromised national security and potential corporate espionage that exists if newly built freight cars with sensitive technology and *active* technological components necessary to the functionality of the sensitive technology from COC or SOE enter service into the U.S. general railroad system of transportation. FRA welcomes public comment related to these conclusions.

(3) Compliance Costs

Issuing the proposed rule would create a few compliance burdens for freight car manufacturers including affirming compliance with this proposed rule, submitting an annual certification, and participating in periodic audits.

Manufacturers Affirm Compliance Prior to a Freight Car Entering Service

Prior to a manufacturer providing a freight car for operation on the U.S. general railroad system of transportation, a manufacturer would affirm that the freight car is compliant with this regulation. Currently, FRA provides a courtesy safety appliance drawing review and/or sample car inspection to freight car manufacturers that request it for all freight cars that they intend to manufacture for operation on the U.S. general system. FRA anticipates that manufacturers would affirm compliance with the Act by certifying at the time of their safety appliance drawing review and/or sample car inspection.[72]

Based on input from FRA subject matter experts, this analysis estimates that each year manufacturers introduce approximately 35 freight car orders. Based on FRA subject matter expert input, this analysis assumes that an administrative professional in the freight car's contract office would draft the document affirming compliance with the Act (1 hour) and a vice-president of engineering would review and sign the letter (15 minutes).[73] Each year, the burden on manufacturers to affirm compliance with the Act for all newly built freight cars intended for operation on the U.S. general railroad system of transportation is $3,438.[74] Over the 10-year period of analysis, the industry burden is approximately, $34,400 (undiscounted), $29,200 (present value (PV), 3%), and $20,400 (PV, 7%).

Periodic Audit of Freight Car Manufacturers

As part of FRA's enforcement of the proposed rule, FRA expects to randomly audit freight car manufacturers to ensure compliance with the Act. Based on input from FRA subject matter experts, FRA would likely randomly audit one-third of the freight car manufacturers each year (approximately two freight car manufacturers each year). Based on FRA subject matter expert input, the likely audit process would compromise of FRA selecting one freight car order from the manufacturer's product line and have the freight car manufacturer provide evidence of compliance. FRA would audit the bill of materials to determine if the manufacturer complied with this regulation. If the freight car manufacturer provides sufficient evidence to show its freight car is complaint with the rule, FRA would take no further action. Based on FRA subject matter expert input, FRA anticipates that the results of FRA's random audit is that FRA will find all freight car manufacturers compliant with the proposed rule.

Based on input from FRA subject matter experts, this analysis estimates that it would take four hours for a freight car manufacturer to retrieve existing information that shows compliance with this proposed rule and provide it to an FRA inspector. This analysis placed a relatively low hourly burden for the periodic audit because this proposed rule requires freight railroads to maintain records that show compliance. Thus, other than retrieving records that should already exist, freight car manufacturers would have no additional burden. With an estimated two audits per year, the audit burden for all freight car manufacturers is 8 hours

[72] A freight car manufacture may also certify compliance with Act by submitting an independent document to FRA for any build order (*e.g.,* for subsequent orders of the same car builds utilizing the same safety appliance arrangement that have already been reviewed and/or inspected by FRA). This analysis concluded that the cost to submit an independent document to affirm compliance with the Act follows similarly to including such affirmation along with safety appliance review and/or sample car inspection request package.

[73] U.S. Bureau of Labor Statistics, Occupational Employment and Wage Statistics, National Industry-Specific Occupational Employment and Wage Statistics, May 2023 NAICS 336500 Railroad Rolling Stock Manufacturing ''Sales and Related Occupations'' $40.45 (mean wage), ''Top Executives'' ($62.74) [May 2023] *https://www.bls.gov/oes/current/naics4_336500.htm.* When estimating labor burden, this analysis added a compensation factor of 1.75, so the administrative employee's hourly burden rate is $70.79 and the VP of engineering's hourly burden rate is $109.80.

[74] Industry burden for affirming compliance, annual = Number of freight cars introduced (35) * [time to write the document affirming compliance with the Act (1 hour) * administrative professional's hour compensation rate ($70.79) + time to review and sign the document (15 minutes) * VP of engineering compensation rate ($109.80)] = $3,438.

or $566.[75] Over the 10-year period of analysis, the burden periodic audits of freight car manufacturers is approximately $5,700 (undiscounted), $4,800 (PV, 3%), and $3,400 (PV, 7%).

Total Cost and Benefit for Industry

As shown, in table 2, over the 10-year period of analysis, the industry burden is approximately $44,800 (undiscounted), $38,200 (PV, 3%), and $30,900 (PV, 7%).

TABLE 2—FREIGHT CAR INDUSTRY, TOTAL COST, ROUND ($100)

Type of cost	Total cost ($)			Annualized ($)	
	Undiscounted	PV 3%	PV 7%	PV 3%	PV 7%
Compliance certification	34,400	29,200	20,400	3,400	2,900
Periodic audit	5,700	4,800	3,400	600	500
Total	40,100	34,000	23,800	4,000	3,400

FRA is issuing this regulation as required by the Act. In this economic analysis, FRA qualitatively explains the potential benefits that may result from implementing the proposed rule. FRA requests public comment regarding these cost estimates and the benefit that would come from issuing the proposed rule.

(4) Governmental Administrative Costs

Issuing the proposed rule would create enforcement costs for FRA, including the review of freight car manufacturers certifying compliance, periodic audits of freight car manufacturers, and creating an annual report to Congress.

Review of Certification of Compliance Reports

Based on input from FRA subject matter experts, this analysis estimates that each year manufacturers introduce approximately 35 freight car orders and certify to FRA that their freight cars comply with this Act. FRA staff would spend approximately 30 minutes to review each of the 35 submissions. Therefore, FRA's annual burden related to reviewing the manufacturer's is $2,201.[76] [77] Over the 10-year period of analysis, the total burden is approximately $22,00 (undiscounted), $18,700 (present value (PV), 3%), and $13,000 (PV, 7%).

FRA Periodic Audit of Freight Car Manufacturers

As explained in the above section that describes industry burden, each year FRA expects to audit approximately two freight car manufacturers as part of FRA's enforcement efforts. To minimize compliance costs, FRA would use FRA field staff who have duty stations in close proximity to the freight car manufacturing facility. However, based on subject matter expert input, in the first five years of implementation of the proposed rule, FRA expects that it would send both an FRA field inspector and FRA headquarters employee to conduct the audit. Beginning with the sixth year, FRA expects that only FRA field inspectors would conduct audits.

Based on FRA subject matter expert input, FRA's burden related to periodic audits of freight car manufacturers is 20 hours for FRA headquarters staff (4 hours to prepare for audit, 4 hours to conduct audit, and 12 hours of travel time) and 12 hours for FRA field staff (4 hours to prepare for audit, 4 hours to conduct audit, and 4 hours travel time). In addition, FRA will incur travel expenses of $500 for FRA headquarters staff and $100 for FRA field staff per audit. In the first year of analysis, the cost related to conducting two audit is $8,121.[78] [79] Over the 10-year period of analysis, FRA's burden for conducting periodic audits is $51,000 (undiscounted), $45,300 (PV, 3%), and $34,800 (PV, 7%).

Preparing an Annual Report to Congress

After the final rule becomes effective, FRA expects that it will prepare and submit an annual report to Congress that would summarize all certification submissions that FRA received from all the manufacturers during the calendar year. FRA anticipates that it may include this report within its existing Fiscal Year Enforcement Report to Congress. Based on input from subject matter experts, it would take FRA staff approximately 24 hours to prepare and submit an annual report with an associated cost of $3,019.[80] Over the 10-year period of analysis, the costs of preparing and submitting annual reports to Congress is $30,200 (undiscounted), $25,600 (present value (PV), 3%), and $17,900 (PV, 7%).

Total FRA Burden

As shown, in table 3, over the 10-year period of analysis, FRA's enforcement burden is approximately $103,200 (undiscounted), $89,600 (PV, 3%), and $65,700 (PV, 7%).

[75] Freight car manufacturers, participating in an audit, annual = Number of annual audits (2) * hours to prepare and participate in an audit (4 hours) * freight car administrative employee compensation rate ($70.78) = $566.

[76] FRA headquarters staff salary estimated at the GS–14 step 5 rate Washington, DC) of $71.88 with a burden rate of 1.75 for an hourly burden rate of $125.79. See *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2023/general-schedule/.*

[77] FRA burden for affirming compliance, annual = Number of freight cars introduced (35) * [time to review affirmation (0.5 hour) * FRA headquarters employee compensation rate ($125.79) = $2,201.

[78] FRA headquarters staff salary estimated at the GS–14 step 5 rate Washington DC) of $71.88 with a burden rate of 1.75 for an hourly burden rate of $125.79. FRA field staff salary estimated at the GS–12 step 5 rate (Rest of United States) of $44.98 with a burden rate of 1.75 for an hourly burden rate of $78.72. See *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2023/general-schedule/.*

[79] FRA audit burden, annual = number of audits per year (2 audits) * [FRA headquarters staff time per audit (20 hours) * FRA headquarters staff compensation rate ($125.79) + FRA headquarters staff travel expense ($500) + FRA field staff time per audit (12 hours) * FRA field staff compensation rate ($78.72) + FRA field staff travel expense ($100)] = 2 * $4,060 = $8,121.

[80] Prepare and submit annual report to Congress, annual = FRA staff hourly labor burden rate ($125.79) * hours to complete and submit report (24 hours) = $3,019.

TABLE 3—FRA ENFORCEMENT BURDEN FROM ISSUING THE PROPOSED RULE, TOTAL COST, ROUND ($100)

Type of cost	Total cost ($)			Annualized ($)	
	Undiscounted	PV 3%	PV 7%	PV 3%	PV 7%
Review affirmations	22,000	18,700	13,000	2,200	1,900
Periodic audit	51,000	45,300	34,800	5,300	5,000
Annual report to Congress	30,200	25,600	17,900	3,000	2,500
Total cost	103,200	89,600	65,700	10,500	9,400

(5) Summary of Regulatory Impact

As shown below in table 4, the total impact that would come from issuing the proposed rule including the impact on industry and FRA is approximately $143,300 (undiscounted), $123,600 (PV, 3%), and $89,500 (PV, 7%). In this economic analysis, FRA qualitatively explains the potential benefits that may result from implementing the proposed rule, including addressing concerns related to compromised national security and potential corporate espionage if newly built freight cars with sensitive technology and active technological components necessary to the functionality of the sensitive technology from COC or SOE enter service into the U.S. general railroad system of transportation. FRA welcomes public comment related to the potential costs and benefits associated with implementing this proposed rule.

TABLE 4—INDUSTRY COMPLIANCE BURDEN AND FRA'S ENFORCEMENT BURDEN, TOTAL COST, ROUND ($100)

Entity	Total cost ($)			Annualized ($)	
	Undiscounted	PV 3%	PV 7%	PV 3%	PV 7%
Industry costs	40,100	34,000	23,800	4,000	3,400
FRA costs	103,200	89,600	65,700	10,500	9,400
Total cost	143,300	123,600	89,500	14,500	12,800

(6) Alternatives Considered

FRA considered different ways to interpret the Act related to satisfying its duties of issuing a rule. The following alternatives, the baseline alternative and reoccurring annual certification alternatives, provide insight into FRA's decision-making process related to issuing this proposed rule pursuant to implementing the Act.

Baseline Alternative

The core of a regulatory impact analysis is an assessment of the benefits and costs of regulation in comparison to a ''without regulation'' (or ''no action'') baseline. If FRA did not issue this proposed rule, FRA would not implement the Act and would not codify a process for FRA to monitor and enforce industry compliance with the Act.

If FRA failed to follow the statutory requirement of the Act, the Act may not be binding and FRA would not meet its statutory obligations.

Reoccurring Annual Certification Alternative

FRA considered alternative interpretations of the statutory requirement in the Act, with the aim of ensuring that freight cars on the U.S. general railroad system of transportation comply with the Act. The first interpretation would require that freight car owners submit annual certifications for each of the approximately 1.6 million freight cars in service on the U.S. general railroad system of transportation. The second interpretation would grandfather in existing freight cars and only require owners of freight cars built after the rule's implementation date to submit annual certifications. The third interpretation would grandfather in existing freight cars but require any freight car owner that adds or replaces sensitive technology (including the *active* components within) on a freight car to submit an annual certification that the sensitive technology in each augmented freight car complies with the sensitive technology provision of the proposed rule.

Under the first interpretation, each year freight car owners would need to ensure that all their freight cars comply with the Act. Not only would this interpretation not comport with FRA's understanding that the Act applies to freight car manufacturers and not freight car owners, but it would also be problematic because existing freight car owners are unlikely to know the percentage of content of each freight car that comes from COCs or SOEs and whether the existing sensitive technology in each freight car was sourced from a COC or SOE. FRA determined that car owners lacked sufficient information to comply with this alternative.

Under the second interpretation, owners of freight cars entering service after the implementation date would need to ensure that all aftermarket reconfigurations and repairs comply with the Act (both the content limitation and the sensitive technology sourcing provisions). Owners of freight cars would need to maintain records of the source origin for all parts in each augmented freight car. This alternative might help ensure that aftermarket reconfigurations of freight cars entering service after the implementation date would not use sensitive technology (including the *active* technological components within) that originate from a COC or SOE, this alternative would impose a significantly greater burden on both the industry (railroads and private car owners) and FRA as compared to the proposed rule. FRA is also concerned about how such an interpretation would impact Class III railroads and small private car owners. FRA welcomes public comment on this alternative.

Under a third alternative, FRA would require that any freight car owner that adds or replaces sensitive technology (including the *active* technological components within) on a freight car submit an annual certification to affirm that the freight car maintained compliance with the sensitive

technology limitations of the proposed rule. While this alternative may help protect the U.S. general railroad system of transportation from safety risks and data breaches, this alternative would impose a significantly greater burden on both the industry (railroads and private car owners) and FRA as compared to the proposed rule. Moreover, this alternative would not comport with FRA's understanding that the Act applies to freight car manufacturers and not freight car owners. FRA welcomes public comment on this alternative.

FRA concluded that the proposed rule strikes an appropriate balance between enhancing the safety and security of the U.S. general railroad system of transportation while minimizing the burden.

B. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act of 1980 [81] and E.O. 13272 [82] require agency review of proposed and final rules to assess their impacts on small entities. An agency must prepare an Initial Regulatory Flexibility Analysis (IRFA) unless it determines and certifies that a rule, if promulgated, would not have a significant economic impact on a substantial number of small entities. FRA has not determined whether this proposed rule would have a significant economic impact on a substantial number of small entities and provides the following IRFA.

1. Reasons for Considering Agency Action

The Act mandates that FRA issue a regulation to monitor and enforce freight car manufacturers'' compliance with the standards of the Act. FRA's implementation of this regulation would carry out the Act's mandate.

2. A Succinct Statement of the Objectives of, and the Legal Basis for, the Proposed Rule

On November 15, 2021, President Biden signed the Act,[83] which includes a mandate that FRA issue regulations to implement the statute.[84] The Act provides that freight cars wholly manufactured after a certain date may only operate on the U.S. general railroad system of transportation if the cars are manufactured by a ''qualified manufacturer'' in a ''qualified facility.'' Further the Act prohibits newly built freight cars from being operated on the U.S. general railroad system of transportation, if they are manufactured: (1) with sensitive technology originating from a COC or sourced from a SOE; (2) with any components originating from a COC or sourced from a SOE with a history of problematic trade practices or respect for IP rights; or, (3) with components originating from a COC or sourced from a SOE exceeding 20 percent of the freight car after 1 year from the date of issuance of regulations or 15 percent of the freight car after 3 years from the date of issuance of regulations. The Act requires manufacturers to annually certify that they meet the requirements of the Act.[85]

3. A Description of, and Where Feasible, an Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply

Freight car manufacturers are classified within NAICS 336510 *Railroad rolling stock manufacturing.*[86] The SBA size standard for NAICS 336510 is 1,500 employees.[87] Based on FRA subject matter expert input, three of the six freight car manufacturers are considered small entities.

Census data shows that there are 153 establishments [88] classified within NAICS 336510. Therefore, because freight car manufacturers that produce newly built freight railcars compromise of about four percent (6 of 153 establishments) of establishments classified within NAICS 336510, a breakdown of small entities using Census data for NAICS 336510 would not yield a reliable distribution of small firms by firm size (number of employees).

Based on input from FRA subject matter experts, this analysis concludes that the three small freight car manufacturers currently comply with the proposed requirements in this rule related to content and sensitive technology limitations. Therefore, this analysis concludes that the provisions related to content and sensitive technology limitations would not create a cost or benefit that would be borne by the three small freight car manufacturers.

With respect to the three small freight car manufacturers, the proposed rule would create compliance costs [89] related to: (1) affirming newly designed freight cars comply with the Act; (2) annual certification of compliance letter; and (3) participation in a periodic audit of freight car manufacturers.

Based on input from FRA subject matter experts, this analysis estimates that each year small manufacturers introduce approximately six unique freight car design builds. For each of these introductions, the small manufacturer would need to inform FRA that the new designs are compliant with the Act. Based on FRA subject matter expert input, this analysis assumes that an administrative professional in the freight car's contract office would draft a document certifying compliance with the Act (1 hour) and a vice-president of engineering would review and sign the letter (15 minutes).[90] Each year, the industry burden for small entities is $589,[91] or approximately $200 per small manufacturer. Over the 10-year period of analysis, the industry burden is approximately $5,900 (undiscounted), $5,000 (present value (PV), 3%), and $4,000 (PV, 7%).

Based on input from FRA subject matter experts, FRA expects to audit approximately one small freight car manufacturer each year, which would result in an annual burden on small manufacturers of 4 hours or $283,[92] or approximately $90 per small freight car

[81] 5 U.S.C. 601 *et seq.*

[82] 67 FR 53461 (Aug. 16, 2002).

[83] 49 U.S.C. 20171. *See https://www.whitehouse.gov/briefing-room/presidential-actions/2021/11/15/executive-order-on-implementation-of-the-infrastructure-investment-and-jobs-act/.*

[84] *Id.* at (c)(1).

[85] *Id.* at (c)(2).

[86] This NAICS classification compromises establishments primarily engaged in one or more of the following: (1) manufacturing and/or rebuilding locomotives, locomotive frames, and parts; (2) manufacturing railroad, street, and rapid transit cars and car equipment for operation on rails for freight and passenger service; and (3) manufacturing rail layers, ballast distributors, rail tamping equipment, and other railway track maintenance equipment. *https://www.census.gov/naics/?input=336510&year=2022&details=336510.*

[87] ''Table of Small Business Size Standard'', U.S. Small Business Administration, Size Standards effective as of March 17, 2023, p. 16 of 41 *https://www.sba.gov/document/support-table-size-standards.*

[88] An establishment is a fixed physical location or permanent structure where some form of business activity is conducted.

[89] These compliance cost estimates follow from the estimates in ''VI. A. Executive Orders 12866.''

[90] U.S. Bureau of Labor Statistics, Occupational Employment and Wage Statistics, National Industry-Specific Occupational Employment and Wage Statistics, May 2023 NAICS 336500 Railroad Rolling Stock Manufacturing ''Sales and Related Occupations'' $40.45 (mean wage), ''Top Executives'' ($62.74) [May 2023] *https://www.bls.gov/oes/current/naics4_336500.htm.* When estimating labor burden, this analysis added a compensation factor of 1.75, so the administrative employee's hourly burden rate is $70.79 and the VP of engineering's hourly burden rate is $109.80.

[91] Industry burden for affirming compliance, annual = Number of freight car designs introduced (6) * [time to write the document affirming compliance with the Act (1 hour) * administrative professional's hour compensation rate ($70.79) + time to review and sign the document (15 minutes) * VP of engineering compensation rate ($109.80)] = $589.

[92] Freight car manufacturers, participating in an audit, annual (undiscounted) = Number of annual audits (1) * hours to prepare and participate in an audit (4 hours) * freight car employee compensation rate ($70.79) = $283.

manufacturer. Over the 10-year period of analysis, the burden of periodic audits on small manufacturers is $2,800 (undiscounted), $2,400 (PV, 3%), and $1,900 (PV, 7%).

The total cost for small freight car manufacturers is approximately $8,700 (undiscounted),[93] $7,400 (PV, 3%), and $5,200 (PV, 7%). The annualized burden for small freight cars related to participating in an FRA audit is approximately $900 (PV, 3%), or approximately $300 per small freight car manufacturer. Based on subject matter expert input, each of the three small freight car manufacturers have annual revenue exceeding $1 million. Therefore, issuing the proposed rule would result in an annual burden for each of the small freight car manufacturers of less than one-tenth of one-percent of its annual revenue. FRA has not determined whether this proposed rule would have a significant economic impact on a substantial number of small entities. FRA welcomes public comment on these findings and conclusion.

4. A Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule, Including an Estimate of the Class of Small Entities That Would Be Subject to the Requirements and the Type of Professional Skill Necessary for Preparation of the Report or Record

The proposed rule would create three reporting, recordkeeping, and other compliance requirements. The three affected freight car manufacturers would need to make a dedicated service notification to FRA, submit an annual certification of compliance to FRA, and maintain and make available to FRA records that affirm compliance with the Act. The types of professional skills necessary for preparing and maintaining these reports include administrative professional skills (basic accounting, writing, organizing) and clerical skills.

5. Identification, to the Extent Practicable, of All Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

For a list of all Federal rules that may duplicate, overlap, or conflict with this proposed rule, please see the rules described in section II. above.

6. A Description of Significant Alternatives to the Rule

FRA considered three significant alternative interpretations to the proposed rule with the aim of ensuring that freight cars on the U.S. general railroad system of transportation comply with the Act. The first interpretation would require that all freight car owners submit annual certifications for each of the approximately 1.6 million freight cars in service on U.S. general railroad system of transportation. The second interpretation would grandfather in existing freight cars and only require owners of freight cars built after the rule's implementation date to submit annual certifications with the Act. The third interpretation would grandfather in existing freight cars, but require any freight car owner that adds or replaces sensitive technology (including the *active* components within) on a freight car to submit an annual certification with the Act; specifying that the sensitive technology in each augmented freight car complies with the sensitive technology provision of the proposed rule. As explained in section VI. Regulatory Impact and Notices A. Executive Order 12866, FRA concluded that the primary alternative is preferred to each of these significant alternatives.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule are being submitted for approval to OMB [94] under the Paperwork Reduction Act of 1995.[95] The information collection requirements and the estimated time to fulfill each requirement are as follows:

CFR section	Respondent universe	Total annual responses (A)	Average time per response (hours) (B)	Total annual burden hours (C) = (A * B)	Total cost equivalent in U.S. dollars (D) = (C * wage rates) [96]
215.5(d)(6)—Dedicated Service—Notification to FRA.	784 railroads	4 notifications	1	4.00	$311.64
215.403(a)(1)—Certification of Compliance—Manufacturers to electronically certify to FRA that the cars comply with the requirements of this subpart (New requirement).	6 manufacturers	35 Affirmations	1.25	43.75	2,786.00
—(a)(1)(ii) Records and such records shall be made available to FRA upon request (New requirement).	6 manufacturers	0.33 report	6	1.98	126.09
Total [97]	784 railroads + 6 manufacturers.	39.33 notifications	N/A	49.73	3,223.73

All estimates include the time for reviewing instructions; searching existing data sources; gathering or maintaining the needed data; and reviewing the information. Pursuant to 44 U.S.C. 3506(c)(2)(B), FRA solicits comments concerning: whether these information collection requirements are necessary for the proper performance of

[93] Total cost, small manufacturers (undiscounted) = affirming newly built cars comply with Act ($5,900) + participation in periodic audit ($2,800) = $8,700.

[94] FRA will be using the OMB control number (OMB No. 2130–0502) that was issued with when the previous NPRM was issued in 1979 for this information collection.

[95] 44 U.S.C. 3501 *et seq.*

[96] The dollar equivalent cost is derived from U.S. Bureau of Labor Statistics, 2021 NAICS 336500—Railroad Rolling Stock Manufacturing; 13–1000 Business Operations Specialist median wage $63.68 ($36.39 + 1.75 overhead costs. The one exception is section 215.5(d)(6), which is derived from the Surface Transportation Board's Full Year Wage 2021, group 200 Professional and Administrative.

[97] Totals may not add due to rounding.

the functions of FRA, including whether the information has practical utility; the accuracy of FRA's estimates of the burden of the information collection requirements; the quality, utility, and clarity of the information to be collected; and whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, may be minimized. Organizations and individuals desiring to submit comments on the collection of information requirements or to request a copy of the paperwork package submitted to OMB should contact Ms. Arlette Mussington, Information Collection Clearance Officer, at email: *arlette.mussington@dot.gov* or telephone: (571) 609–1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: *joanne.swafford@dot.gov* or telephone: (757) 897–9908.

OMB is required to make a decision concerning the collection of information requirements contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal. FRA is not authorized to impose a penalty on persons for violating information collection requirements that do not display a current OMB control number, if required.

D. Federalism Implications

Executive Order 13132, Federalism,[98] requires FRA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, the agency may not issue a regulation with federalism implications that imposes substantial direct compliance costs and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or the agency consults with State and local government officials early in the process of developing the regulation. Where a regulation has federalism implications and preempts State law, the agency seeks to consult with State and local officials in the process of developing the regulation.

FRA has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 13132. FRA has determined that this proposed rule has no federalism implications, other than the possible preemption of State laws under 49 U.S.C. 20106. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply, and preparation of a federalism summary impact statement for the proposed rule is not required.

E. International Trade Impact Assessment

The Trade Agreements Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This proposed rule is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

F. Environmental Impact

FRA has evaluated this proposed rule consistent with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), the Council of Environmental Quality's NEPA implementing regulations at 40 CFR parts 1500 through 1508, and FRA's NEPA implementing regulations at 23 CFR part 771 and determined that it is categorically excluded from environmental review and therefore does not require the preparation of an environmental assessment (EA) or environmental impact statement (EIS). Categorical exclusions (CEs) are actions identified in an agency's NEPA implementing regulations that do not normally have a significant impact on the environment and therefore do not require either an EA or EIS.[99] Specifically, FRA has determined that this proposed rule is categorically excluded from detailed environmental review pursuant to 23 CFR 771.116(c)(15), ''[p]romulgation of rules, the issuance of policy statements, the waiver or modification of existing regulatory requirements, or discretionary approvals that do not result in significantly increased emissions of air or water pollutants or noise.''

The main purpose of this rulemaking is to revise FRA's FCSS to reduce unnecessary costs and provide regulatory flexibility while maintaining safety. This rulemaking would not directly or indirectly impact any environmental resources and would not result in significantly increased emissions of air or water pollutants or noise. In analyzing the applicability of a CE, FRA must also consider whether unusual circumstances are present that would warrant a more detailed environmental review.[100] FRA has concluded that no such unusual circumstances exist with respect to this proposed rule and it meets the requirements for categorical exclusion under 23 CFR 771.116(c)(15).

Pursuant to section 106 of the National Historic Preservation Act and its implementing regulations, FRA has determined this undertaking has no potential to affect historic properties.[101] FRA has also determined that this rulemaking does not approve a project resulting in a use of a resource protected by section 4(f).[102]

G. Environmental Justice

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' require DOT agencies to achieve environmental justice as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of their programs, policies, and activities on minority populations and low-income populations. DOT Order 5610.2C (''U.S. Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'') instructs DOT agencies to address compliance with Executive Order 12898 and requirements within DOT Order 5610.2C in rulemaking activities, as appropriate, and also requires consideration of the benefits of transportation programs, policies, and

[98] 64 FR 43255 (Aug. 10, 1999).

[99] 40 CFR 1508.4.

[100] 23 CFR 771.116(b).

[101] *See* 16 U.S.C. 470.

[102] *See* Department of Transportation Act of 1966, as amended (Pub. L. 89–670, 80 Stat. 931); 49 U.S.C. 303.

other activities where minority populations and low-income populations benefit, at a minimum, to the same level as the general population as a whole when determining impacts on minority and low-income populations.[103] FRA has evaluated this proposed rule under Executive Orders 12898, 14096 and DOT Order 5610.2C and has determined it would not cause disproportionate and adverse human health and environmental effects on communities with environmental justice concerns.

H. Unfunded Mandates Reform Act of 1995

Under section 201 of the Unfunded Mandates Reform Act of 1995,[104] each Federal agency ''shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' Section 202 of the Act (2 U.S.C. 1532) further requires that ''before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement'' detailing the effect on State, local, and tribal governments and the private sector. This proposed rule would not result in the expenditure, in the aggregate, of $100,000,000 or more (as adjusted annually for inflation) in any one year, and thus preparation of such a statement is not required.

I. Energy Impact

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' [105] FRA evaluated this proposed rule under Executive Order 13211 and determined that this regulatory action is not a ''significant energy action'' within the meaning of Executive Order 13211.

J. Privacy Act Statement

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, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

List of Subjects in 49 CFR Part 215

Freight cars, Infrastructure Investment and Jobs Act.

The Proposed Rule

For the reasons discussed in the preamble, FRA proposes to amend part 215 of chapter II, subtitle B of title 49, Code of Federal Regulations, as follows:

PART 215—RAILROAD FREIGHT CAR SAFETY STANDARDS

■ 1. The authority citation for part 215 is revised to read as follows:

Authority: 49 U.S.C. 20171(c)(1), 49 U.S.C. 20102–03, 20107, 20133, 20137–38, 20143, 20701–03, 21301–02, 21304; 28 U.S.C. 2401, note; and 49 CFR 1.49.

■ 2. Revise § 215.5 to read as follows:

§ 215.5 Definitions.

As used in this part:

Break means a fracture resulting in complete separation into parts;

Component means a part or subassembly of a railroad freight car;

Control means the power, whether direct or indirect and whether or not exercised, through the ownership of a majority or a dominant minority of the total outstanding voting interest in an entity; representation on the board of directors of an entity; proxy voting on the board of directors of an entity; a special share in the entity; a contractual arrangement with the entity; a formal or informal arrangement to act in concert with an entity; or any other means, to determine, direct, make decisions, or cause decisions to be made for the entity;

Cost of sensitive technology means the aggregate cost of the sensitive technology located on a railroad freight car.

Country of concern means a country that—

(1) Was identified by the Department of Commerce as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of November 15, 2021;

(2) Was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list (as defined in subsection (g)(3) of such section); and

(3) Is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).

Dedicated service means the exclusive assignment of cars to the transportation of freight between specified points under the following conditions:

(1) The cars are operated—

(i) Primarily on track that is inside an industrial or other non-railroad installation; and

(ii) Only occasionally over track of a railroad;

(2) The cars are not operated—

(i) At speeds of more than 15 miles per hour; and

(ii) Over track of a railroad—

(A) For more than 30 miles in one direction; or

(B) On a round trip of more than 60 miles;

(3) The cars are not freely interchanged among railroads;

(4) The words ''Dedicated Service'' are stenciled, or otherwise displayed, in clearly legible letters on each side of the car body;

(5) The cars have been examined and found safe to operate in dedicated service; and

(6) The railroad must—

(i) Notify FRA in writing that the cars are to be operated in dedicated service;

(ii) Identify in that notice—

(A) The railroads affected;

(B) The number and type of cars involved;

(C) The commodities being carried; and

(D) The territorial and speed limits within which the cars will be operated; and

(iii) File the notice required by this paragraph (6)(iii) of the definition not less than 30 days before the cars operate in dedicated service;

In service when used in connection with a railroad freight car, means each railroad freight car subject to this part unless the car:

(1) Has a ''bad order'' or ''home shop for repairs'' tag or card containing the

[103] Executive Order 14096 ''Revitalizing Our Nation's Commitment to Environmental Justice,'' issued on April 26, 2023, supplements Executive Order 12898, but is not currently referenced in DOT Order 5610.2C.

[104] Public Law 104–4, 2 U.S.C. 1531.

[105] 66 FR 28355 (May 22, 2001).

prescribed information attached to each side of the car and is being handled in accordance with § 215.9;

(2) Is in a repair shop or on a repair track;

(3) Is on a storage track and is empty; or

(4) Has been delivered in interchange but has not been accepted by the receiving carrier.

Net cost has the meaning given such term in chapter 4 of the USMCA or any subsequent free trade agreement between the United States, Mexico, and Canada.

Qualified facility means a facility that is not owned or under the control of a state-owned enterprise.

Qualified manufacturer means a railroad freight car manufacturer that is not owned or under the control of a state-owned enterprise.

Railroad means all forms of non-highway ground transportation that run on rails or electromagnetic guideways, including:

(1) Commuter or other short-haul rail passenger service in a metropolitan or suburban area, and

(2) High speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads. Such term does not include rapid transit operations within an urban area that are not connected to the general railroad system of transportation.

Railroad freight car means a car designed to carry freight or railroad personnel by rail, including—

(1) A box car;

(2) A refrigerator car;

(3) A ventilator car;

(4) An intermodal well car;

(5) A gondola car;

(6) A hopper car;

(7) An auto rack car;

(8) A flat car;

(9) A special car;

(10) A caboose car;

(11) A tank car; and

(12) A yard car.

Sensitive technology means any device embedded with electronics, software, sensors, or other connectivity, that enables the device to connect to, collect data from, or exchange data with another device, including—

(1) Onboard telematics;

(2) Remote monitoring software;

(3) Firmware;

(4) Analytics;

(5) Global positioning system satellite and cellular location tracking systems;

(6) Event status sensors;

(7) Predictive component condition and performance monitoring sensors; and

(8) Similar sensitive technologies embedded into freight railcar components and sub-assemblies.

State inspector means an inspector who is participating in investigative and surveillance activities under section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435).

State-owned enterprise means—

(1) An entity that is owned by, or under the control of, a national, provincial, or local government of a country of concern, or an agency of such government; or

(2) An individual acting under the direction or influence of a government or agency described in paragraph (1) of this definition.

Substantially transformed means a component of a railroad freight car that undergoes an applicable change in tariff classification as a result of the manufacturing process, as described in chapter 4 and related annexes of the USMCA or any subsequent free trade agreement between the United States, Mexico, and Canada.

USMCA. The acronym 'USMCA' has the meaning given the term in section 3 of the United States-Mexico-Canada Agreement Implementation Act (19 U.S.C. 4502).

■ 3. Add subpart E to part 215 to read as follows:

Subpart E—Manufacturing

Sec.

Subpart E—Manufacturing

§ 215.401 Requirements for railroad freight cars placed into service in the United States.

(a) *Limitation on railroad freight cars.* A railroad freight car wholly manufactured on or after [DATE 365 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE ***FEDERAL REGISTER***] may only operate on the United States general railroad system of transportation if:

(1) The railroad freight car is manufactured, assembled, and substantially transformed, as applicable, by a qualified manufacturer in a qualified facility;

(2) None of the sensitive technology located on the railroad freight car, including components necessary to the functionality of the sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise; and

(3) None of the content of the railroad freight car, excluding sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise that has been determined by a recognized court or administrative agency of competent jurisdiction and legal authority to have violated or infringed valid United States intellectual property rights of another including such a finding by a Federal district court under title 35 or the U.S. International Trade Commission under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(b) *Limitation on railroad freight car content.* (1) Percentage limitation—

(i) *Initial limitation.* Not later than [DATE 365 DAYS AFTER DATE THE FINAL RULE IS ISSUED], a railroad freight car described in paragraph (a) of this section may operate on the United States general railroad system of transportation only if not more than 20 percent of the content of the railroad freight car, calculated by the net cost of all components of the car and excluding the cost of sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise.

(ii) *Subsequent limitation.* Effective beginning on [DATE 1461 DAYS AFTER DATE OF PUBLICATION IN THE ***FEDERAL REGISTER***], a railroad freight car described in paragraph (a) of this section may operate on the United States general railroad system of transportation only if not more than 15 percent of the content of the railroad freight car, calculated by the net cost of all components of the car and excluding the cost of sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise.

(2) *Conflict.* The percentages specified in the clauses in paragraphs (b)(1)(i) and (ii) of this section, as applicable, shall apply notwithstanding any apparent conflict with provisions of chapter 4 of the USMCA.

§ 215.403 Certification of compliance.

(a) *Certification required.* To be eligible to provide a railroad freight car for operation on the United States general railroad system of transportation, the manufacturer of such car shall certify, at least annually, to the Railroad Administrator that any railroad freight cars to be so provided comply with the 49 U.S.C. 20171.

(1) *Certification procedure.* Prior to providing any cars for operation on the United States general railroad system of transportation, each freight car manufacturer shall certify to FRA that the cars comply with the 49 U.S.C.

20171. Such certification shall be submitted via electronic mail by an authorized representative of the manufacturer to *FRAMP&E@dot.gov.* A manufacturer may submit this certification to FRA annually provided it covers all cars to be provided in the relevant year, or a manufacturer may submit separate certifications throughout the year.

(i) The certification shall include the statement ''I certify that all freight cars that will be provided for operation on the United States general railroad system of transportation will comply with the 49 U.S.C. 20171, and the implementing regulations at 49 CFR part 215'' and contain:

(A) The manufacturer's name and address;

(B) The name, signature, and contact information for the person designated to certify compliance with this subpart; and

(C) A car identification number for each car being certified.

(ii) Manufacturers shall maintain records showing the information, including the calculations, made to support certification under this section and such records shall be made available to FRA upon request.

(2) *Valid certification required.* At the time a railroad freight car begins operation on the United States general railroad system of transportation, the manufacturer of such railroad freight car shall have valid certification described in paragraph (a) of this section for the year in which such car begins operation.

(b) [Reserved]

§ 215.405 Prohibition on registering noncompliant railroad freight cars.

(a) *Cars prohibited.* A railroad freight car manufacturer may not register, or cause to be registered, a railroad freight car that does not comply with the requirements under this subpart in the Umler system.

(b) [Reserved]

§ 215.407 Civil penalties.

(a) *In general.* A railroad freight car manufacturer that has manufactured a railroad freight car for operation on the United States freight railroad interchange system that the Secretary of Transportation determines, after written notice and an opportunity for a hearing, has violated this subpart is liable to the United States Government for a civil penalty of at least $100,000, but not more than $250,000, for each such violation for each railroad freight car.

(b) *Prohibition for violations.* The Secretary of Transportation may prohibit a railroad freight car manufacturer with respect to which the Secretary has assessed more than 3 violations under this section from providing additional railroad freight cars for operation on the United States freight railroad interchange system until the Secretary determines:

(1) Such manufacturer is in compliance with this section; and

(2) All civil penalties assessed to such manufacturer pursuant to this section have been paid in full.

Issued in Washington, DC.

Amitabha Bose,

Administrator.

[FR Doc. 2023–26133 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–06–P

Notices

Federal Register
Vol. 88, No. 235
Friday, December 8, 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–SC–23–0048]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for the form currently used by marketers to apply for exemption from market promotion assessments under Federal marketing order programs.

DATES: Comments on this notice are due by February 6, 2024 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice. Comments must be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *https://www.regulations.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at: *https://www.regulations.gov.* All comments submitted in response to this notice will be included in the record and will be made available to the public. Please be advised that the identity of individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Thomas Nalepa, Marketing Specialist, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Room 1406–S, Washington, DC 20250–0237; Telephone: (202) 720–8085, Email: *Thomas.Nalepa@usda.gov.*

Small businesses may request information on this notice by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Room 1406–S, Washington, DC 20250–0237; Telephone: (202) 720–8085; or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Organic Handler Market Promotion Assessment Exemption under Federal Marketing Orders.

OMB Number: 0581–0216.

Expiration Date of Approval: February 29, 2024.

Type of Request: Extension of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruit, vegetables, and specialty crops in specified production areas to work together to solve marketing problems that cannot be solved individually.

Under the Agricultural Marketing Agreement Act of 1937 as amended (7 U.S.C. 601–674), marketing orders may authorize production and marketing research, including paid advertising, to promote various commodities, which is paid for by assessments that are levied on the handlers who are regulated by the Orders.

On May 13, 2002, the Farm Security and Rural Investment Act (7 U.S.C. 7901) amended the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7201), exempting any person who handles or markets solely 100 percent organic products from paying these assessments with respect to any agricultural commodity that is produced on a certified organic farm, as defined in the Organic Foods Production Act of 1990 (7 U.S.C. 6502). A certified organic handler can apply for this exemption by completing a ''Certified Organic Handler Application for Exemption from Market Promotion Assessments Paid Under Federal Marketing Orders,'' and submitting it to the applicable marketing order committee or board.

Section 900.700 of the regulations (7 CFR 900.700) provides for exemption from assessments. This notice applies to the following marketing orders: 7 CFR parts 906 (Oranges and grapefruit grown in Lower Rio Grande Valley in Texas), 915 (Avocados grown in south Florida), 923 (Sweet cherries grown in designated counties in Washington), 925 (Grapes grown in a designated area of southeastern California), 927 (Pears grown in Oregon and Washington), 929 (Cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in New York), 930 (Tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin), 932 (Olives grown in California), 948 (Irish potatoes grown in Colorado), 955 (Vidalia onions grown in Georgia), 956 (Sweet onions grown in the Walla Walla Valley of southeast Washington and northeast Oregon), 958 (Onions grown in certain designated counties in Idaho, and Malheur County, Oregon), 959 (Onions grown in South Texas), 966 (Tomatoes grown in Florida), 981 (Almonds grown in California), 982 (Hazelnuts grown in Oregon and Washington), 984 (Walnuts grown in California), 985 (Spearmint oil produced in Washington, Idaho, Oregon, and parts of Nevada and Utah), 986 (Pecans produced in Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas), 987 (Domestic dates produced or packed in Riverside County, California), 989 (Raisins produced from grapes grown in California), and 993 (Dried prunes produced in California).

The information collected is used only by authorized marketing order committee or board employees, who are the primary users of the information, and by authorized representatives of the USDA, including the AMS Specialty Crops Program's regional and headquarters staff, who are the secondary users of the information.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Respondents are eligible certified organic handlers.

Estimated Number of Respondents: 210.

Estimated Number of Total Annual Responses: 210.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 52.5 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (2) the accuracy of the Agency's estimate of the burden of the 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) was 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.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2023–26978 Filed 12–7–23; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are required regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by January 8, 2024 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Transfer of Farm Records Between Counties.

OMB Control Number: 0560–0253.

Summary of Collection: The Farm Service Agency (FSA) programs are administered on the basis of ''farm''. For program purposes, a farm is a collection of tracts of land that have the same owner and the same operator. Land with different owners may be considered to be a farm if all the land is operated by one person and additional criteria are met. A farm is typically administered in the FSA county office where the farm is physically located. A farm can be transferred from the physical location county office if the principal dwelling of the farm operator has changed, a change has occurred in the operation of the land, or there has been a change that would cause the receiving administrative county office to be more accessible. FSA–179, ''Transfer of Farm Record between Counties,'' is used as the request for a farm transfer from one county to another initiated by the producer.

Need and Use of the Information: The information collected on the FSA–179 is collected only if a farm transfer is being requested and is collected in a face-to-face setting with county office personnel. The information is used by county office employees to document which farm is being transferred, what county it is being transferred to, and why it is being transferred. The FSA–179 assists county committees in determining why the farm transfer is being requested and that it is not being requested for the purpose of increased program benefits, avoiding payment reductions, establishing eligibility to transfer base acres, or for circumventing any other programs provision. Without the information county offices will be unable to determine whether the producer desires to transfer a farm.

Description of Respondents: Farms.

Number of Respondents: 7,539.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,256.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–26932 Filed 12–7–23; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Supplemental Nutrition Assistance Program Education (SNAP-Ed) Connection Resource Sharing Form

AGENCY: Food and Nutrition Service (FNS), United States Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed revision to the currently approved information collection for the Supplemental Nutrition Assistance Program (SNAP) form FNS–889, ''SNAP Education (SNAP-Ed) Connection Resource Sharing Form.'' This revision to the information collection will improve the submission process by clarifying the information requested for certain fields, thus providing data that is accurate and beneficial to stakeholders using the resource. These updates will also align with the new SNAP-Ed National Program Evaluation and Reporting System (N–PEARS) (OMB Control #0584–0683, expiration 4/30/2026), to ensure consistency with SNAP-Ed specific terms. With this update to form FNS–889, FNS has determined that nutrition and physical activity interventions (*i.e.,* educational materials, curricula, etc.), will no longer be accepted through this information collection.

DATES: Comments on this notice must be received on or before February 6, 2024 to be assured of consideration.

ADDRESSES: Comments may be sent to Aurora Calvillo Buffington, Food and Nutrition Service, Supplemental Nutrition Assistance Program, Program Administration and Nutrition Division, 1320 Braddock Place, 5th Floor, Alexandria, VA 22314. Comments may also be submitted via email to *snap-edconnection@usda.gov* or through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow

the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Brittany Souvenir at 703–305–2808 or *Brittany.Souvenir@usda.gov*.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of agency functions, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and 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 those who respond, including the use of appropriate automated, electronic, mechanical, or other technology.

Title: SNAP-Ed Connection Resource Sharing Form.

Form Number: FNS–889.

OMB Control Number: 0584–0625.

Expiration Date: 06/30/2024.

Type of Request: Revision of currently approved data collection.

Abstract: In 2001, the United States Department of Agriculture's (USDA) Food and Nutrition Service (FNS) established the Food Stamp Nutrition Connection to improve access to Food Stamp Program Education resources. In 2008, FNS renamed the website the SNAP-Ed Connection. The website is developed and maintained at FNS. The SNAP-Ed Connection is a resource website for SNAP-Ed administrators and educators. SNAP-Ed personnel use the SNAP-Ed Connection website to locate curricula, participant materials, nutrition research, administrative documents, and information regarding SNAP-Ed program development, implementation, and evaluation. This resource website helps SNAP-Ed personnel find tools and information needed to implement high-quality evidence-based obesity prevention programs.

Within SNAP-Ed Connection is the SNAP-Ed Library, an online database of SNAP-Ed-related materials. SNAP-Ed personnel and other nutrition and public health agencies use the SNAP-Ed Connection Resource Sharing Form FNS–889, to voluntarily share information about resources that can be used to administer, develop, implement, or showcase SNAP-Ed programs.

Information collected via this form enables FNS to review these resources for possible inclusion in the SNAP-Ed Library. SNAP-Ed personnel and other interested parties then search this database via the SNAP-Ed Connection website *https://snaped.fns.usda.gov* to locate materials of interest. By using this database, SNAP-Ed-funded programs can share resources, reduce duplication of efforts, and improve program quality and integrity. SNAP-Ed-funded programs can also learn about useful nutrition education materials created by other organizations.

Prior to this proposed update, the FNS–889 was used to submit the following materials to the SNAP-Ed Library: nutrition and physical activity interventions (*i.e.,* educational materials, curricula, etc.) appropriate for SNAP-eligible persons; materials related to the development, implementation, and administration of SNAP-Ed programs (*e.g.,* staff training materials); and reports or other materials that demonstrate the effectiveness of SNAP-Ed funded programs.

Moving forward, FNS will no longer accept the submission of nutrition and physical activity interventions for the SNAP-Ed library through the SNAP-Ed Connection Resource Sharing Form. FNS will review and accept nutrition and physical activity interventions during the biennial SNAP-Ed Toolkit intervention submission process (OMB Control #0584–0639, expiration 9/30/2024). This change ensures FNS uses the same submission criteria for interventions submitted to the SNAP-Ed Library and the SNAP-Ed Toolkit. FNS will conduct a notice and comment period for an updated SNAP-Ed Toolkit intervention submission process in Fiscal Year 2024. The FNS–889 will continue to be used for all other currently accepted materials such as staff training materials and SNAP-Ed reports. Respondents will provide contact information, ordering information (if applicable), and information about the resource they are submitting.

Additionally, respondents will submit the form information through an online survey and email relevant attachments to the SNAP Program. This change will allow uninterrupted access to the form as the SNAP-Ed Connection website undergoes extensive changes and updates, including enhanced security measures for attachments. Revisions to this form may add an estimated 5 minutes of burden for respondents.

Revisions to the FNS–889 include updated data elements to clarify the requested information such as renaming the *Format* section to ''Resource Type'' and adding ''school/community'' to the ''Garden'' field. The updates also align with N–PEARS for consistent use of terms. For instance, the form includes the updated field names ''Faith-based Centers'' and ''Tribes and Tribal Organizations,'' which align with N–PEARS (OMB Control # 0584–0683, expiration 4/30/2026) and are widely understood by SNAP-Ed providers.

The following updates to FNS–889 are projected:

Removal of the ''Add another item,'' box used to submit attachments and replace with instructions to email attachments to the SNAP-Ed Connection email address.

Removal of the *Evidence* section.

Removal of seven fields from the *Format* section: ''Curriculum,'' ''Evaluation Tools,'' ''FNS Materials,'' ''Guidance,'' ''PSE Change,'' ''SNAP-Ed Toolkit Interventions,'' and ''Social Marketing.''

Addition of Data element: Addition of a field ''Webinar,'' to the *Format* section.

Revision of Section title: Retitle *Format* section to ''Resource Type.''

Revision of Data element: Revision of field name ''Faith Centers,'' in *Setting* section to ''Faith-based Centers.''

Revision of Data element: Revision of field name ''Indian Reservations,'' in *Setting* section to ''Tribal Reservations.''

Addition of Data element: Addition of language ''school/community,'' to the field ''Gardens,'' in the *Setting* section.

Addition of Data element: Addition of four fields ''Tribes and Tribal Organizations,'' ''Individuals with Disabilities,'' ''People Experiencing Homelessness,'' and ''Food Pantry Clients,'' to the *Audience* section.

Reporting

Affected Public: 19 State, Local and Tribal Agencies and 5 Businesses (for profit and non-profit). Respondents may include SNAP-Ed State, Local and Tribal Agencies, and others who implement SNAP-Ed or develop nutrition and public health training materials.

Estimated Number of Respondents: This revised collection is estimated to receive 24 responses per year. The estimated number of State, Local and Tribal Agency responses is 19, which is an increase from the current estimated number of 14. The estimated number of Businesses is 5, which is a decrease from the current estimated number of 10. The changes for these estimates are due to assumptions that more State,

Local and Tribal Agencies will submit reports and staff training materials, and less Businesses will respond as interventions are no longer being accepted through this form.

Estimated Number of Responses per Respondent: This revised collection is estimated to receive 1.79 responses per respondent which is a reduction to the current estimated number of 4.44. The estimated decrease is due to interventions no longer being accepted through this form.

Estimated Total Annual Responses: This revised collection is estimated to receive 43 responses, which is a reduction to the current estimated total annual responses of 111. The estimated decrease in responses is due to interventions no longer being accepted through this form.

Estimated Time per Response: The estimated time per response for this voluntary collection is 0.25 hours (15 minutes), which is an increase from the current estimated time per response of 0.167 hours (10 minutes). The estimated increase in time per response is due to the change of submitting relevant attachments by email instead of through the database.

Estimated Total Annual Burden on Respondents: The estimated total annual burden on respondents for this voluntary collection is 10.75 hours, which is a reduction from the current estimated total annual burden hours of 18.54. The estimated decrease in total annual burden hours is due to interventions no longer being accepted through this form.

See burden estimate table below for details.

BURDEN ESTIMATE TABLE

Respondent category	Instruments	Number of respondents	Frequency of response	Total annual responses	Hours per response	Annual burden (hours)
State, Local or Tribal Agencies	SNAP-Ed Connection Resource Sharing Form.	19	2	38	0.25	9.50
Business-for-not-for-profit	SNAP-Ed Connection Resource Sharing Form.	5	1	5	0.25	1.25
Total	.....	24	1.79	43	0.25	10.75

Tameka Owens,

Assistant Administrator, Food and Nutrition Service.

[FR Doc. 2023–26962 Filed 12–7–23; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Final Record of Decision for the Tonto National Forest

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of approval of the revised Land Management Plan for the Tonto National Forest.

SUMMARY: Neil Bosworth, the Forest Supervisor for the Tonto National Forest, Southwestern Region, signed the Final Record of Decision (ROD) for the revised Land Management Plan (LMP) for the Tonto National Forest. The ROD documents the rationale for approving the revised LMP and is consistent with the Reviewing Officer's responses to objections and instructions.

DATES: The revised LMP for the Tonto National Forest will become effective 30 days after the publication of this notice of approval in the **Federal Register** (36 CFR 219.17(a)(1)).

ADDRESSES: To view the final ROD, Final Environmental Impact Statement (FEIS), revised LMP, and other related documents, please visit the Tonto National Forest website at: *https://www.fs.usda.gov/main/tonto/landmanagement/planning.* A legal notice of approval is also being published in the newspaper of record, the Arizona Capitol Times. A copy of this legal notice will be posted on the Tonto National Forest's website as listed above.

FOR FURTHER INFORMATION CONTACT: Tyna Yost, Acting Forest Planner, Tonto National Forest, by telephone 602–225–5200 or via email at *SM.FS.tontoplan@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service at 800–877–8339, 24 hours a day, every day of the year, including holidays. Written requests for information may be sent to Tonto National Forest, Attn: Tonto National Forest Plan Revision, 2324 E McDowell Rd., Phoenix, AZ 85006.

SUPPLEMENTARY INFORMATION: The Tonto National Forest covers six ranger districts across nearly 2.9 million acres of National Forest System land in central Arizona overlapping the counties of Coconino, Gila, Maricopa, Pinal, and Yavapai. The LMP was developed pursuant to the 2012 Forest Service Planning Rule (36 CFR 219) and will replace the 1985 LMP. The revised LMP describes desired conditions, objectives, standards, guidelines, and land suitability for project and activity decision-making and will guide all resource management activities on the Forest.

The Tonto National Forest plays an important role supporting and partnering with communities in central Arizona and throughout the southwestern United States by providing economic benefits including fuelwood gathering, livestock grazing, mining, and abundant recreational opportunities. The development of the revised LMP was shaped by the best available scientific information, current laws, and public input.

The Tonto National Forest lies adjacent to the Phoenix metropolitan area, making it one of the most heavily visited National Forests. It spans a range of ecosystems from the Sonoran Desert through a variety of chaparral and pinyon pine/juniper up to the ponderosa pine and mixed conifer of the Mogollon Rim. The Tonto's rivers and lakes maintain riparian habitat and habitat connectivity for wildlife, including most of the Forest's Endangered Species Act listed species, and provide diverse opportunities for water-based recreation. Additionally, over half of the water supply for the city of Phoenix comes from these reservoirs.

The Tonto National Forest initiated LMP revision in 2014 and engaged the public frequently throughout the process. This engagement effort has included conventional public meetings, information sharing via social media, and collaborative work sessions with cooperating agencies. The Forest invited State, local, and Tribal governments, and other Federal Agencies from around the region to participate in the process

to revise the LMP. The Tonto National Forest engaged in government-to-government consultation with 13 Tribes during LMP revision, ensuring tribal-related LMP direction accurately reflects the Tonto National Forest's trust responsibilities and government-to-government relationship with tribes. During the 90-day comment period in 2019 for the draft LMP and draft EIS, the Tonto National Forest received approximately 4,300 comment letters of which 181 were unique. These helped refine the preferred alternative and LMP content based on response to comments.

A draft ROD, LMP, and FEIS were released in July 2022, initiating a 60-day objection filing period. The Tonto National Forest received 14 eligible objections. Through a comprehensive review of each objection, a variety of issues were identified. Following the objection review, the Reviewing Officer held objection resolution meetings with objectors and interested persons. Based on these meetings, the Reviewing Officer issued a written response on May 19, 2023. The instructions from the Reviewing Officer were addressed in the ROD, LMP, and FEIS.

Lead and Cooperating Agencies

The Arizona Game and Fish Department and Arizona Department of Agriculture are formal cooperating agencies and have participated in the development of the LMP, helping to develop plan direction and associated analysis for wildlife-related recreation and the Salt River Horse management area, respectively, for which they are subject matter experts.

Responsible Official

The Responsible Official for approving the revised LMP is Neil Bosworth, Forest Supervisor, Tonto National Forest. The Responsible Official approving the list of species of conservation concern is Michiko Martin, Regional Forester, Southwestern Region.

Dated: November 29, 2023.

Troy Heithecker,

Associate Deputy Chief, National Forest System.

[FR Doc. 2023–26961 Filed 12–7–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Quarterly Summary of State & Local Government Tax Revenues

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of 1995, invites 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. The purpose of this notice is to allow for 60 days of public comment on the proposed extension of the Quarterly Summary of State & Local Government Tax Revenues, prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before February 6, 2024.

ADDRESSES: Interested persons are invited to submit written comments by email to *Thomas.J.Smith@census.gov.* Please reference Quarterly Summary of State & Local Government Tax Revenues in the subject line of your comments. You may also submit comments, identified by Docket Number USBC–2023–0018, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Mark Dixon, Branch Chief, State Finance and Tax Statistics Branch, Economy-Wide Statistics Division, U.S. Census Bureau, 301–763–7264, and *mark.a.dixon@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau conducts the Quarterly Summary of State and Local Government Tax Revenue, using the F–71 (Quarterly Survey of Property Tax Collections), F–72 (Quarterly Survey of State Tax Collections), and F–73 (Quarterly Survey of Non-Property Taxes) forms. The Quarterly Summary of State and Local Government Tax Revenue provides quarterly estimates of state and local government tax revenue at the national level, as well as detailed tax revenue data for individual states. The information contained in this survey is the most current information available on a nationwide basis for state and local government tax collections.

The Census Bureau needs state and local tax data to publish benchmark statistics on taxes, to provide data to the Bureau of Economic Analysis for Gross Domestic Product (GDP) calculations and other economic indicators, and to provide data for economic research and comparative studies of governmental finances. Tax collection data are used to measure economic activity for the Nation as a whole, as well as for comparison among the various states. Economists and public policy analysts use the data to assess general economic conditions and state and local government financial activities.

The Census Bureau's previous request for an extension submitted on 03/23/2021 requested approval to remove the collection of all license taxes from the F–72 component of the Quarterly Summary of State and Local Government Tax Revenue. The Census Bureau reconsidered that plan and decided not to remove the collection of all license taxes from the F–72 component of the survey. Keeping the license taxes on the survey allows for a consistent time series and maintains item comparability with other surveys.

II. Method of Collection

For the Quarterly Survey of Property Tax Collections (Form F–71) the Census Bureau will email letters quarterly to a sample of approximately 5,500 local tax collection agencies, known to have substantial collections of property tax, requesting their online data submissions.

For the Quarterly Survey of State Tax Collections (Form F–72) the Census Bureau will email letters to each of the 50 state governments and the District of Columbia quarterly requesting their online data submissions or continued

coordinated submission through the state government revenue office.

For the Quarterly Survey of Non-Property Taxes (Form F–73) the Census Bureau will email letters quarterly to a sample of approximately 2,100 local tax collection agencies, known to have substantial collections of local general sales and/or local individual/corporation net income taxes, requesting their online data submissions.

F–71 and F–73 survey data will be collected via the internet. Data for the F–72 survey are collected via email or compilation of data in coordination with the state government revenue office.

In addition to reporting current quarter data, respondents may report data for the previous seven quarters or submit revisions to their previously submitted data. In the event that a respondent cannot report online, they may request a form as a last resort.

In those instances, when the Census Bureau are not able to obtain a response, follow-up operations will be conducted using email and phone calls. Nonresponse weighting adjustments are used to adjust for any unreported units in the sample from the latest available data.

III. Data

OMB Control Number: 0607–0112.

Form Number(s): F–71, F–72, F–73.

Type of Review: Regular submission, Request for an Extension, without Change, of a Currently Approved Collection.

Affected Public: State and Local Governments and the Government of the District of Columbia.

Estimated Number of Respondents: 7,737.

Estimated Time per Response: F–71 = 15 minutes, F–72 = 30 minutes, F–73 = 20 minutes.

Estimated Total Annual Burden Hours: 8,517.

Estimated Total Annual Cost to Public: $0 (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. 161 and 182.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. 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 may 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.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–26980 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Current Population Survey, Fertility Supplement

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of 1995, invites 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. The purpose of this notice is to allow for 60 days of public comment on the proposed reinstatement, without change, of the Current Population Survey Fertility Supplement, prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before February 6, 2024.

ADDRESSES: Interested persons are invited to submit written comments by email to *dsd.cps@census.gov.* Please reference the CPS Fertility Supplement in the subject line of your comments. You may also submit comments, identified by Docket Number USBC–2023–0016, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Kyra Linse, Survey Director, Current Population and American Time Use Surveys, by phone at 301–763–3806 or email at *dsd.cps@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request clearance from the Office of Management and Budget (OMB) for the collection of data concerning the Fertility Supplement to be conducted in conjunction with the June Current Population Survey (CPS). The Census Bureau sponsors the supplement questions, which were previously collected in June 2022, and have been asked periodically since 1971. The current clearance expired May 30, 2023.

This survey provides information used mainly by government and private analysts to project future population growth, to analyze child spacing, and to aid policymakers and private analysts in their decisions affected by changes in family size and composition. Past studies have discovered noticeable changes in the patterns of fertility rates and the timing of the first birth. Potential needs for government assistance, such as aid to families with dependent children, childcare, and maternal health care for single parent

households, can be estimated using CPS characteristics matched with fertility data.

II. Method of Collection

The fertility information will be collected by both personal visit and telephone interviews in conjunction with the regular June CPS interviewing. All interviews are conducted using computer-assisted interviewing.

III. Data

OMB Control Number: 0607–0610.
Form Number(s): None.
Type of Review: Regular submission, Request for a Reinstatement, without Change, of a Previously Approved Collection.
Affected Public: Individuals or households.
Estimated Number of Respondents: 30,000.
Estimated Time per Response: 1 minute.
Estimated Total Annual Burden Hours: 500.
Estimated Total Annual Cost to Public: $0. (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)
Respondent's Obligation: Voluntary.
Legal Authority: Title 13 U.S.C., sections 141 and 182; and title 29 U.S.C., sections 1–9.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. 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 may 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.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–26959 Filed 12–7–23; 8:45 am]
BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Quarterly Services Survey (QSS)

AGENCY: U.S. Census Bureau, Department of Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of 1995, invites 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. The purpose of this notice is to allow for 60 days of public comment on the proposed revision of the Quarterly Services Survey, prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before February 6, 2024.

ADDRESSES: Interested persons are invited to submit written comments by email to *Thomas.J.Smith@census.gov.* Please reference the Quarterly Services Survey in the subject line of your comments. You may also submit comments, identified by Docket Number USBC–2023–0017, to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* All comments received are part of the public record. No comments will be posted to *http://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Kathryn Nelson, U.S. Census Bureau, Economic Indicators Division, 301–763–7052 or *Kathryn.L.Nelson@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau plans to request a three-year extension of the current Office of Management and Budget (OMB) clearance of the Quarterly Services Survey (QSS). The QSS covers employer firms with establishments located in the United States and classified in select service industries as defined by the North American Industry Classification System (NAICS). The QSS coverage currently includes all or parts of the following NAICS sectors: utilities (excluding government owned); transportation and warehousing (except rail transportation and postal); information; finance and insurance (except funds, trusts, and other financial vehicles); real estate and rental and leasing; professional, scientific, and technical services (except offices of notaries); administrative and support and waste management and remediation services; educational services (except elementary and secondary schools, junior colleges, and colleges, universities, and professional schools); health care and social assistance; arts, entertainment, and recreation; accommodation; and other services (except public administration). The primary estimates produced from the QSS are quarterly estimates of total operating revenue and the percentage of revenue by source. The survey also produces estimates of total operating expenses from tax-exempt firms in industries that have a large not-for-profit component. For hospitals, the survey produces estimates of the number of inpatient days and discharges, and for select industries in the arts, entertainment, and recreation sector, the survey produces estimates of admissions revenue.

Firms are selected for the QSS using a stratified design with strata defined by industry, tax status, and estimated size based on annual revenue. The current

sample was introduced in the third quarter of 2017. The sample consists of approximately 19,500 firms and is a subsample of firms from the larger Service Annual Survey (SAS) approved under OMB Number 0607–0422. Each quarter the QSS sample is updated to reflect the addition of new businesses and the removal of firms that have gone out-of-business. Starting with survey year 2023, which will be collected in calendar year 2024, the SAS will be integrated into the Annual Integrated Economic Survey (AIES) approved under OMB Number 0607–1024.

The Bureau of Economic Analysis uses the survey results as input to its quarterly Gross Domestic Product (GDP) and GDP by industry estimates. The estimates provide the Federal Reserve Board and Council of Economic Advisors with timely information to assess current economic performance. The Centers for Medicare and Medicaid Services use the QSS estimates to develop hospital-spending estimates for the National Accounts. Other government and private stakeholders also benefit from a better understanding of important cyclical components of the U.S. service economy.

II. Method of Collection

We will collect this information by internet, mail, and telephone follow-up. A significant number of QSS respondents receive an initial email with their username and authentication code for submission by internet. The remaining respondents are either mailed only their username and authentication code for submission by internet or mailed a full form. Respondents that report via the internet in any given quarter have the option to choose how they want to receive forms in the future, *i.e.,* email or mailed form.

III. Data

OMB Control Number: 0607–0907.

Form Numbers: QSS–1A, QSS–1E, QSS–1PA, QSS–1PE, QSS–2A, QSS–2E, QSS–3A, QSS–3E, QSS–3SA, QSS–3SE, QSS–4A, QSS–4E, QSS–4FA, QSS–4FE, QSS–4SA, QSS–4SE, QSS–5A, QSS–5E.

Type of Review: Regular Submission, Request for an Extension of a Currently Approved Collection.

Affected Public: Business or other for-profit organizations; Not-for-profit institutions.

Estimated Number of Respondents: 22,300 respondents filing a total of 96,800 reports a year. (Some respondents file more than one report quarterly).

Estimated Time per Response: 15 minutes: QSS–1A, QSS–1E, QSS–1PA, QSS–1PE, QSS–2A, QSS–2E, QSS–3A, QSS–3E, QSS–3SA, QSS–3SE, QSS–5A, QSS–5E.

10 minutes: QSS–4A, QSS–4E, QSS–4FA, QSS–4FE, QSS–4SA, QSS–4SE.

Estimated Total Annual Burden Hours: 20,700 hours.

Estimated Total Annual Cost to Public: $0. (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. 131 and 182.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. 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 may 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.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–26968 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

First Responder Network Authority

Public Combined Board and Board Committees Meeting

AGENCY: First Responder Network Authority (FirstNet Authority), National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce.

ACTION: Announcement of meeting.

SUMMARY: The FirstNet Authority Board will convene an open public meeting of the Board and Board Committees.

DATES: December 13, 2023; 9:30 a.m. to 11:30 a.m. Central Standard Time (CST); Nashville, Tennessee.

ADDRESSES: The meeting will be held at the Bobby Hotel, 230 4th Ave. N, Nashville, TN 37219. Members of the public are not able to attend in-person but may listen to the meeting and view the presentation by visiting the URL: *https://stream2.sparkstreetdigital.com/20231213-firstnet.html.* If you experience technical difficulty, contact *support@sparkstreetdigital.com.* WebEx information can also be found on the FirstNet Authority website (*FirstNet.gov*).

FOR FURTHER INFORMATION CONTACT:

General information: Jennifer Watts, (571) 665–6178, *Jennifer.Watts@FirstNet.gov.*

Media inquiries: Ryan Oremland, (571) 665–6186, *Ryan.Oremland@FirstNet.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Middle Class Tax Relief and Job Creation Act of 2012 (codified at 47 U.S.C. 1401 *et seq.*) (Act) established the FirstNet Authority as an independent authority within NTIA. The Act directs the FirstNet Authority to ensure the building, deployment, and operation of a nationwide interoperable public safety broadband network. The FirstNet Authority Board is responsible for making strategic decisions regarding the operations of the FirstNet Authority.

Matters to be Considered: The FirstNet Authority will post a detailed agenda for the Combined Board and Board Committees Meeting on *FirstNet.gov* prior to the meeting. The agenda topics are subject to change. Please note that the subjects discussed by the Board and Board Committees may involve commercial or financial information that is privileged or confidential, or other legal matters affecting the FirstNet Authority. As

such, the Board may, by majority vote, close the meeting only for the time necessary to preserve the confidentiality of such information, pursuant to 47 U.S.C. 1424(e)(2).

Other Information: The public Combined Board and Board Committees Meeting is accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Jennifer Watts at (571) 665–6178 or email: *Jennifer.Watts@FirstNet.gov* at least five (5) business days (December 6) before the meeting.

Records: The FirstNet Authority maintains records of all Board proceedings. Minutes of the Combined Board and Board Committees Meeting will be available on *FirstNet.gov.*

Dated: December 5, 2023.

Jennifer Watts,

Acting Board Secretary, First Responder Network Authority.

[FR Doc. 2023–27032 Filed 12–7–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Additional Protocol to the U.S.-International Atomic Energy Agency Safeguards

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 August 10, 2023, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

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

Title: Additional Protocol to the U.S.-International Atomic Energy Agency Safeguards.

OMB Control Number: 0694–0135.

Form Number(s): AP–1 through AP–17, and AP–A through AP–Q.

Type of Request: Extension of a current information collection.

Number of Respondents: 549.

Average Hours per Response: 23 minutes to 6 hours.

Burden Hours: 920.

Needs and Uses: The Additional Protocol requires the United States to submit declaration forms to the International Atomic Energy Agency (IAEA) on a number of commercial nuclear and nuclear-related items, materials, and activities that may be used for peaceful nuclear purposes, but also would be necessary elements for a nuclear weapons program. These forms provides the IAEA with information about additional aspects of the U.S. commercial nuclear fuel cycle, including: mining and milling of nuclear materials; buildings on sites of facilities selected by the IAEA from the U.S. Eligible Facilities List; nuclear-related equipment manufacturing, assembly, or construction; import and export of nuclear and nuclear-related items and materials; and research and development. The Protocol also expands IAEA access to locations where these activities occur in order to verify the form data.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

Legal Authority: Additional Protocol Implementation Act (title II of Pub. L. 109–401), Executive Order (E.O.) 13458.

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 0694–0135.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–27020 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Simple Network Application Process and Multipurpose Application Form

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites 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. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before February 6, 2024.

ADDRESSES: Interested persons are invited to submit comments by email to Mark Crace, IC Liaison, Bureau of Industry and Security, at *mark.crace@bis.doc.gov* or to *PRAcomments@doc.gov*). Please reference OMB Control Number 0694–0088 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Mark Crace, IC Liaison, Bureau of Industry and Security, phone 202–482–8093 or by email at *mark.crace@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Section 1761(h) under the Export Control Reform Act (ECRA) of 2018, authorizes the President and the Secretary of Commerce to issue regulations to implement the ECRA including those provisions authorizing the control of exports of U.S. goods and technology to all foreign destinations, as necessary for the purpose of national security, foreign policy and short supply, and the provision prohibiting U.S. persons from participating in certain foreign boycotts. Export control authority has been assigned directly to

the Secretary of Commerce by the ECRA and delegated by the President to the Secretary of Commerce. This authority is administered by the Bureau of Industry and Security through the Export Administration Regulations (EAR).

BIS administers a system of export, re-export, and in-country transfer controls in accordance with the EAR. In doing so, BIS requires that parties wishing to engage in certain transactions apply for licenses, submit Encryption Review Requests, or submit notifications to BIS. BIS also reviews, upon request, specifications of various items and determines their proper classification under the EAR.

II. Method of Collection

Electronic.

III. Data

OMB Control Number: 0694–0088.

Form Number(s): BIS–748P, BIS–748P–A, BIS–748P–B.

Type of Review: Regular submission, revision of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 75,744.

Estimated Time per Response: 29.4 minutes.

Estimated Total Annual Burden Hours: 36,689.

Estimated Total Annual Cost to the Public: 0.

Respondent's Obligation: Voluntary.

Legal Authority: Section 1761(h) of the Export Control Reform Act (ECRA).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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 may 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.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–27010 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–856]

Certain Corrosion-Resistant Steel Products From Taiwan: Final Results of the Antidumping Duty Administrative Review and Final Determination of No Shipments; 2021–2022

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that producers/exporters subject to this review made sales of subject merchandise at less than normal value (NV) during the period of review (POR) July 1, 2021, through June 30, 2022. We further determine that Xxentria Technology Materials Company Ltd. (Xxentria) had no shipments of subject merchandise during the POR.

DATES: Applicable December 8, 2023.

FOR FURTHER INFORMATION CONTACT: Matthew Palmer or Deborah Cohen, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1678 and (202) 482–4521, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 2023, Commerce published the *Preliminary Results* for this administrative review and invited interested parties to comment.[1] On September 6, 2022, pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), Commerce initiated an administrative review of the *Order* covering 11 respondents.[2] However, pursuant to the final judgment of the U.S. Court of International Trade (the Court) in *Prosperity V*,[3] concerning the litigation for the underlying less-than-fair-value (LTFV) investigation of the *Order*,[4] Commerce issued an amended final antidumping duty determination of sales at LTFV which reflects a below *de minimis* margin for the collapsed YP/Synn entity which resulted in the exclusion of YP and Synn from the *Order* and all subsequent segments of the proceeding, including the instant administrative review.[5] Accordingly, the *Preliminary Results* provided notification of the discontinuation of the instant administrative review with respect to a respondent selected for individual examination, YP, and a non-selected respondent, Synn.[6] As a result, Prosperity remains the sole individually-examined respondent in this review.

We received a case brief from Cleveland-Cliffs Inc. and Steel Dynamics Inc. (collectively, the petitioners).[7] A complete summary of the events that occurred since publication of the *Preliminary Results* is found in the Issues and Decision Memorandum.[8] Commerce conducted

[1] *See Certain Corrosion-Resistant Steel Products from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments;* 2021–2022, 88 FR 50836 (August 2, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] The respondents are: (1) Yieh Phui Enterprise Co., Ltd. (YP); (2) Prosperity Tieh Enterprise Co., Ltd. (Prosperity); (3) Sheng Yu Steel Co., Ltd. (SYSCO); (4) Synn Industrial Co., Ltd. (Synn); (5) China Steel Corporation (CSC); (6) Chung Hung Steel Corporation (CHSC); (7) Great Fortune Steel Co., Ltd. (Great Fortune); (8) Great Grandeul Steel Co., Ltd. (Great Grandeul); (9) Great Grandeul Steel Company Limited (Somoa) (also known as, Great Grandeul Steel Company Limited Somoa) (Great Grandeul Somoa); (10) Great Grandeul Steel Corporation (Great Grandeul Steel); and (11) Xxentria. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 54463 (September 6, 2022).

[3] *See Prosperity Tieh Enterprise Co., Ltd. and Yieh Phui Enterprise Co., Ltd.* v. *United States,* Consolidated Court No. 16–00138, Slip Op. 23–95 (CIT 2023) (*Prosperity V*).

[4] *See Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders,* 81 FR 48390 (July 25, 2016) (*Order*).

[5] *See Corrosion-Resistant Steel Products from Taiwan: Notice of Third Amended Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision and Partial Exclusion from Antidumping Duty Order,* 88 FR 58245 (August 25, 2023) (*Third Amended Final Determination*).

[6] *See Preliminary Results,* 88 FR at 50836.

[7] *See* Petitioners' Letter, ''Petitioners' Case Brief,'' dated September 1, 2023.

[8] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Certain Corrosion-

Continued

this review in accordance with section 751(a) of the Act.

Scope of the Order

The product covered by the *Order* is flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. For the full text of the scope of the *Order, see* the Issues and Decision Memorandum.

Analysis of the Comments Received

All issues raised in the case brief are addressed in the Issues and Decision Memorandum.[9] A list of the issues which parties raised, and to which we respond in the Issues and Decision Memorandum, is attached in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on a review of the record and analysis of the comments received from the petitioners regarding our *Preliminary Results,* we made changes to the preliminary weighted-average dumping margins calculations for Prosperity and for respondents not selected for individual examination. For detailed information, *see* the Issues and Decision Memorandum.

Final Determination of No Shipments

In the *Preliminary Results,* Commerce preliminarily determined that Xxentria made no shipments of subject merchandise into the United States during the POR.[10] We have not received any information to contradict this determination, nor comment in opposition to our preliminary finding. Furthermore, on August 23, 2023, Commerce was notified by U.S. Customs and Border Protection (CBP) that it has no record of any subject entries during the POR for Xxentria.[11] Therefore, we continue to determine that Xxentria made no shipments of subject merchandise during the POR. Consistent with our practice, we will instruct CBP to liquidate any existing entries of subject merchandise produced by Xxentria, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.[12]

Rate for Respondents Not Selected for Individual Examination

For the rate assigned to companies not selected for individual examination in an administrative review, generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a LTFV investigation. 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 or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

In this administrative review, we have calculated a weighted-average dumping margin for the sole mandatory respondent, Prosperity, that is not zero, *de minimis,* or based entirely on facts available (*i.e.,* 0.71 percent). Accordingly, we have assigned this rate to the non-selected respondents CSC, CHSC, Great Fortune, Great Grandeul, Great Grandeul Somoa, Great Grandeul Steel, and SYSCO.

Final Results of Review

Commerce preliminarily determines the following estimated weighted-average dumping margins exist for the period July 1, 2021, through June 30, 2022:

Exporter/producer	Weighted-average dumping margin (percent)
Prosperity Tieh Enterprise Co., Ltd	0.71
China Steel Corporation	0.71
Chung Hung Steel Corporation	0.71
Great Fortune Steel Co., Ltd	0.71
Great Grandeul Steel Co., Ltd	0.71
Great Grandeul Steel Company Limited (Somoa)	0.71
Great Grandeul Steel Corporation	0.71
Sheng Yu Steel Co., Ltd	0.71

Disclosure

We intend to disclose to interested parties the calculations and analysis performed for these final results within five days of the date of the publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of those sales. Where the respondent did not report entered value, we calculated the entered value in order to calculate the assessment rate. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[13] For entries of subject merchandise during the POR produced by Prosperity for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

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 deposits of estimated duties, where applicable.[14]

For the companies which were not selected for individual examination, we will instruct CBP to assess antidumping

Resistant Steel Products from Taiwan; 2021–2022,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[9] *Id.*

[10] *See Preliminary Results,* 88 FR at 50836–37.

[11] *See* Memorandum, ''No Shipment Inquiry for Xxentria Technology Materials Co., Ltd. during the period 07/01/2021 through 06/30/2022,'' dated August 23, 2023.

[12] *See, e.g., Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010).

[13] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

[14] *See* section 751(a)(2)(C) of the Act.

duties at an *ad valorem* assessment rate equal to the company-specific weighted-average dumping margin determined in these final results. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of 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 margins established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer has been covered in a prior complete segment of this proceeding, then the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.04 percent,[15] the all-others rate from the *Third Amended Final Determination*.[16] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: November 21, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–26998 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–823]

Silicomanganese From India: Final 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) determines that silicomanganese from India was sold in the United States at less than normal value during the period of review (POR) May 1, 2021, through April 30, 2022.

DATES: Applicable December 8, 2023.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3148.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 2023, Commerce published its preliminary results in the 2021–2022 administrative review of the antidumping duty order on silicomanganese from India and invited interested parties to comment.[1] The review covers one mandatory respondent, Maithan Alloys Limited (MAL). A summary of the events that occurred since publication of the *Preliminary Results,* as well as a full discussion of the issues raised by parties for these final results, are discussed in the Issues and Decision Memorandum.[2] Commerce conducted this administrative review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the order are all forms, sizes, and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines, and slag. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040. This scope covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection (CBP) purposes, our written description of the scope remains dispositive. For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in parties' case and rebuttal briefs are addressed in the Issues and Decision Memorandum and are listed in the appendix to this notice.

[15] *See Corrosion-Resistant Steel Products from Taiwan: Notice of Court Decision Not in Harmony with Final Determination of Antidumping Duty Investigation and Notice of Amended Final Determination of Investigation,* 84 FR 6129 (February 26, 2019) (*Amended Final Determination*).

[16] *See Third Amended Determination,* 88 FR at 58247.

[1] *See Silicomanganese from India: Preliminary Results of Antidumping Duty Administrative Review; 2021–2022,* 88 FR 37021 (June 6, 2023) (*Preliminary Results*).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Silicomanganese from India; 2021–2022,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade/gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our analysis of the comments received from interested parties, Commerce has made no changes to the margin calculations for MAL.

Final Results of Review

We determine that the following weighted-average dumping margins exist for the period May 1, 2022, through April 30, 2022.

Exporter/producer	Weight-average dumping margin (percent)
Maithan Alloys Limited	1.01

Disclosure

We have not made changes to the margin calculations for MAL in these final results of review. Consequently, there are no new calculations to disclose in accordance with 19 CFR 351.224(b) for these final results of review.

Assessment Rates

Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries in this review, in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results 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).

Consistent with Commerce's clarification of its assessment practice, for entries of subject merchandise during the POR produced by the above-referenced respondent for which they did not know the merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate established in the less-than-fair-value (LTFV) investigation of 17.74 percent *ad valorem* if there is no rate for the intermediate company(ies) involved in the transaction.[3]

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of 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 company listed above will be equal to the weighted-average dumping margin established in the final results of the review; (2) for subject merchandise exported by a company not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review or the original LTFV investigation, but the producer is, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the subject merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 17.74 percent *ad valorem,* the all-others rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping 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 duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

We are issuing and publishing these results of administrative review in accordance with sections 751(a) and 777(i) of the Act, and 351.221(b)(5).

Dated: November 30, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–26938 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–869]

Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Final 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) determines that Toyo Kohan Co., Ltd. (Toyo Kohan) made sales of subject merchandise at less than normal value during the period of review (POR), May 1, 2021, through April 30, 2022.

DATES: Applicable December 8, 2023.

FOR FURTHER INFORMATION CONTACT: Amaris Wade, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration,

[3] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6334.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 2023, Commerce published in the **Federal Register** the preliminary results of the 2021–2022 administrative review of the antidumping duty order on diffusion-annealed, nickel-plated flat-rolled steel products (nickel-plated steel products) from Japan.[1] This review covers one producer/exporter of the subject merchandise, Toyo Kohan. We invited interested parties to comment on the *Preliminary Results*.[2] On July 6, 2023, we received case briefs from the petitioner [3] and from Toyo Kohan.[4] On September 14, 2023, Commerce extended the deadline for the final results of review until December 1, 2023.[5] For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[6] Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [7]

The products covered by the *Order* are nickel-plated steel products. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case briefs that were submitted by parties in this administrative review are addressed in the Issues and Decision Memorandum and are listed in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on a review of the record and the comments received from interested parties regarding our *Preliminary Results,* and for the reasons explained in the Issues and Decision Memorandum, we made certain changes to the weighted-average dumping margin calculations for Toyo Kohan for the final results of review.[8]

Final Results of Review

We determine that the following weighted-average dumping margin exists for the period May 1, 2021, through April 30, 2022:

Producer/exporter	Weighted-average dumping margin (percent)
Toyo Kohan Co., Ltd	0.92

Disclosure

We intend to disclose the calculations performed in connection with these final results of review to interested parties in this proceeding within five days after public announcement of the final results or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

For Toyo Kohan, we calculated importer-specific *ad valorem* duty assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those sales in accordance with 19 CFR 351.212(b)(1). Where an importer-specific assessment rate is *de minimis* (*i.e.,* less than 0.5 percent), the entries by that importer will be liquidated without regard to antidumping duties.

For entries of subject merchandise during the POR produced by Toyo Kohan for which it did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate established in the less-than-fair-value (LTFV) investigation of 45.42 percent *ad valorem,*[9] if there is no rate for the intermediate company(ies) involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

Upon publication of this notice in the **Federal Register**, the following cash deposit requirements will be effective for all shipments of nickel-plated steel products entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) the cash deposit rates for the company subject to this review will be equal to the weighted-average dumping margin established in the final results of the review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation but the producer has been covered in a prior completed segment of this proceeding, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 45.42 percent, the all-others rate established in the LTFV investigation for this proceeding.[10] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to

[1] *See Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan: Preliminary Results of Antidumping Duty Administrative Review, and Rescission, in Part; 2021–2022,* 88 FR 37029 (June 6, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See Preliminary Results,* 88 FR at 37029.

[3] *See* Petitioner's Letter, ''Case Brief of Thomas Steel Strip Corporation,'' dated July 6, 2023. The petitioner is Thomas Steel Strip Corporation.

[4] *See* Toyo Kohan's Letter, ''Toyo Kohan's Case Brief,'' dated July 6, 2023.

[5] *See* Memorandum, ''Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated September 14, 2023.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan; 2021–2022,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *See Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan: Antidumping Duty Order,* 79 FR 30816 (May 29, 2014) (*Order*).

[8] *See* Issues and Decision Memorandum.

[9] *See Order,* 79 FR at 30816.

[10] *See Order,* 79 FR at 30816.

liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: November 30, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–26936 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–501]

Circular Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Final 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) determines that sales of circular welded carbon steel standard pipe and tube products from Turkey were made at less than normal value (NV) during the period of review (POR) May 1, 2021, through April 30, 2022.

DATES: Applicable December 8, 2023.

FOR FURTHER INFORMATION CONTACT: Paul Kebker, 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) 482–2254.

SUPPLEMENTARY INFORMATION:

Background

On June 7, 2023, Commerce published the *Preliminary Results* and invited interested parties to comment.[1] These final results cover one producer and exporter of subject merchandise for which an administrative review was initiated and not rescinded. The sole respondent in this administrative review is Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan Mannesmann) and Borusan Istikbal Ticaret T.A.S. (Istikbal) (collectively, Borusan).[2] On July 7, 2023, Borusan submitted a case brief.[3] On July 14, 2023, Wheatland Tube Company (Wheatland), a domestic producer and interested party, submitted a rebuttal brief.[4] On September 6, 2023, Commerce extended the deadline for the final results by 57 days to December 1, 2023.[5] Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

On October 12, 2022, Nucor Tubular Products Inc. (Nucor), a petitioner in this proceeding, withdrew its request for an administrative review with respect to every company except Borusan.[6] With respect to Istikbal, one of the companies which claimed no shipments during the POR, we continue [7] to find it to be part of the single entity, Borusan, and we find no record evidence that warrants altering this treatment. Further, no party presented comments addressing this issue in their case briefs. Therefore, because we find that Borusan had shipments during this POR, we have not made a determination of no shipments with respect to Istikbal and the withdrawal of request for review is moot.

Scope of the Order [8]

The scope of the *Order* covers circular welded carbon steel standard pipe and tube products from Turkey. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.[9]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is provided in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our analysis of the comments received, and for the reasons explained in the Issues and Decision Memorandum, we made certain changes from the *Preliminary Results.*[10]

Final Results of Administrative Review

For these final results, we determine that the following weighted-average

[1] *See Circular Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2021–2022,* 88 FR 37204 (June 7, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Administrative Review of the Antidumping Duty Order on Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Respondent Selection,'' dated August 30, 2022.

[3] *See* Borusan's Letter, ''BMB's Case Brief,'' dated July 7, 2023 (Borusan's Case Brief).

[4] *See* Wheatland's Letter, ''Rebuttal Brief,'' dated July 14, 2023 (Wheatland's Rebuttal Brief).

[5] *See* Memorandum, ''Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2021–2022,'' dated September 6, 2023.

[6] *See* Nucor's Letter, ''Partial Withdrawal of Request for Administrative Revew,'' dated October 12, 2022.

[7] In prior segments of this proceeding, we treated Borusan Mannesmann Boru Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret T.A.S. as a single entity. *See, e.g., Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013–2014,* 80 FR 76674, 76674 n.2 (December 10, 2015).

[8] *See Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube Products from Turkey,* 51 FR 17784 (May 15, 1986) (*Order*).

[9] *See* Memorandum, ''Issues and Decisions Memorandum for the Final Results of the Antidumping Duty Administrative Review: Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey; 2021–2022,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[10] *Id.*

dumping margin exists for the period May 1, 2021, through April 30, 2022:

Exporter/manufacturer	Weighted-average dumping margin (percent)
Borusan Mannesmann Boru Sanayi ve Ticaret A.S./ Borusan Istikbal Ticaret T.A.S	5.27

Disclosure

Commerce intends to disclose the calculations performed in connection with these final results of review to parties in this review within five days after public announcement of the final results or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For Borusan, we calculated importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those sales in accordance with 19 CFR 351.212(b)(1). Where an importer-specific assessment rate is *de minimis* (*i.e.,* less than 0.5 percent), the entries by that importer will be liquidated without regard to antidumping duties. For entries of subject merchandise during the POR produced by Borusan for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[11]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

[11] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective upon publication of this notice for all shipments of circular welded carbon steel standard pipe and tube products from Turkey entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) the cash deposit rate for the companies subject to this review will be equal to the company-specific weighted-average dumping margin established in the final results of the review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer has been covered in a prior completed segment of this proceeding, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 14.74 percent, the all-others rate established in the less-than-fair-value investigation of this proceeding.[12] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping 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 duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the destruction or return of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the destruction or return of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

[12] *See Order,* 51 FR 17784.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: December 1, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–26937 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 230831–0207]

Request for Information Regarding the Draft Interagency Guidance Framework for Considering the Exercise of March-In Rights

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice; Request for Information (RFI).

SUMMARY: The National Institute of Standards and Technology (NIST) seeks comments on the *Draft Interagency Guidance Framework for Considering the Exercise of March-In Rights,* which reviews the factors that an agency may consider when deciding whether to exercise march-in rights. NIST requests information from the public on the proposed version of this guidance document to ensure that it is clear, and its application will both fulfill the purpose of march-in rights and uphold the policy and objectives of the Bayh-Dole Act. The information received in response to this RFI will inform NIST and the Interagency Working Group for Bayh-Dole (IAWGBD) in developing a

final framework document that may be used by an agency when making a march-in decision. NIST will hold at least one informational webinar explaining the *Draft Interagency Guidance Framework for Considering the Exercise of March-In Rights* and how the public can submit comments. Details about the informational webinar(s), including dates, times and any registration requirements, will be announced at *https://www.nist.gov/tpo/policy-coordination/bayh-dole-act.*

DATES: Comments must be received by 5 p.m. Eastern time on February 6, 2024 to be considered. Written comments in response to the RFI should be submitted according to the instructions below. Submissions received after that date may not be considered.

ADDRESSES: Comments may be submitted by electronic submission via the Federal eRulemaking Portal.

1. Go to *www.regulations.gov* and enter NIST–2023–0008 in the search field.
2. Click the ''Comment Now!'' icon, complete the required fields.
3. Enter or attach your comments.

Please submit comments only and include your name and/or your organization's name (if any) in your submission. Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials.

All submissions, including attachments and other supporting materials, will be a matter of public record. Relevant comments will generally be available on the Federal eRulemaking Portal at *https://www.Regulations.gov.* NIST will not accept comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. Therefore, do not submit confidential business information or otherwise sensitive, protected, or personal information, such as account numbers, Social Security numbers, or names of other individuals.

FOR FURTHER INFORMATION CONTACT: Mojdeh Bahar, Associate Director for Innovation and Industry Services, National Institute of Standards and Technology, 100 Bureau Drive, Gaithersburg, MD 20899, (301) 975–2340 or by email to *mojdeh.bahar@nist.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Government invests approximately $115B each year in extramural research and development at universities, non-profits, and small and large businesses.[1] This results in the creation of thousands of inventions annually. The University and Small Business Patent Procedures Act of 1980, Public Law 96–517 (as amended), codified at title 35 of the United States Code (U.S.C.) 200 *et seq.,* commonly known as the ''Bayh-Dole Act'' or ''Bayh-Dole,'' governs these inventions made with Federal assistance. The Bayh-Dole Act outlines the rights of persons, nonprofit organizations, and small business firms (''contractors''), and, as set forth in Executive Order 12591, all contractors regardless of size and to the extent permitted by law, in ''any invention of the contractor conceived or first actually reduced to practice in the performance of work under a funding agreement'' (''subject invention'') as well as rights retained by the government. One such right is the funding agency's right to require the contractor, an assignee, or exclusive licensee of a subject invention to grant a license to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such request, to grant a license itself (35 U.S.C. 203). This right, referred to as ''march-in,'' can only be exercised if the agency determines that:

(1) action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or their licensees;

(3) action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensees; or

(4) action is necessary because the agreement required by section 204 has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of its agreement obtained pursuant to section 204.

NIST has been delegated responsibility by the Secretary of Commerce to promulgate regulations concerning the management and licensing of federally funded inventions. On January 4, 2021, NIST published a notice of proposed rulemaking (NPRM) in the **Federal Register** (86 FR 35)[2] requesting public comments on several proposed changes to the Bayh-Dole regulations at 37 CFR parts 401 and 404, including a provision related to march-in rights which stated that march-in ''shall not be exercised exclusively based on the business decisions of the contractor regarding the pricing of commercial goods and services arising from the practical application of the invention.'' In connection with that provision and other proposed changes, NIST received over 81,000 public comments and was directed through Executive Order 14036 to consider not finalizing the provision on march-in rights and product pricing in the proposed rule. In the Final Rule published in the **Federal Register** (88 FR 17730)[3] on March 24, 2023, NIST did not finalize this provision but stated its intent to engage with stakeholders and agencies with the goal of developing a comprehensive framework for agencies considering the use of march-in.

NIST has been working with the IAWGBD which regularly meets to find agency consensus on policy and procedures related to the implementation of the Bayh-Dole regulations, to draft this framework. The objectives for the *Draft Interagency March-In Guidance Framework* are to:

- Provide clear guidance to an agency on the prerequisites for exercising march-in, and, if those prerequisites are met, on facts to be gathered by the agency and factors to consider in determining whether to march-in.
- Ensure that decisions to exercise march-in support the policy and objectives of Bayh-Dole.
- Encourage the consistent and predictable application of the Bayh-Dole Act's march-in authority.
- Balance the need to incentivize industry investment in the development and commercialization of subject inventions with the need to promote public utilization of subject inventions.

II. Request for Information

NIST publishes this notice to seek comments on the *Draft Interagency Guidance Framework for Considering the Exercise of March-in Rights,* included with this RFI as Appendix A.

[1] National Center for Science and Engineering Statistics. *Survey of Federal Funds for Research and Development, 2021.* Available at: *https://ncses.nsf.gov/surveys/federal-funds-research-development/2021.*

[2] Rights to Federally Funded Inventions and Licensing of Government Owned Inventions, 86 **Federal Register** 35, *https://www.federalregister.gov/d/2020-27581.*

[3] Rights to Federally Funded Inventions and Licensing of Government Owned Inventions, 88 **Federal Register** 17730, *https://www.federalregister.gov/d/2023-06033.*

All responses that comply with the requirements listed in the **DATES** and **ADDRESSES** sections of this RFI will be considered.

The following list of topics covers the major areas about which NIST seeks information. The listed areas are not intended to limit the topics that may be addressed by respondents so long as they address the proposed march-in framework, including, but not limited to, sections or questions that are confusing or need additional context or explanation; additional sub-questions that would assist an agency in answering the major questions outlined in the framework; specific challenges posed by the framework as written; and other recommended improvements. Responses may include any topic believed to have implications for decision making related to march-in, regardless of whether the topic is included in this document.

NIST is specifically interested in receiving input from the public pertaining to the following questions:

(1) After reading through the framework and example scenarios, if needed, how could the guidance about when an agency might want to exercise march-in and the factors that an agency might consider be made clearer?

(2) The framework contains many terms which have specific meanings under Bayh-Dole or in technology development and commercialization. Are the definitions provided at the beginning of the framework easy to understand? Do they aid in your ability to interpret the framework?

(3) How could the framework be improved to be easier to follow and comprehend?

(4) Does this framework sufficiently address concerns about public utilization of products developed from subject inventions, taking into account the fact that encouraging development and commercialization is a central objective of the Bayh-Dole Act?

(5) The framework is not meant to apply to just one type of technology or product or to subject inventions at a specific stage of development. Does the framework ask questions and capture scenarios applicable across all technology sectors and different stages of development? How could any gaps in technology sectors or stages of development be better addressed?

Authority: 35 U.S.C. 203, 206; DOO 30–2A.

Alicia Chambers,

NIST Executive Secretariat.

Appendix A

Draft Interagency Guidance Framework for Considering the Exercise of March-In Rights

Table of Contents

Definitions

When used within this framework, including the introduction, the terms listed below should be interpreted as defined below:

Agency—Any executive agency as defined in section 105 of title 5, and the military departments as defined by section 102 of title 5. For purposes of this framework, and in accordance with 35 U.S.C. 203 ''agency'' shall refer to the agency or agencies under whose funding agreement the subject invention was made.

Head of Agency—The head of the agency is the Department Secretary or in the case of DOD, the Secretary of that particular military branch. For independent agencies (*e.g.,* NSF, NRC, NASA, etc.) the agency head is the highest-ranking member within the agency, such as the Director or Administrator.

Contractor—''Contractor'' is defined under Bayh-Dole as ''any person, small business firm, or nonprofit organization that is a party to a funding agreement.'' (35 U.S.C 201(c)). Executive Order 12591 expanded this definition to include ''any business firm regardless of size.'' Throughout this document, unless indicated otherwise, ''contractor'' may include contractors as well as subcontractors and assignees, including inventor(s) or Third Party Assignees following agency approval of a request to waive rights.

Funding Agreement—Any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as herein defined.

Practical Application—To manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

Product—Consistent with 35 U.S.C. 204, ''product'' includes ''any products embodying the subject invention or produced through the use of the subject invention.'' For purposes of this framework, ''product'' may also include a service when that service requires the use of the subject invention.

Shelving—When an entity holds a patent or has a license to make, use, or sell an invention, but they do not develop, use, or sell that invention (or a product embodying the invention) or seek out third parties to do so for an extended period of time.

Subject Invention—Any invention of the contractor conceived or first actually reduced to practice in the performance of work under a funding agreement: Provided, that in the case of a variety of plant, the date of determination (as defined in section 41(d)[1] of the Plant Variety Protection Act (7 U.S.C. 2401(d)) must also occur during the period of contract performance. Bayh-Dole governs the rights and obligations surrounding subject inventions; therefore, only subject inventions are subject to march-in under Bayh-Dole.

Other terms used throughout this framework should be read consistent with the definition within the Bayh-Dole statute and regulations (35 U.S.C. 201, 37 CFR 401).

Introduction to March-In Rights & Framework

Under the University and Small Business Patent Procedures Act of 1980, more commonly known as the ''Bayh-Dole Act'' or ''Bayh-Dole,'' the government allows recipients of federal research funding to retain rights to inventions conceived or first actually reduced to practice under a federal funding agreement (''subject inventions''). The government, however, retains certain rights and imposes certain obligations on the contractor, including the authority to ''march-in.'' March-in allows the agency to require the contractor, or an exclusive licensee to grant a license to the subject invention in any field of use to a responsible applicant or applicants. If they refuse, then the agency may itself grant a license. However, the agency can only exercise march-in rights in four specific circumstances, the criteria of which are specified in the statute (35 U.S.C. 203):

(1) action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or their licensees;

(3) action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensees; or

(4) action is necessary because the agreement required by section 204 has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of its agreement obtained pursuant to section 204.

To date, no agency has exercised its right to march-in. Several agencies have considered march-in previously but have either declined to exercise it or worked with the parties to find an alternative solution to achieve the desired objectives. March-in is an important tool for agencies, but that tool is accompanied by potentially significant positive and negative ramifications. Therefore, in addition to the statutory criteria discussed above, the agency should carefully consider all circumstances and consequences and ensure that its march-in decision is consistent with the policy and objectives of Bayh-Dole. The policy and objectives are enumerated in the Bayh-Dole Act at 35 U.S.C. 200:

It is the policy and objective of the Congress to use the patent system to promote the utilization of inventions arising from federally supported research or development; to encourage maximum participation of small business firms in federally supported research and development efforts; to promote collaboration between commercial concerns and nonprofit organizations, including universities; to ensure that inventions made by nonprofit organizations and small business firms are used in a manner to promote free competition and enterprise without unduly encumbering future research and discovery; to promote the commercialization and public availability of inventions made in the United States by United States industry and labor; to ensure that the Government obtains sufficient rights in federally supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of inventions; and to minimize the costs of administering policies in this area.

The exercise of march-in rights is just one tool that may be available to the government and use of march-in should be considered in the context of all tools at the agency's disposal to address situations.

Regulatory Procedures for March-In

If the agency has reason to believe that the exercise of march-in rights could be warranted (*i.e.,* one of the four criteria appear to exist and there is reason to believe that the invention in question is subject to Bayh-Dole), then it can initiate the procedures for march-in under 37 CFR 401.6.[4]

First, the agency must notify the contractor in writing of the circumstances it believes warrants march-in and request an informal consultation and information so that the agency and the contractor can understand the nature of the issue and may consider possible alternatives to march-in. At the end of this informal consultation, the agency will provide written notice to the contractor of its decision whether to continue with formal march-in procedures based on the available information.

If the agency decides to move forward with formal march-in proceedings, the contractor is permitted to submit information and an argument opposing use of march-in. If that submission raises a genuine dispute over material facts upon which the march-in is based, the head of the agency or his or her designee will undertake fact-finding or refer fact-finding to another agency official (the ''fact-finder''). If the agency proceeds with fact-finding, the agency should permit the contractor to appear with counsel, submit evidence, present witnesses, and confront witnesses or experts presented by the agency.[5] [6] The fact-finder will then prepare or adopt written findings of fact, which will be sent to the contractor. The contractor will be given the opportunity to submit arguments or, if requested, present oral arguments before the agency head or designee makes a decision.

At this point, the head of the agency or designee will make a determination based on the written findings of facts; information and arguments submitted by the contractor; any other information in the administrative record; and the policy and objectives of the Bayh-Dole Act.

Agencies shall develop an appeals procedure pursuant to 37 CFR 401.11(c). It is recommended that the appeal be decided by the head of the agency or by his or her designee who is at a level above the person who made the determination. Additionally, a contractor, inventor, assignee, or exclusive licensee adversely affected by a march-in decision may appeal that decision in the United States Court of Federal Claims (35 U.S.C. 203(b)).

About This Framework

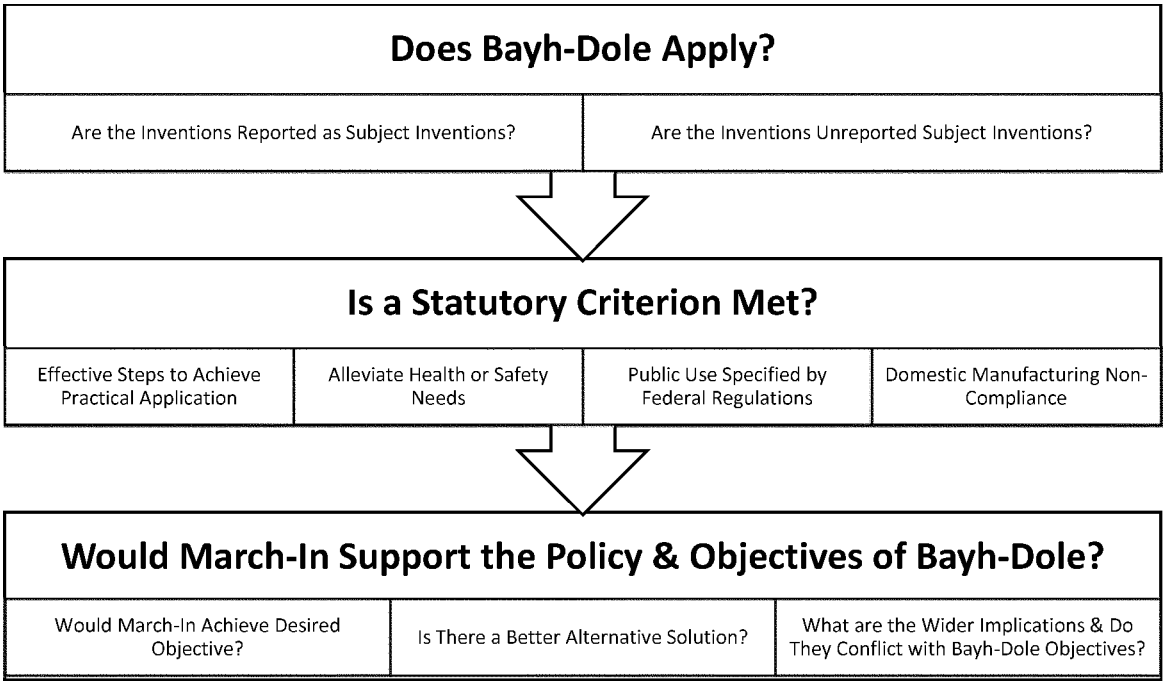
While the decision to exercise march-in rights lies ultimately with the head of the agency or his or her designee, this framework details facts the agency may seek and the considerations that the agency may use in making these decisions.

When determining whether to exercise march-in rights, the agency may consider a variety of facts but must assess three overarching questions: (1) whether Bayh-Dole applies to the invention(s) at issue; (2) whether any of the statutory criteria for exercising march-in applies under the circumstances; and (3) whether the exercise of march-in rights would support the policy and objectives of Bayh-Dole. This framework will explore each of these topics in more depth and includes some, though not necessarily all, of the questions and factors the agency may weigh when considering march-in.

[4] This represents a summary of the march-in procedures. For a full description, see 37 CFR 401.6.

[5] A transcript shall be made and available at cost to the contractor, though this requirement can be waived upon agreement by the agency and the contractor.

[6] All portions of the march-in proceeding are closed to the public and are held confidential (35 U.S.C. 202(c)(5)).



When reviewing this framework, it is important to remember that march-in considerations are extremely fact-dependent and any decision to exercise march-in will be made based on the totality of all circumstances. Nothing in this framework should be treated as a mandate that an agency exercise its march-in right, as a requirement that an agency collect facts to answer every question posed here, or as a limitation on the facts and questions an agency can consider. Rather, it provides a more comprehensive outline of the factors that an agency may weigh when determining whether to exercise march-in rights.

Information Gathering

Much of the information discussed in this framework may be easily accessible through records maintained by the agency, such as the iEdison system, and agencies should make efforts to compile information from these sources when possible.[7] However, some information will need to be obtained through additional searches (*e.g.,* the United States Patent and Trademark Office (USPTO) or grants and contracts databases), discussions with the contractor, information requested from or through the contractor, or other means. Some information sought in this framework may not be discovered until later steps in the process, and the facts and landscape may shift during march-in proceedings. Therefore, it should be noted that, if at any time during the process, the agency decides that it does not wish to exercise march-in rights, it may terminate the proceedings.

Given that the contractor is responsible for monitoring its licensees and exclusive licensees and that the agency only has direct relationships with its contractors (as opposed to that contractors' licensees, or sub-licensees), the agency will correspond and interact with the contractor as it assesses march-in. When requesting certain information, the contractor is expected to engage with and gather information from its licensees or other outside parties as needed. Some information relevant to this framework may not be available until later in the process, and the facts or underlying circumstances may shift while the agency is assessing a march-in request. If at any time during the process, the agency decides march-in is not warranted, it may terminate the proceedings.

Does Bayh-Dole apply?

Because Bayh-Dole only governs subject inventions, as a threshold consideration, agencies should determine whether a march-in assessment is directed to a ''subject invention.'' Under Bayh-Dole, the government cannot march-in and issue licenses to any U.S. patent. Government use of march-in rights is limited to these inventions funded by the government. In many cases, march-in requests are directed to patents that acknowledge government funding, and that acknowledgement can be an indication of a subject invention. However, whether an invention is a subject invention can be a complex and fact-intensive inquiry. For example, some patents that acknowledge government funding will not meet the statutory definition of a ''subject invention'' (e.g., those under a funding agreement made primarily for educational purposes). Agencies evaluating march-in may consider these questions in assessing government funding for purported subject inventions:

I. Was the invention(s) in question reported to the government as a subject invention(s)?[8] If there are products at issue, do they embody a subject invention or are they produced or performed through use of a subject invention?

A. What purported subject invention(s) are relevant to this march-in analysis? If available, collect the iEdison Invention Report Number, Date Reported to Agency, Title Election Status, and reported Funding Agreements.[9]

B. What patent application(s) and/or patent(s) are associated with the subject invention(s)? All available, associated patent numbers and patent application numbers should be made part of the agency record.

II. Is this invention an unreported subject invention?

A. Do unreported patent applications and/or patents covering the invention acknowledge federal funding?[10]

B. Do publication(s) exist that cover the invention? If so, does the acknowledgement section(s) reference government funding?[11] If

[7] iEdison is ''an interagency online reporting system for recipients of federal funding agreements to report subject inventions to the federal funding agency and complete other reporting as required by the Bayh-Dole Act and its implementing regulations.'' Available at *https://www.nist.gov/iedison.*

[8] If an invention is reported to the agency as a subject invention, it will be assumed that it is a subject invention. If a contractor contends an invention is not a subject invention, then they would be given the opportunity to provide evidence to raise this as a ''genuine dispute over a material fact'' under 37 CFR 401.6(3–5).

[9] If an invention is funded by multiple agencies, the funding agencies should notify one another and attempt to work together to come to one unified government determination on whether march-in is warranted.

[10] Typically, this can be found near the beginning of the patent application and/or patent in the specification describing the invention.

[11] Government funding may be listed in an acknowledgment in a publication but not contribute to the conception or first actual reduction to practice of any invention. (37 CFR 401.1(a)(2)). Further analysis may be warranted to determine if an invention is a subject invention subject to Bayh-

Continued

so, what funding agreements were listed as supporting the research described in the publication?

C. Did the contractor receive any funding agreements related to the invention and conducted by an inventor listed on the invention and/or patents? If available, note all funding agreements for the contractor relevant to the subject matter of the invention and work done by the relevant inventor.

D. What are the approved scientific aims under the listed funding agreements?

1. If available, the funding agreement, including the Scope of Work which might relate to the subject invention, should be part of the agency record.

Note that the agency may request input from a program manager, legal counsel, and/or subject matter expert, and analyze publications, patent applications, or issued patents to help identify potential overlaps with the scientific aims of a funding agreement(s).

E. Based on the information gathered in this section, can the agency confirm whether each invention relevant to the march-in assessment was ''conceived or first actually reduced to practice in the performance of work under a funding agreement?'' [12]

Ownership and Licensing

To evaluate march-in, agencies should also determine the contractors and licensee(s) that currently have rights to the subject invention and are involved in activities like research and development (R&D) or manufacturing, marketing, and selling products. The march-in assessment will often center on the scope and extent of what these parties are doing in an effort to understand the full scope of efforts undertaken to practice the subject invention. The totality of this information will allow agencies to understand the relevant stakeholders and their current actions.

I. Which owners are listed for each subject invention, patent application and/or patent relevant to this march-in analysis in USPTO records and other sources?

II. Which license(s) cover the subject invention, associated patent application(s), and/or patent(s)? If available, note which subject invention(s), patent application(s), and/or patent(s) are covered by each license; whether the license is exclusive or non-exclusive; and the field of use.

Is a statutory criterion met?

The statute only authorizes march-in in four statutorily defined circumstances (35 U.S.C. 203(a)), therefore, agencies must assess whether at least one of these circumstances applies before proceeding. To that end, and depending on the details of a march-in consideration, agencies may consider some of the following questions:

Criterion 1. Action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

This criterion focuses on the steps that contractors have taken to develop and achieve practical application of the subject invention. For example, if a contractor or licensee has stopped further work on the subject invention and the contractor and/or licensee has refused to restart work and rejects requests to license the subject inventions, that could suggest limited opportunities to commercialize the subject invention into new products. Stalled product development could be an indication of conflict with the objectives of the Bayh-Dole Act to encourage utilization and commercialization of federally funded inventions. To assess the steps contractors and licensees are taking to commercialize these subject inventions, agencies should assess if the subject invention is licensed and whether there is a product embodying the invention on the market. If the contractor has not licensed the invention, or if no product exists, agencies may need to further assess whether march-in is warranted.

If the contractor or licensee has commercialized the product, but the price or other terms at which the product is currently offered to the public are not reasonable, agencies may need to further assess whether march-in is warranted. Whether action may be needed to meet the needs of the Government or protect the public against nonuse or unreasonable use of the subject invention may include consideration of factors that unreasonably limit availability of the invention to the public, including the reasonableness of the price and other terms at which the product is made available to end-users.

Agencies may also consider the circumstances surrounding the patent status, any licenses and/or offers to license, and the products themselves—however, some of those issues may be better addressed through other statutory march-in criteria, other provisions in the Bayh-Dole Act, or different government authorities.

It should be noted that given the nature of this criterion, the questions the agency asks may vary depending on the stage of development as well as whether the contractor is licensing the technology for development and commercialization or intends to develop and commercialize the resulting product directly.

I. When determining whether to exercise march-in under this criterion, the agency will first assess which of the following categories best describes the *current* stage of development for the subject inventions and/or products and answer the corresponding questions.

A. The subject invention is not licensed, and the contractor has no plans to develop or commercialize, itself. Complete Section II.

B. The subject invention is licensed, or the contractor is developing the subject invention with plans to directly commercialize it. Complete Section III.

C. The product is commercialized. Complete Section IV.

II. In considering whether this criterion 1 applies to a subject invention that is not licensed and the contractor has no plans to develop or commercialize itself, the agency may assess:

A. What actions has the contractor taken to license the subject invention (for example, is it evaluating licensing offers, or seeking out interested licensees)?

B. Have the contractor and any potential licensee(s) reached mutually agreeable license terms?

1. If yes, then why is the subject invention not licensed?

2. If no, has the contractor offered to license the subject invention under commercially reasonable terms? Are there companies that want to license but the contractor will not agree to terms offered?

C. Is there an indication the contractor would decline to license the subject invention even if a potential, responsible license applicant was presented?

D. Is there a valid reason (technical, legal, or otherwise) that explains why the contractor has stopped licensing efforts? What is that reason?

E. Are there concerns about the contractor shelving the subject invention(s) without justification and not committing to discernable steps on re-engaging in its licensing?

III. In considering whether this criterion 1 applies to a licensed subject invention or a subject invention that is being developed or commercialized by the contractor, the agency may assess:

A. What steps are needed to bring the product to market? Is the contractor or the licensee taking these steps or planning to take these steps within a reasonable timeframe?

1. If the invention is licensed but the licensee is not taking steps to bring it to market, has the contractor attempted to address the matter with the licensee? Are there appropriate product development milestones in the License Agreement? Are there unmet milestones the contractor could enforce? If not, are there other steps the contractor can take under the terms of the license to ensure development?

2. What is the degree of investment, time, and regulatory requirements needed to bring the product to market?

B. Is regulatory approval needed or pending?

1. If yes, is the contractor and/or licensee seeking regulatory approval? If approval was denied, what were the reasons and will further approval be sought, for example after additional data is collected?

C. If the licensee or contractor is not intending to manufacture the product, have they identified manufacturers?

1. If a potential manufacturer(s) has been identified, have the manufacturer and contractor(s)/licensee(s) reached mutually agreeable license terms?

a. If yes, when will manufacturing begin?

b. If no, has the contractor(s)/licensee(s) offered to license the subject invention for manufacturing under commercially reasonable terms? Are there manufacturers who desire a license, but the contractor(s)/licensee(s) has not agreed to terms offered?

2. If a potential manufacturer has not been identified, what actions has the contractor(s)

Dole, but references to relevant publications can be useful in this analysis.

[12] A contractor or licensee may be given the opportunity to dispute a finding that an invention is an unreported subject invention by raising it as a ''genuine dispute over the material facts'' under 401.6(3–5).

or licensee(s) taken to identify potential manufacturers?

D. Is there a valid reason (technical, legal, or otherwise) that explains why the contractor or licensee has stopped development or commercialization efforts? What is that reason?

E. Are there concerns about the contractor or licensee shelving the subject invention(s) without justification and not committing to discernable steps on re-engaging in its development?

VI. In considering whether this criterion 1 applies to a product that is being commercialized, the agency may assess:

A. Is the contractor or licensee marketing or selling to end-users or consumers in the U.S.? If not, why?

B. Has the product utilizing the subject invention been sold or offered for sale in the U.S. using distribution channels (*e.g.,* retailer, wholesaler, through a regulated intermediary, or direct to consumer) used for similar products?

C. How does the availability of the product benefit the public, and how is the public harmed by limited availability of the product?

D. At what price and on what terms has the product utilizing the subject invention been sold or offered for sale in the U.S.?

a. Has the contractor or licensee made the product available only to a narrow set of consumers or customers because of high pricing or other extenuating factors? Has the contractor or licensee provided any justification for the product's price or background on any extenuating factors which might be unreasonably limiting availability of the subject invention to consumers or customers?

Criterion 2. Action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or their licensees.

In considering march-in based on criterion 2, agencies will seek a clear picture of the health or safety need that is not being reasonably satisfied. The agencies can also assess what it would take to better or fully meet the need and will evaluate how march-in could address the health or safety need.

I. What is the health or safety need to be addressed? What is the scope of the health or safety need? How long is the health or safety need anticipated to last?

II. Has the agency consulted with other agencies resulting in agreement on unmet health or safety needs and/or other necessary actions?

III. How does the subject invention or the product at issue address the unmet health or safety need?

IV. What is necessary to resolve the health or safety need?

A. Greater quantity or quality of a specific product?

B. Different or additional ways to access the product?

C. More options to access similar, but not identical, products? (For example, if the contractor manufactures one dosage of a drug but a new use is identified that requires a much lower or higher dosage).

D. Greater access through additional uses of another existing product?

V. Is the contractor or the licensee exploiting a health or safety need in order to set a product price that is extreme and unjustified given the totality of circumstances?

A. For example, has the contractor or licensee implemented a sudden, steep price increase in response to a disaster that is putting people's health at risk?

It should be noted that in reviewing this question, the agency is not limited to reviewing price increases; the initial price may also be considered if it appears that the price is extreme, unjustified, and exploitative of a health or safety need.

VI. How would march-in address the health or safety need? Are there other products, or other potential alternatives to march-in, that would address the health or safety need, in whole or in part?

VII. Has the contractor been consulted about options, short of march-in, to address the unmet need?

Criterion 3. Action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensees.

Under criterion 3, agencies will evaluate whether any Federal regulations relate to the use of products commercialized from the subject invention. They will assess whether the contractor(s) and/or licensee(s) have taken reasonable steps to address any needs related to these Federal regulations, including making the subject invention available to all who require it.

I. Does a Federal regulation expressly require the subject invention to be used in or in combination with another product (if the subject invention is commercially available)? If a Federal regulation does not expressly require such use, does a Federal regulation in practice effectively require the use of the subject invention in order to satisfy a regulatory requirement?

II. Is the subject invention already available to those who require it under the regulation?

A. If not, is there evidence that the contractor(s) or licensee(s) is restricting access or imposing barriers to access?

III. How does the subject invention address the need?

IV. Do other current technologies address the issue? If so, what are those technologies?

V. Has the contractor contacted the agency that issued the regulation for assistance?

VI. How much time is required to meet public use requirements by Federal regulation?

VII. Has the contractor been specifically consulted about addressing the public use requirement?

Criterion 4. Action is necessary because the agreement required by section 204 has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of its agreement obtained pursuant to section 204.

This criterion relates to 35 U.S.C. 204 and requires that exclusive licenses to use or sell in the U.S. include an agreement that products embodying subject inventions be manufactured substantially in the U.S.[13] *The requirement for such an agreement may be waived by the agency under whose funding agreement the invention was made upon a showing by the small business firm, nonprofit organization, or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the U.S. or that under the circumstances domestic manufacture is not commercially feasible. Broadly, agencies will evaluate if § 204 applies, request specific details on where any products are being manufactured, and determine if a manufacturing waiver is required and if a request to waive the preference for U.S. industry has been granted.*

I. Are the prerequisites triggering the agreement required under section 204 present?

A. Has the contractor granted an exclusive license to use or sell any subject invention in the United States?

II. Did the contractor's exclusive license agreement require that any products embodying the subject invention or produced through the use of the subject invention be manufactured substantially in the U.S.?

A. If no, can the agreement be amended to incorporate the agreement required by section 204?

B. If no, was a request for waiver of the preference for U.S. industry submitted to the agency(ies)? Was the request granted and under what terms?

III. Are products embodying the subject invention or produced through the use of the subject invention being manufactured under that exclusive license?

A. If yes, in what countries are those products being manufactured?

B. Taking the manufacturing locations of all components of the product into consideration, would the product be considered to have been manufactured substantially in the U.S.?

IV. If the answers to II and/or III above are no, was a request for waiver of the preference for U.S. industry submitted to the agency(ies)?

A. If yes, was the waiver request granted?

1. If so, what were the terms of the waiver (subject inventions covered, duration, countries or facilities wherein products can be manufactured, field of use, etc.)?

2. If the waiver request was submitted but denied, why was it denied?

[13] Pursuant to 35 U.S.C 202(a)(ii) some agencies may have issued Determinations of Exceptional Circumstances (DECs) amending the standard patent rights clauses of their funding agreements to include broader domestic manufacturing obligations than those enumerated in 35 U.S.C. 204. Agencies who have issued such DECs should refer to those DECs to determine the extent of the government's rights when contractors are noncompliant with the manufacturing obligations under the DEC. For example, DOE's ''DETERMINATION OF EXCEPTIONAL CIRCUMSTANCES UNDER THE BAYH–DOLE ACT TO FURTHER PROMOTE DOMESTIC MANUFACTURE OF DOE SCIENCE AND ENERGY TECHNOLOGIES'' does not specify any government march-in rights, but requires contractors to ''convey to DOE, upon written request from DOE, title to any subject invention, upon a breach'' of their U.S. Competitiveness provision.

B. If no, has the agency contacted the contractor under its enforcement authorities of the terms and conditions of the funding agreement to demand that a waiver request be submitted?

Would march-in support the policy & objective of Bayh-Dole, considering the specific case and broader context?

The Bayh-Dole regulations under 37 CFR 401.6(a)(6) state that ''[t]he consistency of the exercise of march-in rights with the policy and objectives of 35 U.S.C. 200 shall also be considered. The Bayh-Dole Act emphasizes ''utilization of inventions arising from federally funded research and development'' and the ''commercialization and public availability of'' those inventions. The foundation of Bayh-Dole's policies and objectives reflect two themes (among others): promoting the development of new products in the U.S. and their availability to end-users or consumers in the U.S. Accordingly, agencies evaluating march-in should prioritize both policy goals—incentivizing U.S. innovation and promoting access to the fruits of that innovation in the U.S. Determining whether an individual march-in decision would advance or impede these goals may be a complex and fact-specific assessment. Agencies should also weigh how an individual march-in decision could impact the broader policy objectives for U.S. competitiveness and innovation.

I. Would march-in help achieve practical application, alleviate health or safety needs, meet public use requirements, or meet manufacturing requirements?

This section of the framework is intended to inform the agency's assessment of the practical value of exercising march-in, specifically in terms of increasing accessibility of the subject invention(s)—what would happen if a contractor, licensee, or the agency issued (or tried to issue) a new license(s) to the subject invention(s)? How likely is it that march-in would solve the problem identified by those seeking it? Could other interested and willing licensees practice the subject invention in sufficient time to address the problem? An absence of other interested licensees could weigh against march-in. Agencies may also need to consider whether there is intellectual property (beyond the subject invention(s)) that could possibly prevent other licensees from making the product or offering the service in question. A complicated intellectual property landscape could reduce the likelihood of successful licensing and weigh against march-in. To that end, agencies reviewing march-in may ask some of these questions:

A. Is there another willing and able licensee or is it likely that one could be found?

1. How long would it take another licensee(s) to start producing and marketing the covered product? How long would it take before another licensee(s) could satisfy existing demand for the product? At what price would another licensee(s) be able to make the product available to the public?

2. What steps, if any, could or should the agency or the existing contractor(s) take to identify other willing licensee(s) under the circumstances?

B. What intellectual property, in total, is needed to make the product in question? Does making the product or performing the service also require use of intellectual property that was not government funded and is not subject to Bayh-Dole?

1. For example, if only one of several patents necessary to produce a product is subject to march-in, that likely weighs against march-in, since other licensees would need separate permission to use several other patents before they could make the product. On the other hand, if all the intellectual property needed to produce the product is a subject invention(s), that might result in a different licensee being able to produce product quickly or efficiently.

C. When do the patents subject to the march-in evaluation expire?

1. Will the patents expire before the march-in process is completed and another licensee is able to bring a product to market? Consider the remaining patent life in relation to the timeline for march-in proceedings, federal court appeals, transfer of know-how and build out of product manufacturing capability, and/or any necessary regulatory approvals. If the patent term is likely to end before the march-in process concludes and before a new licensee could bring a product to market, these factors weigh against a decision to exercise march-in rights.

D. Is the product or service subject to regulatory exclusivity, such as those provided by the FDA? If so, how much time remains in the period of exclusivity?

E. If march-in is requested in response to an emergency or an urgent public health or safety issue—how long is the emergency or issue expected to last? Consider if the march-in process would take longer than the emergency is expected to last, as that could weigh against march-in.

F. If march-in is requested based on the criterion of domestic manufacturing—

1. Is the contractor willing to submit a request to waive the preference for U.S. industry? Consider whether the agency would grant a waiver, if requested.

G. Would a determination to march-in promote utilization of this subject invention? Would it protect the public against non-use or unreasonable use of this subject invention?

1. Would march-in have an impact on public availability of the benefit of the invention in the short and long-term?

The situation and pertinent facts may evolve with time. Agencies may revisit these questions—e.g., whether there is another willing and able licensee—and defer a march-in determination in the event appropriate licensees emerge. Another possible circumstance that could affect march-in analysis includes another product coming to market during the pendency of the march-in process that displaces the market for product that is the subject of march-in.

II. Are there other ways to address the identified problem, and can those alternatives be pursued instead of or in parallel with any march-in proceedings?

During review of march-in, more expeditious resolutions may be identified, and agencies should weigh viable alternatives when making march-in decisions. However, just because there may be alternative resolutions to the problem that prompted march-in consideration, that does not mean exercise of march-in rights is inappropriate.

A. Are there other alternatives available to address the problem identified? How effective are the alternatives (or how likely is it that other alternatives would solve the problem), and how effective are the alternatives in comparison to march-in?

B. If the subject invention is licensed, what efforts have or can the contractor(s) and/or licensee(s) take to solve the problem?

C. Are the contractor and its licensee(s) willing to take action to remedy the matter without the agency exercising march-in?

D. Is there a problem such as anti-trust activity, fraud, or bankruptcy, that would be best addressed by other federal or state governmental authorities?

E. Is there patent litigation pending or other legal actions or concerns regarding the patents associated with the subject invention? Consider whether other legal processes (*e.g.,* a challenge to the validity of the patent, licenses being revoked) may allow another manufacturer to bring the product to market more quickly, as that could weigh against use of march-in.

F. Is there another federal agency taking action that would resolve underlying issues without the use of march-in?

III. What are the wider implications of use of march-in?

At its core, the Bayh-Dole Act focuses on U.S. innovation and the commercialization of inventions that arise from federally funded R&D—all with an eye towards advancing the interests of the American public. Prior to exercising march-in, funding agencies should consider both the practical impact and the potential impact on the broader R&D ecosystem. To that end, agencies may consider questions such as:

A. Would march-in protect the public against nonuse or unreasonable use of subject inventions?

1. Consider ways to ensure that any use of march-in achieves the intended outcomes and does not have broad and unintended consequences on U.S. competitiveness and innovation.

2. Consider whether march-in would send a clear signal to industry so other contractors and licensees can rely on that agency's prior decisions to avoid similar issues in the future.

B. Consider whether march-in would increase public availability of federally funded inventions and foster support for the federal research enterprise.

C. Would exercise of march-in rights here promote competition without unduly encumbering future R&D? Would it impact competition and R&D more broadly? For example, would there be a decrease in the number of applicants for federal funding?

D. Would exercise of march-in impact utilization of subject inventions more broadly?

1. Would march-in have an impact on U.S. competitiveness and innovation?

2. Would prospective licensees likely avoid future collaborations with federally funded research institutions, organizations, small businesses, and investigators? For example,

would there be a decline in the number of collaborations with the federal laboratory? Would an agency's practice result in a decline in the number of collaborations? Agencies may answer both questions post facto, and cannot be predicted. However, if an agency has had a similar effort that had impacted the number or quality of collaborators, they could extrapolate the effect. Agencies should consider the potential chilling effect on the agencies' existing relationships with industry and ability to address Administration priorities.

E. Consider whether input from other agencies would be helpful to understand the ramifications of a march-in decision, *e.g.,* the State Department, Office of the U.S. Trade Representative, or Department of Commerce as to any diplomatic or trade implications or the United States Patent and Trademark Office as to any intellectual property implications.

Scenarios & Examples

This section of the framework presents a variety of hypothetical scenarios where march-in could emerge. These examples and the subsequent discussion showcase how an agency might apply this framework, considering certain factors and questions, in assessing march-in.

In an actual march-in analysis, an agency would consider the relevant facts and questions, explore the relevant Bayh-Dole statutory march-in criteria, and evaluate any feasible alternatives before making a determination of whether to exercise march-in. However, for clarity and brevity, when discussing these scenarios, please assume the following:

1. The agency establishes or has established that Bayh-Dole applies to the subject invention(s).

2. Only Bayh-Dole subject inventions are needed to successfully manufacture the product (*i.e.,* no additional intellectual property licensing would be needed).

3. Although the agency considers the relevant factors and answers relevant questions within the framework, only one criterion and certain illustrative facts and circumstances may be addressed in the discussion of each scenario.

These scenarios are hypothetical and should not be read or inferred to reference a particular invention, product, contractor, or licensee. Further, nothing in the discussions of these scenarios should be interpreted as an obligation upon the agency to exercise march-in. As stated previously, march-in decisions are extremely fact-dependent and the agency would consider the totality of circumstances in a real-life situation, whereas these scenarios only address select issues.

Scenario 1

Background: A biotech company has partnered with a U.S. government-funded university to develop treatments for autoimmune skin diseases. The company was granted an exclusive license to a government-funded patent owned by the university. The patent claims a new compound that has shown promise in pre-clinical trials for psoriasis. The company has also separately developed another psoriasis treatment and that second treatment—which recently received FDA approval—was developed solely by the company without any government support. Once the company secured FDA approval for that second treatment, it appears to have stopped all work on the patented compound that was invented by the government-funded university. A second company has approached both parties for a license to the university-owned patent, but its request was denied, so the second company has asked the government funding agency to march-in and require the university to grant it a license to the university patent.

Discussion:

Statutory Criteria—In this scenario, it appears the contractor and licensee may not be taking effective steps to achieve practical application of the subject invention in such field of use (Statutory Criterion 1). Before proceeding, the agency would seek information from the contractor to confirm whether the current licensee has in fact stopped development of the subject invention. If so, the agency would continue this inquiry to determine if the licensee is inappropriately shelving the technology.

To make this determination, the agency would explore the questions detailed in Statutorily Defined March-In Criteria; Criterion 1; Section III. It appears the licensee might have ceased development of the subject invention in favor of another competing technology (Statutorily Defined March-in Criteria, Criterion 1, III, A). The agency would then ask whether there was a valid, technical reason that the licensee stopped development (Section III, B). For example, if the licensee obtained poor results in clinical trials, that could justify halting work and weigh against march-in. However, the fact that there is another interested licensee suggests the subject invention holds clinical promise, and that could weigh in favor of march-in.

The agency would also ask whether the contractor has taken steps to remedy this situation and whether the contractor's agreement with the licensee includes milestones or other diligence provisions that would allow the contractor to terminate the license and ''clawback'' the technology. If the contractor intends to enforce ''clawback'' provisions to terminate the license and seek other licensees, or if it intends to enforce milestones within the license to push further development of the university-patented invention, these factors could weigh against march-in. If the license in question did not contain such provisions or the contractor was unwilling to exercise its rights, then these circumstances could weigh in favor of march-in.

Policy & Objectives of Bayh-Dole—As part of this analysis, the agency would also look at whether exercising march-in rights would achieve the desired outcome and support the policy and objectives of Bayh-Dole. First, the agency would consider whether march-in would promote utilization and protect against non-use of this subject invention (Would March-In Support the Policy & Objective of Bayh-Dole; Section I). Here, the agency would analyze whether the second company that sought a license pursuant to march-in was a reasonable applicant (Section I, E). In other words, would that company be capable of bringing the product to market? If a viable and qualified company was interested in restarting development work but being denied the opportunity, that would weigh in favor of march-in. However, if that second company, on its face, lacked any of the experience or resources necessary to bring a new psoriasis treatment to market—and if the agency was unlikely to find another qualified and interested licensee (for example, because the product failed clinical trials)—these factors and circumstances would weigh against march-in. The agency would also look at timing factors, like the remaining patent life compared to the time required to complete march-in proceedings, exhaust appeals, and further develop the technology—as a short remaining patent term could weigh against march-in (Section I, B, 1). Second, the agency would consider whether there are viable alternatives (Section II), like the contractor clawing-back the existing license and issuing one to a new developer. Finally, the agency would assess the wider implications of exercising march-in (Section III). This would depend in large part on further factual development referenced above. But if there is a valid reason why this licensee stopped work, then march-in here seems unlikely to advance the goals of Bayh-Dole. But if this is a case of a licensee is impermissibly shelving a subject invention to preserve the market position of a competing product, march-in here could deter similar actions by others in the future.

Scenario 2

Background: An advanced manufacturing startup that received Phase I and Phase II SBIR grants is working on improved 3–D printing technology for construction materials. The startup is regularly attending conferences and showcasing its prototypes and it recently closed a successful Series A funding round with several venture investors who have a history of success in the relevant markets. But it has been several years since the startup launched and it is not yet offering a commercial product or service. The startup also holds a portfolio of five government-funded patents directed to its technology. A large, established construction company is looking to launch a 3–D printing initiative and it has asked the government funding agency to march-in and grant it a license to the startup's patent portfolio. The established construction company claims the startup is impermissibly shelving the subject invention by not launching a product or service, yet, and the established company contends it has the resources and funding on hand to bring this technology to market quickly—making it a preferred licensee.

Discussion:

Statutory Criteria—In this scenario, it appears the contractor is taking steps to achieve practical application of the subject invention (Statutorily Criterion 1). The agency would likely start its analysis by discussing the contractor's plans to develop or license the invention (Statutorily Defined March-in Criteria, Criterion 1, I–III). Here, the contractor seems to be actively developing

the technology and preparing to market it in at least one field of use. It has recently raised additional funds that would support further development and product launch. The mere fact that a potential competitor might be able to bring a subject invention to market more quickly than the contractor does not mean the contractor is impermissibly shelving a subject invention. On the other hand, if there are indications that the startup is delayed because it is devoting all its resources to develop to unrelated technology, that could weigh in favor of march-in. The agency may also monitor the continued progress of the contractor in developing this technology to improve construction material manufacturing.

Policy & Objectives of Bayh-Dole—The first part of this analysis looks at whether march-in would promote utilization and protect against shelving or non-use of this invention (Would March-in Support the Policy & Objective of Bayh-Dole; Section I). Here, it appears the contractor is still actively developing this technology and not shelving it, which would weigh against march-in, even though other licensees might also be able to bring this technology to market. The agency may also consider if there are other steps it, or the contractor, could take to speed development—if that is warranted (Section II). Finally, the agency may consider the wider implications of exercising march-in (Section III). For example, the Bayh-Dole Act includes the objective of ''encourage[ing] maximum participation of small business firms in federally supported research and development efforts.'' March-in here could deter future small businesses from engaging in federally supported R&D, if they thought larger competitors would be able to easily leverage march-in requests to step in and take over development and commercialization.

Scenario 3

Background: The Federal Highway Safety Administration has identified a growing safety concern in which traffic accidents have risen 27% due in large part to drivers' inability to see traffic signs early enough to act accordingly. Having evaluated the growing number of incidents, it has been determined that the issue is the visibility of the traffic signs in lighting extremes (glare from bright sunshine during the day or lack of visibility of the signage during low light hours). Subject to a grant provided by the government, a contractor has developed a new retroreflective coating for traffic signs that improves the visibility of the signs by as much as 75% both during bright daylight without glare and at night by enhancing the indirect reflection of automobile headlights off the signage. The contractor is a medium-sized company that is seeking to grow, based on this new patented technology, but they are unable to keep up with demand for their new material from signage manufacturers who are receiving significant increases in demand from state Departments of Transportation (DOTs) seeking to improve or replace their signage. To date the contractor has only agreed to license its patent to one sign manufacturer. Others have sought licenses and been rejected. Several manufacturers have approached the government funding agency seeking assistance in licensing the patented material to manufacture and incorporate the material into the signs they sell to the state DOTs.

Discussion:

Statutory Criteria—First, the agency would investigate the scope of the unmet health and safety need and how this subject invention addresses that need (Statutorily Defined March-In Criteria; Criterion 2; Sections I–III). Based on this fact pattern, it seems more of the retroreflective coating product is needed to satisfy an unmet safety need (Section IV) and it could significantly impact, though not completely alleviate, the safety concerns (Section V). The agency may, for example, seek additional data to understand how much the new coating has actually improved safety and how many accidents have been prevented due to use of this coating. If there is strong evidence of a steep drop in accidents, that could weigh more in favor of march-in. However, if there's not yet sufficient evidence that the improved visibility is positively impacting driver safety, march-in may at the very least be premature. The agency would also consult with the contractor and gather additional information as to why it has been denying licenses (Section VI). Perhaps the contractor has a valid reason, *e.g.,* limited worldwide access to necessary raw materials, or it may have a concrete plan to increase production in the near future; these factors could weigh against march-in. Likewise, the contractor and the agency may be able to work out a plan or timeline for addressing the safety need without march-in. However, if the contractor cannot present a rationale to refuse more licenses and it has no discernable plan to meet increasing demand, then that could weigh in favor of march-in.

Policy & Objectives of Bayh-Dole—The agency would also need to determine whether march-in would alleviate the health or safety need (Would March-In Support the Policy & Objective of Bayh-Dole; Section I). In this case, the answer likely depends on the further factual development referenced above. For example, if the raw materials necessary to make this new coating are in very short supply—and the contractor is already using all the available raw materials—then march-in would be unlikely to alleviate the health or safety need by increasing coating production. The agency would also consider the relevant timelines (Section I, C). For example, if the contactor would be able to satisfy all outstanding state DOT orders within the year and march-in proceedings are likely to take longer, that would weigh against march-in. The agency would also explore other alternatives to address traffic safety in parallel (Section II, A). For example, are there other products that could support the market need while the contractor increases its production capacity? Alternatives need not be superior to the subject invention to be a consideration weighing against march-in. Finally, the agency would consider the wider implications of march-in. For example, would march-in here deter smaller or medium sized businesses from commercializing subject inventions, out of fear that they would lose exclusivity or patent protection to larger companies with more capacity (Section III, B–C)?

Scenario 4

Background: A small pharmaceutical startup that has received extensive government funding developed a monoclonal antibody that currently is the only treatment for a rare disease. That company holds all of the patents covering the antibody, its use, and the methods of manufacturing—and each of those patents contains a clause acknowledging government funding as required by the regulations. The startup does all its manufacturing at a plant in California, and severe rainfall caused substantial flooding that compromised the manufacturing plant. The plant will need substantial repairs, and it is unclear if and when the company will be able to resume production. Even if the company can resume production, it will take four months after the repairs to complete manufacturing a batch of the antibody. A rare disease patient group has asked the government to march-in and issue licenses to all of the patents necessary to make and use the antibody.

Discussion: Given the urgent need, march-in would be among a range of options the agency would likely consider for resolving this problem and promptly getting treatment into the hands of patients.

Statutory Criteria—In this scenario, it appears there may be health needs that are not being reasonably satisfied by the contractor (Statutory Criterion 2). The agency would first ask the contractor for information to confirm the basic facts—that the company has ceased manufacturing the treatment in question due to flooding and return to operations is uncertain. If that is the case, the agency would continue its inquiry to assess whether march-in would alleviate the unmet health need, exploring questions detailed in Statutorily Defined March-In Criteria; Criterion 2. In this scenario, more treatment for this rare disease is needed (Section III; IV,A).

From there, the agency would likely need more information to assess whether march-in could feasibly address the problem. For example, does the contractor have a back-up plan for manufacturing, and if so, how long would it be before the contractor can start delivering treatment to patients (Section VI)? If there's no back-up plan, that could weigh in favor of march-in. Likewise, the lack of clarity about if and when the contractor will resume manufacturing suggests a potentially prolonged unmet health need, which could also weigh in favor of march-in (Section VII). The agency would also consider whether there are other manufacturers—''responsible applicants''—that could quickly manufacture this (or another) product with FDA approval to treat the rare disease. If yes, then march-in might help address the health need; but, if no other manufacturers are willing to make the product in question or utilize the subject invention, then march-in may not provide a solution (Section V).

Policy & Objectives of Bayh-Dole—As part of this analysis, the agency would also look at whether exercising march-in would achieve the desired outcome and support the policy and objectives of Bayh-Dole (Would

March-In Support The Policy & Objective Of Bayh-Dole; Section I). The agency would likely focus on whether there are other responsible applicants interested in manufacturing the product in question or practicing the subject invention to treat the rare disease (Section I, E). The agency would also look at timing considerations like the remaining term of the relevant patents, the time required for any regulatory approvals of new products or manufacturing facilities, and the potential length of a march-in proceeding and any appeals. Very lengthy timelines could weigh against march-in and towards more expeditious solutions. If all of the patents involved in making this treatment are subject inventions, that could weigh in favor of march-in as it is less likely other intellectual property would stand in the way of other manufacturers (Section I, B; II). Finally, the manufacturing problems in this scenario seem largely outside of the contractor's control. That suggests march-in would be unlikely to resolve non-use or unreasonable use of subject inventions in the future, although it could deter other future collaborators from developing subject inventions, weighing against march-in (Section III).

Scenario 5

Background: A water filtration company has an exclusive license from a government-funded university to patents covering a subject invention for point-of-use water purification technology. The company manufactures a small device, which can be used to remove organic contaminants like pesticides in households that get their drinking water from wells. Ten years ago, a certain pesticide became very popular because it was safe for native U.S. pollinators but effective at combatting an invasive beetle destroying crops nationwide. But recent studies have shown a ten-fold increase in pediatric cancers that is connected to drinking groundwater contaminated with that pesticide. The water filtration company's point-of-use purification device is uniquely able to remove even trace amounts of that pesticide. As a result, demand has spiked. However, the company has not increased its manufacturing pace, so the price of the devices has jumped 1000% in the past three months. The combination of the limited supply and increased prices has resulted in a health emergency that cannot be adequately addressed without expanding capacity. Three other manufacturers and a dozen rural community groups have asked the government funding agency to march-in and issue licenses to increase supply and reduce cost of the specialized filters.

Discussion: Given the pressing need, march-in would be among a range of options the agency would likely consider for resolving this problem promptly and protecting children.

Statutory Criteria—In this scenario, it appears that march-in may alleviate a health or safety need that, at this time, is not reasonably being satisfied by the contractor or its licensee (Statutory Criterion 2). First, the agency would seek to confirm underlying information, including about the health or safety need. For example, the agency would consult with experts and appropriate agencies, seek available information about how the pesticide contributes to pediatric cancer, and investigate how (and how effectively) this purification device removes the pesticide (Statutorily Defined March-In Criteria; Criterion 2; Sections I–III). The agency would also confirm basic facts with the contractor, including whether it is refusing to ramp up manufacturing and how much the price has increased. All of this would be with an eye toward mitigating the risk of pediatric cancer, which in this scenario would appear to require an increased supply and accessible filtration devices (Section IV). The agency would likely assess whether the contractor is in fact exploiting the health or safety need to set a product price that is egregious within the U.S. market and unjustified given the totality of circumstances (Section IV, E). If the evidence suggests this 1000% increase was an intentional act by the company to ''cash-in'' on this newly discovered health and safety need, that would weigh in favor of march-in. However, if the entire market has seen similar price increases and there is a compelling justification for such a high price, *e.g.,* a shortage of essential raw materials is making increased production impossible, that would weigh against march-in.

Policy & Objectives of Bayh-Dole—The agency would similarly need to assess the practical impact of march-in on the unmet need and carefully evaluate all alternatives (Would March-In Support the Policy & Objective of Bayh-Dole). For example, if the pesticide stays in the water supply long term and there's no indication other solutions will become available very soon, that would weigh in favor of march-in. If farmers are no longer using the pesticide in question and it dissipates quickly, then the demand for filters could subside soon, weighing against march-in. Additionally, the fact that there are already other interested manufacturers suggests march-in could increase production by these entities soon, weighing in favor of march-in. However, the agency would need to examine the capability of the prospective licensees and manufacturers and be comfortable these are ''reasonable applicants'' that could get a product to market (Section I, E). Here again, the agency would also consider possible alternatives, like other technologies to protect children (Section II). For example, perhaps another agency has already banned the pesticide and that, combined with an alternative filtration technology, could bring the pesticide levels to a safe percentage within the year, weighing against march-in. Finally, the agency would analyze the wider implications of march-in to ensure consistency with Bayh-Dole policy and objectives (Section III). The agency may determine that exercising march-in rights would have a meaningful positive impact on child health, increase confidence that federally funded inventions are available to improve the lives of Americans, result in increased competition, and set an example of actions by contractors or licensees that are ''off limits.'' The agency may determine those factors outweigh any negative impacts on investments in future federal R&D, given the apparent bad-faith actions of the contractor (Sections III, A, 2; III, 3).

Scenario 6

Background: In the early stages of a respiratory virus pandemic, a consumer goods company working under a government contract developed improved face masks that filter out 99% of that virus' particles. The contractor filed for a patent on its mask technology, and it reported the subject invention and associated patent application to the government. During a three-week window, several experts published studies confirming that the virus spreads easily and rapidly through airborne transmission. The following week, the consumer goods company increased the price of its masks 100%, and it continued to raise the price over the course of a month, resulting in a 400% price increase. The company has also sent letters to other mask manufacturers, flagging the pending patent application and promising to file lawsuits against any infringers as soon as the patent issues. Trade associations representing frontline healthcare workers asked the government funding agency to march-in and issue licenses to those other manufacturers to bring down the price of the masks.

Discussion: Given the urgent need, march-in would be among a range of options the agency would likely consider for resolving this problem promptly and protecting frontline workers.

Statutory Criteria—In this scenario, it appears there could be actions that promote nonuse or unreasonable use of the subject invention (Criterion 1) as well as health and safety needs that are not being reasonably satisfied by the contractor (Statutory Criterion 2). The agency would first ask the contractor for information to confirm the basic facts—for example, that the contractor has increased price 400%, how that increase compares to prices for other masks, how that price point compares to the cost of developing and manufacturing the masks, that the contractor has filed for patents, and that it is threatening to file suit against competing manufacturers when a patent issues. Based on that, the agency could continue its inquiry to assess whether march-in would alleviate an unmet health need and/or ensure the benefits of the mask are available to the public on reasonable terms, exploring questions detailed in Statutorily Defined March-In Criteria; Criterion 1 and 2. In this scenario, more affordable masks are needed and it may be that more mask production would bring down the price (Section III; IV, E). The agency would likely need more information to assess whether the contractor is exploiting the health or safety need in setting a product price that is egregious within the U.S. market and unjustified given the totality of circumstances and/or whether the masks are available on reasonable terms (Section IV, E). By rapidly increasing the price of masks and threatening other manufacturers with litigation during an urgent public health need, the contractor seems focused on keeping prices unusually high while not satisfying demand. This could weigh in favor of march-in. But the agency would need additional information, for example, to understand the unmet need, how march-in would impact it, and why the contractor is

responding this way. Are other mask manufacturers charging similarly high prices under the circumstances, all to fund facility expansion? If so, that would weigh against march-in (Section IV, E). Is there a strong connection between mask usage (or mask availability) and public health benefit? Does this mask provide unique benefits over others? Stronger evidence the masks resolve a health need could weigh more in favor of march-in, whereas tangential evidence of unique benefits could weigh against march-in (Section III). Is there a legitimate reason not to license other manufacturers for this mask, *e.g.,* they lack capacity or capability? Answers to those questions could justify the contractor's actions and weigh against march-in (Section IV, E).

Policy & Objectives of Bayh-Dole—The first part of this analysis looks at whether march-in would promote utilization and protect against non-use of the subject invention (Would March-In Support The Policy & Objective Of Bayh-Dole Section I). The agency would need to understand whether other manufacturers are ''responsible applicants'' that would be interested and willing to make the masks in question (Section I, E). The agency would also likely want to understand the impact of the pending patent application and threat of (possible) litigation on the other manufacturers (I, B; II, E). If the other manufacturers are actually deterred from making the product, then that could weigh in favor of march-in. However, if other manufacturers do not believe valid patents are going to issue on this subject invention, and those manufacturers are willing to immediately start manufacturing masks, that could weigh against march-in. The agency would also consider whether other action might be warranted—for example, the agency purchasing or manufacturing the masks itself at a lower price (Section II, A). Whether march-in would protect the public against non-use or unreasonable use of subject inventions more broadly likely depends on similar facts (Section III). However, in a situation of a pressing health or safety need, where a contractor is artificially keeping supply low while demand for a product is high or artificially increasing the price, march-in could deter others from similar actions in the future without impacting contractors and licensees who act in good faith to bring products to market and meet market demand (Section III, A, 2).

Scenario 7

Background: The Department of Transportation has been working with industry to develop the requirements and technologies for vehicle-to-everything (V2X) communications. This technology will allow vehicles to automatically communicate with each other basic safety messages including location, direction of travel, speed, and other relevant information that can serve to reduce traffic accidents. Additionally, the technology will allow vehicles to receive messages from networked roadside units that can warn a driver about work zones or traffic accidents miles ahead of them along their current path of travel or road conditions such as icy or wet roads. The National Highway Traffic Safety Administration (NHTSA) within the U.S. Department of Transportation is responsible for the Federal Motor Vehicle Safety Standards and the regulatory requirements that all automobiles must satisfy to be sold in the U.S. NHTSA has issued a regulation that requires the inclusion of a transceiver capable of transmitting and receiving such messages in all new automobiles. A contractor under government funding developed a technology essential to the operation of such transceiver but to date has refused to license the technology to any auto manufacturers, instead insisting that it can supply the entire automotive industry with the required equipment. Auto manufacturers have approached the government seeking assistance in getting a license to manufacture the equipment because the contractor has failed to satisfy industry demand.

Discussion:

Statutory Criteria—In this scenario, it appears that march-in may help meet requirements for public use specified by a federal regulation (Statutory Criterion 3). The federal regulation in question for this march-in analysis requires inclusion of a transceiver capable of transmitting and receiving basic safety messages in all new automobiles. The agency would need to investigate whether the contractor is meeting the industry's need in order to comply with this regulation and determine whether the contractor is restricting access or imposing barriers (Statutorily Defined March-In Criteria; Criterion 3, II, A). The agency would discuss the issue with the contractor, and if the contractor is in fact unwilling to license the technology, the agency would likely discuss whether and how the contractor plans to individually meet the current or future needs (Section VI). If the contractor has discernable plans, the agency may choose to set certain timeframes or thresholds that the contractor must meet to avoid march-in. The agency may also assess whether the contactor is willing to license the subject invention on commercially reasonable terms—if it is refusing prospective licensees because it will only accept unreasonably high royalties, that could weigh in favor of march-in (Section II, A). If it is open to reasonable licensing offers, that cuts the other way. The agency would also need to explore whether there are other technologies that do or could also address this same need (Section IV). If the contractor's invention is the only one that could address this need, and the company cannot offer a plan to provide adequate supply and meet the regulatory requirements, these factors would weigh in favor of march-in. Whereas, if there are alternatives that could meet or implement the regulatory requirements, that would weigh against march-in.

Policy & Objectives of Bayh-Dole—The agency would assess the practical impact of march-in on regulatory compliance, carefully evaluate alternatives, and look at the broader context (Would March-In Support the Policy & Objective of Bayh-Dole). For example, the direct interest from auto manufacturers suggests that march-in might increase production of the subject invention, since there are already interested licensees (Section I). Although the agency may also want to look at timelines; for example, if these technologies have short life cycles and there is likely to be more advanced technology to meet the regulatory requirements within the year, that could weigh against march-in. Likewise, the agency would continue to look at viable alternatives that are already available to meet the regulatory needs and could be relevant to avoid march-in (Section II). Finally, the agency would review the broader impacts and policy and objectives of Bayh-Dole (Section III). The agency may determine, because the contractor cannot meet the industry need, that the negative impacts on future R&D and utilization are minimal and decide to exercise march-in.

Scenario 8

Background: A government-funded university, after years of both broad and targeted marketing efforts, executed an exclusive license for a new compound demonstrated effective in Phase III clinical trials for treating Alzheimer's disease with a large Swiss pharmaceutical company active in drug development and the manufacture of proprietary medicines. The new compound was government-funded in its initial stages of development. The terms of the exclusive license did not reference the Bayh-Dole regulations and requirement for U.S. manufacturing unless waived by the government. The exclusive licensee has begun manufacturing limited quantities of the active pharmaceutical ingredient (API) of the compound at its existing facilities in Switzerland prior to FDA approval. The Swiss company has no manufacturing facilities in the U.S. The government-funded university self-reported to the funding agency the deficiency in the terms of the exclusive license and reported the status of manufacturing the API. The government-funded university has not requested a waiver. The head of the agency has asked about possible use of march-in rights.

Discussion:

Statutory Criteria—In this scenario, it appears that the contractor did not include the agreement terms required by 35 U.S.C. 204 in its exclusive license agreement (Statutorily Defined March-in Criterion 4). The agency would review the facts of the case to ensure that the U. S. industry preference under § 204 was triggered. Based on the facts presented, the contractor exclusively licensed the right to use or sell a product embodying the subject invention (Statutorily Defined March-In Criteria; Criterion 2, Section IV, A & C). The agency would need to confirm that the exclusive license included the right to use or sell in the U.S. (Section IV, B), and would need to confirm whether the preference for U.S. industry applies. Assuming § 204 is triggered, under this scenario the exclusive license does not include a provision requiring products to be manufactured substantially in the U.S. (Section I, C). The scenario provides that the licensee intends to manufacture only in Switzerland, but the agency would want to have the contractor confirm that the licensee has no U.S. manufacturing facilities (Section I, F). Finally, the scenario provides that the contractor has not requested a waiver

of the preference for U.S. industry (Sections I, C, 1; I, F, 1). These facts, without more and if not remedied, would collectively weigh in favor of march-in.

Policy & Objectives of Bayh-Dole—Next the agency will consider Bayh-Dole's policy and objectives in its march-in assessment. As part of this analysis, the agency should consult with the contractor and determine whether the license agreement could be amended to include the preference for U.S. industry and whether the current licensee would be willing and able to manufacture substantially in the U.S. Perhaps the agency could even assist in identifying potential U.S. manufacturers (Would March-In Support the Policy & Objective of Bayh-Dole Section II, A–C). If the contractor and current licensee agree to a U.S. manufacturer or manufacturing facilities, this would weigh against exercising march-in. If they refused, that could weigh in favor of march-in. The agency should also consider whether, if the contractor had submitted a waiver, a waiver would have been granted; and it should inquire as to whether the contractor, following a notice of non-compliance by the agency, submits a domestic manufacturing waiver request (Section I, D). In this scenario, it appears the contractor conducted extensive marketing to find a licensee; suggesting it was difficult to line up a manufacturer anywhere in the world. If the agency, for example, finds that the contractor offered this technology for license under similar terms to companies who were likely to manufacture in the U.S., but none of those manufacturers were interested, then the agency may consider granting a domestic manufacturing waiver and decide not to march-in. If the contractor refused to apply for a waiver, that could weigh in favor of march-in. As part of this assessment, the agency could likewise consider whether there is another prospective licensee able to manufacture substantially in the U.S. (Section I, E). Finally, the agency would consider the wider implications of march-in, including whether exercising march-in—if the contractor refused to amend its license, seek a waiver, or relocate manufacturing—would send a message that the U.S. industry preference provisions of the Bayh-Dole Act will be enforced (Section III, A, 2).

[FR Doc. 2023–26930 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD497]

Pacific Island Fisheries; Marine Conservation Plan for the Pacific Insular Area for the Commonwealth of the Northern Mariana Islands; Western Pacific Sustainable Fisheries Fund

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

ACTION: Notice of agency decision.

SUMMARY: NMFS announces approval of a Marine Conservation Plan (MCP) for the Commonwealth of the Northern Mariana Islands (CNMI).

DATES: This agency decision is effective from the publication of this notice through August 3, 2026.

ADDRESSES: You may obtain a copy of the MCP, identified by NOAA–NMFS–2023–0150, from the Federal e-Rulemaking Portal, *https://www.regulations.gov* and type NOAA–NMFS–2023–0150 in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results), or from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, telephone 808–522–8220, *https://www.wpcouncil.org.*

FOR FURTHER INFORMATION CONTACT: Keith Kamikawa, Sustainable Fisheries, NMFS Pacific Islands Regional Office, 808–725–5177.

SUPPLEMENTARY INFORMATION: Section 204(e) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the Secretary of State, with the concurrence of the Secretary of Commerce (Secretary), and in consultation with the Council, to negotiate and enter into a Pacific Insular Area fishery agreement (PIAFA). A PIAFA would allow foreign fishing within the U.S. Exclusive Economic Zone (EEZ) adjacent to American Samoa, Guam, or the CNMI. The Governor of the Pacific Insular Area to which the PIAFA applies must request the PIAFA. The Secretary of State may negotiate and enter the PIAFA after consultation with, and concurrence of, the applicable Governor.

Before entering into a PIAFA, the applicable Governor, with concurrence of the Council, must develop and submit to the Secretary a 3-year MCP providing details on uses for any funds collected by the Secretary under the PIAFA. NMFS is the designee of the Secretary for MCP review and approval. The Magnuson-Stevens Act requires payments received under a PIAFA to be deposited into the United States Treasury and then conveyed to the Treasury of the Pacific Insular Area for which funds were collected.

In the case of violations by foreign fishing vessels in the EEZ around any Pacific Insular Area, amounts received by the Secretary attributable to fines and penalties imposed under the Magnuson-Stevens Act, including sums collected from the forfeiture and disposition or sale of property seized subject to its authority, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the EEZ in which the violation occurred, after direct costs of the enforcement action are subtracted. The Pacific Insular Area government may use funds deposited into the Treasury of the Pacific Insular Area for fisheries enforcement and for implementation of an MCP.

Federal regulations at 50 CFR 665.819 authorize NMFS to specify catch limits for longline-caught bigeye tuna for U.S. territories. NMFS may also authorize each territory to allocate a portion of that limit to U.S. longline fishing vessels that are permitted to fish under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). Payments collected under specified fishing agreements are deposited into the Western Pacific Sustainable Fisheries Fund (SFF), and any funds attributable to a particular territory may be used only for implementation of that territory's MCP. An MCP must be consistent with the Council's FEPs, must identify conservation and management objectives (including criteria for determining when such objectives have been met), and must prioritize planned marine conservation projects.

At its 194th meeting held in March 2023, the Council reviewed and concurred with the MCP prepared by the Governor of the CNMI. This MCP was approved on June 20, 2023 and became effective on August 4, 2023 and is currently in effect (88 FR 39831). However, after the MCP was approved by NMFS in June 2023, the CNMI Department of Land and Natural Resources (DLNR) submitted an application to PIRO to use funds from the Western Pacific SFF to implement the MCP. NMFS staff determined that the projects described in the CNMI's application were not within the scope of the MCP currently in effect. This prompted the CNMI to develop a revised MCP that better addresses the needs of the CNMI and DLNR. The Council reviewed and concurred with the updated MCP at its 196th meeting in September 2023. Then on October 2, 2023, the Governor of the CNMI submitted the new MCP to NMFS for review and approval. The revised MCP contains the following seven conservation and management objectives:

1. Improve fisheries data collection and reporting;

2. Conduct resource assessment, monitoring, and research to gain a better understanding of marine resources and fisheries;

3. Conduct enforcement training and monitoring activities to promote compliance with federal and local mandates;

4. Promote responsible domestic fisheries development to provide long-term economic growth, stability, and local food production;

5. Conduct education and outreach, enhance public participation, and build local capacity;

6. Promote an ecosystem approach to fisheries management, climate change adaptation and mitigation, and regional cooperation; and

7. Recognize the importance of island cultures and traditional fishing practices in managing fishery resources, and foster opportunities for participation.

The conservation and management objectives of this revised MCP are identical to those included in the MCP currently in effect. Two of the projects identified to fulfill Objectives 3 and 5 have been revised. Please refer to the revised MCP for further detail. The evaluative criteria have also not been revised.

This notice announces that NMFS has reviewed the revised MCP submitted in October 2023, and has determined that it satisfies the requirements of the Magnuson-Stevens Act and is consistent with the Council's FEPs. Accordingly, NMFS has approved the MCP for the time period from the publication of this notice through August 3, 2026. This MCP supersedes the one approved previously for August 4, 2023, through August 3, 2026 (88 FR 39831, June 20, 2023).

Dated: December 5, 2023.

Everett Wayne Baxter,

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

[FR Doc. 2023–27014 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD565]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public online meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) ad-hoc Klamath River Fall Chinook Workgroup will hold an online meeting.

DATES: The online meeting will be held Thursday, January 11, 2024, from 9 a.m. until 3 p.m., Pacific Standard Time, or until business for the day concludes.

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) 820–2280, extension 412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Robin Ehlke, Staff Officer, Pacific Council; telephone: (503) 820–2410.

SUPPLEMENTARY INFORMATION: The primary purpose of the meeting is to discuss and develop preliminary recommendations to inform Pacific Council decision-making at the March and April 2024 Pacific Council meetings for the 2024 salmon pre-season management process as it relates to Klamath River fall Chinook management. Additional discussion on Klamath River Dam removal, monitoring, hatchery production, etc. and workload planning may also occur.

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: December 4, 2023.

Diane M. DeJames-Daly,

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

[FR Doc. 2023–26916 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to and deleted from the Procurement List:* January 7, 2024.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 785–6404 or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 10/20/2023, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service(s) to the Government.

2. The action will result in authorizing small entities to furnish the service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service(s) are added to the Procurement List:

Service(s)

Service Type: Contractor Operated Parts Store
Mandatory for: Offsite Contractor Operated Parts Store (COPARS), Best Work Industries for the Blind, Cherry Hill, NJ
Designated Source of Supply: BESTWORK INDUSTRIES FOR THE BLIND, INC, Cherry Hill, NJ
Contracting Activity: DEPT OF THE NAVY, NAVAIR WARFARE CTR AIRCRAFT DIV LKE

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2023–27009 Filed 12–7–23; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Quarterly Public Meeting

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Notice of public meeting.

DATES: January 25, 2024, from 1 p.m. to 4 p.m. ET.

ADDRESSES: The meeting will be held virtually only via Zoom webinar.

FOR FURTHER INFORMATION CONTACT: Angela Phifer, 355 E Street SW, Suite 325, Washington, DC 20024; (703) 798–5873; *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Committee for Purchase From People Who Are Blind or Severely Disabled is an independent government agency operating as the U.S. AbilityOne Commission. It oversees the AbilityOne Program, which provides employment opportunities through Federal contracts for people who are blind or have significant disabilities in the manufacture and delivery of products and services to the Federal Government. The Javits-Wagner-O'Day Act (41 U.S.C. chapter 85) authorizes the contracts.

Registration: Attendees *not* requesting speaking time should register not later than 11:59 p.m. ET on January 24, 2024. Attendees requesting speaking time must register not later than 11:59 p.m. ET on January 16, 2024, and use the comment fields in the registration form to specify the intended speaking topic/s. The registration link will be available by December 15, 2023, on the Commission's home page, *www.abilityone.gov,* under News and Events.

Commission Statement: This regular quarterly meeting will include updates from the Commission Chairperson, Executive Director, and Inspector General.

Public Participation: The public engagement session will address how the AbilityOne Program supports, and can increasingly support, the Federal Government's hiring of individuals with disabilities. Scheduled speakers will include Federal agency partners as well as former AbilityOne Program employees who now work for the Federal Government.

The Commission invites public comments and suggestions on the public engagement topic. During registration, you may choose to submit comments, or you may request speaking time at the meeting. The Commission may invite some attendees who submit advance comments to discuss their comments during the meeting. Comments submitted will be reviewed by staff and the Commission members before the meeting. Comments posted in the chat box during the meeting will be shared with the Commission members after the meeting. The Commission is not subject to the requirements of 5 U.S.C. 552(b); however, the Commission published this notice to encourage the broadest possible participation in its meeting.

Personal Information: Speakers should not include any information that they do not want publicly disclosed.

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2023–27023 Filed 12–7–23; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 9 a.m. EST, Friday, December 15, 2023.

PLACE: Virtual meeting.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters. 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.cftc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: December 6, 2023.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2023–27124 Filed 12–6–23; 4:15 pm]

BILLING CODE 6351–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG24–48–000.
Applicants: Kiowa County Solar Project, LLC.
Description: Kiowa County Solar Project, LLC submits Notice of Self–Certification of Exempt Wholesale Generator Status.
Filed Date: 12/1/23.
Accession Number: 20231201–5300.
Comment Date: 5 p.m. ET 12/22/23.

Docket Numbers: EG24–49–000.
Applicants: Martin County Solar Project, LLC.
Description: Martin County Solar Project, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 12/1/23.
Accession Number: 20231201–5302.
Comment Date: 5 p.m. ET 12/22/23.

Docket Numbers: EG24–50–000.
Applicants: Martin County II Solar Project, LLC.
Description: Martin County II Solar Project, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 12/1/23.
Accession Number: 20231201–5304.
Comment Date: 5 p.m. ET 12/22/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–1411–003; ER22–48–003.
Applicants: Gridflex Generation, LLC, GenOn Bowline, LLC.
Description: Notice of Non-Material Change in Status of Bowline, LLC, et al.
Filed Date: 12/4/23.
Accession Number: 20231204–5095.
Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER23–2409–002.
Applicants: The Potomac Edison Company.
Description: Refund Report of The Potomac Edison Company.
Filed Date: 11/14/23.
Accession Number: 20231114–5187.
Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER24–76–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment to Revised SA No. 1313—NITSA Among PJM and CVEC to be effective 12/1/2023.

Filed Date: 12/4/23.

Accession Number: 20231204–5151.

Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER24–93–001.

Applicants: Ameren Transmission Company of Illinois.

Description: Tariff Amendment: Supplemental WVPA Fiber Agreement to be effective 12/14/2023.

Filed Date: 12/4/23.

Accession Number: 20231204–5065.

Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER24–99–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Deficiency Response Capacity Market Reforms to Accommodate the Energy Transition to be effective 12/12/2023.

Filed Date: 12/1/23.

Accession Number: 20231201–5335.

Comment Date: 5 p.m. ET 12/22/23.

Docket Numbers: ER24–220–000; TS24–1–000.

Applicants: NorthWestern Energy Public Service Corporation, NorthWestern Energy Public Service Corporation.

Description: Request for Waiver of Standards of Conduct Requirements of NorthWestern Energy Public Service Corporation.

Filed Date: 10/25/23.

Accession Number: 20231025–5285.

Comment Date: 5 p.m. ET 12/18/23.

Docket Numbers: ER24–526–000.

Applicants: Northern Indiana Public Service Company LLC.

Description: § 205(d) Rate Filing: MoodyTap CIAC Agreement to be effective 1/1/2024.

Filed Date: 12/1/23.

Accession Number: 20231201–5299.

Comment Date: 5 p.m. ET 12/22/23.

Docket Numbers: ER24–527–000.

Applicants: Keystone Appalachian Transmission Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Keystone Appalachian Transmission Company submits tariff filing per 35.13(a)(2)(iii–KATCo submits Operating and Interconnection Agreement, SA No. 6650 to be effective 12/31/9998.

Filed Date: 12/1/23.

Accession Number: 20231201–5314.

Comment Date: 5 p.m. ET 12/22/23.

Docket Numbers: ER24–528–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: ISO New England Inc. and New England Power Pool filing of Installed Capacity Requirements, Hydro-Quebec Interconnection Capability Credits and Related Values for 2024–2025, 2025- 2026 and 2026–2027 Annual Reconfiguration Auctions.

Filed Date: 11/30/23.

Accession Number: 20231130–5389.

Comment Date: 5 p.m. ET 12/21/23.

Docket Numbers: ER24–529–000.

Applicants: Pacific Gas and Electric Company.

Description: Annual Formula Transmission Rate Update Filing for Rate Year 2024 of Pacific Gas and Electric Company.

Filed Date: 12/1/23.

Accession Number: 20231201–5277.

Comment Date: 5 p.m. ET 12/22/23.

Docket Numbers: ER24–530–000.

Applicants: Pacific Gas and Electric Company.

Description: Wholesale Distribution Tariff for Rate Year 2024 of Pacific Gas and Electric Company.

Filed Date: 12/1/23.

Accession Number: 20231201–5273.

Comment Date: 5 p.m. ET 12/22/23.

Docket Numbers: ER24–531–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 7137; Queue No. AE2–204 to be effective 2/5/2024.

Filed Date: 12/4/23.

Accession Number: 20231204–5076.

Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER24–533–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA, Service Agreement No. 4766; Queue No. AB1–124 to be effective 2/5/2024.

Filed Date: 12/4/23.

Accession Number: 20231204–5089.

Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER24–534–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA, Service Agreement No. 4775; Queue No. AB1–125 to be effective 2/5/2024.

Filed Date: 12/4/23.

Accession Number: 20231204–5096.

Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER24–535–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original NSA, Service Agreement No. 7143; Queue No. AF1–039 to be effective 2/5/2024.

Filed Date: 12/4/23.

Accession Number: 20231204–5107.

Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER24–536–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original NSA, Service Agreement No. 7144; Queue No. AC1–221/AD1–058 to be effective 2/5/2024.

Filed Date: 12/4/23.

Accession Number: 20231204–5113.

Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER24–538–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original CRA, Service Agreement No. 7145, Non-Queue No. NQ212 to be effective 11/2/2023.

Filed Date: 12/4/23.

Accession Number: 20231204–5149.

Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER24–539–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Montana-Dakota NITSA (S.A. No. 1097) to be effective 1/1/2024.

Filed Date: 12/4/23.

Accession Number: 20231204–5152.

Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER24–540–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original NSA, Service Agreement No. 7146; Queue No. AB1–105 to be effective 2/5/2024.

Filed Date: 12/4/23.

Accession Number: 20231204–5157.

Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER24–541–000.

Applicants: Kiowa County Solar Project, LLC.

Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 2/3/2024.

Filed Date: 12/4/23.

Accession Number: 20231204–5162.

Comment Date: 5 p.m. ET 12/26/23.

Docket Numbers: ER24–542–000.

Applicants: TAI Huntsville Solar LLC.

Description: Baseline eTariff Filing: TAI Huntsville, LLC MBR Application Filing to be effective 2/2/2024.

Filed Date: 12/4/23.

Accession Number: 20231204–5165.

Comment Date: 5 p.m. ET 12/26/23.

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, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18

CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: December 4, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–26975 Filed 12–7–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ24–4–000]

City of Riverside, California; Notice of Filing

Take notice that on December 1, 2023, City of Riverside, California submits tariff filing: City of Riverside 2024 Transmission Revenue Balancing Account Adjustment and Existing Transmission Contracts Update to be effective 1/1/2024.

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, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''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.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Comment Date: 5:00 p.m. Eastern Time on December 22, 2023.

Dated: December 4, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–26974 Filed 12–7–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL24–17–000]

Sandy Ridge Wind 2, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On December 4, 2023, the Commission issued an order in Docket No. EL24–17–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether Sandy Ridge Wind 2, LLC's proposed rate schedule is unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. *Sandy Ridge Wind 2, LLC,* 185 FERC ¶ 61,165 (2023).

The refund effective date in Docket No. EL24–17–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL24–17–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2022), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: December 4, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–26976 Filed 12–7–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ24–2–000]

City of Anaheim, California; Notice of Filing

Take notice that on November 28, 2023, City of Anaheim, California submits tariff filing: City of Anaheim 2024 Transmission Revenue Balancing Account Adjustment and Gross Load Update to be effective 1/1/2024.

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, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''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.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Comment Date: 5:00 p.m. Eastern Time on December 19, 2023.

Dated: December 4, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–26973 Filed 12–7–23; 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 Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–223–000.

Applicants: MarkWest Pioneer, L.L.C.

Description: § 4(d) Rate Filing: Quarterly Fuel Adjustment Filing to be effective 1/1/2024.

Filed Date: 12/1/23.

Accession Number: 20231201–5196.

Comment Date: 5 p.m. ET 12/13/23.

Docket Numbers: RP24–224–000.

Applicants: Texas Eastern Transmission, LP.

Description: § 4(d) Rate Filing: Negotiated Rates—Tenaska 910506 and 910529 to be effective 12/1/2023.

Filed Date: 12/1/23.

Accession Number: 20231201–5200.

Comment Date: 5 p.m. ET 12/13/23.

Docket Numbers: RP24–225–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: Rate Schedule S–2 Tracker Filing (PCB/ASA) to be effective 12/1/2023.

Filed Date: 12/1/23.

Accession Number: 20231201–5223.

Comment Date: 5 p.m. ET 12/13/23.

Docket Numbers: RP24–226–000.

Applicants: Honeoye Storage Corporation.

Description: § 4(d) Rate Filing: HSC 2023 Volume 1A Update Filing to be effective 1/1/2024.

Filed Date: 12/1/23.

Accession Number: 20231201–5263.

Comment Date: 5 p.m. ET 12/13/23.

Docket Numbers: RP24–227–000.

Applicants: Northern Border Pipeline Company.

Description: § 4(d) Rate Filing: Housekeeping—Negotiated Rate and Non-Conforming Agmts to be effective 1/1/2024.

Filed Date: 12/1/23.

Accession Number: 20231201–5325.

Comment Date: 5 p.m. ET 12/13/23.

Docket Numbers: RP24–228–000.

Applicants: Rover Pipeline LLC.

Description: § 4(d) Rate Filing: Summary of Negotiated Rate Capacity Release Agreements 12–4–2023 to be effective 12/1/2023.

Filed Date: 12/4/23.

Accession Number: 20231204–5054.

Comment Date: 5 p.m. ET 12/18/23.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP23–675–001.

Applicants: Pine Needle LNG Company, LLC.

Description: Compliance filing: Implementation of Approved Stipulation and Agreement in Docket No. RP23–675–000 to be effective 1/1/2024.

Filed Date: 12/1/23.

Accession Number: 20231201–5238.

Comment Date: 5 p.m. ET 12/13/23.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: December 4, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–26971 Filed 12–7–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ24–3–000]

City of Banning, California; Notice of Filing

Take notice that on November 30, 2023, City of Banning, California submits tariff filing: City of Banning 2024 Transmission Revenue Balancing Account Adjustment/Existing Transmission Contracts Update Amendment to be effective 1/1/2024.

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, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''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.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Comment Date: 5:00 p.m. Eastern Time on December 21, 2023.

Dated: December 4, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–26972 Filed 12–7–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Desert Southwest Region—Rate Order No. WAPA–209

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of rate order concerning formula rates for transmission and firm electric service.

SUMMARY: New formula rates for firm and nonfirm point-to-point (P2P) and network integration (Network) transmission service have been confirmed, approved, and placed into effect on an interim basis for the Desert Southwest Region (DSW) of the Western Area Power Administration (WAPA). The revisions to the existing formula rates for Parker-Davis Project (PDP) firm electric service (FES) and firm transmission service of Salt Lake City Area/Integrated Projects (SLCA/IP) power have also been confirmed, approved, and placed into effect on an interim basis. The new formula rates and revisions to existing formula rates combine the facilities use charge for Electrical District No. 5 to Palo Verde Hub Project (ED5–PVH) and the transmission service rates of Central Arizona Project (CAP), the southern portion of Pacific Northwest-Pacific Southwest Intertie Project (Intertie), and PDP.

DATES: The provisional formula rates under Rate Schedules DSW–FT1, DSW–NFT1, DSW–NTS1, PD–F8, and PD–FCT8 are effective on the first day of the first full billing period beginning on or after January 1, 2024, and will remain in effect through September 30, 2028, pending confirmation and approval by the Federal Energy Regulatory Commission (FERC) on a final basis or until superseded.

FOR FURTHER INFORMATION CONTACT: Jack D. Murray, Regional Manager, Desert Southwest Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, or email: *dswpwrmrk@wapa.gov,* or Tina Ramsey, Rates Manager, Desert Southwest Region, Western Area Power Administration, (602) 605–2565 or email: *dswpwrmrk@wapa.gov.*

SUPPLEMENTARY INFORMATION: The following Rate Schedules have been approved and confirmed by FERC on a

final basis, or approved by WAPA's Administrator on an interim basis and pending final approval and confirmation by FERC, through the dates indicated below:

Rate schedules	Rate order Nos.	Dates	
		Approval	Expiration
CAP-FT3 [1]	WAPA-193	12/10/2020	12/31/2025
INT-FT5 [2]	WAPA-210	10/1/2023	9/30/2024
PD-FT7 [2]	WAPA-210	10/1/2023	9/30/2024
CAP-NFT3 [1]	WAPA-193	12/10/2020	12/31/2025
INT-NFT4 [2]	WAPA-210	10/1/2023	9/30/2024
PD-NFT7 [2]	WAPA-210	10/1/2023	9/30/2024
CAP-NITS3 [1]	WAPA-193	12/10/2020	12/31/2025
INT-NTS4 [3]	WAPA-200	10/25/2022	9/30/2026
PD-NTS4 [3]	WAPA-200	10/25/2022	9/30/2026
PD-F7 [2]	WAPA-210	10/1/2023	9/30/2024
PD-FCT7 [2]	WAPA-210	10/1/2023	9/30/2024

Rate Schedules CAP–FT3, INT–FT5, and PD–FT7 apply to long-term and short-term firm P2P transmission service. Rate Schedules CAP–NFT3, INT–NFT4, and PD–NFT7 apply to nonfirm P2P transmission service. Rate Schedules CAP–NITS3, INT–NTS4, and PD–NTS4 apply to Network transmission service. Rate Schedules PD–F7 and PD–FCT7 apply to PDP FES and transmission service of SLCA/IP power, respectively. Existing rate schedules do not apply to ED5–PVH; rather, since the project began commercial operation in 2015, DSW has charged for the use of ED5–PVH facilities through a contractual arrangement with customers.[4] The facilities use charge for ED5–PVH is designed to recover all costs incurred by WAPA in connection with the project including debt service, operation, maintenance, replacements, and extraordinary repairs.

WAPA published a **Federal Register** notice (Proposed FRN) on June 30, 2023 (88 FR 42355), proposing new formula rates for firm and nonfirm P2P and Network transmission service and revisions to the existing formula rates for PDP FES and firm transmission service of SLCA/IP power. The proposed new formula rates and revisions to existing formula rates would combine the facilities use charge for the ED5–PVH and the transmission service rates of CAP, the southern portion of Intertie, and PDP. The Proposed FRN also initiated a 90-day public consultation and comment period and set forth the dates and location of the public information and public comment forums.

Legal Authority

By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to the WAPA Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to FERC. By Delegation Order No. S1–DEL–S3–2023, effective April 10, 2023, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–WAPA1–2023, effective April 10, 2023, the Under Secretary for Infrastructure further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This rate action is issued under Redelegation Order No. S3–DEL–WAPA1–2023 and Department of Energy procedures for public participation in rate adjustments set forth at 10 CFR part 903.[5]

Following a review of DSW's proposal, Rate Order No. WAPA–209, which provides the formula rates for transmission and firm electric service, is hereby confirmed, approved, and placed into effect on an interim basis. WAPA will submit Rate Order No. WAPA–209 to FERC for confirmation and approval on a final basis.

Department of Energy Administrator, Western Area Power Administration

In the Matter of: Western Area Power Administration, Desert Southwest Region, Transmission and Firm Electric Service, Formula Rates, Rate Order No. WAPA–209

Order Confirming, Approving, and Placing the Formula Rates for the Desert Southwest Region Into Effect on an Interim Basis

The formula rates in Rate Order No. WAPA–209 are established following section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152).[1]

By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to the Western Area Power Administration (WAPA) Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1–DEL–S3–

[1] Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket No. EF20–10–000.

[2] 88 FR 59904 (Aug. 30, 2023) (extending rate schedules and placing them into effect on an interim basis); FERC filing in Docket No. EF23–9–000.

[3] Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket No. EF21–6–000.

[4] The ED5–PVH is a 109-mile transmission project completed under WAPA's Transmission Infrastructure Program (TIP). TIP was established to implement section 301 of the Hoover Power Plant Act of 1984 (Pub. L. 98–381), which was enacted pursuant to section 402 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), and manage WAPA's $3.25 billion borrowing authority to support projects facilitating the delivery of renewable resources in the western United States.

[5] 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

[1] This Act transferred to, and vested in, the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other acts that specifically apply to the projects involved.

2023, effective April 10, 2023, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–WAPA1–2023, effective April 10, 2023, the Under Secretary for Infrastructure further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This rate action is issued under Redelegation Order No. S3–DEL–WAPA1–2023 and DOE procedures for public participation in rate adjustments set forth at 10 CFR part 903.[2]

Acronyms, Terms, and Definitions

As used in this Rate Order, the following acronyms, terms, and definitions apply:

ATRR: Annual Transmission Revenue Requirement.

Capacity: The electric capability of a generator, transformer, transmission circuit, or other equipment. It is expressed in kilowatts (kW) or megawatts (MW).

Capacity Rate: The rate which sets forth the charges for capacity. It is expressed in dollars per kilowatt-month and applied to each kilowatt of the customer's monthly contractual energy reservation.

DOE: Department of Energy.

Energy: Measured in terms of the work it can do over time. Electric energy is expressed in kilowatt-hours or megawatt-hours.

Energy Rate: The rate which sets forth the charges for energy. It is expressed in mills per kilowatt-hour and applied to each kilowatt-hour delivered to each customer.

FES: Firm electric service.

FRN: **Federal Register** notice—a document published in the **Federal Register** for WAPA to provide information of public interest.

kW: Kilowatt—the electrical unit of capacity that equals 1,000 watts.

kWh: Kilowatt-hour—the electrical unit of energy that equals 1,000 watts in 1 hour.

kW-month: Kilowatt-month—the electrical unit of the monthly amount of capacity.

kW-year: Kilowatt-year—the electrical unit of the yearly amount of capacity.

mills/kWh: Mills per kilowatt-hour—the unit of charge for energy (equal to one tenth of a cent or one thousandth of a dollar).

NEPA: National Environmental Policy Act of 1969, as amended.

Network: Network integration.

OATT: Open Access Transmission Tariff, including all schedules or attachments thereto, as amended from time to time and approved by FERC.

Order RA 6120.2: DOE Order outlining Power Marketing Administration financial reporting and rate-making procedures.

P2P: Point-to-point.

Power: Capacity and energy.

Provisional Formula Rates: Formula rates that are confirmed, approved, and placed into effect on an interim basis by the Secretary or his/her designee.

Effective Date

The provisional formula rates under Rate Schedules DSW–FT1, DSW–NFT1, DSW–NTS1, PD–F8, and PD–FCT8 will take effect the first day of the full billing period beginning on or after January 1, 2024, and will remain in effect through September 30, 2028, pending approval by FERC on a final basis or until superseded.

Public Notice and Comment

WAPA's Desert Southwest Region (DSW) followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in developing these formula rates. DSW took the following steps to involve interested parties in the rate process:

1. On June 30, 2023, a **Federal Register** notice (88 FR 42355) (Proposed FRN) announced the proposed formula rates and initiated a 90-day public consultation and comment period.

2. On June 30, 2023, DSW notified customers and interested parties of the proposed formula rates and provided a copy of the Proposed FRN by email.

3. On August 7, 2023, DSW held a public information forum via video conference and in person at DSW's Phoenix, Arizona office. DSW representatives explained the proposed formula rates and answered questions.

4. On August 29, 2023, DSW held a public comment forum via video conference and in person at DSW's Phoenix, Arizona office to provide an opportunity for customers and other interested parties to comment for the record.

5. DSW established a public website to post information about the rate process. The website is located at *www.wapa.gov/about-wapa/regions/dsw/rates/otr.*

6. During the 90-day consultation and comment period, which ended on September 28, 2023, DSW received comments from eleven entities. DSW's responses to questions received prior to the public comment forum were posted to the public website.

7. The comments received during or after the public comment forum are addressed in the ''Comments'' section. All comments have been considered in the preparation of this Rate Order.

Oral comments were received from the following organizations:

Electrical District No. 4 of Pinal County
Electrical District No. 7 of Maricopa County
Hohokam Irrigation and Drainage District
Maricopa Water District
Salt River Pima-Maricopa Indian Community
Town of Gilbert, Arizona
Town of Wickenburg, Arizona
Wellton-Mohawk Irrigation and Drainage District

Written comments were received from the following organizations:

Calpine Energy Services
Central Arizona Water Conservation District
Griffith Energy

Discussion

The rates for transmission service on Central Arizona Project (CAP), Pacific Northwest-Pacific Southwest Intertie Project (Intertie), and Parker-Davis Project (PDP), and the facilities use charge for Electrical District No. 5 to Palo Verde Hub Project (ED5–PVH), have substantially converged over the last several years. Combining the rates and facilities use charge for these projects into ''One Transmission Rate'' (OTR) is expected to provide benefits to DSW's customers by allowing more efficient scheduling and use of each project's transmission facilities, eliminating multiple charges (rate pancaking) among the transmission systems, and providing rate and financial stability by having a larger revenue requirement with a more diverse customer base.

Although the transmission service rates and facilities use charge are combined under the OTR, the projects remain separate for financial accounting and repayment purposes. The formula rates under the OTR provide sufficient revenue to recover annual operation, maintenance, and replacement costs, interest expense, and capital repayment requirements while ensuring repayment of the projects within the cost recovery criteria set forth in DOE Order RA 6120.2.

To implement the OTR, DSW's new rate schedules contain formula rates for firm and nonfirm P2P and Network transmission service. These new schedules supersede the existing rate schedules for CAP, Intertie, and PDP transmission service and replace the

[2] 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

contractual charge for the use of ED5–PVH facilities. DSW also made changes to the existing formula rates for PDP FES and firm transmission service of Salt Lake City Area/Integrated Projects (SLCA/IP) power so they align with the new rate schedule for firm P2P transmission service.

DSW's formula rates for firm and nonfirm P2P and Network transmission service under the OTR, along with PDP FES and firm transmission service of SLCA/IP power, will go into effect the first day of the first full billing period beginning on or after January 1, 2024, and remain in effect through September 30, 2028, or until DSW changes the formula rates through another public rate process pursuant to 10 CFR part 903, whichever occurs first.

Firm Point-to-Point Transmission Service

DSW's new rate schedule, DSW–FT1, applies to long-term and short-term firm P2P transmission service on CAP, Intertie, PDP, and ED5–PVH. This rate schedule contains formulas to calculate the rates for firm P2P transmission service. For long-term transmission service (one year or longer), the annual rate for each kW-year equals the combined ATRR of each project, which is the amount of revenue that each project needs to cover the costs associated with its transmission system, divided by the combined anticipated long-term capacity reservations for each project, rounded to the nearest 12-cent increment. For short-term transmission service (up to one year), the maximum rate for each kW is equal to the annual long-term rate divided by the applicable period of time (*i.e.,* monthly, weekly, daily and hourly) and rounded to up to five decimal places.

These long-term and short-term rates will be calculated annually using updated financial and capacity reservation information, as applicable. This new rate schedule supersedes Rate Schedules CAP–FT3, INT–FT5, and PD–FT7.

Nonfirm Point-to-Point Transmission Service

DSW's new rate schedule, DSW–NFT1, applies to nonfirm P2P transmission service on CAP, Intertie, PDP, and ED5–PVH. This rate schedule contains a formula to calculate the rate for nonfirm P2P transmission service. The nonfirm rate is calculated by dividing the annual long-term rate for firm P2P transmission service by 8,760 hours and rounding to five decimal places. The nonfirm rate will be calculated annually using the long-term rate for firm P2P transmission service. This new rate schedule supersedes Rate Schedules CAP–NFT3, INT–NFT4, and PD–NFT7.

Network Transmission Service

DSW's new rate schedule, DSW–NTS1, applies to Network transmission service on CAP, Intertie, PDP, and ED5–PVH. This rate schedule contains a formula to calculate the monthly charge for Network transmission service. The monthly charge is determined by multiplying the customer's load ratio share, the ratio of the customer's Network load to the transmission provider's total load, times one twelfth (1/12) of the combined ATRR of each project. The combined ATRR will be calculated annually using updated financial information. This new rate schedule supersedes Rate Schedules CAP–NITS3, INT–NTS4, and PD–NTS4.

PDP Firm Electric Service

DSW revised Rate Schedule PD–F7 so the transmission charge aligns with the new rate schedule, DSW–FT1, for long-term and short-term firm P2P transmission service on CAP, Intertie, PDP, and ED5–PVH. No changes occurred to the energy or capacity charges. DSW also made other minor changes to Rate Schedule PD–F7. Specifically, the rate schedule was modified to indicate that recently approved Rate Schedule DSW–UU1[3] applies to unauthorized transmission overruns. In addition, the section on transformer losses was deleted because it only pertained to deliveries made with meters located at distribution voltage, a situation that no longer exists for DSW. The revised rate schedule, PD–F8, supersedes PD–F7.

PDP Transmission Service of SLCA/IP Power

DSW revised Rate Schedule PD–FCT7 to align with the new rate schedule, DSW–FT1, for long-term and short-term firm P2P transmission service on CAP, Intertie, PDP, and ED5–PVH. DSW also made minor changes to sections of Rate Schedule PD–FCT7 addressing adjustment for losses and overrun of capacity. Specifically, the new rate schedule reflects that recently approved Rate Schedules DSW–TL1 and DSW–UU1[4] apply to transmission losses service and unreserved use, respectively. The revised rate schedule, PD–FCT8, supersedes PD–FCT7.

[3] Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket No. EF21–6–000.

[4] Ibid.

Table of Rate Schedules

The table below provides a crosswalk from the existing rate schedules to the new rate schedules.

RATE SCHEDULES

Existing	New
CAP–FT3, INT–FT5 & PD–FT7	DSW–FT1.
CAP–NFT3, INT–NFT4 & PD–NFT7	DSW–NFT1.
CAP–NITS3, INT–NTS4 & PD–NTS4	DSW–NTS1.
PD–F7	PD–F8.
PD–FCT7	PD–FCT8.

Prepayment of Service

Long-term firm P2P and Network transmission service under Rate Schedules DSW–FT1 and DSW–NTS1 will be paid one month in advance and credited in a subsequent month. The Intertie and PDP long-term firm P2P transmission customers currently prepay for service and will experience no change. As described below, CAP long-term firm P2P and PDP Network transmission customers and ED5–PVH facilities use customers will start prepaying for service when the rate schedules become effective.

The monthly prepayment for long-term firm P2P transmission service will be based on the capacity reserved. The monthly prepayment for Network transmission service will be based on the most recent bill. Since transmission customers that currently do not prepay for service will have two payments each month during the first two months, one for service in arrears and one for prepayment, customers may choose an optional four-month transitional period to phase in prepayments. With a transitional period, the two additional payments that are necessary during the first two months will be evenly distributed over the first four months to help mitigate the potential financial burden on customers.

Comments

DSW received oral and/or written comments during the public consultation and comment period from eleven entities. The comments expressed have been paraphrased and/or combined, where appropriate, without compromising the meaning of the comments.

A. *Comment:* A commenter requested the OTR be flexible to accommodate the inclusion of future projects which may be funded by WAPA's Transmission Infrastructure Program or non-DSW transmission facilities.

Response: WAPA believes the OTR can accommodate such projects if they are an element of CAP, Intertie, PDP, or ED5–PVH. Transmission facilities separate from those transmission

systems would require a public process to modify the formula rates for the OTR to accommodate them.

B. *Comment:* Several commenters expressed support for the OTR.

Response: WAPA appreciates the comments and support for establishing a single rate for DSW transmission systems.

C. *Comment:* A commenter inquired about the availability of additional markets to customers under the proposed OTR.

Response: The availability of additional markets will vary by customer and existing transmission system usage. However, subject to the OATT, customers would have the ability to redirect service on the entire DSW transmission system regardless of project and without being subject to additional charges and to reserve new transmission service on the entire DSW transmission system in one transaction.

D. *Comment:* A commenter believes the proposed OTR employs an arbitrary rate setting methodology adversely impacting Intertie-only customers by unfairly subsidizing other DSW transmission projects without providing any additional benefits.

Response: Since April 2022, DSW has held several customer workgroup meetings to review and discuss the OTR rate methodology to ensure it is sound and provides the best value for the customers. As part of this action, the Administrator determined the new rate schedules are the lowest possible consistent with sound business principles. Customers across DSW will receive multiple benefits from the OTR both in the short and long term. Customers taking transmission through the OTR will receive more efficient scheduling and use of each project's transmission facilities. The OTR will also eliminate multiple charges (rate pancaking) among the transmission systems and provide rate and financial stability by having a larger revenue requirement and more diverse customer base.

E. *Comment:* A commenter requested that Intertie-only customers be grandfathered under the existing Intertie rate structure to prevent subsidization of other DSW transmission projects.

Response: To realize the benefits of the OTR, including the elimination of rate pancaking and enhanced rate and financial stability, the transmission service rates and facilities use charge for all projects must be combined under one methodology. Preserving the rate structure for any particular project, or grandfathering particular customers, would undermine and be contrary to the purpose of the OTR. Even though the transmission service rates and facilities use charge would be combined under the OTR, the projects will remain separate for financial accounting and repayment purposes.

Certification of Rates

I have certified the Provisional Formula Rates under Rate Schedules DSW–FT1, DSW–NFT1, DSW–NTS1, PD–F8, and PD–FCT8 for DSW are the lowest possible rates, consistent with sound business principles. The Provisional Formula Rates were developed following administrative policies and applicable laws.

Availability of Information

Information used by DSW to develop the Provisional Formula Rates is available for inspection and copying at the Desert Southwest Regional Office, 615 South 43rd Avenue, Phoenix, Arizona. These documents are also available on WAPA's website at *www.wapa.gov/about-wapa/regions/dsw/rates/otr.*

Ratemaking Procedure Requirements

Environmental Compliance

WAPA has determined this action fits within the following categorical exclusion listed in appendix B to subpart D of 10 CFR part 1021: B4.3 (Electric power marketing rate changes). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment.[5] A copy of the categorical exclusion determination is available on WAPA's website at *www.wapa.gov/about-wapa/regions/dsw/environment.*

Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Submission to the Federal Energy Regulatory Commission

The Provisional Formula Rates herein confirmed, approved, and placed into effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and final approval.

[5] The determination was done in compliance with NEPA (42 U.S.C. 4321–4347); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

Order

In view of the above and under the authority delegated to me, I hereby confirm, approve, and place into effect, on an interim basis, Rate Order No. WAPA–209. The formula rates will remain in effect on an interim basis until: (1) FERC confirms and approves them on a final basis; (2) subsequent formula rates are confirmed and approved; or (3) such formula rates are superseded.

Signing Authority

This document of the Department of Energy was signed on December 1, 2023, by Tracey A. LeBeau, Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with 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 December 5, 2023.

Treena V. Garrett,

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

Rate Schedule DSW–FT1 Schedule 7 to OATT (Supersedes Rate Schedules CAP–FT3, INT–FT5 and PD–FT7)

United States Department of Energy Western Area Power Administration

Desert Southwest Region

Central Arizona Project, Electrical District No. 5 to Palo Verde Hub Project, Pacific Northwest-Pacific Southwest Intertie Project, Parker-Davis Project

Long-Term and Short-Term Firm, Point-to-Point Transmission Service

(Approved Under Rate Order No. WAPA–209)

Effective

The first day of the first full billing period beginning on or after January 1, 2024, and extending through September 30, 2028, or until superseded by another rate schedule, whichever occurs earlier.

Available

In the area served by the Central Arizona Project (CAP), Electrical District No. 5 to Palo Verde Hub Project (ED5–PVH), Pacific Northwest-Pacific

Southwest Intertie Project (Intertie), and Parker-Davis Project (PDP).

Applicable

This rate schedule applies to long-term and short-term firm point-to-point transmission service where capacity and energy are supplied at points of receipt on the CAP, ED5–PVH, Intertie, and PDP, and transmitted and delivered, less losses, to points of delivery on the CAP, ED5–PVH, Intertie, and PDP.

Character and Conditions of Service

Alternating current at 60 hertz, three-phase, delivered and metered at the voltages and points of delivery established by service agreement or non-OATT agreement.

Long-Term Rate

For transmission service one year or longer, the annual rate for each kilowatt per year (kW-year) equals the combined annual transmission revenue requirements for CAP, ED5–PVH, Intertie, and PDP divided by the anticipated long-term capacity reservations for CAP, ED5–PVH, Intertie, and PDP, rounded to the nearest 12-cent increment. The annual long-term rate for transmission service is payable monthly; the rate for each kilowatt per month (kW-month) equals the annual rate per kW-year divided by 12.

The long-term rate will be calculated annually based on the above formula with updated financial and capacity reservation information, as applicable. Discounts may be available in accordance with WAPA's OATT.

Short-Term Rates

For transmission service up to one year, the maximum rate for each kilowatt is the following:

Monthly	Annual long-term rate divided by 12 months and rounded two decimal places.
Weekly	Annual long-term rate divided by 52 weeks and rounded two decimal places.
Daily	Annual long-term rate divided by 365 days and rounded two decimal places.
Hourly	Annual long-term rate divided by 8,760 hours and rounded five decimal places.

Discounts may be available in accordance with WAPA's OATT.

Billing

Billing for firm point-to-point transmission service will occur monthly by applying the applicable rate under this schedule to the capacity reserved. There will be a single charge (no rate pancaking) for long-term or short-term firm transmission service over a continuous path across multiple projects. Payment for long-term point-to-point transmission service will be required one month in advance of said service.

Adjustment for Reactive Power

There shall be no entitlement to the transfer of reactive kilovolt-amperes at delivery points, except when such transfers may be mutually agreed upon by the customer and WAPA or their authorized representatives.

Adjustment for Losses

Capacity and energy losses incurred in connection with the transmission and delivery of capacity and energy shall be assessed in accordance with the rate schedule for transmission losses service in effect.

Unauthorized Overruns

WAPA will assess charges for unreserved use of transmission service in accordance with the rate schedule for unreserved use penalties in effect.

Rate Schedule DSW–NFT1, Schedule 8 to OATT (Supersedes Rate Schedules CAP–NFT3, INT–NFT4 and PD–NFT7)

United States Department of Energy Western Area Power Administration

Desert Southwest Region

Central Arizona Project, Electrical District No. 5 to Palo Verde Hub Project, Pacific Northwest-Pacific Southwest Intertie Project, Parker-Davis Project

Nonfirm Transmission Service

(Approved Under Rate Order No. WAPA–209)

Effective

The first day of the first full billing period beginning on or after January 1, 2024, and extending through September 30, 2028, or until superseded by another rate schedule, whichever occurs earlier.

Available

In the area served by the Central Arizona Project (CAP), Electrical District No. 5 to Palo Verde Hub Project (ED5–PVH), Pacific Northwest-Pacific Southwest Intertie Project (Intertie), and Parker-Davis Project (PDP).

Applicable

This rate schedule applies to nonfirm transmission service where capacity and energy are supplied at points of receipt on the CAP, ED5–PVH, Intertie, and PDP, and transmitted and delivered, less losses, to points of delivery on the CAP, ED5–PVH, Intertie, and PDP.

Character and Conditions of Service

Alternating current at 60 hertz, three-phase, delivered and metered at the voltages and points of delivery established by the capacity reservation.

Rate

For nonfirm transmission service, the maximum hourly rate for each kilowatt equals the annual long-term rate for firm point-to-point transmission service divided by 8,760 hours and rounded to five decimal places. The hourly rate will be calculated annually using updated information, as applicable. Discounts may be available in accordance with WAPA's OATT.

Billing

Billing for nonfirm transmission service will occur monthly by applying the rate under this rate schedule to the amount of capacity reserved. There will be a single charge (no rate pancaking) for nonfirm transmission service over a continuous path across multiple projects.

Adjustment for Reactive Power

There shall be no entitlement to the transfer of reactive kilovolt-amperes at delivery points, except when such transfers may be mutually agreed upon by the customer and WAPA or their authorized representatives.

Adjustment for Losses

Capacity and energy losses incurred in connection with the transmission and delivery of capacity and energy shall be assessed in accordance with the rate schedule for transmission losses service in effect.

Rate Schedule DSW–NTS1

Attachment H to OATT (Supersedes Rate Schedules CAP–NITS3, INT–NTS4 and PD–NTS4)

United States Department of Energy Western Area Power Administration

Desert Southwest Region

Central Arizona Project, Electrical District No. 5 to Palo Verde Hub Project, Pacific Northwest-Pacific Southwest Intertie Project, Parker-Davis Project

Network Integration Transmission Service

(Approved Under Rate Order No. WAPA–209)

Effective

The first day of the first full billing period beginning on or after January 1, 2024, and extending through September 30, 2028, or until superseded by another rate schedule, whichever occurs earlier.

Available

In the area served by the Central Arizona Project (CAP), Electrical District No. 5 to Palo Verde Hub Project (ED5–PVH), Pacific Northwest-Pacific Southwest Intertie Project (Intertie), and Parker-Davis Project (PDP).

Applicable

This rate schedule applies to network integration (Network) transmission service where capacity and energy are supplied from designated network resources on the CAP, ED5–PVH, Intertie, and PDP, and transmitted and delivered to designated network loads on the CAP, ED5–PVH, Intertie, and PDP.

Charge

The monthly charge for Network transmission service equals the customer's load ratio share, the ratio of the customer's network load to the transmission provider's total load, times one twelfth (1/12) of the combined annual transmission revenue requirements for CAP, ED5–PVH, Intertie, and PDP.

The combined annual transmission revenue requirement for CAP, ED5–PVH, Intertie, and PDP will be calculated annually with updated financial information.

Billing

Billing for network transmission service will occur monthly. There will be a single charge (no rate pancaking) for transmission service over multiple projects. Payment for network transmission service will be required one month in advance of said service.

Adjustment for Losses

Capacity and energy losses incurred in connection with the transmission and delivery of capacity and energy shall be assessed in accordance with the rate schedule for transmission losses service in effect.

Rate Schedule PD–F8 (Supersedes Rate Schedule PD–F7)

United States Department of Energy Western Area Power Administration

Desert Southwest Region

Parker-Davis Project

Firm Electric Service

(Approved Under Rate Order No. WAPA–209)

Effective

The first day of the first full billing period beginning on or after January 1, 2024, and extending through September 30, 2028, or until superseded by another rate schedule, whichever occurs earlier.

Available

In the area served by the Parker-Davis Project (PDP).

Applicable

The rate schedule applies to firm electric service supplied through one meter at one point of delivery, unless otherwise provided by contract.

Character and Conditions of Service

Alternating current at 60 hertz, three-phase, delivered and metered at the voltages and points of delivery established by contract.

Charges

Energy

Each firm electric service customer shall be billed a monthly energy charge. This charge equals the customer's monthly contractual energy reservation multiplied by the Energy Rate and rounded to the penny. The Energy Rate equals 50 percent of the annual generation revenue requirement divided by the estimated total generation delivery commitments, rounded to two decimal places.

Capacity

Each firm electric service customer shall be billed a monthly capacity charge. This charge equals the customer's monthly contractual capacity reservation multiplied by the Capacity Rate and rounded to the penny. The Capacity Rate equals 50 percent of the annual generation revenue requirement divided by the estimated total generation delivery commitments, rounded to two decimal places.

Transmission

Each firm electric service customer shall be billed monthly a transmission charge. This charge equals the customer's contractual reservation multiplied by the long-term rate calculated in accordance with the rate schedule for firm point-to-point transmission service in effect, rounded to the penny.

Lower Basin Development Fund Contribution

The contribution charge equals 4.5 mills/kWh for each kWh measured or scheduled to an Arizona customer and 2.5 mills/kWh for each kWh measured or scheduled to a California or Nevada customer.

Excess Energy

When excess energy is available, offered, and delivered to firm electric service customers, such excess energy shall be charged using the Energy Rate.

Unauthorized Overruns/Unreserved Use

Unauthorized overruns of energy and/or capacity shall be charged ten times the applicable Energy and/or Capacity Rate. Unreserved use of transmission service shall be charged in accordance with the rate schedule for unreserved use penalties in effect.

Power Factor

The firm electric service customer normally will be required to maintain a power factor at all points of measurement between 95-percent lagging and 95-percent leading.

Rate Schedule PD–FCT8 (Supersedes Rate Schedule PD–FCT7)

United States Department of Energy Western Area Power Administration

Desert Southwest Region

Parker-Davis Project

Firm Transmission Service of Salt Lake City Area/Integrated Project Power

(Approved Under Rate Order No. WAPA–209)

Effective

The first day of the first full billing period beginning on or after January 1, 2024, and extending through September 30, 2028, or until superseded by another rate schedule, whichever occurs earlier.

Available

In the area served by the Central Arizona Project (CAP), Electrical District No. 5 to Palo Verde Hub Project (ED5–PVH), Pacific Northwest-Pacific Southwest Intertie Project (Intertie), and Parker-Davis Project (PDP).

Applicable

This rate schedule applies to firm transmission service where Salt Lake City Area/Integrated Projects (SLCA/IP) capacity and energy are supplied at points of receipt on the PDP, and transmitted and delivered, less losses, to points of delivery on the PDP.

Character and Conditions of Service

Alternating current at 60 hertz, three-phase, delivered and metered at the voltages and points of delivery established by service agreement or non-OATT agreement.

Rate

For firm transmission service of SLCA/IP power, the annual rate for each kilowatt per year (kW-year) equals the long-term rate for point-to-point transmission service on CAP, ED5–PVH, Intertie, and PDP. The annual long-term rate for transmission service is payable monthly; the rate for each kilowatt per month (kW-month) equals the annual rate per kW-year divided by 12.

Billing

Billing for firm transmission service of SLCA/IP power will occur monthly by applying the rate under this rate schedule to the amount of capacity reserved. There will be a single charge (no rate pancaking) for firm transmission service over a continuous path across multiple projects. Payment for transmission service will be required one month in advance of said service.

Adjustments for Reactive Power

There shall be no entitlement to the transfer of reactive kilovolt-amperes at delivery points, except when such transfers may be mutually agreed upon by the customer and WAPA or their authorized representatives.

Adjustments for Losses

Capacity and energy losses incurred in connection with the transmission and delivery of capacity and energy shall be assessed in accordance with the rate schedule for transmission losses service in effect.

Unreserved Use

WAPA will assess charges for unreserved use of transmission service in accordance with the rate schedule for unreserved use penalties in effect.

[FR Doc. 2023–26963 Filed 12–7–23; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–099]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed November 27, 2023 10 a.m. EST Through December 4, 2023 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.*

EIS No. 20230168, Final, NMFS, HI, ADOPTION—Hawaii-Southern Californian Training and Testing Final Environmental Impact Statement/Overseas Environmental Impact Statement, Contact: Leah Davis 301–427–8431.

The National Marine Fisheries Service (NMFS) has adopted the United States Navy's Final EIS No. 20180255 filed 10/19/2018 with the Environmental Protection Agency. The NMFS was a cooperating agency on this project. Therefore, republication of the document is not necessary under section 1506.3(b)(2) of the CEQ regulations.

EIS No. 20230169, Final Supplement, NMFS, HI, ADOPTION—Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) Sonar, Contact: Leah Davis 301–427–8431.

The National Marine Fisheries Service (NMFS) has adopted the United States Navy's Final Supplement EIS No. 20190151 filed 06/28/2019 with the Environmental Protection Agency. The NMFS was a cooperating agency on this project. Therefore, republication of the document is not necessary under section 1506.3(b)(2) of the CEQ regulations.

EIS No. 20230170, Final Supplement, NMFS, GU, ADOPTION—Mariana Islands Training and Testing, Contact: Leah Davis 301–427–8431.

The National Marine Fisheries Service (NMFS) has adopted the United States Navy's Final Supplement EIS No. 20200115 filed 05/29/2020 with the Environmental Protection Agency. The NMFS was a cooperating agency on this project. Therefore, republication of the document is not necessary under section 1506.3(b)(2) of the CEQ regulations.

EIS No. 20230171, Final Supplement, NMFS, WA, ADOPTION—Northwest Training and Testing Activities Final Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement, Contact: Leah Davis 301–427–8431.

The National Marine Fisheries Service (NMFS) has adopted the United States Navy's Final Supplement EIS No. 20200184 filed 09/11/2020 with the Environmental Protection Agency. The NMFS was a cooperating agency on this project. Therefore, republication of the document is not necessary under section 1506.3(b)(2) of the CEQ regulations.

EIS No. 20230172, Final, NMFS, CA, ADOPTION—Point Mugu Sea Range, Contact: Leah Davis 301–427–8431.

The National Marine Fisheries Service (NMFS) has adopted the United States Navy's Final EIS No. 20220002 filed 12/30/2021 with the Environmental Protection Agency. The NMFS was a cooperating agency on this project. Therefore, republication of the document is not necessary under section 1506.3(b)(2) of the CEQ regulations.

EIS No. 20230173, Final Supplement, NMFS, AK, ADOPTION—Gulf of Alaska Navy Training Activities, Contact: Leah Davis 301–427–8431.

The National Marine Fisheries Service (NMFS) has adopted the United States Navy's Final Supplement EIS No. 20220125 filed 08/25/2022 with the Environmental Protection Agency. The NMFS was a cooperating agency on this project. Therefore, republication of the document is not necessary under section 1506.3(b)(2) of the CEQ regulations.

EIS No. 20230174, Final, USFS, AZ, Tonto National Forest Plan Revision, Review Period Ends: 01/08/2024, Contact: Tyna Yost 602–225–5200.

Dated: December 4, 2023.

Julie Smith,

Acting Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2023–26965 Filed 12–7–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company

Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than January 8, 2024.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Guaranty Capital Corporation, Belzoni, Mississippi;* to merge with Lafayette Bancorp, Inc., and thereby indirectly acquire Oxford University Bank, both of Oxford, Mississippi.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–27031 Filed 12–7–23; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than December 26, 2023.

A. Federal Reserve Bank of Dallas (Karen Smith, Director, Mergers & Acquisitions) 2200 North Pearl Street, Dallas, Texas 75201–2272. Comments can also be sent electronically to *Comments.applications@dal.frb.org:*

1. *Nicholas Andrew Davis, Midland, Texas;* to join the Davis/Maddox Family Group, a group acting in concert, to acquire voting shares of First West Texas Bancshares, Inc., and thereby indirectly acquire voting shares of West Texas National Bank, both of Midland, Texas.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–27030 Filed 12–7–23; 8:45 am]

BILLING CODE P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Notice of Board Meeting

DATES: December 14, 2023 at 10:00 a.m. EST.

ADDRESSES: Telephonic. Dial-in (listen only) information: Number: 1–202–599–1426, Code: 675 746 624#; or via web: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_OTIxOTM4MzAtYTUyOC00NzNkLWFkMTUtZGQ3ODVhZTY0OGQx%40thread.v2/0?context=%7b%22Tid%22%3a%223f6323b7-e3fd-4f35-b43d-1a7afae5910d%22%2c%22Oid%22%3a%2241d6f4d1-9772-4b51-a10d-cf72f842224a%22%7d.*

FOR FURTHER INFORMATION CONTACT: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

SUPPLEMENTARY INFORMATION: Board meeting agenda.

Open Session

1. Approval of the November 14, 2023, Board Meeting Minutes
2. Monthly Reports
   (a) Participant Report
   (b) Investment Report
   (c) Legislative Report
3. Quarterly Reports
   (d) Vendor Risk Management
4. Semi-Annual CLA Review
5. 2024 Board Calendar Review
6. Social Science Update

Authority: 5 U.S.C. 552b (e)(1).

Dated: December 5, 2023.

Dharmesh Vashee,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2023–26969 Filed 12–7–23; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

[File No. 232 3035]

ExotoUSA LLC—Old Southern Brass; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 8, 2024.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write ''ExotoUSA LLC—Old Southern Brass; File No. 232 3035'' on your comment and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary,

600 Pennsylvania Avenue NW, Suite CC–5610 (Annex V), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Thomas Harris (202–326–3620), Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave. NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule section 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of 30 days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained at *https://www.ftc.gov/news-events/commission-actions*.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 8, 2024. Write ''ExotoUSA LLC—Old Southern Brass File No. 232 3035'' on your comment. Your comment—including your name and your State—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Because of heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website. If you prefer to file your comment on paper, write ''ExotoUSA LLC—Old Southern Brass File No. 232 3035'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex V), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other State identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule section 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule section 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule section 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the *https://www.regulations.gov* website—as legally required by FTC Rule section 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule section 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this document and the news release describing the proposed settlement. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments it receives on or before January 8, 2024. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy*.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an agreement containing a consent order from ExotoUSA LLC, d/b/a Old Southern Brass, and Austin Oliver (''Respondents'').

The proposed consent order has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement and the comments received and decide whether it should withdraw from the agreement or make final the agreement's proposed order. This matter involves Respondents' advertising of glassware, mugs, pens, and other novelty items as made in the United States and claims of association with the U.S. military.

According to the FTC's complaint, Respondents (1) deceptively advertised certain products as made in the United States even though, in numerous instances, they were wholly imported, and (2) falsely claimed ExotoUSA LLC is veteran-operated, donates 10% of sales to military service charities, and incorporates bullets or bullet casings fired by the U.S. military into its products. Based on the foregoing, the complaint alleges Respondents violated section 5 of the Federal Trade Commission Act, 15 U.S.C. 45(a).

The proposed consent order contains provisions designed to prevent Respondents from engaging in similar acts and practices in the future. Consistent with the FTC's Made in USA Labeling Rule, 16 CFR part 323, and its Enforcement Policy Statement on U.S.-Origin Claims, 62 FR 63756, 63768 (Dec. 2, 1997), Part I prohibits Respondents from making U.S.-origin claims for their products unless: (1) the final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States; (2) a clear and conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients or components, and/or processing; or (3) for a claim that a product is assembled in the United States, the product is last substantially transformed in the United States, the product's principal assembly takes place in the United States, and United States assembly operations are substantial.

Part II prohibits Respondents from making any representation, including any claim about the country of origin of a product or service or any claim Respondents have an association with the U.S. military, unless the

representation is not misleading and Respondents have a reasonable basis substantiating it.

Parts III through V are monetary provisions. Part III imposes a judgment of $4,572,137.66 and partially suspends that judgment on the basis of the Respondents' sworn financial statements. If the Commission concludes any Respondent made a material misrepresentation or omission in that Respondent's sworn financial statement, the suspension as to that Respondent is lifted and the full judgment is immediately due. Part IV includes additional monetary provisions relating to collections. Part V requires Respondents to provide sufficient customer information to enable the Commission to administer consumer redress, if appropriate.

Part VI is a notice provision requiring Respondents to identify and notify certain consumers of the FTC's action within 30 days after the issuance of the order, or within 30 days of the consumer's identification, if identified later. Respondents are also required to submit reports regarding their notification program.

Parts VII through X are reporting and compliance provisions. Part VII requires Respondents to acknowledge receipt of the order, to provide a copy of the order to certain current and future principals, officers, directors, and employees, and to obtain an acknowledgement from each such person that they have received a copy of the order.

Part VIII requires Respondents to file a compliance report within one year after the order becomes final and to notify the Commission within 14 days of certain changes that would affect compliance with the order.

Part IX requires Respondents to maintain certain records, including records necessary to demonstrate compliance with the order. Part X requires Respondents to submit additional compliance reports when requested by the Commission and to permit the Commission or its representatives to interview Respondents' personnel. Finally, Part XI is a ''sunset'' provision, terminating the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

Joel Christie,

Acting Secretary.

[FR Doc. 2023–26945 Filed 12–7–23; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–XXXX; Docket No. 2023–0001; Sequence No. 8]

Information Collection; Data Collection for a National Evaluation of the American Rescue Plan

AGENCY: Office of Evaluation Sciences; Office of Government-wide Policy (OGP); General Services Administration (GSA).

ACTION: Notice of request for comments regarding a request for a new OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, OES is proposing new data collection activities conducted for the National Evaluation of the American Rescue Plan (ARP). The objective of this project is to provide a systematic look at the contributions of selected ARP-funded programs toward achieving equitable outcomes to inform program design and delivery across the Federal Government. The project will include in-depth, cross-cutting evaluations and data analysis of selected ARP programs, especially those with shared outcomes, common approaches, or overlapping recipient communities; and targeted, program-specific analyses to fill critical gaps in evidence needs.

DATES: Submit comments on or before February 6, 2024.

ADDRESSES: Submit comments identified by Information Collection 3090–XXXX; Data Collection for a National Evaluation of the American Rescue Plan via *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for the OMB Control number 3090–XXXX. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–XXXX; Data Collection for a National Evaluation of the American Rescue Plan''. Follow the instructions on the screen. Please include your name, company name (if any), and ''Information Collection 3090–XXXX; Data Collection for a National Evaluation of the American Rescue Plan'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite Information Collection 3090–XXXX; Data Collection for a National Evaluation of the American Rescue Plan, in all correspondence related to this collection. Comments received generally will be posted without change to *regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Elizabeth Martin, Program Manager, (267)455–8556 at *arp.national.evaluation@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The goal of this study is to look systematically across the selected subset of ARP programs, to provide an integrated account of whether, how, and to what extent their implementation served to achieve their intended outcomes, particularly with respect to advancing equity. More specifically, the study aims to learn how lessons from examination of ARP programs and interventions with shared outcomes, common approaches, or overlapping recipient communities may inform equitable program design and delivery across the Federal Government. The study aims to address these overarching evaluation questions:

- To what extent did ARP investments and policy interventions advance equitable outcomes for those they were designed to serve?
- What strategies contributed to the successes, and where are different strategies needed?
- Where multiple ARP programs aim to reach similar outcomes, especially among a shared population:
  - To what extent is there coordination across programs in their administration, customer experience strategies, or performance or outcome measurement practices?
  - To what extent are there collective impacts that could be attributed to more than one program? What kinds of impacts, if any, are observed?
  - What kinds of secondary effects are observed that may not be captured in targeted outcome measures?

The list of 32 programs covered in the May 2022 White House report ''Advancing Equity through the American Rescue Plan'' provided the scope of programs included in the National Evaluation. A partnership

between the Office of Management and Budget Evidence Team and GSA's Office of Evaluation Sciences, this study is also guided by leadership from the White House ARP Implementation Team, who participate on the Steering Committee, as well as a team of agency experts across the Federal Government.

To build evidence in support of the study goals, this project includes a series of up to five in-depth, cross-cutting evaluations of selected ARP programs or recipient communities of multiple ARP program investments with shared outcomes, common approaches, or overlapping recipient groups. These evaluations will be selected based on program, population, place, community, or a combination of these factors. A mixed-methods approach is anticipated in order to ensure that appropriate attention is paid to context and that data collection and analysis methods reflect the complexity of program implementation and address the specific evaluation questions identified through the ongoing planning and consultation process.

The ARP National Evaluation will use a multiple-phased approach for this proposed information collection activity. In Phase 1 (current request) the research team seeks approval to carry out consultations with the relevant state and local agencies, community-based organizations, and program participants, including the formal recruitment process to establish community advisory boards for each of the planned in-depth evaluations.

Under subsequent phases of the request, the project will update the information collection request for the instruments tailored to each in-depth evaluation, to reflect the specific evaluation design, information collection methods and instruments, and associated burden. The proposed information collection activities cover mixed-method approaches to implement primarily outcome and process evaluations. Data collection activities for these studies may include: (1) interviews with program administrators and staff; (2) focus groups, (3) short surveys of program participants and/or eligible non-participants, and (4) data requests.

Respondents: State and local program administrators, program staff, community-based program partners, and individuals who participate or are eligible to participate in the relevant ARP programs.

B. Annual Burden Estimates

The estimates below are based on the assumption that for each of up to 5 evaluations, we will consult with approximately 15 state and/or local program administrators or representatives from community-based organizations, recruit up to 9 participants for the community advisory boards (CAB) for each study, and initiate CAB meetings.

The anticipated information collections to be undertaken in Phase 2, for each of up to 5 evaluations, are expected to vary in their approaches to data collection and sample size. The estimate provided here anticipates that each of the evaluations may collect and analyze information from: approximately 5 program administrator interviews, 2 90-minute focus groups with program recipients (8 participants each), 1 brief survey of program recipients (sample of about 500 each), and 2 requests for extant administrative or implementation datasets. The subsequent information collection requests will describe the specific study design and associated burden for each evaluation.

Total respondents: 2,815.

Total annual responses: 18.

Average burden hours per response: 1.43.

Total Burden Hours: 1,385.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary, whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Lesley Briante,

Deputy Chief Information Officer.

[FR Doc. 2023–27007 Filed 12–7–23; 8:45 am]

BILLING CODE 6820–TZ–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: Document Identifiers: CMS–10453 and CMS–10592]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. 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 or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, 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.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by January 8, 2024.

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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''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 publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement with change of the previously approved collection; *Title of Information Collection:* Medicare Advantage and Prescription Drug Programs: Part C and Part D Explanation of Benefits; *Use:* Sections 1852(k)(2)(C)(i) and 1860D–(4)(a)(4) of the Act give CMS authority to require EOBs in MA and Part D, respectively. Corresponding MA and Part D regulations at 42 CFR 422.111(k) and 423.128(e) further specify the requirements to provide a written EOB directly to enrollees following their use of benefits.

These requirements and the CMS model documents help ensure that MA and Part D enrollees receive consistent and timely information about costs associated with their medical claims. Part C and Part D EOBs allow enrollees to track their out-of-pocket expenses and benefit utilization in relation to their plan's deductible and out-of-pocket threshold. This customized information positions enrollees to make informed decisions about their healthcare options. It also enables them to make a more practical use of the information found in plans' Annual Notice of Change and Evidence of Coverage documents, as well as information available through tools such as the Medicare Plan Finder.

MAOs and Part D sponsors use the model documents attached to this information collection to set up the EOB templates in their systems and ensure that EOBs conform with the requirements at 42 CFR 422.111(k) and 423.128(e). MAOs and Part D sponsors populate EOBs to reflect individual enrollee benefits under the plan. CMS issues model EOBs annually through the Health Plan Management System (HPMS). *Form Number:* CMS–10453 (OMB control number: 0938–1228); *Frequency:* Monthly; *Affected Public:* Private Sector, Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 1,065; *Total Annual Responses:* 1,065; *Total Annual Hours:* 10,650. (For policy questions regarding this collection contact Valerie Yingling at 667–290–8657.)

2. *Type of Information Collection Request:* Extension of a currently collection; *Title of Information Collection:* Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers; *Use:* Section 1321(a) requires HHS to issue regulations setting standards for meeting the requirements under title I of the Affordable Care Act including the offering of Qualified Health Plans (QHPs) through the Exchanges. On March 27, 2012, HHS published the rule CMS–9989–F: *Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers.* The Exchange rule contains provisions that mandate reporting and data collections necessary to ensure that health insurance issuers are meeting the requirements of the Affordable Care Act. These information collection requirements are set forth in 45 CFR part 156. The reporting requirements and data collection in the Exchange rule address minimum requirements that health insurance issuers must meet in order to comply with provisions in the Affordable Care Act with respect to participation in a State-based or the federally-facilitated Exchange (FFE).

Information collected by the Exchanges or Medicaid and CHIP agencies will be used to determine eligibility for coverage through the Exchange and insurance affordability programs (*i.e.,* Medicaid, CHIP, and advance payment of the premium tax credits); evaluate how CMS can best communicate eligibility and enrollment updates to issuers; and assist consumers in enrolling in a QHP if eligible. Applicants include anyone who may be eligible for coverage through any of these programs. *Form Number:* CMS–10592 (OMB control number: 0938–1341); *Frequency:* Annually; *Affected Public:* Private Sector: Business or other for-profits; *Number of Respondents:* 302; *Number of Responses:* 302; *Total Annual Hours:* 148,584. (For policy questions regarding this collection, contact Anne Pesto at 410–786–3492.)

Dated: December 5, 2023.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023–27033 Filed 12–7–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10387]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. 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 or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, 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.

DATES: Comments must be received by February 6, 2024.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10387—Minimum Data Set 3.0 Nursing Home and Swing Bed Prospective Payment System (PPS) For the collection of data related to the Patient Driven Payment Model and the Skilled Nursing Facility Quality Reporting Program (QRP)

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''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 requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Minimum Data Set 3.0 Nursing Home and Swing Bed Prospective Payment System (PPS) For the collection of data related to the Patient Driven Payment Model and the Skilled Nursing Facility Quality Reporting Program (QRP); *Use:* We are requesting to implement the MDS 3.0 v1.19.1 beginning October 1, 2024 in order to meet the requirements of policies finalized in the Federal Fiscal Year (FY) 2024 Skilled Nursing Facility (SNF) Prospective Payment System (PPS) final rule (CMS–1779–F, RIN 0938–AV02). Specifically, CMS adopted two new measures and removed three measures from the SNF QRP. As a result of these changes, the total annual hour burden across facilities has decreased, and the annual cost burden across facilities has decreased. *Form Number:* CMS–10387 (OMB control number: 0938–1140); *Frequency:* Yearly; *Affected Public:* Private Sector: Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 15,471; *Total Annual Responses:* 3,469,183; *Total Annual Hours:* 2,861,351. (For policy questions regarding this collection contact Heidi Magladry at 410–786–6034).

Dated: December 4, 2023.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023–26927 Filed 12–7–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10219 and CMS–10593]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. 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 or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, 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.

DATES: Comments must be received by February 6, 2024.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: __, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10219 HEDIS Data Collection for Medicare Advantage

CMS–10593 Establishment of an Exchange by a State and Qualified Health Plans

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management

and Budget (OMB) for each collection of information they conduct or sponsor. The term ''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 requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* HEDIS Data Collection for Medicare Advantage; *Use:* Sections 422.152 and 422.516 of Volume 42 of the Code of Federal Regulations (CFR) specify that MAOs must submit quality performance measures as specified by the Secretary of the Department of Health and Human Services and by CMS. These quality performance measures include HEDIS®. HEDIS® data are used in the Medicare Part C Star Ratings which are used to determine Quality Bonus Payments to Medicare Advantage contracts.

CMS requires MAOs, § 1876 cost contracts, and Medicare Medicaid Plans (MMPs or demonstrations) to submit HEDIS® data on an annual basis to (1) assess care that is provided to Medicare beneficiaries and (2) to provide information to Medicare beneficiaries to make more informed decisions when choosing a health plan.

The HEDIS® data collection supports the CMS strategic goals of advancing health equity and improving health outcomes for Medicare beneficiaries. The HEDIS® measures are part of the Medicare Part C Star Ratings as described at §§ 422.160, 422.162, 422.164, and 422.166. CMS publishes the Medicare Part C Star Ratings each year to: (1) incentivize quality improvement in Medicare Advantage (MA); and (2) assist beneficiaries in finding the best plan for them. The Star Ratings are used to determine MA Quality Bonus Payments. *Form Number:* CMS–10219 (OMB control number: 0938–1028); *Frequency:* Yearly; *Affected Public:* Private Sector, Business or other for-profits and Not-for-profits institutions ; *Number of Respondents:* 808; *Total Annual Responses:* 808; *Total Annual Hours:* 258,560. (For policy questions regarding this collection contact Lori Luria at *Lori.Luria@cms.hhs.gov*).

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Establishment of an Exchange by a State and Qualified Health Plans; *Use:* Section 1311(d) of the Affordable Care Act requires an Exchange to be a governmental agency or nonprofit entity established by a State; requires an Exchange make Qualified Health Plans (QHPs) available to eligible individuals and employers; and identifies the minimum functions an Exchange must perform. CMS and other federal partners will use the data collected from states operating SBEs to determine Exchange compliance with federal standards for operating the Exchange. The data that health insurance issuers, Exchanges, and other entities that Exchanges contract within performing Exchange functions collect will help to inform CMS, Exchanges, and health insurance issuers on the participation of individuals, employers, and employees in the individual Exchange and SHOP. *Form Number:* CMS–10593 (OMB control number: 0938–1312); *Frequency:* Annually; *Affected Public:* Private Sector, Business or other for-profits and Not-for-profits institutions; *Number of Respondents:* 20; *Total Annual Responses:* 20; *Total Annual Hours:* 55,026. (For policy questions regarding this collection contact Tiffany Y. Animashaun at *Tiffany.Animashaun@cms.hhs.gov*).

Dated: December 5, 2023.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023–27035 Filed 12–7–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2022–E–2194, FDA–2022–E–2195, and FDA–2022–E–2196]

Determination of Regulatory Review Period for Purposes of Patent Extension; Tivdak

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for Tivdak and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of patents which claim that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by February 6, 2024. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 5, 2024. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

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 February 6, 2024. 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 Nos. FDA–2022–E–2194, FDA–2022–E–2195, and FDA–2022–E–2196 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; TIVDAK.'' 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 § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biological product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product Tivdak (tisotumab vedotin). Tivdak is indicated for the treatment of adult patients with recurrent or metastatic cervical cancer with disease progression on or after chemotherapy. Subsequent to this approval, the USPTO received patent term restoration applications for Tivdak (U.S. Patent Nos. 9,150,658; 9,168,314; and 9,492,565) from Genmab A/S, and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated September 21, 2022, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of Tivdak represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for Tivdak is 2,959 days. Of this time, 2,736 days occurred during the testing phase of the regulatory review period, while 223 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* August 16, 2013. The applicant claims August 17, 2013, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was August 16, 2013, which was the first date after receipt of the IND that the investigational studies were allowed to proceed.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* February 10, 2021. FDA has verified the applicant's claim that the biologics license application (BLA) for Tivdak (BLA B761208) was initially submitted on February 10, 2021.

3. *The date the application was approved:* September 20, 2021. FDA has verified the applicant's claim that BLA B761208 was approved on September 20, 2021.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its applications for patent extension, this applicant seeks 997 days, 1,077 days, or 1,190 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may

submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: December 5, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–26992 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2021–E–1091 and FDA–2022–E–0249]

Determination of Regulatory Review Period for Purposes of Patent Extension; Pemazyre

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for Pemazyre and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by February 6, 2024. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 5, 2024. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

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 February 6, 2024. 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 Nos. FDA–2021–E–1091 and FDA–2022–E–0249 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; PEMAZYRE.'' 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 § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration,

10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, Pemazyre (pemigatinib), which is indicated for the treatment of adults with previously treated, unresectable locally advanced or metastatic cholangiocarcinoma with a fibroblast growth factor receptor 2 fusion or other rearrangement as detected by an FDA-approved test. Subsequent to this approval, the USPTO received patent term restoration applications for Pemazyre (U.S. Patent Nos. 9,611,267; 10,131,667) from Incyte Corp. and Incyte Holdings Corp., and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated September 8, 2022, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of Pemazyre represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for Pemazyre is 1,971 days. Of this time, 1,770 days occurred during the testing phase of the regulatory review period, while 201 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* November 26, 2014. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on November 26, 2014.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* September 30, 2019. FDA has verified the applicant's claim that the new drug application (NDA) for Pemazyre (NDA 213736) was initially submitted on September 30, 2019.

3. *The date the application was approved:* April 17, 2020. FDA has verified the applicant's claim that NDA 213736 was approved on April 17, 2020.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its applications for patent extension, this applicant seeks 309 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.)

Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: December 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–26996 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–3859]

Dr. Reddy's Laboratories, Inc.; Withdrawal of Approval of 11 Abbreviated New Drug Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** on October 4, 2023. The document announced the withdrawal of approval of 11 abbreviated new drug applications (ANDAs) from Dr. Reddy's Laboratories, Inc., withdrawn as of November 3, 2023. The document indicated that FDA was withdrawing approval of ANDA 203807, clozapine tablets, 25 milligrams (mg), 50 mg, 100 mg, and 200 mg, held by Dr. Reddy's Laboratories, Inc., U.S. Agent for Dr. Reddy's Laboratories SA, 107 College Rd. East, Princeton, NJ 08540. Before FDA withdrew the approval of this ANDA, Dr. Reddy's Laboratories, Inc., informed FDA that it did not want the approval of the ANDA withdrawn. Because Dr. Reddy's Laboratories, Inc., timely requested that approval of ANDA 203807 not be withdrawn, the approval is still in effect. This notice corrects that error.

FOR FURTHER INFORMATION CONTACT: Martha Nguyen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1676, Silver Spring, MD 20993–0002, 240–402–6980, *Martha.Nguyen@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Wednesday, October 4, 2023 (88 FR 68628), appearing on

page 68629 in FR Doc. 2023–21992, the following correction is made:

On page 68629, in the table, the entry for ANDA 203807 is removed.

Dated: December 5, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–26994 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2022–E–2102 and FDA–2022–E–2103]

Determination of Regulatory Review Period for Purposes of Patent Extension; EXKIVITY

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for EXKIVITY and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of patents which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by February 6, 2024. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 5, 2024. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

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 February 6, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket Nos. FDA–2022–E–2102 and FDA–2022–E–2103 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; EXKIVITY.'' 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 § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product EXKIVITY (mobocertinib). EXKIVITY is indicated for the treatment of adult patients with locally advanced or metastatic non-small cell lung cancer with epidermal growth factor receptor exon 20 insertion mutations, as detected by an FDA-approved test, whose disease has progressed on or after platinum-based chemotherapy. Subsequent to this approval, the USPTO received a patent term restoration application for EXKIVITY (U.S. Patent Nos. 9,796,712; 10,227,342) from Takeda Pharmaceutical Company Limited and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated September 28, 2022, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of EXKIVITY represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for EXKIVITY is 2,059 days. Of this time, 1,857 days occurred during the testing phase of the regulatory review period, while 202 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* January 28, 2016. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on January 28, 2016.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* February 26, 2021. FDA has verified the applicant's claim that the new drug application (NDA) for EXKIVITY (NDA 215310) was initially submitted on February 26, 2021.

3. *The date the application was approved:* September 15, 2021. FDA has verified the applicant's claim that NDA 215310 was approved on September 15, 2021.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its applications for patent extension, this applicant seeks 126 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: December 5, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27004 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2022–E–2014 and FDA–2022–E–2016]

Determination of Regulatory Review Period for Purposes of Patent Extension; Fotivda

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for Fotivda and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by February 6, 2024. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 5, 2024. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

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 February 6, 2024. 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 Nos. FDA–2022–E–2014 and FDA–2022–E–2016 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; FOTIVDA.'' 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 § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, Fotivda (tivozanib hydrochloride), which is indicated for treatment of adult patients with relapsed or refractory advanced renal cell carcinoma following two or more prior systemic therapies. Subsequent to this approval, the USPTO received patent term restoration applications for Fotivda (U.S. Patent Nos. 6,821,987; 7,166,722) from AVEO Pharmaceuticals, Inc. (agent of Kyowa Kirin Co., Ltd.) and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated September 13, 2022, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of Fotivda represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for Fotivda is 5,035 days. Of this time, 4,690 days occurred during the testing phase of the regulatory review period, while 345 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* May 30, 2007. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on May 30, 2007.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* March 31, 2020. FDA has verified the applicant's claim that the new drug application (NDA) for the approved product, Fotivda (NDA 212904), was initially submitted on March 31, 2020.

3. *The date the application was approved:* March 10, 2021. FDA has verified the applicant's claim that NDA 212904 was approved on March 10, 2021.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several

statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: December 5, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–26997 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–E–2185]

Determination of Regulatory Review Period for Purposes of Patent Extension; Nextstellis

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for Nextstellis and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by February 6, 2024. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 5, 2024. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

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 February 6, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–E–2185 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; NEXTSTELLIS.'' 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 § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biological product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, Nextstellis (drospirenone and estetrol) indicated for use by females of reproductive potential to prevent pregnancy. Subsequent to this approval, the USPTO received a patent term restoration application for Nextstellis (U.S. Patent No. 7,732,430) from Mayne Pharma LLC and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated September 21, 2022, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of Nextstellis represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for Nextstellis is 1,732 days. Of this time, 1,366 days occurred during the testing phase of the regulatory review period, while 366 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* July 20, 2016. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on July 20, 2016.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* April 15, 2020. FDA has verified the applicant's claim that the new drug application (NDA) for Nextstellis (NDA 214154) was initially submitted on April 15, 2020.

3. *The date the application was approved:* April 15, 2021. FDA has verified the applicant's claim that NDA 214154 was approved on April 15, 2021.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,048 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: December 5, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–26988 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–E–0248]

Determination of Regulatory Review Period for Purposes of Patent Extension; ZYNLONTA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for ZYNLONTA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by February 6, 2024. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 5, 2024. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

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 February 6, 2024. Comments received by mail/hand delivery/courier (for

written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–E–0248 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; ZYNLONTA.'' 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 § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biological product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product ZYNLONTA (loncastuximab tesirine-lpyl). ZYNLONTA is indicated for the treatment of adult patients with relapsed or refractory large B-cell lymphoma after two or more lines of systemic therapy, including diffuse large B-cell lymphoma (DLBCL) not otherwise specified, DLBCL arising from low grade lymphoma, and high-grade B-cell lymphoma. Subsequent to this approval, the USPTO received a patent term restoration application for ZYNLONTA (U.S. Patent No. 9,931,414) from ADC Therapeutics S.A., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 8, 2022, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of ZYNLONTA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for ZYNLONTA is 1,969 days. Of this time, 1,754 days occurred during the testing phase of the regulatory review period, while 215 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug,*

and Cosmetic Act (21 U.S.C. 355(i)) became effective: December 4, 2015. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on December 4, 2015.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* September 21, 2020. FDA has verified the applicant's claim that the biologics license application (BLA) for ZYNLONTA (BLA 761196) was initially submitted on September 21, 2020.

3. *The date the application was approved:* April 23, 2021. FDA has verified the applicant's claim that BLA 761196 was approved on April 23, 2021.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 559 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: December 5, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–26982 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–E–5256]

Determination of Regulatory Review Period for Purposes of Patent Extension; SEYSARA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for SEYSARA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by February 6, 2024. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 5, 2024. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

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 February 6, 2024. 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–2019–E–5256 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; SEYSARA.'' 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 § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biological product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product SEYSARA (sarecycline hydrochloride). SEYSARA is indicated for the treatment of inflammatory lesions of non-nodular moderate to severe acne vulgaris in patients 9 years of age and older. Subsequent to this approval, the USPTO received a patent term restoration application for SEYSARA (U.S. Patent No. 8,318,706) from Paratek Pharmaceuticals, Inc., and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated December 23, 2019, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of SEYSARA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for SEYSARA is 2,946 days. Of this time, 2,599 days occurred during the testing phase of the regulatory review period, while 347 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* September 9, 2010. The applicant claims August 10, 2010, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was September 9, 2010, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* October 20, 2017. FDA has verified the applicant's claim that the new drug application (NDA) for SEYSARA (NDA 209521) was initially submitted on October 20, 2017.

3. *The date the application was approved:* October 1, 2018. FDA has verified the applicant's claim that NDA 209521 was approved on October 1, 2018.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,227 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: December 5, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27003 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–4973]

Bayer HealthCare Pharmaceuticals Inc., et al.; Withdrawal of Approval of CIPRO (Ciprofloxacin Hydrochloride) Oral Tablet, Equivalent to 100 Milligrams Base, and Five Generic Ciprofloxacin Hydrochloride, Oral Tablet, Equivalent to 100 Milligrams Base Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is

withdrawing the approval of CIPRO (ciprofloxacin hydrochloride (HCl)) oral tablet, equivalent to (EQ) 100 milligrams (mg) base under new drug application (NDA) 019537 and five generic ciprofloxacin HCl, oral tablet, EQ 100 mg base products which referenced it as their basis of submission. The holders of the applications requested withdrawal of the 100 mg strength products and waived their opportunity for a hearing.

DATES: Approval is withdrawn as of December 8, 2023.

FOR FURTHER INFORMATION CONTACT: Ayako Sato, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6206, Silver Spring, MD 20993–0002, 240–402–4191.

SUPPLEMENTARY INFORMATION: On October 22, 1987, FDA approved NDA 019537 for CIPRO (ciprofloxacin HCl) oral tablet, EQ 250 mg, 500 mg, and 750 mg base. On April 8, 1996, FDA approved a supplement to NDA 019537 to add the oral tablet, EQ 100 mg base to treat acute uncomplicated cystitis in adult females to be supplied as a cystitis pack containing six 100 mg oral tablets with a dosing regimen of 100 mg twice daily for 3 days. FDA approved the following generic ciprofloxacin HCl, oral tablet, EQ 100 mg base products under section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) which identified as their reference listed drug (RLD) the 100 mg strength tablet approved in NDA 019537: [1]

- ANDA 075593 approved on June 9, 2004;
- ANDA 075817 approved on June 25, 2007;
- ANDA 075939 approved on March 3, 2005;
- ANDA 076794 approved on February 10, 2005; and
- ANDA 076912 approved on February 18, 2005.

On May 18, 2005, FDA approved labeling revisions for NDA 019537, including updates to reflect that the 100 mg oral tablet product was no longer being marketed. Subsequently, the Agency made a safety and effectiveness determination that CIPRO (ciprofloxacin HCl) oral tablet, EQ 100 mg base was not discontinued for reasons of safety or effectiveness, which was later published in the **Federal Register** on October 1, 2019 (84 FR 52113). Since the Agency's initial safety and effectiveness determination, new information related to the safe and effective use of ciprofloxacin HCl, oral tablet, EQ 100 mg base for its indication has become available.

The resistance of *Escherichia coli* (*E. coli*), the main causative pathogen for acute uncomplicated cystitis, to ciprofloxacin has been increasing since CIPRO (ciprofloxacin HCl) oral tablet, EQ 100 mg base for the treatment of acute uncomplicated cystitis was removed from the product labeling in 2005. The effectiveness of CIPRO (ciprofloxacin HCl) oral tablet, EQ 100 mg base and ciprofloxacin HCl, oral tablet, EQ 100 mg base for the treatment of acute uncomplicated cystitis is not supported by the current ciprofloxacin Susceptibility Test Interpretive Criteria (STIC) (a.k.a., breakpoints),[2] established by the Clinical and Laboratory Standards Institute and recognized by FDA on June 10, 2019.[3] Recent pharmacokinetic/pharmacodynamic analyses conducted by FDA indicated that the dosage regimen of ciprofloxacin HCl oral tablet, 100 mg twice daily for 3 days may not be effective for the treatment of acute uncomplicated cystitis. A review of published literature also showed that more contemporary studies of the treatment of acute uncomplicated cystitis with ciprofloxacin were conducted with the dosage of 250 mg twice daily or 500 mg extended-release tablet daily. A literature search produced no studies comparing the efficacy of ciprofloxacin 100 mg twice daily versus ciprofloxacin 250 mg twice daily or 500 mg extended-release tablet daily in treatment of acute uncomplicated cystitis. Finally, significant adverse reactions associated with the use of fluoroquinolones, including ciprofloxacin HCl, have been identified.[4] Given that the safe and effective use of ciprofloxacin hydrochloride tablets, 100 mg twice daily for 3 days for the treatment of acute uncomplicated cystitis is not supported by its current STIC, and considering the risks of serious adverse reactions along with the increased resistance of *E. coli* to ciprofloxacin, FDA believes that the potential problems associated with ciprofloxacin hydrochloride tablets, 100 mg are sufficiently serious that the product should be removed from the market under § 314.150(d) (21 CFR 314.150(d)).

On June 16, 2023, the Agency notified Bayer HealthCare Pharmaceuticals Inc. that it believes the potential problems associated with the drug are sufficiently serious that the 100 mg strength product should be removed from the market pursuant to § 314.150(d). Bayer requested in a letter dated July 7, 2023, that FDA withdraw approval of the 100 mg strength product in NDA 019537 under § 314.150(d) and waived its opportunity for a hearing.

FDA also notified abbreviated new drug applications (ANDAs) 075593, 075817, 075939 and 076794 on June 16, 2023, and ANDA 076912 on June 21, 2023. FDA asked the ANDA holders to request withdrawal of approval under § 314.150(d) of the generic versions of ciprofloxacin HCl oral tablet, EQ 100 mg base, and to waive their opportunity for a hearing. In a letter dated June 26, 2023, Rising Pharma Holdings, Inc., requested that FDA withdraw approval of the 100 mg strength product in ANDA 075817 under § 314.150(d) and waived its opportunity for a hearing. In a letter dated June 30, 2023, Amneal Pharmaceuticals, LLC requested that FDA withdraw approval of the 100 mg strength product in ANDA 075939 under § 314.150(d) and waived its opportunity for a hearing. In separate letters dated July 7, 2023, Dr. Reddy's Laboratories and Watson Laboratories, Inc. requested that FDA withdraw approval of their 100 mg strength products in ANDA 075593 and in ANDA 076794, respectively, under § 314.150(d) and waived their opportunity for a hearing. In a letter dated July 12, 2023, Taro Pharmaceutical Industries, Ltd., requested that FDA withdraw approval of the 100 mg strength product in ANDA 076912 under § 314.150(d) and waived its opportunity for a hearing.

For the reasons discussed above, which Bayer and the ANDA holders do not dispute in their withdrawal request letters, and pursuant to the applicants' requests, FDA is withdrawing approval of the 100 mg strength product from one NDA and from the five ANDAs listed in the table below under § 314.150(d). This notice is limited to CIPRO (ciprofloxacin HCl) oral tablet, EQ 100 mg base and ciprofloxacin HCl, oral tablet, EQ 100 mg base for the treatment of acute uncomplicated cystitis. Other products approved in NDA 019537 for CIPRO (ciprofloxacin HCl) oral tablet or

[1] ANDA 076426 for ciprofloxacin HCl, oral tablet, EQ 100 mg was approved on June 15, 2005. In the **Federal Register** of October 4, 2016, FDA announced it was withdrawing the approval of ANDA 076426 upon request by the applicant under 21 CFR 314.150(c) (see 81 FR 68427, October 4, 2016).

[2] See Ciprofloxacin Oral, Injection products, available at *https://www.fda.gov/drugs/development-resources/ciprofloxacin-oral-injection-products*. Note *E. coli* is within the family of Enterobacteriaceae.

[3] 21st Century Cures Act: Annual Compilation of Notices of Updates from the Susceptibility Test Interpretive Criteria web page; Request for Comments, 85 FR 67353 at 67354–55, recognizing on June 10, 2019, updated standard susceptibility test interpretive criteria for ciprofloxacin.

[4] Fluoroquinolone Antimicrobial Drugs Information, available at *https://www.fda.gov/drugs/information-drug-class/fluoroquinolone-antimicrobial-drugs-information#:~:text=Fluoroquinolones%20are%20drugs%20approved%20for,such%20as%20colds%20or%20flu.*

related ANDAs for ciprofloxacin HCl, oral tablet (*e.g.,* the 250 mg base, 500 mg base, or 750 mg base strength products) remain approved. Distribution of CIPRO (ciprofloxacin HCl) oral tablet, EQ 100 mg base and ciprofloxacin HCl, oral tablet, EQ 100 mg base in interstate commerce without an approved application is illegal and subject to regulatory action (see sections 505(a) and 301(d) of the FD&C Act (21 U.S.C. 355(a) and 331(d)).

Application No.	Drug	Applicant
NDA 019537	CIPRO (ciprofloxacin HCl) oral tablet, EQ 100 mg base.	Bayer Healthcare Pharmaceuticals Inc., 100 Bayer Blvd., P.O. Box 915, Whippany, NJ 07981–0915.
ANDA 075593	Ciprofloxacin HCl, oral tablet, EQ 100 mg base.	Dr. Reddy's Laboratories Ltd., 107 College Rd. East, 2nd Floor Princeton, NJ 08540.
ANDA 075817	Ciprofloxacin HCl, oral tablet, EQ 100 mg base.	Rising Pharma Holdings, Inc., 2 Tower Center Blvd., Suite 1401A, East Brunswick, NJ 08816.
ANDA 075939	Ciprofloxacin HCl, oral tablet, EQ 100 mg base.	Amneal Pharmaceuticals, LLC, 50 Horseblock Rd., Brookhaven, NY 11719.
ANDA 076794	Ciprofloxacin HCl, oral tablet, EQ 100 mg base.	Watson Laboratories, Inc., 400 Interpace Pkwy., Building A, Parsippany, NJ 07054.
ANDA 076912	Ciprofloxacin HCl, oral tablet, EQ 100 mg base.	Taro Pharmaceutical Industries, Ltd., 1600 Stewart Ave., Suite 604, Westbury, NY 11590.

Dated: December 5, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27015 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–E–0791]

Determination of Regulatory Review Period for Purposes of Patent Extension; VILTEPSO

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for VILTEPSO and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by February 6, 2024. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 5, 2024. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

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 February 6, 2024. 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–2021–E–0791 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; VILTEPSO.'' 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 § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, VILTEPSO (viltolarsen), which is indicated for the treatment of Duchenne muscular dystrophy (DMD) in patients who have a confirmed mutation of the DMD gene that is amenable to exon 53 skipping. This indication is approved under accelerated approval based on an increase in dystrophin production in skeletal muscle observed in patients treated with VILTEPSO. Continued approval for this indication may be contingent upon verification and description of clinical benefit in a confirmatory trial. Subsequent to this approval, the USPTO received a patent term restoration application for VILTEPSO (U.S. Patent No. 9,079,934) from Nippon Shinyaku Co., LTD. and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated August 24, 2022, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of VILTEPSO represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for VILTEPSO is 1,573 days. Of this time, 1,255 days occurred during the testing phase of the regulatory review period, while 318 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* April 24, 2016. The applicant claims March 24, 2016, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was April 24, 2016, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* September 30, 2019. The applicant claims February 1, 2019, as the date the new drug application (NDA) for VILTEPSO (NDA 212154) was initially submitted. However, FDA records indicate that on September 30, 2019, NDA 212154 (a complete application) was submitted.

3. *The date the application was approved:* August 12, 2020. FDA has verified the applicant's claim that NDA 212154 was approved on August 12, 2020.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,077 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: December 5, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27013 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–4849]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food Allergen Labeling and Reporting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with statutory provisions applicable to ingredients derived from major food allergens.

DATES: Either electronic or written comments on the collection of information must be submitted by February 6, 2024.

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 February 6, 2024. 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–4849 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Food Allergen Labeling and Reporting.'' 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: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on the following 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.

Food Allergen Labeling and Reporting

OMB Control Number 0910–0792—Revision

This information collection helps support implementation of statutory requirements pertaining to ingredients derived from major food allergens. The Federal Food, Drug, and Cosmetic Act (FD&C Act) defines the term ''major food allergen'' (section 201(qq) of the FD&C Act (21 U.S.C. 321(qq))) and provides that foods are misbranded unless they declare the presence of each major food allergen on the product label using the name of the food source from which the major food allergen is derived or are exempt from the requirement. Under sections 403(w)(6) and (7) of the FD&C Act (21 U.S.C. 343(w)(6) and (7)), respondents may request an FDA determination that an ingredient is exempt from the labeling requirement of section 403(w)(1) of the FD&C Act. Alternatively, an ingredient may become exempt through submission of a notification containing scientific evidence showing that the ingredient ''does not contain allergenic protein'' or that there has been a previous determination through a premarket approval process under section 409 of the FD&C Act (21 U.S.C. 348) that the ingredient ''does not cause an allergic response that poses a risk to human health'' (section 403(w)(7) of the FD&C Act).

To assist respondents with the information collection in this regard, the document entitled ''Guidance for Industry: Food Allergen Labeling Exemption Petitions and Notifications'' (June 2015), available on our website at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-food-allergen-labeling-exemption-petitions-and-notifications,* communicates information we recommend respondents include in petitions submitted under sections 403(w)(6) and (7) of the FD&C Act or notifications submitted under section 409 of the FD&C Act. We use the information submitted in the petition or notification to determine whether the ingredient satisfies the criteria of section 403(w)(6) and (7) of the FD&C Act for granting the exemption. The allergen information disclosed on the label or labeling of a food product benefits consumers who purchase that food product. Because even small exposure to a food allergen can potentially cause an adverse reaction, consumers rely upon food labeling information to help determine their product choices.

On April 23, 2021, the definition of the term *major food allergen* was amended by the Food Allergy Safety, Treatment, Education, and Research Act of 2021 (FASTER Act) (Pub. L. 117–11) to include sesame. Accordingly, we are revising the information collection to account for burden attributable to required declarations and/or associated requests for exemption as they pertain to foods that include sesame. We issued the draft guidance document entitled ''Questions and Answers Regarding Food Allergens, Including the Food Allergen Labeling Requirements of the Federal Food, Drug, and Cosmetic Act (Edition 5)'' (November 2022), available on our website at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/draft-guidance-industry-questions-and-answers-regarding-food-allergen-labeling-edition-5,* that once finalized, will communicate our current thinking regarding the labeling of food allergens, including sesame in food products regulated under section 403 of the FD&C Act. The guidance was issued consistent with our good guidance practice regulations in 21 CFR 10.115, which provide for public comment at any time.

Description of Respondents: The respondents to this collection of information are manufacturers and packers of packaged foods sold in the United States subject to the labeling requirements and prohibitions found in section 403 of the FD&C Act.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

FD&C Act Section; information collection activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours	Total capital costs
403; review product labeling for compliance with applicable statutory requirements	77,500	1	77,500	1	77,500	0
403; redesign/modifications to product labeling for compliance with applicable statutory requirements	775	1	775	16	12,400	$1,414,375
Total					89,900	1,414,375

[1] There are no operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1]

FD&C Act Section; information collection activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
403(w)(6); petition for exemptions	6	1	6	100	600
403(w)(7); notification submissions	6	1	6	68	408
Total					1,008

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimate of the third-party disclosure burden associated with food allergen labeling under section 403(w)(1) of the FD&C Act includes the time we assume respondents need to review the labels of new or reformulated

products for compliance with the requirements of section 403(w)(1) of the FD&C Act, along with the time needed to make any needed modifications to the labels of those products. We believe firms have already redesigned their labels to comply with requirements under the Food Allergen Labeling and Consumer Protection Act of 2004. However, this estimate accounts for firms that will redesign their label to comply with requirements under the FASTER Act. Our estimated reporting burden is based on our past experience with these submissions. We have increased our cumulative estimate by 12,552 hours and 776 responses annually to reflect the inclusion of sesame as a major food allergen.

Dated: December 5, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27018 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–2851]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Time and Extent Applications for Nonprescription Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by January 8, 2024.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://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. The OMB control number for this information collection is 0910–0688. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Rachel Showalter, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–994–7399, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Time and Extent Applications for Nonprescription Drug Products

OMB Control Number 0910–0688—Revision

I. Background

This information collection supports certain Agency regulations in part 330 (21 CFR part 330) regarding over-the-counter (OTC) human drugs and associated guidance. Specifically, FDA regulations in §§ 330.14 and 330.15 (21 CFR 330.14 and 330.15) establish additional criteria and procedures for classifying OTC drugs as generally recognized as safe and effective and not misbranded. These regulations provide that OTC drug products introduced into the U.S. market after the OTC drug review began in 1972 and OTC drug products without any marketing experience in the United States can be evaluated under the OTC monograph system if the conditions (*e.g.,* active ingredients) meet certain ''time and extent'' criteria outlined in the regulations. The regulations in § 330.14 allow a sponsor to submit certain information to the Agency in a time and extent application (TEA) for use to determine eligibility of a condition for consideration in the OTC monograph system.

We developed the final guidance document entitled ''Time and Extent Applications for Nonprescription Drug Products'' (September 2011) (available from our website at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/time-and-extent-applications-nonprescription-drug-products*) to assist respondents with the information collection provisions found in the regulations. The guidance was issued consistent with our good guidance practice regulations at 21 CFR 10.115, which provide for comment at any time. The guidance explains what information an applicant should submit to the Agency to request that a drug product be included in the OTC drug monograph system. The guidance also discusses format and content elements, and the process for submitting information, consistent with the applicable regulations.

II. OTC Monograph Reform in the Coronavirus Aid, Relief, and Economic Security Act

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act (Pub. L. 116–136, Stat. 281)) signed March 27, 2020, included provisions that govern the way certain OTC drugs are regulated in the United States. The CARES Act added section 505G to the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355h), which reforms and modernizes the OTC drug review process, including establishing new procedures for consideration of additions or changes to conditions covered in OTC monographs. As a result of these revised statutory provisions, we anticipate no submissions under § 330.14. Our OTC *Monographs@FDA* portal (*https://dps.fda.gov/omuf*) provides additional information about OTC monograph drugs and the OTC drug review process.

Consistent with section 505G(k)(3) of the FD&C Act, we plan to withdraw the regulations supporting the TEA provisions in part 330 and discontinue the related guidance document. When these actions occur, we will also request discontinuation of the information collection approved under OMB control number 0910–0688.

In the **Federal Register** of August 8, 2023 (88 FR 53497), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
§ 330.14(c) and (d); Time and extent application and submission of information.	1	~1.29	1.29	861.78 hours (861 hours and 47 minutes).	1,112
§ 330.14(f) and (i); Submission of safety and effectiveness data, including data and information listed in § 330.10(a)(2), a listing of all serious adverse drug experiences that may have occurred (§ 330.14(f)(2)), and an official or proposed compendial monograph (§ 330.14(i)).					
§ 330.14(j) and (k); Submitter correspondence with FDA.					

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

As previously stated, as a result of the CARES Act statutory provisions described above, we anticipate no TEA submissions. For purposes of burden calculation, we assume one respondent as a placeholder. The burden we attribute to reporting activities is assumed to be distributed among the individual elements.

Our estimated burden for the information collection reflects, as a result of statutory requirements, a program change decrease of 6,894 hours and a corresponding decrease of 8 responses.

Dated: December 5, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–26985 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–E–5267]

Determination of Regulatory Review Period for Purposes of Patent Extension; Nuzyra Tablets (New Drug Application 209816)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) has determined the regulatory review period for Nuzyra Tablets (new drug application (NDA) 209816) and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by February 6, 2024. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 5, 2024. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

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 February 6, 2024. 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–2019–E–5267 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; NUZYRA TABLETS (NDA 209816).'' 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 § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biological product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product Nuzyra Tablets (NDA 209816) (omadacycline). Nuzyra Tablets (NDA 209816) is indicated for the treatment of adult patients with the following infections caused by susceptible microorganisms:

- Community-acquired bacterial pneumonia, and
- Acute bacterial skin and skin structure infections.

Subsequent to this approval, the USPTO received a patent term restoration application for Nuzyra Tablets (NDA 209816) (U.S. Patent No. 9,265,740) from Paratek Pharmaceuticals, Inc., and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated December 23, 2019, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of Nuzyra Tablets (NDA 209816) and Nuzyra Injection (NDA 209817) represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the products' regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for Nuzyra Tablets (NDA 209816) is 4,361 days. Of this time, 4,118 days occurred during the testing phase of the regulatory review period, while 243 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* October 26, 2006. The applicant claims September 26, 2006, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was October 26, 2006, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* February 2, 2018. FDA has verified the applicant's claim that the NDA for Nuzyra Tablets (NDA 209816) was initially submitted on February 2, 2018.

3. *The date the application was approved:* October 2, 2018. FDA has verified the applicant's claim that NDA 209816 was approved on October 2, 2018.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 597 days of patent term extension.

Note: We have determined that the regulatory review period for the human drug product, Nuzyra, approved under NDA 209816 is the same as the regulatory review period determined for the human drug product, Nuzyra, approved under NDA 209817.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: December 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–26989 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–E–3218]

Determination of Regulatory Review Period for Purposes of Patent Extension; VIZIMPRO

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for VIZIMPRO and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by February 6, 2024. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 5, 2024. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

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 February 6, 2024. 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–2019–E–3218 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; VIZIMPRO.'' 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 § 10.20 (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: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an

application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, VIZIMPRO (dacomitinib) indicated for the first-line treatment of patients with metastatic non-small cell lung cancer with epidermal growth factor receptor exon 19 deletion or exon 21 L858R substitution mutations as detected by an FDA-approved test. Subsequent to this approval, the USPTO received a patent term restoration application for VIZIMPRO (U.S. Patent No. 7,772,243) from Warner-Lambert Co. LLC and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated November 29, 2019, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of VIZIMPRO represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for VIZIMPRO is 4,794 days. Of this time, 4,554 days occurred during the testing phase of the regulatory review period, while 240 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* August 14, 2005. The applicant claims August 15, 2005, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was August 14, 2005, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* January 31, 2018. FDA has verified the applicant's claim that the new drug application (NDA) for VIZIMPRO (NDA 211288) was initially submitted on January 31, 2018.

3. *The date the application was approved:* September 27, 2018. FDA has verified the applicant's claim that NDA 211288 was approved on September 27, 2018.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,493 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: December 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–27012 Filed 12–7–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; 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 on Deafness and Other Communication Disorders Special Emphasis Panel; Research Opportunities for New Investigators to Promote Workforce Diversity.

Date: December 12, 2023.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, 6001 Executive Boulevard, Room 8351, Bethesda, MD 20892, (301) 451–6339, *kellya2@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: December 4, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–26943 Filed 12–7–23; 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 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: Center for Scientific Review Special Emphasis Panel; Topics in Epidemiology and Population Sciences.

Date: December 15, 2023.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rebecca I Tinker, MS, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20817, (301) 435–0637, *tinkerri@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 4, 2023.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–26942 Filed 12–7–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2023–0673]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0024

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0024, Safety Approval of Cargo Containers; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before February 6, 2024.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2023–0673] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2023–0673], and must be received by February 6, 2024.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Safety Approval of Cargo Containers.

OMB Control Number: 1625–0024.

Summary: This information collection is associated with requirements for owners and manufacturers of cargo containers to submit information and keep records associated with the approval and inspection of those containers. This information is required to ensure compliance with the International Convention for Safe Containers (CSC), see 46 U.S.C. 80503.

Need: This collection of information addresses the reporting and recordkeeping requirements for containers in 49 CFR parts 450 through 453. These rules are necessary since the U.S. is signatory to the CSC. The CSC requires all containers to be safety approved prior to being used in trade. These rules prescribe only the minimum requirements of the CSC.

Forms: None.

Respondents: Owners and manufacturers of containers, and organizations that the Coast Guard delegates to act as an approval authority.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 129,345 hours to 159,678 hours a year, due to an increase in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: November 30, 2023.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2023–26957 Filed 12–7–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6057–N–05]

RIN 2577–AD03

Housing Opportunity Through Modernization Act: Implementation of Sections 102, 103, and 104; Extension of Compliance Date

AGENCY: Office of the Assistant Secretary for Community Planning and Development, U.S. Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: This notice extends the compliance date for HUD's final rule entitled ''Housing Opportunity Through Modernization Act of 2016: Implementation of Section 102, 103, and 104'' (''HOTMA final rule'') for Community Planning and Development (''CPD'') programs. Specifically, HUD is extending the compliance date for the HOME Investment Partnerships Program (''HOME''), HOME-American Rescue Plan program, Housing Trust Fund (''HTF''), Housing Opportunities for Persons With AIDS (''HOPWA''), Community Development Block Grant Program (''CDBG''), Emergency Solution Grants (ESG), Continuum of Care (CoC) programs, and CPD programs funded through competitive process (''CPD programs'') until January 1, 2025. HUD is taking this action to allow jurisdictions, participants, and grantees additional time to incorporate HUD's income and asset requirements into their own programs and the flexibility to transition implementing HOTMA requirements under their own timelines.

DATES: *Compliance Date:* CPD participating jurisdictions, participants, and grantees (''CPD grantees'') subject to 24 CFR parts 5, 92, 93, 570, 574, 576, and 578, or who apply the income requirements in 24 CFR part 5 pursuant to Notices of Funding Opportunity are not required to comply with the changes to these parts in the HOTMA final rule until January 1, 2025.

FOR FURTHER INFORMATION CONTACT: For the HOME Investment Partnerships Program and the Housing Trust Fund Program, Milagro Fisher, Senior Affordable Housing Specialist, Office of Affordable Housing Programs, at telephone (202) 708–2684, Room 7160; for the Housing Opportunities for Persons With AIDS program, Lisa Steinhauer, Senior Program Specialist, Office of HIV/AIDS Housing, at telephone (215) 861–7651, room 7248; for the Community Block Grant Program, B. Cory Schwartz, Deputy Director, State & Small Cities Division, at telephone (202) 402–4105, room 7282. The mailing address for each office contact is Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410–7000. 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.*

SUPPLEMENTARY INFORMATION:

I. Background

The HOTMA final rule was published on February 14, 2023 (88 FR 9600). The HOTMA final rule revises HUD's 24 CFR part 5 income regulations for Section 8, public housing, and other HUD programs. The HOTMA final rule included amendments to 24 CFR parts 92, 93, 570, and 574 to align income requirements to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) (Pub. L. 114–201, 130 Stat. 782). Additionally, the HOTMA final rule changed the income requirements for programs subject to 24 CFR parts 576 and 578, as well as competitive programs using Notices of Funding Opportunity (''NOFOs'') that reference the regulations in 24 CFR part 5. The final rule established an effective date for these amendments of January 1, 2024.

On September 29, 2023, HUD's Office of Public and Indian Housing (''PIH'') and Office of Housing announced that HUD would allow for a later compliance date than the effective date of the HOTMA final rule in Section 6 of Notice H 2023–10/PIH 2023–27 (''HOTMA Notice''). This was in response to requests from PHAs, owners, and related housing partners for additional time to prepare for HOTMA final rule implementation. Through the HOTMA Notice, HUD allowed PHAs the flexibility to establish their own compliance date for sections 102 and 104 of HOTMA as early as January 1, 2024, and no later than January 1, 2025.[1] HUD has determined that CPD grantees receiving assistance through CPD programs must be provided similar flexibilities as PHAs and is communicating these flexibilities through this notice.

II. Delay of Compliance Date

CPD programs serve a broad group of beneficiaries through a range of activities not generally authorized under other HUD programs, including but not limited to downpayment assistance, homeowner rehabilitation, rental assistance for tenants, emergency shelter, homeless prevention activities, public services, construction of public facilities and improvements, and installation of infrastructure. CPD funds used for housing development are often layered in the same projects or units that also receive funding under HUD's PIH and Housing programs, including the Section 8 voucher and rental assistance programs. Moreover, rental units developed with CPD funds may be occupied by families who also receive Federal tenant-based rental assistance (''TBRA''), including CPD-funded TBRA.

Under the HOTMA final rule, CPD programs that reference or use 24 CFR 5.603, 24 CFR 5.609, 24 CFR 5.611, 24 CFR 5.617, or 24 CFR 5.618 are subject to new or different requirements on January 1, 2024.[2] Additionally, HUD issued conforming regulations to 24 CFR parts 92, 93, 570, and 574 that are also effective January 1, 2024. To fully implement and comply with the HOTMA final rule no later than January 1, 2025, CPD program administrators must develop and/or update program guidelines, including policies, procedures, and internal systems, and conduct software updates to incorporate the new income and asset requirements prior to implementing these requirements for their programs. CPD program administrators must also identify ways in which CPD grantees can obtain income determinations from other HUD programs in order to implement program flexibilities that were built into the HOTMA final rule for those programs.

HUD recognizes that until HUD has provided the guidance and performed the software updates necessary for CPD

[1] See Section 6.1 of Section 6 of Notice H 2023–10/PIH 2023–27.

[2] When a grantee in CPD programs has a choice in applying a definition of annual income under their program regulations and the grantee chooses the definition in 24 CFR 5.609, then the grantee is subject to the applicable requirements in 24 CFR 5.609, as revised by the HOTMA final rule and applied in accordance with this Notice.

grantees to implement the HOTMA final rule, CPD grantees may not be able to comply with the requirements of the HOTMA final rule. Even after the necessary guidance and system updates are made, CPD grantees will still need additional time to incorporate this information into their program policies and procedures and update their systems and software. In recognition of these operational issues and challenges, HUD will allow CPD grantees to set their own compliance date for the applicable HOTMA final rule provisions. This compliance date may be as early as January 1, 2024, and no later than January 1, 2025. CPD grantees may continue to implement the requirements of the prior version of their program regulations and regulations in 24 CFR 5.603, 24 CFR 5.609, 24 CFR 5.611, and 24 CFR 5.617, as applicable, until the CPD grantee's compliance date.

III. Instructions for CPD Programs

HUD provides the below instructions and guidance for CPD programs. Before implementing the HOTMA final rule, CPD grantees must comply with all applicable HOTMA requirements to establish policies and procedures, including establishing hardship policies for programs implementing the hardship provisions contained in 24 CFR 5.611(c)–(e), policies prescribing when and under what conditions a family must report a change in family income or composition in accordance with 24 CFR 574.310(e)(4)(iv), and/or policies describing income verification when using the safe harbor provisions in 24 CFR 5.609(c). In addition, CPD grantees must perform the following, as applicable, to implement the HOTMA final rule:

- Conduct any public process necessary to comply with the consolidated plan requirements.
- Update program guidelines, policies and procedures, templates, income and asset forms, and applications.
- Conduct internal and external system and software updates.
- Update income and asset regulatory citations and requirements in written agreement templates.
- Require owners to send notices to tenants of any expected changes to leases or rents required by the HOTMA final rule.
- Train staff, subrecipients, and contractors on the new income requirements and perform outreach to housing partners (*e.g.,* project owners) to implement the HOTMA final rule.

To assist CPD grantees in implementing these requirements, HUD intends to issue supplemental guidance to HOME participating jurisdictions and HTF grantees, including guidance on obtaining income eligibility determinations made by PHAs, owners, and providers of HUD rental assistance or subsidy programs. HUD also intends to publish, through a **Federal Register** notice, guidance on implementing HOTMA standards applicable to the HOPWA program.

IV. Conclusion

Accordingly, HUD revises the January 1, 2024 compliance date for the changes made to 24 CFR parts 5, 92, 93, 570, and 574 for the CPD programs described in this notice to January 1, 2025, at which time CPD grantees subject to these parts must comply with the HOTMA final rule. Until January 1, 2025, CPD grantees subject to these parts may instead choose to comply with these parts as they existed prior to January 1, 2024.

Marion McFadden,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2023–27026 Filed 12–7–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2023–0198; FWS–R4–ES–2023–0194; and FWS–R4–ES–2023–0193; FXGO16621010010–245–FF10G13300]

Three Incidental Permit Applications and Proposed Habitat Conservation Plans; Lake, Volusia, and Orange Counties, FL; Reopening of Comment Periods

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; reopening of public comment periods.

SUMMARY: We, the U.S. Fish and Wildlife Service, are reopening the comment periods on notices announcing three incidental take permit applications, three proposed habitat conservation plans, and related documents. We are taking this action because of a disruption in the public's access to *regulations.gov* as a means of viewing documents and submitting comments when the three notices were initially published. We invite comments from the public and local, State, Tribal, and Federal agencies. If you already submitted a comment, you do not need to resubmit it.

DATES: The comment periods on the three notices, all of which published October 23, 2023 (88 FR 72774, 88 FR 72775, and 88 FR 72776), are reopened. We will accept comments received or postmarked on or before January 8, 2024.

ADDRESSES:

Obtaining Documents: You may obtain copies of documents for review, and view received public comments, at *http://www.regulations.gov.* Please see the table in **SUPPLEMENTARY INFORMATION** to ensure that you are look in the desired docket.

Submitting Comments: Please make sure you are commenting on the desired docket. See the table in **SUPPLEMENTARY INFORMATION** for docket information. You may submit written comments by one of the following methods:

- *Online: https://www.regulations.gov.* Search for and submit comments on the desired docket.
- *U.S. mail:* Public Comments Processing, Attn: [insert correct docket number]; U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB/3W, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Erin Gawera, by telephone at 904–404–2464 or via email at *erin_gawera@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), are reopening the comment periods on notices announcing three incidental take permit applications, three proposed habitat conservation plans, and related documents. We are taking this action because of a disruption in the public's access to *regulations.gov* when the three notices were initially published. If you previously submitted a comment, you need not resubmit it. The three notices for which we are reopening the comment periods are in the table below.

Notice subject	**Federal Register** citation	Docket No.
Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Florida Scrub-Jay and Sand Skink; Lake County, FL; Categorical Exclusion Applicants: Founders Ridge Development, LLC and Founders Ridge Development II, LLC.	88 FR 72774; October 23, 2023.	FWS–R4–ES–2023–0198
Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Florida Scrub-Jay; Volusia County, FL; Categorical Exclusion Applicant: Hector Aponte.	88 FR 72775; October 23, 2023.	FWS–R4–ES–2023–0194
Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Sand Skink; Orange County, FL; Categorical Exclusion Applicant: Orange County Parks and Recreation Division.	88 FR 72776; October 23, 2023.	FWS–R4–ES–2023–0193

Authority

The Service provides this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500–1508 and 43 CFR 46).

Robert L. Carey,

Manager, Division of Environmental Review, Florida Ecological Services Field Office, U.S. Fish and Wildlife Service.

[FR Doc. 2023–26977 Filed 12–7–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2023–N097; FXES11130100000–234–FF01E00000]

Endangered Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation and survival of endangered species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before January 8, 2024.

ADDRESSES:

Document availability and comment submission: Submit a request for a copy of the application and related documents and submit any comments by one of the following methods. All requests and comments should specify the applicant name and application number (*e.g.,* Dana Ross, ES001705):

- *Email: permitsR1ES@fws.gov.*
- *U.S. Mail:* Marilet Zablan, Regional Program Manager, Restoration and Endangered Species Classification, Ecological Services, U.S. Fish and Wildlife Service, Pacific Regional Office, 911 NE 11th Avenue, Portland, OR 97232–4181.

FOR FURTHER INFORMATION CONTACT: Karen Colson, Regional Recovery Permit Coordinator, Ecological Services, (503) 231–6283 (telephone); *permitsR1ES@fws.gov* (email). 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: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permits would allow the applicants to conduct activities intended to promote recovery of species that are listed as endangered under the ESA.

Background

With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA's definition of ''take'' includes such activities as pursuing, harassing, trapping, capturing, or collecting, in addition to hunting, shooting, harming, wounding, or killing.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. These activities often include such prohibited actions as capture and collection. Our regulations implementing section 10(a)(1)(A) for these permits are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

Application No.	Applicant, city, state	Species	Location	Take activity	Permit action
PER0008917–2	Institute for Applied Ecology, Corvallis, OR.	Taylor's checkerspot butterfly (*Euphydryas editha taylori*).	Oregon	Harm and harass by pursuit, capture, handle, identify, release; capture gravid adult females in the wild and transport to a captive propagation facility; transport larvae and pupae from a captive propagation facility to the wild; and salvage.	Amend.

Application No.	Applicant, city, state	Species	Location	Take activity	Permit action
ES19239B	Washington Department of Fish and Wildlife, Olympia, WA.	Taylor's checkerspot butterfly (*Euphydryas editha taylori*).	Washington	Harass by survey and monitor (foot and drone); capture, handle, biosample, and release; captively propagate and release; salvage; and lethally collect voucher specimens.	Renew with changes.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue a permit to the applicant listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Marilet A. Zablan,

Regional Program Manager for Restoration and Endangered Species Classification, Pacific Region.

[FR Doc. 2023–26970 Filed 12–7–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRSS–EQD–SSB—NPS0036744; PX.P0306931A.00.1; OMB Control Number 1024–NEW]

Agency Information Collection Activities; Visitor Impacts and Experiences Related to Wildlife in Yellowstone National Park

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 we, the National Park Service (NPS) are proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before February 6, 2024.

ADDRESSES: Written comments on this information collection request (ICR) can be sent to the NPS Information Collection Clearance Officer (ADIR–ICCO), 13461 Sunrise Valley Drive, (MS 244) Reston, VA 20192, VA 20191 (mail); or *phadrea_ponds@nps.gov* (email). Please reference Office of Management and Budget (OMB) Control Number ''1024–NEW (YELL Wildlife Survey)'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Lauren Miller, Social Scientist, at *lauren_miller@nps.gov* (email) or 307–250–9404 (telephone). Please reference OMB Control Number 1024–NEW (YELL Wildlife Survey) in the subject line of your comments. 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: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) is the collection necessary for the proper functions of the NPS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the NPS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the NPS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Authorized by 54 U.S. Code § 100702, Yellowstone National Park (YELL) established its strategic priorities in 2019 that help to guide short- and long-term decision-making. Specifically, Strategic Priority #2 focuses on taking the actions necessary to strengthen, preserve, and protect YELL's natural and cultural resources, including their associated processes, systems, and values in an unimpaired condition. Actions to fulfill this priority include conducting scientific research to inform resource-related decision-making, park planning, and education. The NPS proposes this new information collection request, Visitor Impacts and Experiences Related to Wildlife in Yellowstone National Park, to use scientific research about visitor impacts and experiences to inform park planning and management.

The Northern region of Yellowstone National Park (*e.g.,* Lamar Valley, Slough Creek) faces increased visitation as a result of wildlife viewing, which has led to issues of wildlife habituation. YELL wildlife managers, volunteers, and commercial use authorization (CUA) holders have substantial historical knowledge regarding human-wildlife conflicts in the park. This study seeks to expand that knowledge base by understanding visitors' perceptions and behaviors related to wildlife viewing and human-wildlife conflicts by employing on-site surveys with YELL visitors in the Lamar Valley during peak wolf-watching periods over the course of one winter, spring, and summer

(January–August). Results from this study will provide park managers with information about visitor perceptions and behaviors associated with wildlife viewing and adaptive management approaches for reducing human-wildlife conflicts.

Title of Collection: Visitor Impacts and Experiences Related to Wildlife in Yellowstone National Park.

OMB Control Number: 1024–NEW.

Form Number: None.

Type of Review: New.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 588.

Estimated Completion Time per Response: 11 minutes.

Total Estimated Number of Annual Burden Hours: 108 Hrs.

Respondent's Obligation: Voluntary.

Frequency of Collection: Survey over one winter season.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor nor is a person required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2023–26939 Filed 12–7–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0084]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Application/Permit for Temporary Importation of Firearms and Ammunition by Nonimmigrant Aliens

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until February 6, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, contact: Victoria Kenney, FEIB/FESD, either by mail at 244 Needy Road, Martinsburg, WV 25405, by email at *Victoria.Kenney@atf.gov,* or telephone at 304–616–3376.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: The Application/Permit for Temporary Importation of Firearms and Ammunition by Nonimmigrant Aliens—ATF Form 6NIA (5330.3D) is used by nonimmigrant aliens to temporarily import firearms and ammunition into the United States for hunting or other sporting purposes. The Information Collection (IC) OMB 1140–0084 is being revised to include renumbering, removal and addition of section items, grammatical changes (sentence rephrasing/statement modification), and instruction clarification.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *The Title of the Form/Collection:* Application/Permit for Temporary Importation of Firearms and Ammunition by Nonimmigrant Aliens.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number: ATF Form 6NIA (5330.3D).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: State, local and tribal governments, Individuals or households. The obligation to respond is Mandatory per title 18 U.S.C. 922(g)(5) (b); 27 CFR part 478.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 12,000 respondents will utilize the form once annually, and it will take each respondent approximately 30 minutes to complete their responses.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 6,000 hours, which is equal to 12,000 (total respondents) * 1 (# of response per respondent) * .5 (30 minutes).

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* There is no public cost associated with this information collection since the completed form can be emailed to ATF for processing.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency (annually)	Total annual responses	Time per response (min)	Total annual burden (hours)
ATF Form 6NIA (5330.3D)	12,000	1	12,000	30	6,000

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: December 4, 2023.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023–26918 Filed 12–7–23; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0007]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Release and Receipt of Imported Firearms, Ammunition, and Defense Articles

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until February 6, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, contact: Victoria Kenney, FEIB/FESD, either by mail at 244 Needy Road, Martinsburg, WV 25405, by email at *Victoria.Kenney@atf.gov,* or telephone at 304–616–3376.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: The information collected on the Release and Receipt of Imported Firearms, Ammunition and Implements of War—ATF Form 6A (5330.3C) is used by ATF personnel to determine if articles meet the statutory and regulatory criteria for importation, and also if the articles shown on the permit application were actually imported. The Information Collection (IC) OMB 1140–0007 is being revised to include grammatical changes (sentence rephrasing/statement modification), added checkboxes and instructions.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *The Title of the Form/Collection:* Release and Receipt of Imported Firearms, Ammunition, and Defense Articles.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number: ATF Form 6A (5330.3C).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: Private Sector-for or not for profit institutions.

The obligation to respond is Mandatory per title 18 U.S.C. 925(a), 22 U.S.C. 2778, and 26 U.S.C. 5844.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 25,000 respondents will utilize this form once annually, and it will take each respondent approximately 35 minutes to complete their responses.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 14,285 hours, which is equal to 25,000 (total respondents) * 1 (# of response per respondent) * .58332 (35 minutes).

7 *An estimate of the total annual cost burden associated with the collection, if applicable:* There is no start-up cost associated with this collection. The respondents that do not file electronically must mail the form to ATF. Approximately 15% of the respondents file electronically. The costs to respondents choose not to file electronically is postage. The postage cost is based on 25,000 × .51 postage = $12,750.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency (annually)	Total annual responses	Time per response (min)	Total annual burden (hours)
ATF Form 6A (5330.3A)	25,000	1	25,000	35	14,583

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: December 4, 2023.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023–26917 Filed 12–7–23; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On December 4, 2023, the Department of Justice filed a complaint in, and simultaneously lodged a proposed Clean Air Act Consent Decree with the United States District Court for the Eastern District of Michigan in the lawsuit entitled *United States and the Michigan Department of Environment, Great Lakes, and Energy* v. *R.J. Torching, Inc.,* Civil Action No. 23–CV–13056.

Simultaneous with this lodging, the United States and the Michigan Department of Environment, Great Lakes, and Energy (the ''State'') filed a complaint against the Defendant, R.J. Torching, Inc. (''Defendant''). The complaint seeks injunctive relief and civil penalties for violations of the regulations that limit particulate matter pollution from Defendant's torch-cutting operations in Flint and (previously) Battle Creek, Michigan. The Consent Decree requires Defendant to perform injunctive relief and pay a $150,000 penalty.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the Michigan Department of Environment, Great Lakes, and Energy* v. *R.J. Torching, Inc.,* D.J. Ref, No. 90–5–2–1–12118. All comments must be submitted no later than January 31, 2024. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $22.25 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $15.50.

Patricia McKenna,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–26944 Filed 12–7–23; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Registration and Equal Employment Opportunity in Apprenticeship Programs

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Registration and Equal Employment Opportunity in Apprenticeship Programs.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by February 6, 2024.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Ayesha Upshur by telephone at 202–693–2771 (this is not a toll-free number). For persons with a hearing or speech disability who need assistance to use the telephone system, please dial 711 to access telecommunications relay services.

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship, 200 Constitution Ave. NW, Room N–5311, Washington, DC 20210; by email: *OA-ICRs@dol.gov;* or by fax 202–693–3799.

FOR FURTHER INFORMATION CONTACT: Ayesha Upshur by telephone at 202–693–2771 (this is not a toll-free number) or by email at *OA-ICRs@dol.gov.*

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

ETA is requesting an extension to a currently approved ICR pursuant to the Paperwork Reduction Act. The National Apprenticeship Act (NAA) of 1937 (29 U.S.C. 50) authorizes this information collection. If approved, this ICR will enable ETA to continue its data collection concerning the registration of apprenticeship programs and apprentices with DOL/ETA's Office of Apprenticeship and recognized State Apprenticeship Agencies, properly assess the types of sponsors that are seeking to register an apprenticeship program and the level of growth in apprenticeship, collect the data necessary to calculate national registered apprenticeship program and apprentice totals, continue to implement the requirements of the Veterans Apprenticeship and Labor Opportunity Reform (VALOR) Act (Pub. L. 115–89) and the Support for Veterans in Effective Apprenticeships Act of 2019 (Pub. L. 116–134). This ICR will also continue to enable ETA to collect data from registered apprenticeship programs relating to equal employment opportunity, and from applicants and/or apprentices, who file a discrimination complaint. Under the NAA, the Secretary of Labor (Secretary) is charged with the establishment of labor standards designed to safeguard the welfare of apprentices and promote apprenticeship opportunity. The NAA also authorizes the Secretary to ''publish information relating to existing and proposed labor standards of apprenticeship.''

ETA seeks an extension of this ICR which includes the following: ETA Form 671 (Program Registration and Apprenticeship Agreement); ETA Form 9039 (Complaint Form—Equal Employment Opportunity in Apprenticeship Programs); and the information collection instrument pertaining to state program and apprentice registration (ETA Form 9186). ETA Forms 671, 9039, and 9186

are currently set to expire on June 30, 2024.

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 it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0223.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Extension.

Title of Collection: Registration and Equal Employment Opportunity in Apprenticeship Programs.

Forms: ETA Form 671, ETA Form 9039, and ETA Form 9186.

OMB Control Number: 1205–0223.

Affected Public: Individuals/households, state/local/tribal governments, Federal government, private sector (businesses or other for-profits, and, not-for-profit institutions).

Estimated Number of Respondents: 704,577.

Frequency: Varies.

Total Estimated Annual Responses: 1,066,917.

Estimated Average Time per Response: Varies.

Estimated Total Annual Burden Hours: 522,623 hours.

Total Estimated Annual Other Cost Burden: $0.

Authority: 44 U.S.C. 3506(c)(2)(A).

Laura P. Watson,

Deputy Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2023–26920 Filed 12–7–23; 8:45 am]

BILLING CODE 4510–FR–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Workforce Innovation and Opportunity Act Joint Quarterly Narrative Performance Report

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Workforce Innovation and Opportunity Act Joint Quarterly Narrative Performance Report.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by February 6, 2024.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Stephanie Pena by telephone at (202) 693–3153 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *Pena.Stephanie.L@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Training and Employment Administration, Division of Youth Services, Room NC–4526, 200 Constitution Avenue NW, Washington, DC 20210; by email: *Pena.Stephanie.L@dol.gov;* or by fax (202) 693–3015.

FOR FURTHER INFORMATION CONTACT: Stephanie Pena by telephone at (202) 693–3153 (this is not a toll-free number) or by email at *Pena.Stephanie.L@dol.gov.*

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Workforce Innovation and Opportunity Act (WIOA) (29 U.S.C. 3101) authorizes this information collection. This ICR allows ETA's Senior Community Service Employment Program (SCSEP) to perform data validation on data collected and reported to ETA on program activities and outcomes; and provides a streamlined WIOA Joint Quarterly Narrative Performance Report (Joint QNR) for several grant programs. DOL seeks a revision of this ICR to include the following changes: ETA has added the Dislocated Worker Demonstration grants to the list of grant programs which use the Joint QNR; minor edits have been made to the Joint QNR for streamlining and clarification purposes; and for the SCSEP Data Validation, a few non-substantive changes were made.

The Joint QNR provides a detailed account of program activities, accomplishments, and progress toward performance outcomes during the quarter. It also provides information on grant challenges and timeline progress, as well as the opportunity to share success stories. The continued use of a standardized narrative report supports WIOA implementation and the goal of systems alignment and consistency of reporting. This template also helps ensure consistent identification of technical assistance needs across the discretionary grant programs that are reporting on WIOA performance indicators and contributes to improved quality of performance information that ETA receives.

The National Farmworkers Job Program and YouthBuild grants are authorized under the Workforce Innovation and Opportunity Act of 2014, which identified performance accountability requirements for these grants. The WIOA performance indicators and reporting requirements also apply to the Dislocated Worker, Dislocated Worker Demonstration, and Reentry Employment Opportunities Grants. While H–1B and the DOL Office of Apprenticeship grants are not authorized under WIOA, these programs have adopted the WIOA performance indicators and align with WIOA data element definitions and reporting templates to promote consistency across these DOL-funded programs. The Senior Community Service Employment Program, authorized under the Older Americans Act, as amended (Pub. L. 114–144), has also adopted some of the WIOA performance measures and, for this reason has adopted the WIOA Joint QNR.

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 it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1320.5(a) and 1320.6.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Revision.

Title of Collection: Workforce Innovation and Opportunity Act Joint Quarterly. Narrative Performance Report.

Form: Quarterly Narrative Performance Report Template (ETA–9179).

OMB Control Number: 1205–0448.

Affected Public: State, Local, and Tribal Governments, Private Sector.

Estimated Number of Respondents: 1,395.

Frequency: Quarterly.

Total Estimated Annual Responses: 4,112.

Estimated Average Time per Response: Joint QNR: 10 hours; SCSEP Data Validation: 40.5 hours.

Estimated Total Annual Burden Hours: 64,951 hours.

Total Estimated Annual Other Cost Burden: $2,166,271.46.

Authority: 44 U.S.C. 3506(c)(2)(A).

Laura Watson,

Deputy Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2023–26919 Filed 12–7–23; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Rehabilitation Plan and Award

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before January 8, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Michelle Neary by telephone at 202–693–6312, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Form OWCP–16 is used by vocational rehabilitation counselors to submit an agreed upon rehabilitation plan to OWCP for approval, and documents OWCP's award of payment for any approved services. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on August 30, 2023 (88 FR 59941).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs

receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Rehabilitation Plan and Award.

OMB Control Number: 1240–0045.

Affected Public: Private Sector—Businesses or other for-profits; Not-for-profit institutions.

Total Estimated Number of Respondents: 3,413.

Total Estimated Number of Responses: 3,413.

Total Estimated Annual Time Burden: 1,707 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michelle Neary,

Senior PRA Analyst.

[FR Doc. 2023–26921 Filed 12–7–23; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Pathway Home Grant Program Evaluation

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Chief Evaluation Office (CEO)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before January 8, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

FOR FURTHER INFORMATION CONTACT: Wilson Vadukumcherry by telephone at 202–693–0110, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Chief Evaluation Office (CEO) in the U.S. Department of Labor (DOL) is undertaking the Pathway Home Grant Program Evaluation. The overall aim of the evaluation is to determine whether the Pathway Home grant programs improve employment and justice outcomes and workforce readiness for adults by expanding the availability of services to individuals in the justice system, both before and after release. The Evaluation of the Pathway Home Grant Program (Pathway Home Evaluation) offers a unique opportunity to build knowledge about the implementation and effectiveness of these programs. CEO contracted with Mathematica and its subcontractor, Social Policy Research Associates, to conduct an implementation and impact study. This information collection request seeks Office of Management and Budget (OMB) clearance for two new data collection instruments. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 31, 2023 (88 FR 34895).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–CEO.

Title of Collection: Pathway Home Grant Program Evaluation.

OMB Control Number: 1290–0NEW.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 546.

Total Estimated Number of Responses: 546.

Total Estimated Annual Time Burden: 242 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Wilson Vadukumcherry,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2023–26922 Filed 12–7–23; 8:45 am]

BILLING CODE 4510–HX–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps 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. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''*BLS Occupational Safety and Health Statistics (OSHS) Cooperative Agreement Application Package.*'' A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before February 6, 2024.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room G225, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by email to *BLS_PRA_Public@bls.gov.*

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, telephone number 202–691–7628 (this

is not a toll free number.) (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of Labor has delegated to the BLS the authority to collect, compile, and analyze statistical data on work-related injuries and illnesses, as authorized by the Occupational Safety and Health Act of 1970 (Pub. L. 91–596). The Cooperative Agreement is designed to allow the BLS to ensure conformance with program objectives. The BLS has full authority over the financial operations of the statistical program. The existing collection of information allows Federal staff to negotiate the Cooperative Agreement with the State Grant Agencies (SGAs) and monitor their financial and programmatic performance and adherence to administrative requirements imposed by the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (2 CFR 200) and other grant related regulations. The information collected also is used for planning and budgeting at the Federal level and in meeting Federal reporting requirements. The BLS requires financial reporting that will produce the information that is needed to monitor the financial activities of the BLS Occupational Safety and Health Statistics grantees.

II. Current Action

Office of Management and Budget clearance is being sought for the OSHS Cooperative Agreement application package. The extension of this collection of information will allow the BLS to incorporate routine annual updates to the Cooperative Agreement and work statements which define SGA deliverables and requirements and allow the BLS to carry out its responsibilities to monitor financial and programmatic performance.

The Cooperative Agreement application package being submitted for approval is representative of the package sent every year to state agencies. The work statements included in the Cooperative Agreement application also are representative of what is included in the whole OSHS Cooperative Agreement package. The final Cooperative Agreement, including the work statements, will be submitted separately to the Office of Management and Budget for review of any minor year-to-year information collection burden changes they may contain.

III. Desired Focus of Comments

The BLS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- 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.

Title of Collection: BLS Occupational Safety and Health Statistics (OSHS) Cooperative Agreement Application Package.

OMB Number: 1220–0149.

Type of Review: Extension of a currently approved collection.

Affected Public: State, Local, or Tribal Governments.

Form	Number of respondents	Number of responses per respondent	Total responses	Average burden (hours)	Estimated total burden (hours)
Work Statements	55	1	55	2	110
OSHS Budget Information Form	55	1	55	1.5	82.5
BLS–OSHS2	55	4	220	1	220
BLS–OSHS TCF	55	1	55	8/60	7.3
OSHS Budget Variance Request Form	20	1	20	15/60	5
BLS–OSHS FRW–A: Base Programs	55	1	55	25/60	22.9
BLS–OSHS FRW–B: AAMC	5	1	5	25/60	2.1
BLS–OSHS Property Listing	28	1	28	25/60	11.7
Total	55	.....	493	.....	462

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, on this 1st day of December 2023.

Eric Molina,

Chief, Division of Management Systems, Branch of Policy Analysis.

[FR Doc. 2023–26926 Filed 12–7–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps 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. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''*Labor Market Information (LMI) Cooperative Agreement Application Package.*'' A copy of the proposed information collection request can be obtained by contacting the individual

listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before February 6, 2024.

ADDRESSES: Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room G225, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by email to *BLS_PRA_Public@bls.gov.*

FOR FURTHER INFORMATION CONTACT: Carol Rowan, BLS Clearance Officer, telephone number 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The BLS enters into Cooperative Agreements with State Workforce Agencies (SWAs) annually to provide financial assistance to the SWAs for the production and operation of the following LMI statistical programs: Current Employment Statistics, Local Area Unemployment Statistics, Occupational Employment Statistics, and Quarterly Census of Employment and Wages. The Cooperative Agreement provides the basis for managing the administrative and financial aspects of these programs.

The existing collection of information allows Federal staff to negotiate the Cooperative Agreement with the SWAs and monitor their financial and programmatic performance and adherence to administrative requirements imposed by the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (2 CFR 200) and other grant related regulations. The information collected also is used for planning and budgeting at the Federal level and in meeting Federal reporting requirements.

II. Current Action

Office of Management and Budget clearance is being sought for the LMI Cooperative Agreement application package. The extension of this collection of information will allow the BLS to incorporate routine annual updates to the Cooperative Agreement and work statements which define SWA deliverables and requirements and allow the BLS to carry out its responsibilities to monitor financial and programmatic performance.

The Cooperative Agreement application package being submitted for approval is representative of the package sent every year to state agencies. The work statements included in the Cooperative Agreement application also are representative of what is included in the whole LMI Cooperative Agreement package. The final Cooperative Agreement, including the work statements, will be submitted separately to the Office of Management and Budget for review of any minor year-to-year information collection burden changes they may contain.

III. Desired Focus of Comments

The BLS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- 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.

Title of Collection: Labor Market Information (LMI) Cooperative Agreement Application Package.

OMB Number: 1220–0079.

Type of Review: Extension of a currently approved collection.

Affected Public: State, Local, or Tribal Governments.

Form	Number of respondents	Number of responses per respondent	Total responses	Average burden (hours)	Estimated total burden (hours)
Work Statements	54	1	54	1.5	81
LMI Budget Information Form (BIF)	54	1	54	1.5	81
Monthly Automated Financial Reports	12	12	144	15/60	36
LMI Obligations and Expenditures (ObEx) Form	42	12	504	1	504
Budget Variance Request Form	27	1	27	15/60	6.8
Transmittal and Certification Form	54	1	54	8/60	7.2
FRW–A: Base Programs	54	1	54	25/60	22.5
FRW–B: AAMC	15	1	15	25/60	6.3
Property Listing	27	1	27	25/60	11.3
Total	54		933		756

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, on December 1, 2023.

Eric Molina

Chief, Division of Management Systems, Branch of Policy Analysis.

[FR Doc. 2023–26925 Filed 12–7–23; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2024–008]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of proposed extension request.

SUMMARY: NARA proposes to request an extension from the Office of Management and Budget (OMB) of a currently approved information collection used when veterans or other authorized individuals request information from or copies of documents in military service records. We invite you to comment on this proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: We must receive written comments on or before February 6, 2024.

ADDRESSES: Send comments to Paperwork Reduction Act Comments (MP), Room 4100, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001 or email them to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Tamee Fechhelm by telephone at 301–837–1694 with requests for additional information or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) whether the proposed information collections are necessary for NARA to properly perform its functions; (b) NARA's estimate of the burden of the proposed information collections and its accuracy; (c) ways NARA could enhance the quality, utility, and clarity of the information it collects; (d) ways NARA could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether these collections affects small businesses. We will summarize any comments you submit and include the summary in our request for OMB approval. All comments will become a matter of public record. In this notice, NARA solicits comments concerning the following information collection:

Title: Request Pertaining to Military Records.

OMB number: 3095–0029.

Agency form number: SF 180 & NA Form 13176.

Type of review: Regular.

Affected public: Veterans, their authorized representatives, State and local governments, and businesses.

Estimated number of respondents: 871,294.

Estimated time per response: 5 minutes.

Frequency of response: On occasion (when respondent wishes to request information from a military personnel record).

Estimated total annual burden hours: 72,607 hours.

Abstract: The authority for this information collection is contained in 36 CFR 1233.18(d). In accordance with rules issued by the Department of Defense (DOD) and Department of Homeland Security (DHS, US Coast Guard), the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers military service records of veterans after discharge, retirement, and death. When veterans and other authorized individuals request information from or copies of documents in military service records, they must provide in forms or in letters certain information about the veteran and the nature of the request. Federal agencies, military departments, veterans, veterans' organizations, and the general public use Standard Forms (SF) 180, Request Pertaining to Military Records, in order to obtain information from military service records stored at NPRC. Veterans and next-of-kin of deceased veterans can also use eVetRecs (*http://www.archives.gov/research_room/vetrecs/*) to order copies. NA Form 13176, Status Update to Request for Military Service Records, was added to allow the veteran or other authorized individuals to follow-up on their request.

Sheena Burrell,

Executive for Information Services/CIO.

[FR Doc. 2023–26993 Filed 12–7–23; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Privacy Act of 1974; System of Records

AGENCY: National Science Foundation (NSF).

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, NSF proposes to establish a new agency system of records, entitled Freedom of Information Act and Privacy Act Request and Appeal Records, NSF–81. This system comprises records of requests and administrative appeals filed by individuals seeking access to agency records under the Freedom of Information Act, and requests and appeals by individuals seeking to access or amend agency records, if any, that NSF may maintain about them under the Privacy Act. System records about individual requesters, and their attorneys or representatives, if applicable, include the original request for access, amendment, and any administrative appeal, and other supporting documentation, which can include memoranda, correspondence, notes, copies of records released to the requester, and other file materials compiled or generated in the processing and disposition of the individual's request or appeal.

DATES: This system of records shall be effective December 8, 2023, except for the ''Routine Use'' section of this document, which shall not become effective until January 8, 2024. Public comments on such Routine Uses or any other aspect of this notice will be accepted until January 8, 2024.

ADDRESSES: Submit comments, identified by ''FOIA/PA SORN,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email:* Dorothy Aronson, Senior Agency Official for Privacy, *daronson@nsf.gov.* Include ''FOIA/PA SORN'' in the subject line of the message.
- *Mail:* Dorothy Aronson, Senior Agency Official for Privacy, Office of Information and Resource Management, NSF, 2415 Eisenhower Ave., Alexandria, VA 22314.

Instructions: NSF intends to post all comments on the NSF's website (*https://www.nsf.gov*). All comments submitted in response to this Notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Sandra Evans, FOIA/PA Officer, NSF, Office of General Counsel, 2415 Eisenhower Avenue, Alexandria, VA 22314, *foia@nsf.gov,* (703) 292–8060.

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, 5 U.S.C. 552a, NSF is publishing this notice of the establishment of an agency system of records (*i.e.,* system of records notice or SORN) pertaining to access requests and administrative appeals filed with NSF under the Freedom of Information Act (FOIA), and access and amendment requests and administrative appeals under the Privacy Act. This system (Freedom of Information Act and Privacy Act Request and Appeal Records, NSF–81) is being established due to NSF's acquisition of third-party commercial cloud-based services and software to track and manage electronically the receipt and processing

of FOIA and Privacy Act requests and appeals.

The system will be used by NSF to maintain records about individuals who submit FOIA access requests, Privacy Act access and amendment requests, administrative appeals to NSF under either the FOIA or Privacy Act, and FOIA and Privacy Act requests referred to NSF by other agencies. These records, which may be created or submitted in electronic and paper format, include the individual's request for access, amendment, or administrative appeal, and other supporting documentation to include related internal memoranda, correspondence with the requester or third parties about the request, notes of NSF personnel or contractors assigned to handle the request or appeal, logs or other data automatically generated by the system (*e.g.,* estimated deadline for the agency's response), copies of records, if any, released to the requester, and other file materials compiled or generated in the processing and disposition of the individual's request or appeal. The system does not duplicate any other existing NSF or Government-wide systems of records under the Privacy Act.

In accordance with subsection (r) the Privacy Act, at 5 U.S.C. 552a(r), and Office of Management and Budget (OMB) Circular No. A–108, in addition to publication in the **Federal Register**, NSF has also submitted notice of the establishment of this system of records to OMB and to the appropriate Congressional committees. All NSF SORNs, including this one, may be viewed at *www.nsf.gov/privacy.*

SYSTEM NAME AND NUMBER:

Freedom of Information Act and Privacy Act Request and Appeal Records, NSF–81.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314. Information may also be maintained for NSF by third-party provider(s) in cloud-based storage, subject to applicable Federal information security and privacy controls.

SYSTEM MANAGER(S):

FOIA/PA Officer, NSF, Office of General Counsel, 2415 Eisenhower Avenue, Alexandria, VA 22314.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Freedom of Information Act, as amended, 5 U.S.C. 552; Privacy Act of 1974, as amended, 5 U.S.C. 552a; 45 CFR parts 612 and 613 (NSF FOIA and PA regulations); OMB Circular Nos. A–130 and A–108.

PURPOSE(S) OF THE SYSTEM:

To report, track, and process access requests and administrative appeals under the FOIA, and access and amendment requests and administrative appeals under the Privacy Act; to participate in and support litigation that may arise from a FOIA and/or Privacy Act access request, amendment request, or administrative appeal; and to assist NSF in carrying out any other responsibilities under the FOIA or the access or amendment provisions of the Privacy Act.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who submit access requests and appeals to NSF for records under the FOIA and/or the Privacy Act; individuals who submit access requests to other Federal agencies whose requests have been referred to NSF for processing or consultation; individuals who request amendment of their records in an NSF system of records under the Privacy Act; and attorneys or other representatives of the individuals listed above who make an authorized FOIA or PA request on behalf of such individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system comprises records created or compiled by NSF in response to FOIA access and Privacy Act access and amendment requests, and administrative appeals, including initial requests and administrative appeals, and related FOIA or Privacy Act litigation, if any. System records include:

1. Identifying data about the requester or the request or appeal, including, but not limited to, the requester's name, mailing address, telephone numbers, email addresses, tracking number, date and subject of the request, and may include other information (*e.g.,* Social Security number) voluntarily submitted or on behalf of the individual in support of their request or appeal, as well as other system-generated data pertaining to the processing of the request or appeal (*e.g.,* estimated date for agency's response, extensions);

2. The agency's response to the individual's request or appeal (including copies of responsive records, if any, that were released to the requester), copies of emails, correspondence, and other communications with the requester or others (*e.g.,* third-party submitters of responsive records) generated or compiled in the course of processing a request or appeal;

3. Intra- or interagency memoranda, referrals, correspondence, notes, fee schedules, assessments, cost calculations, and other documentation related to the processing of the FOIA and/or Privacy Act request or appeal, including correspondence or data related to fee determinations and collection of fees owed under the FOIA or Privacy Act;

4. Memoranda, correspondence, notes, statements of disagreement following a denial of an appeal of a Privacy Act record amendment request, and other related or supporting Privacy Act documentation, which may include a signed certification, SSN, drivers' license ID, or other information submitted by the individual or authorized representative as proof of the requester's identity (or, in lieu thereof, identity verification data from login.gov or other non-NSF third-party agent used to establish the individual's identity); and

5. If a FOIA or PA request or appeal is litigated, information and materials relating to such litigation, including, but not limited to, affidavits, exhibits, record indexes, certifications, or other materials filed by or obtained from the Department of Justice (DOJ) and other government attorneys, personnel, and contractors.

Consistent with para. 2, records responsive to an individual's FOIA request, if they have not been released to the individual, are not treated as records maintained about that individual, or accessible to that individual, in this system under the Privacy Act. Such records may be part of one or more other NSF Privacy Act systems of records, see NSF SORNs at *www.nsf.gov/privacy,* and remain protected by applicable exemptions if disclosure is requested under the Privacy Act and/or the FOIA by the subject individual, or by any other requester under the FOIA.

RECORD SOURCE CATEGORIES:

Individuals who submit initial access requests and administrative appeals pursuant to the FOIA, and individuals submitting access or amendment requests and administrative appeals under the Privacy Act, and attorneys or other authorized representatives acting on behalf of such individuals with respect to such requests and appeals.

1. NSF personnel and contractors who may be assigned to handle or assist with such requests and appeals, or related litigation arising therefrom.

2. Other agencies that have referred a FOIA or Privacy Act request to NSF or with whom NSF consults or assists in processing a FOIA or Privacy Act

request received by or referred to NSF, or the litigation of such a request or appeal (*e.g.,* Department of Justice).

3. Third-party individuals or entities who have been consulted or notified regarding their proprietary or other interest in records responsive to a FOIA or Privacy Act request or appeal (*e.g.,* as the submitter or source of such records).

4. Governmental (*e.g.,* shared service) or non-Governmental third-party providers performing fee collection (*e.g., pay.gov*), identity verification (*e.g., login.gov*), or other administrative or other functions incidental to the processing of FOIA and Privacy Act requests and appeals.

5. Metadata routinely or automatically generated by the system software, relating to the tracking and processing of FOIA and Privacy Act requests and appeals (*e.g.,* date that the FOIA request was received or logged, estimated date for agency response, NSF staff assigned to process the request).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to the disclosures expressly permitted under subsections (b)(1)–(2) and (b)(4)–(12) of the Privacy Act of 1974, as amended, see 5 U.S.C. 552a(b)(1)–(2) and (b)(4)–(12), all or a portion of the records or information contained in this system are subject to the following NSF standard routine uses, pursuant to 5 U.S.C. 552a(b)(3):

1. *Members of Congress.* Information from a system may be disclosed to congressional offices in response to inquiries from the congressional offices made at the request of the individual to whom the record pertains.

2. *Freedom of Information Act/ Privacy Act Compliance.* Information from a system may be disclosed to the Department of Justice or the Office of Management and Budget in order to obtain advice regarding NSF's obligations under the Freedom of Information Act and the Privacy Act.

3. *Counsel.* Information from a system may be disclosed to NSF's legal representatives, including the Department of Justice and other outside counsel, where the agency is a party in litigation or has an interest in litigation and the information is relevant and necessary to such litigation, including when any of the following is a party to the litigation or has an interest in such litigation: (a) NSF, or any component thereof; (b) any NSF employee in his or her official capacity; (c) any NSF employee in his or her individual capacity, where the Department of Justice has agreed to, or is considering a request to, represent the employee; or (d) the United States, where NSF determines that litigation is likely to affect the agency or any of its components.

4. *National Archives, General Services Administration.* Information from a system may be disclosed to representatives of the General Services Administration and the National Archives and Records Administration (NARA) during the course of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

5. *Response to an Actual or Suspected Compromise or Breach of Personally Identifiable Information.* NSF may disclose information from the system to appropriate agencies, entities, and persons when: (a) NSF suspects or has confirmed that there has been a breach of the system of records; (b) NSF has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals; NSF (including its information systems, programs, and operations); the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NSF efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm. Furthermore, NSF may disclose information from the system to another Federal agency or Federal entity, when NSF determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in: responding to a suspected or confirmed breach; or preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

6. *Courts.* Information from a system may be disclosed to the Department of Justice or other agencies in the event of a pending court or formal administrative proceeding, when the information is relevant and necessary to that proceeding, for the purpose of representing the government, or in the course of presenting evidence, or the information may be produced to parties or counsel involved in the proceeding in the course of pre-trial discovery.

7. *Contractors.* Information from a system may be disclosed to contractors, agents, experts, consultants, or others performing work on a contract, service, cooperative agreement, job, or other activity for NSF and who have a need to access the information in the performance of their duties or activities for NSF.

8. *Audit.* Information from a system may be disclosed to government agencies and other entities authorized to perform audits, including financial and other audits, of the agency and its activities.

9. *Law Enforcement.* Information from a system may be disclosed, where the information indicates a violation or potential violation of civil or criminal law, including any rule, regulation or order issued pursuant thereto, to appropriate Federal, State, or local agencies responsible for investigating, prosecuting, enforcing, or implementing such statute, rule, regulation, or order.

10. *Disclosure When Requesting Information.* Information from a system may be disclosed to Federal, State, or local agencies which maintain civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

11. *To the news media and the public* when: (a) A matter has become public knowledge, (b) the NSF Office of the Director determines that disclosure is necessary to preserve confidence in the integrity of NSF or is necessary to demonstrate the accountability of NSF's officers, employees, or individuals covered by this system, or (c) the Office of the Director determines that there exists a legitimate public interest in the disclosure of the information, except to the extent that the Office of the Director determines in any of these situations that disclosure of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Furthermore, records (or portions thereof) in this system may be routinely used and disclosed, pursuant to 5 U.S.C. 552a(b)(3), for the following purposes relating to FOIA and Privacy Act requests, appeals, and litigation, if any:

12. To NARA, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures and compliance with the FOIA, and to facilitate OGIS's offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

13. To a Federal agency or other Federal entity that furnished the record or information for the purpose of

permitting that agency or entity to make a decision regarding access to or correction of the record or information, or to a Federal agency or entity for purposes of providing guidance or advice regarding the handling of particular requests.

14. To facilitate, at NSF's discretion, the placement of FOIA request and appeal letters, and agency letters responding thereto, on the agency's public record (*e.g., www.nsf.gov*) to be made available to the public for routine inspection and copying, including where records have been ''frequently requested'' and disclosed under the FOIA within the meaning of that Act, as determined by the NSF.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Official copies of system records are accessed electronically through secured NSF systems and principally maintained by NSF or on its behalf in electronic cloud storage by third-party service provider(s). Records may be collected for processing and storage via online portals or other electronic platforms or means operated by NSF, by other Government shared-service provider(s) (*e.g., FOIA.gov*), or by other (non-Government) third-party service providers on behalf of NSF. Paper records, such as copies of FOIA or Privacy Act requests and appeals received through postal mail, may be scanned and stored electronically, so that the paper copies need not be maintained and may be securely destroyed. NSF personnel or contractors may download or print non-official copies of records or data from electronic system storage for temporary use or reference in processing a FOIA request or appeal, provided such copies are handled and stored under secure conditions (*e.g.,* locked drawers, offices, and facilities).

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by full name of requester; FOIA or Privacy Act tracking number pertaining to the request or appeal; date and/or year of request or appeal; subject matter; or by other searchable or indexed data elements pertaining to an individual's request or appeal in the electronic system used to manage and stored the records.

Note: System records may also be electronically retrieved by the name or other personally assigned identifier of individual NSF personnel or contractors who may be responsible for or otherwise involved in the processing of FOIA and PA requests. Because the records pertain to the individuals who filed the request, and are not about the NSF personnel or contractors handling such requests, these third-party individuals are not included in the categories of individuals covered by this system for access, amendment, or other Privacy Act purposes.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Retention and disposal of records in this system of records is governed by National Archives and Records Administration (NARA) General Records Schedule 4.2, Information Access and Protection Records, as follows:

1. Access request files. Case files created in response to requests for records under the FOIA and Privacy Act, including administrative appeals, are destroyed six years after final agency action (initial response or appeal) or three years after final adjudication by the courts if applicable, whichever is later. Longer retention is authorized if required for business use.

2. Privacy Act amendment request files. Files relating to an individual's request to amend a record subject to the Privacy Act and any appeal or civil action that follows are destroyed with the records for which amendment was requested or four years after the final determination by agency or final adjudication by the courts if applicable, whichever is later. Longer retention is authorized if required for business use.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

NSF safeguards records in this system of records according to applicable Federal and NSF rules, policies, and procedures, including all applicable NSF automated systems security and access policies. Controls include mandatory information assurance and privacy training for individuals who will have access; identification, marking, and safeguarding of PII; physical access safeguards including multifactor identification physical access controls, detection and electronic alert systems for access to servers and other network infrastructure; and electronic intrusion detection systems in NSF facilities.

The third-party provider that provides cloud-based management has developed a comprehensive computer security handbook that includes an overarching organization-wide information security policy and associated procedures for each NIST family of security controls, including, for example, awareness and training policies and procedures. The third-party provider, to the extent it provides cloud-based storage and other services for this system, follows FedRAMP guidance when preparing security authorization and security-related assessment documentation, and it follows FedRAMP policies to meet all relevant associated security assessment and authorization controls. The Security Assessment and Authorization policy and procedures are reviewed annually.

RECORD ACCESS PROCEDURES:

You may seek access to records about you in this Privacy Act system (*i.e.,* NSF records maintained about your FOIA or PA request(s)) by following the procedures in 45 CFR part 613 for making a Privacy Act access request. You may submit your request in person, via postal mail, via *www.FOIA.gov,* via the email address listed on the FOIA page at *www.nsf.gov,* or via the public access link (PAL) or other online portal, if any, provided by the agency or on its behalf by its contractor(s). (You do not need to submit such a request to check the status of your FOIA or PA request(s) in the system, which you can do online through the PAL portal.)

To request access to your records under the Privacy Act, your request must be in writing, signed, and notarized, as detailed below. It should contain the name and number of the relevant Privacy Act records system to which you are seeking access—in this case, FOIA/PA Request and Appeal Records, NSF–81—along with your full name, current address, email address, and telephone number. Also include the assigned FOIA/PA tracking number, if any, for your FOIA or PA request(s) or appeal(s) maintained in this system, or other means of identifying records about you and your requests or appeals in this system.

Before processing a Privacy Act access request, NSF also requires that you verify your identity in an appropriate fashion. Individuals appearing in person to submit a Privacy Act request should be prepared to show reasonable picture identification, such as driver's license, government or other employment identification card, or passport. Your Privacy Act request also must be notarized, or submitted by you under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization, as provided below:

- *If executed outside the United States:* ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''
- *If executed within the United States, its territories, possessions, or*

commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

In addition, your Privacy Act request should include a statement that you understand that knowingly or willfully seeking or obtaining access to Privacy Act records under false pretenses is punishable by a fine of up to $5,000. *See* 5 U.S.C. 552a(i)(3).

CONTESTING RECORD PROCEDURES:

Individuals seeking to amend or correct the content of records about themselves should follow the procedures in 45 CFR part 613.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should follow the instructions for Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: December 5, 2023.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2023–27027 Filed 12–7–23; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Request for Information (RFI) on NSF Public Access Plan 2.0: Ensuring Open, Immediate, and Equitable Access to National Science Foundation Funded Research; Correction

AGENCY: National Science Foundation (NSF).

ACTION: Request for information; correction.

SUMMARY: The National Science Foundation (NSF) published a document in the **Federal Register** of November 16, 2023, concerning a request for public input from the science and engineering research and education community on implementing NSF Public Access Plan 2.0: Ensuring Open, Immediate, and Equitable Access to National Science Foundation Funded Research. The links in the notice for the request for information and documentation did not publish; this notice serves to provide those links. The rest of the notice is being published in whole. This plan, described in **SUPPLEMENTARY INFORMATION**, represents an update to NSF current public access requirements in response to recent White House Office of Science and Technology Policy guidance. A primary consideration during the development of NSF's plan has been potential equity impacts of public access requirements. NSF's goal is to improve equity throughout the research life cycle, making data and opportunities available to all researchers, including those from marginalized communities and historically under-resourced institutions of higher education in the U.S. NSF is committed to considering the needs of the diverse US research community, including identifying possible unintended consequences that the plan and its implementation could produce.

DATES: Interested persons or organizations are invited to submit comments on or before 11:59 p.m. (EST) on Friday, January 19, 2024.

ADDRESSES: The preferred method of response is to complete as much of the online RFI (*https://www.surveymonkey.com/r/NSFpublicaccessplan*) as you wish. However, if you cannot or do not wish to access this tool, comments submitted in response to this notice may also be submitted by the following methods:

Email: PublicAccess2-RFI@nsf.gov. Email submissions should be machine-readable and not be copy-protected. Submissions should include ''RFI Response: NSF Public Access 2.0'' in the subject line of the message.

Mail: Attn. Martin Halbert, 2415 Eisenhower Ave., Alexandria, VA 22314.

Responses may address one or as many topics as desired from the enumerated list provided in this RFI, noting the corresponding number of the topic(s) to which the response pertains. Submissions must not exceed 3 pages (exclusive of cover page) in 11-point or larger font, with a page number provided on each page. Responses should include the name of the person(s) or organization(s) filing the comment, as well as the respondent type (*e.g.,* academic institution, advocacy group, professional society, community-based organization, industry, member of the public, government, other). Respondent's role in the organization may also be provided (*e.g.,* researcher, administrator, student, program manager, journalist) on a voluntary basis.

No business proprietary information, copyrighted information, or personally identifiable information (aside from that requested above) should be submitted in response to this RFI. Comments submitted in response to this RFI will be used internally at NSF and may be shared with other Federal agencies. Any online or public release of data will only be in aggregate form to protect the identity of submitters. Please note that all questions are optional.

FOR FURTHER INFORMATION CONTACT: For additional information, please direct questions to Martin Halbert at *PublicAccess2-RFI@nsf.gov,* (703) 292–5111.

SUPPLEMENTARY INFORMATION: The U.S. National Science Foundation Public Access Plan 2.0: Ensuring Open, Immediate, and Equitable Access to National Science Foundation Funded Research (*https://nsf-gov-resources.nsf.gov/2023-06/NSF23104.pdf?VersionId=cSTD31SSPUEkM_Vm25HSlgZBDeiPvzdQ*) has been prepared in response to the memorandum dated August 25, 2022, from the White House Office of Science and Technology Policy, or OSTP, titled Ensuring Free, Immediate, and Equitable Access to Federally Funded Research (*https://www.whitehouse.gov/wp-content/uploads/2022/08/08-2022-OSTP-Public-Access-Memo.pdf*), and signed by Alondra Nelson. It updates NSF's original public access plan, Today's Data, Tomorrow's Discoveries: Increasing Access to the Results of Research Funded by the National Science Foundation (*https://nsf-my.sharepoint.com/personal/0543114207_nsf_gov/Documents/RFI%20FR%20Notices/Public%20Access/Today's%20Data,%20Tomorrow's%20Discoveries:%20Increasing%20Access%20to%20the%20Results%20of%20Research%20Funded%20by%20the%20National%20Science%20Foundation*), dated March 18, 2015.

Broadly, Public Access Plan 2.0: Ensuring Open, Immediate, and Equitable Access to National Science Foundation Funded Research describes how:

- all peer-reviewed scholarly publications resulting from NSF-funded research will be made freely available and publicly accessible by default in the NSF Public Access Repository, or NSF–PAR (*https://par.nsf.gov/*), without embargo;
- such publications will be accessible for assistive technologies;
- scientific data associated with peer-reviewed publications resulting from NSF awards will be made available in disciplinary repositories;
- exceptions to the data-sharing requirements will be made based on legal, privacy, ethical, intellectual property and national security considerations; and

• persistent identifiers, or PIDs, and other critical information associated with peer-reviewed publications and data resulting from NSF-funded research will be collected and made publicly available in NSF–PAR.

NSF is committed to ensuring that its approach to public access enhances equity in the science and engineering ecosystem and wants to understand any potential barriers that may be faced by researchers in complying with new public access requirements. Responses may suggest areas of particular interest to the research community that inspire future NSF funding opportunities and development plans for NSF–PAR.

NSF seeks responses from all interested individuals and communities including—but not limited to—individual researchers, research institutions, libraries, scholarly societies, scholarly publishers, early career researchers, and students/educators. NSF is particularly interested in hearing from researchers new to public access at NSF, new to open science practices more generally, or working in fields or institutions with unique challenges in complying with public access requirements, to ensure that NSF is well-positioned to fully consider potential equity impacts as the plan is implemented.

Comments are welcome on all elements of NSF Public Access Plan 2.0 but would be particularly welcome for the issues/questions identified below. Please note that all questions are optional. The direct link is *https://www.surveymonkey.com/r/NSFpublicaccessplan.*

1. Overall, do you view public access requirements as having more positive or more negative effects on equity and inclusion in science? (indicate one)

- mostly positive
- somewhat positive
- neither positive nor negative
- somewhat negative
- mostly negative

2. Do you currently have access to data repositories that will enable you to comply with public access requirements? (indicate one)

- Yes, I have access
- Yes, I have access, but it is limited
- No, I don't have access
- I don't know

3. What opportunities or benefits do you anticipate you and/or your institution would realize from the requirement that NSF-funded peer-reviewed publications be made available in the NSF Public Access Repository (NSF–PAR)? (Please limit response to 500 characters.)

4. What challenges or barriers do you anticipate personally facing while complying with the requirement that NSF-funded peer reviewed publications be made available in NSF–PAR? (Please limit response to 500 characters.) What opportunities or benefits do you anticipate you and/or your institution would realize from the requirement that the data underlying your NSF-funded peer-reviewed publications be made publicly available? (Please limit response to 500 characters.)

5. What challenges or barriers do you anticipate personally facing while complying with the requirement that the data underlying your NSF-funded peer-reviewed publications be made publicly available? (Please limit response to 500 characters.)

6. How can NSF best engage affected communities regarding public access issues, in particular marginalized or underrepresented groups? (Please limit response to 500 characters.)

7. If you have any additional comments about NSF's Public Access Plan, please share them here. (Please limit response to 2,000 characters.)

8. What is your primary field of research, employment, or study (indicate one)?

- Astronomy and astrophysics
- Biological, agricultural, environmental life sciences
- Computer and information sciences
- Engineering
- Humanities or liberal arts
- Learning sciences/education research
- Library or communication sciences
- Mathematics and statistics
- Medical and health sciences
- Physical and geosciences (including atmospheric and ocean sciences)
- Social sciences
- Publisher (for profit)
- Publisher (society or non-profit)
- Other (please specify)

9. What type of institution(s) best describes where you work? (*Note:* if you hold a dual appointment, please indicate all that apply.)

- U.S. 4-year university; Doctoral-granting, high or very high research activity
- U.S. 4-year university; Doctoral-granting, other
- U.S. 4-year university or college; Masters-granting (*i.e.,* no Doctoral programs offered)
- U.S. 4-year college or university; Baccalaureate-granting (*i.e.,* no Doctoral or Masters programs offered)
- U.S. community or 2-year college
- U.S. university-affiliated research institute
- Government agency (Federal, State or local)
- Non-governmental, non-university affiliated research organization
- Non-profit organization (including tax-exempt, charitable organization and private foundation)
- For-profit company or organization
- Other (please specify)

10. If you work at a university, please indicate all categories that represent your university (indicate all that apply):

- Asian American and Native American Pacific Islander-Serving Institution (AANAPI)
- Hispanic Serving Institution (HSI)
- Historically Black College or University (HBCU)
- Minority serving Institution (MSI)
- Tribal College or University (TCU)
- Women's College or University
- Other
- None of the above

11. If you are engaged in academic research, in what stage of your career are you (indicate one)?

- undergraduate student
- graduate student
- early career researcher (<10 years post-Ph.D.)
- mid-career researcher (10–25 years post-Ph.D.)
- late-career researcher (>25 years post-Ph.D.)
- not applicable

12. What communities do you work with in your research (*i.e.,* about whom or from whom data is collected)? Please indicate all that apply.

- American Indian or Alaska Native communities
- Asian communities
- Black or African American communities
- Latine/x/o/a communities
- LGBTIQA+ communities
- Native Hawaiian or Other Pacific Islander communities
- Persons with disabilities
- non-US-based communities
- communities with limited socioeconomic status
- not applicable
- Other (please specify)

13. Are you Hispanic or Latino?

- No, I am not Hispanic or Latino
- Yes, I am Mexican or Chicano
- Yes, I am Puerto Rican
- Yes, I am Cuban
- Yes, I am other Hispanic or Latino (please specify):

14. What is your racial background (indicate all that apply)?

- American Indian or Alaska Native—specify Tribal affiliations(s)
- Asian
- Black or African American
- Native Hawaiian or Other Pacific Islander
- White

15. Do you identify as a disabled person with respect to any of the

following specific functions (indicate all that apply)?

- SEEING words or letters in ordinary newsprint (with glasses/contact lenses, if you usually wear them)
- HEARING in conversation with another person (with hearing aid or other assistive device, if you usually wear one)
- WALKING without human or mechanical assistance or using stairs
- LIFTING or carrying something as heavy as 10 pounds, such as a bag of groceries
- CONCENTRATING, REMEMBERING, or MAKING DECISIONS because of a physical, mental or emotional condition
- Other disability (please specify)

16. Is there anything else you would like to tell us about your identity that impacts the way you are perceived or your access to the scholarly ecosystem (*e.g.,* age, gender identity, sexual orientation etc.) (Please limit response to 2,000 characters.).

(Authority: 42 U.S.C. 1861, et al.)

Dated: December 4, 2023.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2023–26940 Filed 12–7–23; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440–LR; ASLBP No. 24–982–01–LR–BD01]

Energy Harbor Nuclear Corp.; Establishment of Atomic Safety and Licensing Board

Pursuant to the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding: Energy Harbor Nuclear Corp., (Perry Nuclear Power Plant, Unit 1).

This proceeding involves an application seeking a twenty-year license renewal of Facility Operating License NPF–58 to authorize Energy Harbor Nuclear Corp. to operate Perry Nuclear Power Plant, Unit 1 until November 7, 2046. In response to a notice published in the **Federal Register** announcing the opportunity to request a hearing, *see* 88 FR 67373 (Sept. 29, 2023), a hearing request was filed on November 28, 2023 on behalf of Ohio Nuclear-Free Network and Beyond Nuclear.

The Board is comprised of the following Administrative Judges:

Michael M. Gibson, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Nicolas G. Trikouros, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Dr. Gary S. Arnold, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302.

Rockville, Maryland.

Dated: December 4, 2023.

Edward R. Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2023–26947 Filed 12–7–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[IA–23–013; NRC–2023–0203]

Order; Issuance; In the Matter of Magnus Quitmeyer

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued an Order to Magnus Quitmeyer, a former employee of Arizona Public Services Company (APS), prohibiting his involvement in any NRC licensed activities for a period of five years. The Order is based on him having twice tested positive for an illegal substance, namely marijuana, during fitness-for-duty tests while he was employed by APS and held an NRC operator's license. The Order is also based on the results of NRC investigations. The Order is effective upon issuance.

DATES: The Order was issued on November 30, 2023.

ADDRESSES: Please refer to Docket ID NRC–2023–0203 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0203. 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.
- *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, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The Order to Magnus Quitmeyer is available in ADAMS under Accession No. ML23298A161.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeremy Groom, Region IV, U.S. Nuclear Regulatory Commission, telephone: 817–200–1182, email: *Jeremy.Groom@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated: December 4, 2023.

For the Nuclear Regulatory Commission.

David L. Pelton,

Director, Office of Enforcement.

Attached—Order

United States of America

Nuclear Regulatory Commission

In the Matter of: Magnus Lawrence Quitmeyer, Jr., IA–23–013

Order Prohibiting Involvement in NRC-Licensed Activities

I

Magnus Quitmeyer was formerly employed as a reactor operator at Arizona Public Service Company's (APS) Palo Verde Nuclear Generating Station (Palo Verde). Magnus Quitmeyer was the holder of reactor operator license No. OP–503382 issued on November 12, 2019, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to part 55 of title 10 of the *Code of Federal Regulations* (10 CFR). The license authorized Magnus Quitmeyer to manipulate the controls of Palo Verde located in

Tonopah, Arizona. At the request of APS, on October 26, 2022, the NRC terminated license No. OP–503382 retroactive to October 13, 2022.

II

On August 7, 2020, during a random fitness-for-duty (FFD) test, Magnus Quitmeyer tested positive for an illegal substance (marijuana metabolite) while performing duties as a reactor operator at Palo Verde. This was a violation of 10 CFR 55.53(j) which requires, in part, that the licensee (Magnus Quitmeyer) shall not use any illegal drugs and shall not perform activities authorized by a license issued under 10 CFR part 55 while under the influence of an illegal substance that could adversely affect the ability to safely and competently perform licensed duties.

On September 29, 2020, the NRC Office of Investigations (OI), Region IV, initiated an investigation (4–2020–031) to determine if Magnus Quitmeyer, a licensed operator employed by APS, was willfully unfit for duty while on shift at Palo Verde. During his OI testimony, Magnus Quitmeyer indicated that he used another person's prescription marijuana while on vacation from June 19 to July 6, 2020. Magnus Quitmeyer stated that due to stresses in his life, he ''threw caution to the wind'' and used the marijuana three to four times a day, every day, while on vacation. Magnus Quitmeyer stated that once he started using marijuana, ''it was almost like that, I just kind of blocked it out and I just was like, you know what; I'm just going to go on vacation and do whatever I want, and the consequences be damned.'' The investigation was completed on July 14, 2021.

On January 27, 2022, the NRC issued Magnus Quitmeyer a letter and Notice of Violation for his deliberate action to violate 10 CFR 55.53(j), Agencywide Documents Access and Management System (ADAMS) Accession No. ML22027A588.

On September 14, 2022, during a random FFD test, Magnus Quitmeyer again tested positive for an illegal substance (marijuana metabolite) while performing duties as a reactor operator at Palo Verde and again caused himself to be in violation of 10 CFR 55.53(j). The positive test was more than 3 times the regulatory limit for tetrahydrocannabinol (THC) established by NRC regulations and Palo Verde procedures. On September 20, 2022, APS put his site unescorted access on administrative hold, pending review of the initial positive results. The test result was confirmed on September 26, 2022, and APS terminated his employment.

On November 18, 2022, the NRC OI, Region IV, initiated an investigation (4–2023–005) to determine if Magnus Quitmeyer, a licensed operator employed by APS, was willfully unfit for duty while on shift at Palo Verde. During his OI testimony, Magnus Quitmeyer indicated that beginning around June 2022, he used cannabidiol (CBD) oil as a sleep aid approximately 3–4 times per week over the course of approximately three months due to stresses in his life. Magnus Quitmeyer stated, ''in the back of my mind, I knew there was a possibility of this backfiring or something bad happening, but I just kind of shoved it away and did it.'' However, Magnus Quitmeyer's testimony that CBD oil was the cause of his September 14, 2022, positive FFD test was inconsistent with the test results of 53 nanograms/milliliter and the professional judgement of the Palo Verde medical review officer who testified that it was very unlikely for even someone very heavily using CBD oil with small amounts of THC to have these test results, thus, the positive test was more consistent with marijuana use. The investigation was completed on June 13, 2023.

On September 7, 2023, the NRC issued Magnus Quitmeyer a letter (ML23237B483) that documented a factual summary of investigation 4–2023–005 and the details of the apparent violation of 10 CFR 55.53(j). The letter provided Magnus Quitmeyer an opportunity to: (1) respond in writing to the apparent violation in the letter within 30 days of the date of the letter or (2) request a predecisional enforcement conference. The NRC Region IV staff attempted to provide Magnus Quitmeyer the letter by both regular and certified United States Postal Service mail. In addition, between September 6 and October 2, 2023, the NRC Region IV staff attempted several times to contact Magnus Quitmeyer by cell phone, text message, and email to discuss the potential enforcement action. Magnus Quitmeyer failed to respond to all of the NRC staff's attempts to communicate with him.

III

Based on the above, Magnus Quitmeyer deliberately used an illegal substance (marijuana metabolite) and then performed duties as a reactor operator at Palo Verde. This was a violation of 10 CFR 55.53(j) which requires, in part, that the licensee (Magnus Quitmeyer) shall not use any illegal drugs and shall not perform activities authorized by a license issued under 10 CFR part 55 while under the influence of an illegal substance that could adversely affect the ability to safely and competently perform licensed duties. The NRC holds licensed operators to high performance standards and entrusts them with assuring the public health and safety in the operation of a nuclear power plant. Incorporated into this trust is the expectation that licensed operators will follow all NRC requirements.

Consequently, due to Magnus Quitmeyer's positive FFD test results on two separate occasions, and his repeated deliberate actions to use an illegal substance, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Magnus Quitmeyer were permitted at this time to be involved in the performance of licensed activities. Therefore, the public health, safety and interest require that Magnus Quitmeyer be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this Order. Additionally, Magnus Quitmeyer is required to notify the NRC of his first employment in NRC-licensed activities for a period of one year following the prohibition period.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5, and 10 CFR 150.20, *It is hereby ordered that*:

1. Magnus Quitmeyer is prohibited for five years from the date of this Order from engaging in, supervising, directing, or in any other way conducting NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted in the NRC's jurisdiction pursuant to the authority granted by 10 CFR 150.20.

2. If Magnus Quitmeyer is currently involved with another licensee in NRC-licensed activities, he must immediately cease those activities, and inform the NRC by email at *R4Enforcement@nrc.gov* of the name, address, and telephone number of the employer, and provide a copy of this order to the employer.

3. For a period of one year after the five year period of prohibition has expired, Magnus Quitmeyer shall,

within 30 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and email it to *R4Enforcement@nrc.gov* with the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Magnus Quitmeyer shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, or designee, may, in writing, relax or rescind any of the above conditions upon demonstration by Magnus Quitmeyer of good cause.

V

At this time, Magnus Quitmeyer is not required to respond to this Order; however, if he chooses to respond, he must submit a written answer to this Order under oath or affirmation within 30 days of its publication in the **Federal Register** to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. In addition, Magnus Quitmeyer and any other person adversely affected by this Order may request a hearing on this Order within 30 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). 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. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

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 hearing in this 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.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF 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. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice 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 so that they can 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., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a 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 by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, 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. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. 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 are requested not to include copyrighted materials in their submission.

If a person other than Magnus Quitmeyer requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by Magnus Quitmeyer or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 30 days from the date this Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

For the Nuclear Regulatory Commission.

/RA/

David L. Pelton,

Director, Office of Enforcement.

Dated this 30th day of November 2023.

[FR Doc. 2023–26952 Filed 12–7–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of December 11, 18, 25, 2023 and January 1, 8, 15, 2024. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Betty.Thweatt@nrc.gov* or *Samantha.Miklaszewski@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of December 11, 2023

Tuesday, December 12, 2023

10 a.m. Discussion of the Administration's Short- and Long-term Domestic Uranium Fuel Strategy (Public Meeting) (Contact: Haile Lindsay: 301–415–0616)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the web address—*https://video.nrc.gov/.*

Thursday, December 14, 2023

10 a.m. Briefing on Equal Employment Opportunity, Affirmative Employment, and Small Business (Public Meeting) (Contact: Erin Deeds: 301–415–2887)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the web address—*https://video.nrc.gov/.*

Week of December 18, 2023—Tentative

There are no meetings scheduled for the week of December 18, 2023.

Week of December 25, 2023—Tentative

There are no meetings scheduled for the week of December 25, 2023.

Week of January 1, 2024—Tentative

There are no meetings scheduled for the week of January 1, 2024.

Week of January 8, 2024—Tentative

There are no meetings scheduled for the week of January 8, 2024.

Week of January 15, 2024—Tentative

Thursday, January 18, 2024

9 a.m. Strategic Programmatic Overview of the Decommissioning and Low-Level Waste and Nuclear Materials Users Business Lines (Public Meeting) (Contact: Candace Spore: 301–415–8537)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the web address—*https://video.nrc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: December 6, 2023.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2023–27097 Filed 12–6–23; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–30429; License No. 42–26928–01; EA–23–039; NRC–2023–0204]

Confirmatory Order; Issuance; In the Matter of ProTechnics Division of Core Laboratories LP

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued a Confirmatory Order to ProTechnics Division of Core Laboratories LP (ProTechnics) to document commitments made as part of a settlement agreement made between the NRC and ProTechnics following an alternative dispute resolution mediation session held on October 12, 2023. The mediation addressed six apparent violations involving ProTechnics' abandonment of well logging sources, compliance with disposal of effluents

limits within the Gulf of Mexico, and compliance with NRC requirements for monitoring occupational radiation exposure. ProTechnics has committed to various measures intended to improve the effectiveness of its radiation safety program, develop better well logging source abandonment procedures, and to train its employees on occupational exposure limits and the proper use of dosimetry. The Confirmatory Order is effective upon issuance.

DATES: The Confirmatory Order was issued on November 28, 2023.

ADDRESSES: Please refer to Docket ID NRC–2023–0204 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0204. 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.
- *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, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The Confirmatory Order to ProTechnics is available in ADAMS under Accession No. ML23305A063.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeremy Groom, Region IV, U.S. Nuclear Regulatory Commission, telephone: 817–200–1182, email: *Jeremy.Groom@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated: December 4, 2023.

For the Nuclear Regulatory Commission.

John D. Monninger,

Regional Administrator, NRC Region IV.

Attached—Confirmatory Order

United States of America

Nuclear Regulatory Commission

In the Matter of: PROTECHNICS DIVISION OF CORE LABORATORIES LP, Docket No. 030–30429, License No. 42–26928–01, EA–23–039

Confirmatory Order Modifying License (Effective Upon Issuance)

I

ProTechnics Division of Core Laboratories LP (ProTechnics or the licensee) is the holder of Materials License No. 42–26928–01, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to part 30 of title 10 of the *Code of Federal Regulations* (10 CFR). The license authorizes operations at licensee facilities, temporary job sites, and certain client sites in accordance with conditions specified therein. The licensee's facilities are located on the licensee's sites in Alaska, Wyoming, Montana, and West Virginia. Client sites are located in Wyoming and offshore in the Gulf of Mexico.

This Confirmatory Order (CO) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on October 11, 2023.

II

On July 7, 2023, the NRC issued Inspection Report 030–30429/2022–002, Agencywide Documents Access and Management System (ADAMS) Accession No. ML23138A393, to ProTechnics which documented the identification of six apparent violations that were being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The violations involved the failure to: (1) notify and seek NRC approval for the performance of an abandonment of a well logging source as required by 10 CFR 39.77(c)(1); (2) request an extension for a well logging source authorized for temporary storage within a well as required by License Condition 10.D of NRC License 42–26928–01, Amendment No. 49 and 50 (which was changed to License Condition 10.H of NRC License 42–26928–01, Amendment No. 50 (corrected copy) to 54); (3) perform a timely abandonment for a well logging source authorized for temporary storage within a well as required by License Condition 10.H of NRC License 42–26928–01, Amendment 54; (4) maintain survey records or calculations demonstrating compliance with 10 CFR part 20 limits on the release of effluents within the Gulf of Mexico as required by 10 CFR 20.1302; (5) develop, document, and implement a radiation protection program sufficient to ensure compliance with 10 CFR part 20, specifically with regard to outlier exposures recorded on two dosimeters as required by 10 CFR 20.1101(a); and (6) monitor a group of occupationally-exposed workers as a result of the loss of their dosimeters as required by 10 CFR 20.1502(a).

By letter dated July 7, 2023, the NRC notified ProTechnics of the results of the inspection and provided ProTechnics with an opportunity to: (1) attend a predecisional enforcement conference or (2) participate in an ADR mediation session in an effort to resolve these concerns.

In response to the NRC's offer, ProTechnics requested the use of the NRC ADR process to resolve differences it had with the NRC. On October 11, 2023, the NRC and ProTechnics met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement to resolve any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the October 11, 2023, ADR process.

III

During the ADR mediation session, ProTechnics and the NRC reached a preliminary settlement agreement.

The NRC recognizes the corrective actions that ProTechnics has already implemented associated with the apparent violations, including (1) proactively engaging independent certified health physicists to perform a comprehensive audit of its radiation safety program, (2) making extensive procedural and training enhancements, and (3) hosting industry forums with ProTechnics' clients to discuss NRC regulatory requirements.

Additional commitments made in the preliminary settlement agreement, as signed by both parties, consist of the following:

Audit

A. ProTechnics will perform a comprehensive audit of its radiation safety program. The audit shall be performed by an independent entity that has familiarity with 10 CFR part 39. This will include the following actions:

1. Within 30 days of the issuance date of the Confirmatory Order, ProTechnics

will submit its audit plan to the NRC for review and approval. Within 30 days of receiving ProTechnics' audit plan, the NRC will either communicate to ProTechnics its approval of the audit plan or reasons for its disapproval. If the NRC does not approve the audit plan, ProTechnics will revise and re-submit its audit plan within 30 days of the NRC's response.

2. Within 6 months of the NRC approval of its audit plan, ProTechnics will submit a copy of the audit report and ProTechnics' written response to the audit report to the NRC. ProTechnics' written response will either address how it will implement the recommendations and corrective actions of the audit report, including a proposed timeline; or provide an explanation and justification for why the recommendation(s) and corrective action(s) will not be implemented.

Training

B. ProTechnics will develop a training program designed to address knowledge deficiencies that contributed to the apparent violations in NRC Inspection Report 030–30429/2022–002.

1. Specifically, the training will address:

a. The proper use of dosimetry to comply with the NRC's requirements in 10 CFR part 20 to include individual staff and supervisory actions required upon discovery of lost or missing dosimetry.

b. Occupational exposure limits under 10 CFR part 20 and any additional limits imposed by the licensee.

c. Sealed source management and NRC abandonment process/requirements to include manager and supervisory actions required upon discovery of a well logging source that is lodged in a well or irretrievable.

2. Within 6 months of the issuance date of the Confirmatory Order, ProTechnics will provide this training to all employee supervisors and managers involved in NRC licensed activities. ProTechnics will continue to provide this training at least once every calendar year until December 31, 2026. ProTechnics will maintain a record of the individuals receiving the training, a summary of the feedback on the training, the instructor providing the training (if applicable), and the date of the training.

Causal Evaluation

C. Within 2 months of the issuance date of the Confirmatory Order, ProTechnics will complete a causal evaluation for each apparent violation documented in NRC Inspection Report 030–30429/2022–002. The causal evaluation will include: the reason for the apparent violation; the corrective steps that have been taken and the results achieved; and the corrective actions that will be taken, with time frame for their completion.

D. Corrective actions identified as a result of the causal evaluation required by Condition C will be implemented within 18 months of completion of the evaluation.

Procedures

E. Within 6 months of the issuance date of the Confirmatory Order, ProTechnics will develop abandonment procedure(s) for well logging sources that become lodged in wells or are irretrievable. The abandonment procedures must comply with 10 CFR part 39 and incorporate the recently updated NRC license commitments associated with the licensed material described under License Conditions 10.F through 10.I and 25 in License No. 42–26928–01, Amendment No. 56, dated August 17, 2023.

1. Within 30 days of completion of Condition E, ProTechnics will submit the procedure(s) developed under Condition E to the NRC for incorporation into the ProTechnics license as a tie-down condition.

2. The NRC will review the procedure(s) submitted under Condition E.1 and if the NRC staff determines these procedures are acceptable, the NRC will incorporate these procedures into the ProTechnics license as a tie-down condition.

3. If the procedure(s) submitted under Condition E.1 are found unacceptable by the NRC staff, the NRC staff will provide comments to ProTechnics for their consideration. Within 30 days of receiving these comments, ProTechnics will re-submit the procedure(s) to the NRC for incorporation into the ProTechnics license as a tie-down condition. Incorporation of abandonment procedure(s) for well logging sources that become lodged in wells or are irretrievable into the ProTechnics license is required to fulfill this Order condition.

F. Within 6 months of the issuance date of the Confirmatory Order, ProTechnics will develop a procedure to address actions and dose estimate methodologies needed to address situations including: (1) lost dosimeters or missing dosimetry results; (2) dosimeter results that exceed regulatory limits or licensee action levels or limits; (3) methodology to assess the validity/accuracy of unexpected dosimetry results; and (4) methodology to evaluate and document dose reconstruction.

1. Within 30 days of completion of Condition F, ProTechnics will submit the procedure developed under Condition F to the NRC for review and approval.

Effectiveness Review

G. Between July 1 and December 31, 2025, ProTechnics will perform an effectiveness review of the corrective actions implemented as a result of this Confirmatory Order. The effectiveness review will include: the lessons learned from feedback from the training required by Condition B of this order, if any is received; and the results of the radiation safety program audit required by Condition A. ProTechnics will modify its corrective actions, as needed and consistent with this Confirmatory Order, based on the results of the effectiveness review. By March 31, 2026, ProTechnics will send a copy of the effectiveness review and provide, as applicable, a copy of any additional corrective actions and modifications made to previously developed corrective actions as a result of the effectiveness review to the NRC.

Administrative Items

H. By January 31 of each calendar year 2024 through 2027, ProTechnics will send the NRC a summary of the actions implemented the previous calendar year as a result of the Confirmatory Order.

I. Until December 31, 2028, ProTechnics will retain a copy of all documentation and records necessary to demonstrate compliance with the conditions of the Confirmatory Order.

J. Documents that are required to be sent to the NRC as a result of the Confirmatory Order conditions will be sent to the Director, Division of Radiological Safety and Security, U.S. Nuclear Regulatory Commission, Region IV, by email to *R4Enforcement@nrc.gov.*

Based on the completed actions described above, and the commitments described in Section V below, the NRC agrees not to issue a notice of violation and not impose a civil penalty for the apparent violations discussed in NRC Inspection Report 030–30429/2022–002 to ProTechnics dated July 7, 2023.

On November 21, 2023, ProTechnics consented to issuing this Confirmatory Order with the commitments, as described in Section V below. ProTechnics further agreed that this Confirmatory Order is to be effective upon issuance, the agreement memorialized in this Confirmatory Order settles the matter between the parties, and that it has waived its right to a hearing.

IV

I find that the corrective actions that ProTechnics has already implemented, as described in Section III above, combined with the commitments as set forth in Section V below are acceptable and necessary, and I conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that ProTechnics' commitments be confirmed by this Confirmatory Order. Based on the above and ProTechnics' consent, this Confirmatory Order is effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30, *it is hereby ordered, effective upon issuance, that License No. 42–26928–01 is modified as follows:*

Audit

A. ProTechnics will complete a comprehensive audit of its radiation safety program. The audit shall be performed by an independent entity that has familiarity with 10 CFR part 39. This will include the following actions:

1. No later than 30 days after the issuance date of the Confirmatory Order, ProTechnics will submit its audit plan to the NRC for review and approval. Within 30 days of receiving ProTechnics' audit plan, the NRC will either communicate to ProTechnics its approval of the audit plan or reasons for its disapproval. If the NRC does not approve the audit plan, ProTechnics will revise and re-submit its audit plan within 30 days of the NRC's response.

2. Within 6 months of the NRC approval of its audit plan, ProTechnics will submit a copy of the audit report and ProTechnics' written response to the audit report to the NRC. ProTechnics' written response will either address how it will implement the recommendations and corrective actions of the audit report, including a proposed timeline; or provide an explanation and justification for why the recommendation(s) and corrective action(s) will not be implemented.

Training

B. ProTechnics will develop a training program designed to address knowledge deficiencies that contributed to the apparent violations in NRC Inspection Report 030–30429/2022–002.

1. Specifically, the training will address:

a. The proper use of dosimetry to comply with the NRC's requirements in 10 CFR part 20 to include individual staff and supervisory actions required upon discovery of lost or missing dosimetry.

b. Occupational exposure limits under 10 CFR part 20 and any additional limits imposed by the licensee.

c. Sealed source management and NRC abandonment process/requirements to include manager and supervisory actions required upon discovery of a well logging source that is lodged in a well or irretrievable.

2. Within 6 months of the issuance date of the Confirmatory Order, ProTechnics will provide this training to all employee supervisors and managers involved in NRC licensed activities. ProTechnics will continue to provide this training at least once every calendar year until December 31, 2026. ProTechnics will maintain a record of the individuals receiving the training, a summary of the feedback on the training, the instructor providing the training (if applicable), and the date of the training.

Causal Evaluation

C. Within 2 months of the issuance date of the Confirmatory Order, ProTechnics will complete a causal evaluation for each apparent violation documented in NRC Inspection Report 030–30429/2022–002. The causal evaluation will include: the reason for the apparent violation; the corrective steps that have been taken and the results achieved; and the corrective actions that will be taken, with time frame for their completion.

D. Corrective actions identified as a result of the causal evaluation required by Condition C will be implemented within 18 months of completion of the evaluation.

Procedures

E. Within 6 months of the issuance date of the Confirmatory Order, ProTechnics will develop abandonment procedure(s) for well logging sources that become lodged in wells or are irretrievable. The abandonment procedures must comply with 10 CFR part 39 and incorporate the recently updated NRC license commitments associated with the licensed material described under License Conditions 10.F through 10.I and 25 in License No. 42–26928–01, Amendment No. 56, dated August 17, 2023.

1. Within 30 days of completion of Condition E, ProTechnics will submit the procedure(s) developed under Condition E to the NRC for incorporation into the ProTechnics license as a tie-down condition.

2. The NRC will review the procedure(s) submitted under Condition E.1 and if the NRC staff determines these procedures are acceptable, the NRC will incorporate these procedures into the ProTechnics license as a tie-down condition.

3. If the procedure(s) submitted under Condition E.1 are found unacceptable by the NRC staff, the NRC staff will provide comments to ProTechnics for their consideration. Within 30 days of receiving these comments, ProTechnics will re-submit the procedure(s) to the NRC for incorporation into the ProTechnics license as a tie-down condition. Incorporation of abandonment procedure(s) for well logging sources that become lodged in wells or are irretrievable into the ProTechnics license is required to fulfill this Order condition.

F. Within 6 months of the issuance date of the Confirmatory Order, ProTechnics will develop a procedure to address actions and dose estimate methodologies needed to address: (1) lost dosimeters or missing dosimetry results; (2) dosimeter results that exceed regulatory limits or licensee action levels or limits; (3) methodology to assess the validity/accuracy of unexpected dosimetry results; and (4) methodology to evaluate and document dose reconstruction.

1. Within 30 days of completion of Condition F, ProTechnics will submit the procedure developed under Condition F to the NRC for review and approval.

2. If the procedure submitted under Condition F.1 is found unacceptable by the NRC staff, the NRC staff will provide comments to ProTechnics for their consideration. Within 30 days of receiving these comments, ProTechnics will re-submit the procedure to the NRC.

Effectiveness Review

G. Between July 1 and December 31, 2025, ProTechnics will perform an effectiveness review of the corrective actions implemented as a result of this Confirmatory Order. The effectiveness review will include: the lessons learned from feedback from the training required by Condition B of this order, if any is received; and the results of the radiation safety program audit required by Condition A. ProTechnics will modify its corrective actions, as needed and consistent with this Confirmatory Order, based on the results of the effectiveness review. By March 31, 2026, ProTechnics will send a copy of the effectiveness review and provide, as

applicable, a copy of any additional corrective actions and modifications made to previously developed corrective actions as a result of the effectiveness review to the NRC.

Administrative Items

H. By January 31 of each calendar year 2024 through 2027, ProTechnics will send the NRC a summary of the actions implemented the previous calendar year as a result of the Confirmatory Order.

I. Until December 31, 2028, ProTechnics will retain a copy of all documentation and records necessary to demonstrate compliance with the conditions of the Confirmatory Order.

J. Documents that are required to be sent to the NRC as a result of the Confirmatory Order conditions will be sent to the Director, Division of Radiological Safety and Security, U.S. Nuclear Regulatory Commission, Region IV, by email to *R4Enforcement@nrc.gov*.

In the event of transfer of ProTechnics' license to another entity, the terms and conditions set forth hereunder shall continue to apply to the new entity and accordingly survive any transfer of ownership or license. This Confirmatory Order is considered escalated enforcement. The Regional Administrator, Region IV, may, in writing, relax, rescind, or withdraw any of the above conditions upon demonstration by ProTechnics or its successors of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Confirmatory Order, other than ProTechnics, may request a hearing within thirty (30) calendar days of the date of issuance of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). 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. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

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 hearing in this 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.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF 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. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice 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 so that they can 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., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a 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 by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, 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. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. 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 are requested not to 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.

If a person (other than ProTechnics) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

For the Nuclear Regulatory Commission.

Dated this 28th day of November 2023.

/RA/

John D. Monninger,

Regional Administrator, NRC Region IV.

[FR Doc. 2023–26951 Filed 12–7–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–18, 50–70, 50–73, 50–183, 70–754, 70–1113, 70–1220, 72–1, 11001075, 11001076, 11005081, 11005086, 11005186, 11005555, and 11006278; NRC–2023–0119]

Indirect Transfers of Licenses; Order; In the Matter of General Electric Company, GE-Hitachi Nuclear Energy Americas, LLC, and Global Nuclear Fuel-Americas, LLC

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an order approving the application filed by General Electric Company (GE), GE-Hitachi Nuclear Energy Americas, LLC (GEHA), and Global Nuclear Fuel-Americas, LLC (GNF–A) on May 30, 2023, as supplemented by letters dated June 20, June 26, and September 27, 2023. Specifically, the order approves the indirect transfers of Possession Only License No. DPR–1 for the Vallecitos Boiling Water Reactor at the Vallecitos Nuclear Center (VNC) in Sunol, California; Possession Only License No. TR–1 for the GE Test Reactor at the VNC; Facility Operating License No. R–33 for the Nuclear Test Reactor at the VNC; Possession Only License No. DR–10 for the Empire State Atomic Development Associates Vallecitos Experimental Superheat Reactor at the VNC; Special Nuclear Material License Nos. SNM–960 and SNM–1270 for the VNC; Special Nuclear Material License No. SNM–1097 for the Wilmington Fuel Manufacturing Facility in Wilmington, North Carolina; Special Nuclear Material License No. SNM–2500 for the Morris Operation Independent Spent Fuel Storage Installation in Grundy County, Illinois, near Morris, Illinois; and Export License Nos. XR135, XSNM1662, XSNM3066, XCOM1124, XSNM03135, XSNM3398, and XSNM3785 from GE, the parent company of the license holders, GEHA and GNF–A, to GE Vernova LLC, later to be converted to a corporation (GE Vernova Corp.).

DATES: The order was issued on November 30, 2023, and is effective immediately.

ADDRESSES: Please refer to Docket ID NRC–2023–0119 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0119. 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.
- *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, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The order and the NRC staff safety evaluation supporting the order are available in ADAMS under Package Accession No. ML23283A327.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Osiris Siurano-Pérez, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7827; email: *Osiris.Siurano-Perez@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the order is attached.

Dated: December 5, 2023.

For the Nuclear Regulatory Commission.

Osiris Siurano-Perez,

Project Manager, Fuel Facility Licensing Branch, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards.

Attachment—Order Approving the Indirect Transfers of Control of License

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

In the Matter of General Electric Company, Ge–Hitachi Nuclear Energy Americas, LLC, and Global Nuclear Fuel-Americas, LLC: EA–23–132; Docket Nos.: 50–18, 50–70, 50–73, 50–183, 70–754, 70–1113, 70–1220, 72–1, 11001075, 11001076, 11005081, 11005086,11005186, 11005555, 11006278; License Nos.: DPR–1, TR–1, R–33, DR–10 SNM–960, SNM–1097, SNM–1270, SNM–2500, XR135, XSNM1662, XSNM3066, XCOM1124,

XSNM03135, XSNM3398, XSNM3785; Certificate of Compliance Nos.: 9228 (Transportation Package USA/9228/B(U)F-96), 9294 (Transportation Package USA/9294/AF-96), and 9309 (Transportation Package USA/9309/B(U)F–96).

Order Approving the Indirect Transfers of Control of Licenses

I.

General Electric Company (GE) and Hitachi Ltd. (Hitachi), a Japanese corporation, hold the ownership interests in GE-Hitachi Nuclear Energy Americas, LLC (GEHA) and Global Nuclear Fuel-Americas, LLC (GNF–A), with GE holding 60 percent ownership interest and Hitachi holding the remaining 40 percent ownership interest through wholly owned companies. Currently, GEHA is the holder of part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' reactor license numbers R–33, DPR–1, DR–10, and TR–1 for reactors at the Vallecitos Nuclear Center (VNC) in Sunol, California. GEHA also holds 10 CFR part 70, ''Domestic Licensing of Special Nuclear Material,'' special nuclear material (SNM) license numbers SNM–960 and SNM–1270 for the VNC. In addition, GEHA is the holder of 10 CFR part 72, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste,'' license number SNM–2500 for the Morris Operation Independent Spent Fuel Storage Installation (ISFSI) in Morris, Illinois, and also holds export license numbers XR- 135 and XCOM1124. GEHA also holds Certificate of Compliance (CoC) number 9228 for Transportation Package USA/9228/B(U)F–96. GNF–A is the holder of 10 CFR part 70 license number SNM–1097 for the Wilmington Fuel Manufacturing Facility in Wilmington, North Carolina, and also holds export license numbers XSNM1662, XSNM03135, XSNM3398, XSNM3785, and XSNM3066, as well as CoC numbers 9294 for Transportation Package USA/9294/AF–96 and 9309 for Transportation Package USA/9309/B(U)F–96.

II.

By letter dated May 30, 2023 (Agencywide Documents Access and Management System Accession Number ML23152A116), as supplemented by letters dated June 20, 2023 (ML23171A976), June 26, 2023 (ML23177A089), and September 27, 2023 (ML23271A086) (collectively, the application), GE, GEHA, and GNF–A (together, the applicants) submitted an application requesting that the U.S. Nuclear Regulatory Commission (NRC, the Commission) consent to the indirect transfers of control of the NRC reactor, materials, and export licenses held by GEHA and GNF–A and providing related notice for the CoCs held by GEHA and GNF–A. The applicants stated that the application involves the second phase of a company reorganization in which GE would transfer its various energy-related businesses, including its ownership interest in GEHA and GNF–A, into a recently created wholly owned subsidiary named GE Vernova LLC. Hitachi's ownership interests would not be affected by the proposed transaction. The applicants stated that the reorganization would occur in two steps, each of which would involve an indirect transfer of control of the NRC licenses. First, GE Vernova LLC would become an intermediate holding company and an indirect corporate parent of both GEHA and GNF–A. Second, GE Vernova LLC would be converted into a corporation (*i.e.,* GE Vernova Corp.) and then GE would distribute the shares of GE Vernova Corp. to its shareholders. As a result, GE Vernova Corp. would become the new ultimate U.S. parent company for both GEHA and GNF–A. These two steps are required to effectuate the transaction, and the second step would not occur without the first. The applicants stated that only a single application for both steps was being submitted and requested that the NRC grant its consent to both steps. There would be no direct transfer of control of the NRC licenses involved with the transaction because GEHA and GNF–A would continue to be the holders of the NRC licenses after the proposed transaction. There would also be no change in the management or technical personnel responsible for licensed activities. The current safety, security, and licensing organizations within GEHA and GNF–A would remain unchanged. Additionally, there are no planned changes in the operational organization, location, facilities, equipment, or procedures associated with the NRC licenses, and there would be no changes in operating procedures, emergency procedures, or decommissioning financial assurance. Because the licensees remain the same, there will be no physical transfer of any records concerning the safe and effective decommissioning of the facilities, public dose, and waste disposal, and such records will remain with GEHA and GNF–A. No physical or operational changes affecting the GEHA and GNF–A sites and licensed activities were proposed in the application.

The applicants requested the NRC's consent to the indirect transfers of control pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (the Act), and 10 CFR 50.80, 70.36, 72.50, and 110.50(d). A notice of receipt of the application and opportunity to request a hearing and provide written comments was published in the **Federal Register** on July 19, 2023 (88 FR 46197). The NRC did not receive any comments or requests for a hearing in response to this notice.

In accordance with 10 CFR 50.80, no license for a production or utilization facility, or any right thereunder, shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. In accordance with 10 CFR 70.36, no license granted under the regulations of 10 CFR part 70 and no right to possess or utilize SNM granted by any license issued pursuant to the regulations in 10 CFR part 70 shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the Commission shall after securing full information, find that the transfer is in accordance with the provisions of the Act, and shall give its consent in writing. In accordance with 10 CFR 72.50, no license or any part included in a license for an ISFSI shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. In accordance with 10 CFR 110.50(d), a specific license may be transferred to another person only with the approval of the Commission.

Upon review of the information in the application, as supplemented, and other information before the NRC, and relying on the representations contained in the application, the NRC staff has determined that GE Vernova Corp. is qualified to indirectly hold the NRC licenses, to the extent described in the application, and that the indirect transfers of the licenses are otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto. The NRC staff has also determined that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) there is reasonable assurance that such activities will be

conducted in compliance with the Commission's regulations, and (3) the transfers will not be inimical to the common defense and security or to the health and safety of the public. The findings set forth above are supported by an NRC staff safety evaluation dated the same date as this order, which is available at ADAMS Accession No. ML23283A328.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Act, 42 U.S.C. 2201(b), 2201(i), and 2234; and 10 CFR 50.80, 70.36, 72.50, and 110.50(d), IT IS

HEREBY ORDERED that the license transfer application, as described herein, is approved.

It is further ordered that after receipt of all required regulatory approvals of the proposed transaction, the applicants shall inform the Director of the Office of Nuclear Reactor Regulation and the Director of the Office of Nuclear Material Safety and Safeguards in writing of such receipt at least one (1) business day before all actions necessary to accomplish the indirect transfers of control are completed. Should the proposed indirect transfers not be completed within 1 year of the date of this order, this order shall become null and void, provided, however, that upon timely written application and for good cause shown, such date may be extended by order.

This order is effective upon issuance.

For further details with respect to this order, see the application dated May 30, 2023, as supplemented by letters dated June 20, 2023, June 26, 2023, and September 27, 2023, and the associated NRC staff safety evaluation dated the same date as this order. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *https://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room (PDR) reference staff by telephone at 1–800–397–4209 or 301–415–4737 or by email to *PDR.Resource@nrc.gov*.

Dated: November 30, 2023.

For the Nuclear Regulatory Commission.

Robert M. Taylor, Deputy Director,

Office of Nuclear Reactor Regulation for

Andrea D. Veil, Director,

Office of Nuclear Reactor Regulation.

John W. Lubinski, Director,

Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2023–27005 Filed 12–7–23; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2023–94; MC2024–90 and CP2024–92; MC2024–91 and CP2024–93; MC2024–92 and CP2024–94; MC2024–93 and CP2024–95]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 11, 2023.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2023–94; *Filing Title:* USPS Notice of Amendment to Parcel Select Contract 56, Filed Under Seal; *Filing Acceptance Date:* December 1, 2023; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* December 11, 2023.

2. *Docket No(s).:* MC2024–90 and CP2024–92; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 128 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 1, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 11, 2023.

3. *Docket No(s).:* MC2024–91 and CP2024–93; *Filing Title:* USPS Request to Add USPS Ground Advantage Contract 8 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 1, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 11, 2023.

4. *Docket No(s).:* MC2024–92 and CP2024–94; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 27 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 1, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 11, 2023.

5. *Docket No(s).:* MC2024–93 and CP2024–95; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, USPS Ground Advantage & Parcel Select Contract 1 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 1, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* December 11, 2023.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2023–26931 Filed 12–7–23; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–819, OMB Control No. 3235–0780]

Proposed Collection; Comment Request; Extension: Rule 0–5

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this collection of information to the Office of Management and Budget for extension and approval.

Rule 0–5 (17 CFR 270.0–5) under the Investment Company Act (the ''Act'') (15 U.S.C. 80a *et* seq.) entitled ''Procedure with Respect to Applications and Other Matters,'') sets forth procedure for applications seeking orders for exemptions or other relief under the Investment Company Act. Rule 0–5(e) requires applicants seeking expedited review to include certain information with the application. Rule 0–5(e)(1) requires that the cover page of the application include a notation prominently stating ''EXPEDITED REVIEW REQUESTED UNDER 17 CFR 270.0–5(d).'' Rule 0–5(e)(2) requires applicants to submit exhibits with marked copies of the application showing changes from the final versions of two precedent applications identified as substantially identical. Rule 0–5(e)(3) requires an accompanying cover letter, signed, on behalf of the applicant, by the person executing the application (i) identifying two substantially identical applications and explaining why the applicant chose those particular applications, and if more recent applications of the same type have been approved, why the applications chosen, rather than the more recent applications, are appropriate; and (ii) certifying that that the applicant believes the application meets the requirements of rule 0–5(d) and that the marked copies required by rule 0–5(e)(2) are complete and accurate.

Rule 0–5(g) provides that, if an applicant has not responded in writing to a request for clarification or modification of an application filed under standard review within 120 days after the request, the application will be deemed withdrawn. As an oral response would not stop an application from being deemed withdrawn, rule 0–5(g), requires applicants to respond ''in writing'' and therefore create an additional cost within the meaning of the PRA.

The information collected under rule 0–5(g) and (e) is intended to provide an expedited review procedure for certain applications and establish an internal timeframe for review of applications outside of the expedited procedure. The rule is meant to provide relief as efficiently and timely as possible, while also ensuring that applications continue to be carefully analyzed consistent with the relevant statutory standards.

Applicants for orders under the Act can include investment companies and affiliated persons of investment companies. Applicants file applications as they deem necessary. The Commission receives approximately 116 applications per year under the Act, and of the 116 applications, we estimate to receive approximately 32 applications seeking expedited review under the Act. Although each application is typically submitted on behalf of multiple entities, the entities in the vast majority of cases are related companies and are treated as a single applicant for purposes of this analysis. Each application subject to rules 0–5(e) and 0–5(g) does not impose any ongoing obligations or burdens on the part of an applicant.

Much of the work of preparing an application is performed by outside counsel. Based on conversations with applicants and Staff experience, approximately 20 percent of applications are prepared by in-house counsel.

The mandatory requirements under rule 0–5(e) increase the estimated hour or cost burden for applicants utilizing in-house counsel by 7 hours [1] or $3,388 [2] per application. Therefore, the mandatory requirements under rule 0–5(e) increase the total estimated annual hour burden by approximately 50 hours utilizing in-house counsel.[3] The total estimated annual cost burden for utilizing in-house counsel is $24,200.[4]

We estimate to receive approximately 84 applications [5] per year seeking standard review under the Act and of the 84 applications, we estimate that in approximately 10 percent of those, the applicants respond ''in writing'' to avoid the application being deemed withdrawn pursuant to rule 0–5(g). We believe the ''in writing'' requirement under rule 0–5(g) increases the burden for applicants utilizing in-house counsel by 2 hours or $968 per application.[6] Therefore, the ''in writing'' requirement under rule 0–5(g) increases the total estimated annual hour burden by approximately 3.36 hours utilizing in-house counsel.[7] The total estimated

[1] This estimate is based on the following calculation: 5 hours (estimated hours per application to prepare the marked copies) + 2 hour (estimated hours per application to explain, notate, and certify) = 7 hours.

[2] This estimate is based on the following calculation: 5 (estimated hours per application to prepare the marked copies) × $484 (hourly rate for an in-house counsel) = $2,420; 2 (estimated hours per application to explain, notate, and certify) × $484 (hourly rate for an in-house counsel) = $968; $2,420 (estimated cost per application to prepare the marked copies) + $968 (estimated cost per application to explain, notate, and certify) = $3,388; the hourly wages data is from the Securities Industry Financial Markets Association's Management & Professional Earnings in the Securities Industry 2013, modified by Commission Staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 (professionals) to account for bonuses, firm size, employee benefits, and overhead, suggests that the cost for in-house counsel is $484 per hour.

[3] This estimate is based on the following calculations: [5 (estimated hours per application to prepare the marked copies) + 2 (estimated hours per application to explain, notate, and certify)] × 32 (estimated number of applications under expedited review) × 0.20 (approximate percentage of applications prepared by in-house counsel) = 44.8 (rounded up to 50).

[4] This estimate is based on the following calculation: 50 (estimated total hours utilizing in-house counsel) × $484 (hourly rate for an in-house counsel) = $24,200.

[5] This estimate is based on the following calculation: 116 (estimated number of all applications) − 32 (estimated number of applications under expedited review) = 84.

[6] This estimate is based on the following calculation: 2 (estimated hours to prepare ''in writing'' response) × $484 (hourly rate for an in-house counsel) = $968.

[7] This estimate is based on the following calculations: 2 (estimated hours to prepare ''in writing'' response) × 84 (estimated number of applications under standard review) × 0.10 (approximate percentage of application required to respond ''in writing'') × 0.20 (approximate percentage of applications prepared by in-house counsel) = 3.36.

annual cost burden utilizing in-house counsel is $1,626.24.[8]

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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 by February 6, 2024.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: December 5, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–26990 Filed 12–7–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99075; File No. SR–FINRA–2023–017]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend FINRA Rules To Conform to Exchange Act Rules 15c6–1 and 15c6–2 To Shorten the Standard Settlement Cycle for Most Broker-Dealer Transactions From Two Business Days After the Trade Date to One Business Day After the Trade Date

December 4, 2023.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 thereunder,[2] notice is hereby given that on November 28, 2023, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rules 2341 (Investment Company Securities), 4515 (Approval and Documentation of Changes in Account Name or Designation), 6282 (Transactions Reported by Members to the ADF), 6380A (Transaction Reporting), 6380B (Transaction Reporting), 6622 (Transaction Reporting), 7140 (Trade Report Processing), 7240A (Trade Report Processing), 7340 (Trade Report Processing), 11140 (Transactions in Securities ''Ex-Dividend,'' ''Ex-Rights'' or ''Ex-Warrants''), 11150 (Transactions ''Ex-Interest'' in Bonds Which Are Dealt in ''Flat''), 11210 (Sent by Each Party), 11320 (Dates of Delivery), 11620 (Computation of Interest), 11860 (COD Orders), 11893 (Clearly Erroneous Transactions in OTC Equity Securities), and 11894 (Review by the Uniform Practice Code (''UPC'') Committee) to conform to the Commission's final amendments to Exchange Act Rule 15c6–1 and adoption of Exchange Act Rule 15c6–2 to shorten the standard settlement cycle for most broker-dealer transactions from two business days after the trade date (''T+2'') to one business day after the trade date (''T+1'').[4]

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

In October 1993, the Commission adopted Exchange Act Rule 15c6–1 to shorten the standard U.S. trade settlement cycle for most securities transactions from five business days after the trade date (''T+5'') to three business days after the trade date (''T+3'').[5] In March 2017, the Commission amended Exchange Act Rule 15c6–1 to further shorten the trade settlement cycle from T+3 to T+2.[6] On both occasions, FINRA amended its settlement-related rules to conform to the Commission's changes to the trade settlement cycle.[7]

[8] This estimate is based on the following calculation: 3.36 (estimated total hours utilizing in-house counsel) × $484 (hourly rate for an in-house counsel) = $1,626.24.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 96930 (February 15, 2023), 88 FR 13872 (March 6, 2023) (File No. S7–05–22) (Shortening the Securities Transaction Settlement Cycle) (''SEC T+1 Adopting Release''). The effective date of final Exchange Act Rules changes is May 5, 2023, and the compliance date is May 28, 2024.

[5] *See* Securities Exchange Act Release No. 33023 (October 6, 1993), 58 FR 52891 (October 13, 1993) (File No. S7–5–93). The implementation date of Exchange Act Rule 15c6–1 was June 7, 1995. *See* Securities Exchange Act Release No. 34592 (November 9, 1994), 59 FR 59137 (November 16, 1994) (File No. S7–5–93). When adopted, Exchange Act Rule 15c6–1 prohibited broker-dealers from effecting or entering into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the third business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction. Although not covered by Exchange Act Rule 15c6–1, in 1995, the Commission approved the Municipal Securities Rulemaking Board's (''MSRB'') rule change requiring transactions in municipal securities to settle by T+3. *See* Securities Exchange Act Release No. 35427 (February 28, 1995), 60 FR 12798 (March 8, 1995) (Order Approving File No. SR–MSRB–94–10).

[6] *See* Securities Exchange Act Release No. 80295 (March 22, 2017), 82 FR 15564 (March 29, 2017) (File No. S7–22–16). The compliance date for the T+2 settlement cycle was September 5, 2017. In April 2016, the Commission approved the MSRB's rule change requiring transactions in municipal securities to settle by T+2. *See* Securities Exchange Act Release No. 77744 (April 29, 2016), 81 FR 26851 (May 4, 2016) (Order Approving File No. SR–MSRB–2016–04).

[7] *See* Securities Exchange Act Release No. 35507 (March 17, 1995), 60 FR 15616 (March 24, 1995)

Even before the adoption of the T+2 settlement cycle, the concept of a T+1 settlement cycle already was being considered.[8] In this regard, the Depository Trust & Clearing Corporation (''DTCC'') published a white paper in February 2021 highlighting the benefits of moving to a T+1 settlement cycle, particularly in light of the unprecedented market activity and volatility that had occurred in 2020 and early 2021.[9] Following the publication of the DTCC White Paper, the industry formed an Industry Steering Committee (''ISC'') [10] and an Industry Working Group (''IWG'') [11] to develop an industry consensus for the transition to a T+1 settlement cycle. In December 2021, SIFMA, ICI, DTCC, and Deloitte published a report summarizing the work conducted by the ISC and IWG and setting forth the ISC's recommendations for transitioning to a T+1 settlement cycle.[12] Thereafter, in August 2022, SIFMA, ICI, and Deloitte published a T+1 implementation playbook to help market participants prepare for the implementation of T+1 settlement.[13]

On February 9, 2022, the Commission published a proposal to shorten the standard settlement cycle for most U.S. securities transactions from T+2 to T+1.[14] In the SEC T+1 Proposing Release, the Commission noted its belief that shortening the settlement cycle from T+2 to T+1 can promote investor protection, reduce risk, and increase operational and capital efficiency. Moreover, the Commission noted that two episodes involving increased market volatility–the outbreak of the COVID–19 pandemic in March 2020 and the ''meme'' stock phenomenon in January 2021–refocused attention on a T+1 standard settlement cycle. In the SEC T+1 Proposing Release, the Commission further noted that substantial progress has been made toward identifying the technological and operational changes that are necessary to establish a T+1 settlement cycle, including the industry-level changes that would be necessary to transition from a T+2 standard to a T+1 standard settlement cycle. In proposing new Exchange Act Rule 15c6–2, the Commission stated that additional regulatory steps were ''necessary to improve the processing of institutional transactions, advancing two other longstanding objectives shared by the Commission and the securities industry: the completion of trade allocations, confirmations, and affirmations on trade date (an objective often referred to as ''same-day affirmation'') and the straight-through processing of securities transactions.'' [15] The Commission received numerous comment letters on the proposal, specifically regarding the proposed amendments to Exchange Act Rule 15c6–1 and proposed new Exchange Act Rule 15c6–2.[16]

Following consideration of the comments, on February 15, 2023, the Commission adopted final rules to shorten the standard settlement cycle for most U.S. securities transactions from T+2 to T+1.[17] In addition to the amendments to Exchange Act Rule 15c6–1 to shorten the settlement cycle, the Commission adopted new Exchange Act Rule 15c6–2 regarding same-day allocations and affirmations.

Final Exchange Act Rule 15c6–1 requires most broker-dealer transactions to settle by T+1, subject to certain exceptions. Final Exchange Act Rule 15c6–2 addresses same day allocations, confirmations and affirmations to improve institutional trades and straight-through processing. Certain transactions, primarily involving institutional trades, require post-trade exchange of confirmations and affirmations, in order for the parties to compare trade details and facilitate settlement with third-party custodians. In addition, investment managers that effect block trades for the accounts of several customers simultaneously need to provide post-trade underlying account allocation instructions to the broker or custodian before these transactions can settle. Final Exchange Act Rule 15c6–2 requires a broker-dealer to either enter into a written agreement or establish, maintain, and enforce written policies and procedures reasonably designed to ensure the completion of allocations, confirmations, and affirmations (or any combination thereof) as soon as technologically practicable and no later than the end of trade date in order to complete settlement by T+1.

Proposed Rule Change

Given the Commission's recent changes to shorten the standard settlement cycle for most U.S. securities transactions from T+2 to T+1, FINRA is proposing amendments to its rules to align them with the changes set forth in the T+1 Adopting Release. As such, FINRA is proposing to amend FINRA Rules 2341 (Investment Company Securities), 4515 (Approval and Documentation of Changes in Account Name or Designation), 6282 (Transactions Reported by Members to the ADF), 6380A (Transaction Reporting), 6380B (Transaction Reporting), 6622 (Transaction Reporting), 7140 (Trade Report Processing), 7240A (Trade Report Processing), 7340 (Trade Report Processing), 11140 (Transactions in Securities ''Ex-Dividend,'' ''Ex-Rights'' or ''Ex-Warrants''), 11150 (Transactions ''Ex-Interest'' in Bonds Which Are Dealt in ''Flat''), 11210 (Sent by Each Party), 11320 (Dates of Delivery), 11620 (Computation of Interest), 11860 (COD Orders), 11893 (Clearly Erroneous Transactions in OTC Equity Securities), and 11894 (Review by the Uniform Practice Code (''UPC'') Committee).

The details of the proposed rule change are described below.

FINRA Rule 2341 (Investment Company Securities)

Rule 2341(m)(1) requires members, including underwriters, that engage in direct retail transactions for investment

(Order Approving File No. SR–NASD–94–56); Securities Exchange Act Release No. 80004 (February 9, 2017), 82 FR 10835 (February 15, 2017) (Order Approving File No. SR–FINRA–2016–047) and Securities Exchange Act Release No. 80004A (March 6, 2017), 82 FR 13517 (March 13, 2017) (Correction to Order Approving File No. SR–FINRA–2016–047). Other self-regulatory organizations (''SROs''), including, as previously noted, the MSRB, also amended their rules to conform to the shortening of the settlement cycle to T+3 and then T+2.

[8] *See, e.g.,* Deloitte & Touche LLP (''Deloitte''), T+2 Industry Implementation Playbook (12/18/2015), *https://www.ust2.com/pdfs/T2-Playbook-12-21-15.pdf;* Investor Advisory Committee, U.S. Securities and Exchange Commission Recommendation of the Investor Advisory Committee: Shortening the Settlement Cycle in U.S. Financial Markets (February 12, 2015), *https://www.sec.gov/spotlight/investor-advisory-committee-2012/settlement-cycle-recommendation-final.pdf.*

[9] *See* DTCC, Advancing Together: Leading the Industry to Accelerated Settlement (February 2021) (''DTCC White Paper''), *https://www.dtcc.com/-/media/Files/PDFs/White%20Paper/DTCC-Accelerated-Settle-WP-2021.pdf.*

[10] Participants in the ISC include, among others, DTCC, the Securities Industry and Financial Markets Association (''SIFMA''), and the Investment Company Institute (''ICI''). *See https://www.dtcc.com/ust1.*

[11] The IWG included over 800 subject matter advisors representing over 160 firms from buy- and sell-side firms, custodians, vendors, and clearinghouses. *See infra* note 12.

[12] *See* SIFMA, ICI, DTCC & Deloitte, Accelerating the U.S. Securities Settlement Cycle to T+1 (December 1, 2021), *https://www.sifma.org/wp-content/uploads/2021/12/Accelerating-the-U.S.-Securities-Settlement-Cycle-to-T1-December-1-2021.pdf.*

[13] *See* SIFMA, ICI & Deloitte, T+1 Securities Settlement Industry Implementation Playbook (August 2022), *https://www.sifma.org/wp-content/uploads/2022/08/T1_Industry_Implementation_Playbook.pdf.*

[14] *See* Securities Exchange Act Release No. 94196 (February 9, 2022), 87 FR 10436 (February 24, 2022) (File No. S7–05–22) (''SEC T+1 Proposing Release'').

[15] *See* SEC T+1 Adopting Release, *supra* note 4, 88 FR 13872, 13873.

[16] Copies of all comment letters received by the Commission are available at *https://www.sec.gov/comments/s7-05-22/s70522.htm.*

[17] *See supra* note 4.

company shares to transmit payments received from customers for the purchase of investment company shares to the payee by the end of the second business day after receipt of a customer's order to purchase such shares, or by the end of one business day after receipt of a customer's payment for such shares, whichever is later. FINRA is proposing to amend Rule 2341(m)(1) to change the two-business day transmittal requirement to one business day. FINRA is not proposing any changes to the one-business day alternative.

4515 (Approval and Documentation of Changes in Account Name or Designation)

Rule 4515 requires that, before a customer order is executed, the account name or designation must be placed upon the order form or other similar record for the transaction, and addresses the approval and documentation procedures for changes in such account name or designation. Additionally, Rule 4515.01 provides that when accepting orders from investment advisers, the member firm may allow such investment advisers to make allocations on their orders for customers on whose behalf the investment advisers submit the orders, as long as the firm receives specific account designations or customer names from such investment advisers by noon of the next business day following the trading session.[18] FINRA is proposing to amend Rule 4515.01 to provide that when accepting orders from investment advisers, a member firm may allow such investment advisers to make allocations on their orders for customers on whose behalf the investment advisers submit the orders, as long as the member firm receives specific account designations or customer names from such investment advisers by no later than the end of the day on the trade date. FINRA is proposing to amend the timeframe by which a member firm must receive the specific account designations or customer names from the investment adviser to conform Rule 4515.01 with the same-day confirmation, allocation, and affirmation requirements of new Exchange Act Rule 15c6–2.

FINRA Rules 6282 (Transactions Reported by Members to the ADF), 6380A (Transaction Reporting), 6380B (Transaction Reporting), 6622 (Transaction Reporting)

Rules 6282(a)(4)(D), 6380A(a)(5)(D), 6380B(a)(5)(D), and 6622(a)(5)(D) address transaction reporting with respect to the Alternative Display Facility (''ADF''), the FINRA/Nasdaq Trade Reporting Facility (''NQTRF''), the FINRA/NYSE Trade Reporting Facility, and the Over-the-Counter Reporting Facility (''ORF''), respectively. Specifically, these rules require a reporting firm to identify a Next Day Trade by appending the appropriate modifier to a last sale report. FINRA is proposing to delete Rules 6282(a)(4)(D), 6380A(a)(5)(D), 6380B(a)(5)(D), and 6622(a)(5)(D) because, upon implementation of a T+1 trade settlement cycle, a Next Day Trade will become a Regular Way Trade, which is the default settlement type for transaction reporting and does not require a modifier.

FINRA Rules 7140 (Trade Report Processing), 7240A (Trade Report Processing), and 7340 (Trade Report Processing)

Rules 7140(a)(3), 7240A(a)(3), and 7340(a)(3) address the automatic lock-in of trades in the ADF, the NQTRF, and the ORF, respectively. These rules provide that any trade that remains open at the end of its entry day will be carried over and automatically locked-in by the corresponding system. The trade is then submitted to the National Securities Clearing Corporation (''NSCC'') at 2:30 p.m. Eastern Time (''ET'') on the next business day. FINRA is proposing to amend Rules 7140(a)(3), 7240A(a)(3), and 7340(a)(3) to change the time a trade is submitted to the NSCC from 2:30 p.m. ET to noon ET to allow for sufficient time for NSCC to process the trade.

FINRA Rule 11140 (Transactions in Securities ''Ex-Dividend,'' ''Ex-Rights'' or ''Ex-Warrants'')

Rule 11140(b)(1) provides that for dividends or distributions, and the issuance or distribution of warrants, that are less than 25 percent of the value of the subject security, if definitive information is received sufficiently in advance of the record date, the date designated as the ''ex-dividend date'' shall be the first business day preceding the record date if the record date falls on a business day, or the second business day preceding the record date if the record date falls on a day designated by FINRA's Uniform Practice Code Committee (''Committee'') as a non-delivery date. FINRA is proposing to shorten the timeframes in Rule 11140(b)(1) by one business day. As such, the date designated as the ''ex-dividend date'' would be the record date if the record date falls on a business day, or the first business day preceding the record date if the record date falls on a day designated by the Committee as a non-delivery date. In addition, the proposed rule change would make a non-substantive technical change to the rule.

FINRA Rule 11150 (Transactions ''Ex-Interest'' in Bonds Which Are Dealt in ''Flat'')

Rule 11150(a) prescribes the manner for establishing ''ex-interest dates'' for transactions in bonds or other similar evidences of indebtedness which are traded ''flat.'' Such transactions are ''ex-interest'' on (1) the first business day preceding the record date if the record date falls on a business day, (2) the second business day preceding the record date if the record date falls on a day other than a business day, or (3) the second business day preceding the date on which an interest payment is to be made if no record date has been fixed. FINRA is proposing to shorten the timeframes in Rule 11150(a) by one business day. Therefore, the transactions would be ''ex-interest'' on (1) the record date if the record date falls on a business day, (2) the first business day preceding the record date if the record date falls on a day other than a business day, or (3) the first business day preceding the date on which an interest payment is to be made if no record date has been fixed.

FINRA Rule 11210 (Sent by Each Party)

Rule 11210(a) requires each party to a transaction, other than a cash transaction, to send a Uniform Comparison or Confirmation of the transaction on or before the first business day following the date of the transaction. FINRA is proposing to shorten the timeframe in Rule 11210(a) and require the sending of the Uniform Comparison or Confirmation of a transaction by the end of the day on the trade date. In addition, the proposed rule change would clarify that, as a result of this change, the timeframe for the exchange of comparisons or confirmations for all transactions (cash and non-cash) would be the same.

[18] Rule 4515.01 applies only where there is more than one customer for any particular order and it extends to investment advisers that are registered under the Investment Advisers Act or that, but for Investment Advisers Act Section 203(b) or 203A, would be required to register under the Investment Advisers Act. In addition, Rule 4515.01 clarifies that member firms may not knowingly facilitate the allocation of orders from investment advisers in a manner other than in compliance with both (i) the investment adviser's intent at the time of trade execution to allocate shares on a percentage basis to the participating accounts and (ii) the investment adviser's fiduciary duty with respect to allocations for such participating accounts, including but not limited to allocations based on the performance of a transaction between the time of execution and the time of allocation.

Paragraphs (c) and (d) of Rule 11210 set forth the ''Don't Know'' (''DK'') voluntary procedures for using ''DK Notices'' (FINRA Form No. 101) or other forms of notices, respectively. Depending upon the notice used, a confirming member may follow the ''DK'' procedures when it sends a comparison or confirmation of a trade (other than one that clears through the National Securities Clearing Corporation or other registered clearing agency), but does not receive a comparison or confirmation or a signed ''DK'' from the contra-member by the close of one business day following the trade date of the transaction. The procedures generally provide that after this time period, the confirming member shall send a ''DK Notice'' (or similar notice) to the contra-member. The contra-member then has two business days after receipt of the confirming member's notice to either confirm or ''DK'' the transaction.

FINRA is proposing to amend paragraphs (c) and (d) of Rule 11210 to provide that the ''DK'' procedures may be used by the confirming member if it does not receive a comparison or confirmation or signed ''DK'' from the contra-member by the end of the day on the trade date of the transaction, rather than by the current close of one business day following the trade date of the transaction. In addition, FINRA is proposing amendments to paragraphs (c)(2)(A), (c)(3), and (d)(5) of Rule 11210 to adjust the time in which a contra-member has to respond to a ''DK Notice'' (or similar notice) from two business days after the contra-member's receipt of the notice to one business day after the contra-member's receipt of the notice.

FINRA Rule 11320 (Dates of Delivery)

Rule 11320 prescribes delivery dates for various transactions. Paragraph (b) states that for a ''regular way'' transaction, delivery must be made on, but not before, the second business day after the date of the transaction. FINRA is proposing to amend Rule 11320(b) to change the reference to the second business day following the date of the transaction to the first business day following the date of the transaction.

Rule 11320(c) provides that in a ''seller's option'' transaction, delivery may be made by the seller on any business day after the second business day following the date of the transaction and prior to the expiration of the option. FINRA is proposing to amend Rule 11320(c) to change the reference to the second business day following the date of the transaction to the first business day following the date of the transaction.

FINRA Rule 11620 (Computation of Interest)

In the settlement of contracts in interest-paying securities other than for cash, Rule 11620(a) requires the calculation of interest at the rate specified in the security up to, but not including, the second business day after the date of the transaction. FINRA is proposing to amend Rule 11620(a) to shorten the timeframe to the first business day following the date of the transaction.

FINRA Rule 11860 (COD Orders)

Rule 11860(a) directs members to follow various procedures before accepting collect on delivery (''COD'') or payment on delivery (''POD'') orders.[19] Rule 11860(a)(3) provides that the member must deliver to the customer a confirmation, or all relevant data customarily contained in a confirmation with respect to the execution of the order, not later than the close of business on the next business day after any such execution. FINRA is proposing to amend Rule 11860(a)(3) to shorten the timeframe for delivery in the rule to no later than the end of the day on the trade date. In addition, the proposed rule change would make a non-substantive technical change to the rule.

Rule 11860(a)(4) requires that the member have obtained an agreement from the customer that the customer will furnish its agent instructions with respect to the receipt or delivery of the securities involved in the transaction promptly upon receipt by the customer of each confirmation, or the relevant data as to each execution, relating to such order, and that in any event the customer will assure that such instructions are delivered to its agent no later than the close of business on the first business day after the date of execution of a COD or POD order.

In light of the Commission's recent adoption of final Exchange Act Rule 15c6–2, FINRA is proposing to amend Rule 11860(a)(4) to provide that prior to accepting a COD or POD order, the member shall have entered into the written agreement, or established the written policies and procedures, required by SEA Rule 15c6–2 with respect to any resulting transaction.

[19] A COD order is a purchase by the customer where the agent is to receive the securities against payment for the purchase and a POD order is a sale by the customer where the agent is to deliver the securities against payment of the sale proceeds. Alternative industry terms for COD and POD orders are delivery vs. payment (''DVP'') and receipt vs. payment (''RVP'').

FINRA Rule 11893. Clearly Erroneous Transactions in OTC Equity Securities

Rule 11893 governs clearly erroneous determinations involving transactions in OTC Equity Securities. Pursuant to Rule 11893(a), a FINRA officer may declare any transaction involving an OTC Equity Security arising out of or reported through a trade reporting system owned or operated by FINRA or FINRA Regulation and authorized by the Commission null and void if the officer determines that (1) the transaction is clearly erroneous, or (2) such actions are necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest; provided, however, that the officer shall take action pursuant to this paragraph as soon as possible after becoming aware of the transaction, but in all cases by 3:00 p.m., Eastern Time, on the next trading day following the date of the transaction(s) at issue. FINRA is proposing to amend Rule 11893(a) to require a FINRA officer to take action as soon as possible after becoming aware of the transaction, but in all cases no later than the start of trading on the day following the date of the transaction(s) at issue. FINRA is proposing this change to the rule so that, in the new T+1 environment, a determination regarding whether a transaction is null and void is made before the trade settles. The proposed change also closely aligns the timeframe for a FINRA officer to take action with respect to the review of a clearly erroneous transaction in OTC Equity Securities with the timeframe for such action in exchange-listed securities provided in FINRA Rule 11892 (Clearly Erroneous Transactions in Exchange-Listed Securities).

FINRA Rule 11894. Review by the Uniform Practice Code (''UPC'') Committee

Rule 11894 governs the appeal to the UPC Committee of a FINRA officer's determination to declare an execution null and void. Under the rule, an appeal must be made in writing and must be received by FINRA within 30 minutes after the person making the appeal is given the notification of the determination being appealed. If the appeal pertains to OTC Equity Securities, Rule 11894(b)(2) requires the UPC committee to render a determination as soon as practicable, but in no case later than two trading days following the date of the execution(s) under review. In connection with the shortening of the settlement cycle to T+1, FINRA is proposing to amend Rule 11894(b)(2) to

require the UPC Committee to render a determination as soon as practicable, but in no case later than the trading day following the date of the execution(s) under review. This proposed rule change also more closely aligns the timeframe for UPC Committee determinations with respect to OTC Equity Securities with those for exchange-listed securities set forth in Rule 11894(b)(1).

Effective Date of Proposed Rule Change

FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be May 28, 2024, or such later date as may be announced by the Commission for compliance for Exchange Act Rules 15c6–1 and 15c6–2.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[20] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will minimize potential confusion and help industry participants comply with the T+1 settlement cycle by harmonizing FINRA rules with final Exchange Act Rules 15c6–1 and 15c6–2. FINRA further believes that by defining ''regular way'' settlement as occurring on T+1, the proposed rule change will result in a reduction of the overall level of systemic risk in the financial system and an increase in operational and capital efficiency of the clearance and settlement process. In addition, FINRA believes that the shortening of the settlement cycle will benefit investors by more quickly providing them access to the proceeds of their securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[20] 15 U.S.C. 78*o*–3(b)(6).

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to analyze the potential economic impacts of the proposed rule change, including anticipated costs, benefits, and distributional and competitive effects, relative to current baseline, and the alternatives FINRA considered in assessing how best to meet FINRA's regulatory objectives.

1. Regulatory Need

The proposed rule change will harmonize FINRA rules with final Exchange Act Rules 15c6–1 and 15c6–2, minimizing potential confusion and helping industry participants comply with the T+1 settlement cycle.

2. Economic Baseline

The economic baseline for the proposed rule change consists of current FINRA Rules 2341, 4515, 6282, 6380A, 6380B, 6622, 7140, 7240A, 7340, 11140, 11150, 11210, 11320, 11620, 11860, 11893, and 11894 as well as the amendments adopted by the SEC in final Rules 15c6–1 and 15c6–2.

3. Economic Impacts

The proposed changes to FINRA rules conform trade processing and asset servicing activities to the shortened settlement cycle and do not impose any burdens on industry beyond those that industry must incur to implement the SEC's final rules pertaining to a T+1 settlement cycle.[21]

4. Alternatives Considered

An alternative to the proposed changes to FINRA Rule 11860 to shorten the relevant timeframes to facilitate the transition to T+1 consistent with final Exchange Act Rule 15c6–2 (no later than the end of the day on trade date) is to specify the exact hours on the trade date by which a member must deliver a confirmation and a customer must deliver instructions on the receipt or delivery of the securities. While this alternative would create more uniform practices, we [sic] believe that the proposed changes to FINRA Rule 11860 would provide greater flexibility and allow members and customers to establish the timelines that are more suitable for their operational capacities and constraints.

[21] The proposed rule changes are also largely consistent with recommendations by industry trade groups. *See supra* note 13.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [22] and Rule 19b–4(f)(6) thereunder.[23]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–FINRA–2023–017 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–FINRA–2023–017. This file

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to give the Commission written notice of the self-regulatory organization's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

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 (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2023–017 and should be submitted on or before December 29, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–26928 Filed 12–7–23; 8:45 am]

BILLING CODE 8011–01–P

[24] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 12267]

Notice of Department of State Sanctions Actions

SUMMARY: The Department of State is publishing the names of one or more persons that have been placed on the Department of Treasury's List of Specially Designated Nationals and Blocked Persons (SDN List) administered by the Office of Foreign Asset Control (OFAC) based on the Department of State's determination, in consultation with other departments, as appropriate, that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: Aaron P. Forsberg, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647 7677, email: *ForsbergAP@state.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning sanctions programs are available on OFAC's website, *https://ofac.treasury.gov/sanctions-programs-and-country-information/russian-harmful-foreign-activities-sanctions.*

Notice Of Department of State Actions

On November 2, 2023, the Department of State, in consultation with other departments, as appropriate, determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

BILLING CODE 4710–AE–P

Individuals

1. TKACHUK, Anatoliy Nikolaevich (Cyrillic: ТКАЧУК, Анатолий Николаевич) (a.k.a. TKACHUK, Anatoli Nikolaevich), Russia; DOB 08 Oct 1950; POB Vladivostok, Russia; nationality Russia; Gender Male; Tax ID No. 773117597363 (Russia) (individual) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of Executive Order 14024 of April 15, 2021, "Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation," (E.O. 14024) for operating or having operated in the metals and mining sector of the Russian Federation economy.

2. NOVIKOV, Alexey Alexeyevich (Cyrillic: НОВИКОВ, Алексей Алексеевич) (a.k.a. NOVIKOV, Aleksei Alekseevich), 18 Rublevskoye Shosse 1-221, Moscow 121615, Russia; DOB 14 Dec 1972; POB Gorkiy, Russia; nationality Russia; Gender Male; Passport FMS 77777 (Russia) expires 19 Aug 2023; Tax ID No. 773118473723 (Russia) (individual) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the metals and mining sector of the Russian Federation economy.

3. ZAKHAROV, Aleksandr Vyacheslavovich (Cyrillic: ЗАХАРОВ, Александр Вячеславович) (a.k.a. ZAKHAROV, Alexander Vyacheslavovich), 272 Pushkinskaya Street, Apt 41, Izhevsk 426008, Russia; DOB 21 Sep 1965; POB Izhevsk, Russia; nationality Russia; Gender Male; Tax ID No. 183111242406 (Russia) (individual) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY ZALA AERO).

Designated pursuant to section 1(a)(iii)(C) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of LIMITED LIABILITY COMPANY ZALA AERO, a person whose property and interests in property are blocked pursuant to E.O. 14024.

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

4. ZAKHAROVA, Svetlana Nikolaevna (Cyrillic: ЗАХАРОВА, Светлана Николаевна) (a.k.a. MOSKVINA NIKOLAYEVNA, Svetlana), 272-41 Pushkinskaya, Izhevsk 426008, Russia; Flat 612, Romney House, 47 Marsham Street, London SW1P 3DS, United Kingdom; DOB 18 Mar 1964; POB Izhevsk, Russia; nationality Russia; Gender Female; Tax ID No. 183111242572 (Russia) (individual) [RUSSIA-EO14024] (Linked To: ZAKHAROV, Aleksandr Vyacheslavovich).

Designated pursuant to section 1(a)(v) of E.O. 14024 for being the adult child of ALEKSANDR VYACHESLAVOVICH ZAKHAROV, a person whose property and interests in property are blocked pursuant to E.O. 14024.

5. OSETROVA, Maria Aleksandrovna (Cyrillic: ОСЕТРОВА, Мария Александровна) (a.k.a. OSETROVA, Mariya Aleksandrovna; f.k.a. ZAKHAROVA, Maria Aleksandrovna (Cyrillic: ЗАХАРОВА, Мария Александровна)), 272 Pushkinskaya St., Apt. 41, Izhevsk 426008, Russia; DOB 07 Jan 1988; POB Russia; nationality Russia; Gender Female; Tax ID No. 183116181362 (Russia) (individual) [RUSSIA-EO14024] (Linked To: ZAKHAROV, Aleksandr Vyacheslavovich).

Designated pursuant to section 1(a)(v) of E.O. 14024 for being the adult child of ALEKSANDR VYACHESLAVOVICH ZAKHAROV, a person whose property and interests in property are blocked pursuant to E.O. 14024.

6. ZAKHAROV, Lavrentii Aleksandrovich (Cyrillic: ЗАХАРОВ, Лаврентий Александрович) (a.k.a. ZAKHAROV, Lavrentiy Aleksandrovich), 272 Pushkinskaya

Street, Apt. 41, Izhevsk 426008, Russia; Flat 612, Romney House, 47 Marsham Street, London SW1P 3DS, United Kingdom; DOB 26 Feb 1999; POB Izhevsk, Russia; nationality Russia; Gender Male; Passport 089132114 (Russia) (individual) [RUSSIA-EO14024] (Linked To: ZAKHAROV, Aleksandr Vyacheslavovich).

Designated pursuant to section 1(a)(v) of E.O. 14024 for being the adult child of ALEKSANDR VYACHESLAVOVICH ZAKHAROV, a person whose property and interests in property are blocked pursuant to E.O. 14024.

7. ZAKHAROV, Nikita Aleksandrovich (Cyrillic: ЗАХАРОВ, Никита Александрович), 272-41 Pushkinskaya St., Izhevsk 426008, Russia; DOB 27 Oct 1986; POB Izhevsk, Russia; nationality Russia; Gender Male; Tax ID No. 184101937739 (Russia) (individual) [RUSSIA-EO14024] (Linked To: ZAKHAROV, Aleksandr Vyacheslavovich).

Designated pursuant to section 1(a)(v) of E.O. 14024 for being the adult child of ALEKSANDR VYACHESLAVOVICH ZAKHAROV, a person whose property and interests in property are blocked pursuant to E.O. 14024.

8. KOTELNIKOV, Maksim Alekseyevich (Cyrillic: КОТЕЛЬНИКОВ, Максим Алексеевич), 3 Krashenikova St., Flat 9, Novosibirsk 633476, Russia; DOB 31 Jan 1985; nationality Russia; Gender Male; Tax ID No. 543850129194 (Russia) (individual) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY OMP).

Designated pursuant to section 1(a)(iii)(C) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of LIMITED LIABILITY COMPANY OMP, a person whose property and interests in property are blocked pursuant to E.O. 14024.

9. DMITRIEV, Dmitriy Alekseyevich (Cyrillic: ДМИТРИЕВ, Дмитрий Алексеевич), 25 Iubileinaia St., Flat 45, Liubertsi, Moscow Regin, Russia; DOB 22 Jul 1980; POB Khanty-Mansiysky Autonomous Region, Russia; nationality Russia; Gender

Male; Tax ID No. 860902214900 (Russia) (individual) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY HARTIS DV).

Designated pursuant to section 1(a)(iii)(C) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of LIMITED LIABILITY COMPANY HARTIS DV, a person whose property and interests in property are blocked pursuant to E.O. 14024.

10. IEVLEV, Igor Nikolaevich (Cyrillic: ИЕВЛЕВ, Игор Нииколаевич) (a.k.a. IEVLEV, Igor Nikolayevich), 17 Zelionie Allei, Flat 428, Moscow, Moscow Region, Russia; DOB 17 Jul 1977; nationality Russia; Gender Male; Tax ID No. 502904657693 (Russia) (individual) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY ID SOLUTION).

Designated pursuant to section 1(a)(iii)(C) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of LIMITED LIABILITY COMPANY ID SOLUTION, a person whose property and interests in property are blocked pursuant to E.O. 14024.

11. GERSHANOK, Lev Valentinovich (Cyrillic: ГЕРШАНОК, Лев Валентинович), Moscow, Russia; DOB 06 Feb 1976; POB Perm, Perm Region, Russia; nationality Russia; Gender Male (individual) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

12. SERKO, Aleksey Mikhaylovich (Cyrillic: СЕРКО, Алексей Михайлович) (a.k.a. SERKO, Alexey Mikhaylovich), Russia; DOB 22 Oct 1969; POB St. Petersburg, Russia; nationality Russia; Gender Male (individual) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

13. OGURYAEV, Dmitriy Aleksandrovich (Cyrillic: ОГУРЯЕВ, Дмитрий Александрович), Moscow, Russia; DOB 25 Aug 1976; POB Korolev, Moscow Region, Russia; nationality Russia; Gender Male (individual) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

14. TROTSENKO, Gleb Romanovich (Cyrillic: ТРОЦЕНКО, Глеб Романович), 32-1 2th Vladimirskaia, APT 34B, Moscow 111401, Russia; DOB 18 Jun 2001; POB Moscow, Russia; nationality Russia; Gender Male; Passport 761134389 (Russia) expires 18 Jul 2029; alt. Passport 650682691 (Russia) expires 16 Jun 2022; Tax ID No. 772035471174 (Russia) (individual) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

15. MILSKAIA, Elena Igorevna (Cyrillic: МИЛЬСКАЯ, Елена Игоревна) (a.k.a. MILSKAYA, Elena; a.k.a. MILSKAYA, Yelena), Moscow, Russia; DOB 20 Dec 1980; POB Moscow, Russia; nationality Russia; Gender Female; Tax ID No. 774395846880 (Russia) (individual) [RUSSIA-EO14024] (Linked To: KURENKOV, Aleksandr Vyacheslavovich).

Designated pursuant to section 1(a)(v) of E.O. 14024 for being the spouse of ALEKSANDR VYACHESLAVOVICH KURENKOV, a person whose property and interests in property are blocked pursuant to E.O. 14024.

16. ZAKRIEV, Salman Soipovich (Cyrillic: ЗАКРИЕВ, Салман Соипович), Chechen Republic, Russia; DOB 02 Dec 1967; POB Alleroy, Chechen Republic, Russia; nationality Russia; Gender Male (individual) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

17. ZAKRIEV, Yakub Salmanovich (Cyrillic: ЗАКРИЕВ, Якуб Салманович) (a.k.a. ZAKRIEV, Ibragim Salmanovich (Cyrillic: ЗАКРИЕВ, Ибрагим Салманович); a.k.a. ZAKRIYEV, Yakub), Moscow, Russia; DOB 16 Oct 1990; POB Kurchaloy, Chechen Republic, Russia; nationality Russia; Gender Male (individual) [RUSSIA-EO14024] (Linked To: ZAKRIEV, Salman Soipovich).

Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

18. BESPROZVANNYKH, Aleksey Sergeevich (Cyrillic: БЕСПРОЗВАННЫХ, Алексей Сергеевич) (a.k.a. BESPROZVANNYKH, Alexey Sergeyevich), Moscow, Russia; DOB 23 Aug 1979; POB Ridder, Kazakhstan; nationality Russia; Gender Male; Tax ID No. 222408092578 (Russia) (individual) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

19. BONDARENKO, Anastasiya Borisovna (Cyrillic: БОНДАРЕНКО, Анастасия Борисовна), Moscow, Russia; DOB 09 Apr 1978; POB Volgograd, Russia; nationality Russia; Gender Female (individual) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

20. EVTUKHOV, Viktor Leonidovich (Cyrillic: ЕВТУХОВ, Виктор Леонидович), Moscow, Russia; DOB 02 Mar 1968; POB St. Petersburg, Russia; nationality Russia; Gender Male; Tax ID No. 781001361883 (Russia) (individual) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

21. KACHANOV, Oleg Yurevich (Cyrillic: КАЧАНОВ, Олег Юрьевич), Moscow, Russia; DOB 29 Jun 1976; POB Moscow, Russia; nationality Russia; Gender Male (individual) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

Entities

1. LIMITED LIABILITY COMPANY ARCTIC LNG 2 (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ АРКТИК СПГ 2) (a.k.a. ООО ARKTIK SPG 2), d. 9 kab. 117, mikroraion Slavyanski, Novy Urengoi 629309, Russia; Tax ID No. 8904075357 (Russia); Registration Number 1148904001278 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the metals and mining sector of the Russian Federation economy.

2. JOINT STOCK COMPANY RUSSIAN TITANIUM RESOURCES (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО РУССКИЕ ТИТАНОВЫЕ РЕСУРСЫ) (a.k.a. JSC

RUSTITAN (Cyrillic: АО РУСТИТАН)), d. 3 pom. I, per. 1-I Obydenski, Moscow 119034, Russia; Tax ID No. 7702711230 (Russia); Registration Number 1097746415315 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the metals and mining sector of the Russian Federation economy.

3. RUSSIAN TITANIUM RESOURCES LIMITED, 80 Archbishop Makariou III, Panou Egglezou, Floor 5, Flat 500, Nicosia 1077, Cyprus; Organization Established Date 07 Apr 2010; Registration Number HE 265198 (Cyprus) [RUSSIA-EO14024] (Linked To: TKACHUK, Anatoliy Nikolaevich; Linked To: NOVIKOV, Alexey Alexeyevich).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, ALEXEY ALEXEYEVICH NOVIKOV and ANATOLIY NIKOLAEVICH TKACHUK, persons whose property and interests in property are blocked pursuant to E.O. 14024.

4. LIMITED LIABILITY COMPANY ZALA AERO (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ЗАЛА АЭРО) (a.k.a. ZALA AERO GROUP), 9 Salyama Adilya St., Office 3, Moscow 123154, Russia; Tax ID No. 1841001815 (Russia); Registration Number 1091841000624 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

5. A LEVEL AEROSYSTEMS CST LLC (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ЦСТ) (a.k.a. "LIMITED LIABILITY COMPANY CST"; a.k.a. "OOO TSST"), 130 Vorovskogo St., Izhevsk 436063, Russia; 3/2 Perunovsky Lane, Floor 3, Room 21, Moscow 127055, Russia; D. 2 etazh 5 kom. 7, per. Institutski, Moscow 127030, Russia; Tax ID No. 1841015504 (Russia); Registration Number 1101841007938 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

6. LIMITED LIABILITY COMPANY INVEST GROUP (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ИНВЕСТ ГРУПП), 3 Perunovskiy Lane, Building 2, Floor 3, Room 17, Moscow 127055, Russia; Tax ID No. 7203451749 (Russia); Registration Number 1187232014991 (Russia) [RUSSIA-EO14024] (Linked To: ZAKHAROVA, Svetlana Nikolaevna).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, SVETLANA NIKOLAEVNA ZAKHAROVA, a person whose property and interests in property is blocked pursuant to E.O. 14024.

7. LIMITED LIABILITY COMPANY SCIENTIFIC AND TECHNICAL CENTER ORION (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ НАУЧНО ТЕХНИЧЕСКИЙ ЦЕНТР ОРИОН) (a.k.a. NTTS ORION ООО), 7А Gostinichnaya St., Suite 1/1, Room/Office 1/B-08, Moscow 127106, Russia; Tax ID No. 9715302790 (Russia); Registration Number 1177746509621 (Russia) [RUSSIA-EO14024] (Linked To: OSETROVA, Maria Aleksandrovna).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, MARIA ALEKSANDROVNA OSETROVA, a person whose property and interests in property is blocked pursuant to E.O. 14024.

8. LIMITED LIABILITY COMPANY AEROSCAN (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ АЭРОСКАН) (a.k.a. ООО AEROSKAN), 3 Perunovskiy Lane, Building 2, Floor 2, Room 11, Moscow 127055, Russia; Tax ID No. 5603045794 (Russia); Registration Number 1175658025179 (Russia) [RUSSIA-EO14024] (Linked to: ZAKHAROV, Nikita Aleksandrovich).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, NIKITA ALEKSANDROVICH ZAKHAROV, a person whose property and interests in property is blocked pursuant to E.O. 14024.

9. LIMITED LIABILITY COMPANY EMERGENCY DIGITAL SOLUTIONS (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ЭМЕРДЖЕНСИ ДИДЖИТАЛ СОЛЮШЕНС) (a.k.a. "LLC EDS"), 3 Perunovskiy Lane, Building 2, Office 2, Moscow 127055, Russia; Tax ID No. 9715315319 (Russia); Registration Number 1187746421664 (Russia) [RUSSIA-EO14024] (Linked To: ZAKHAROV, Nikita Aleksandrovich).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, NIKITA ALEKSANDROVICH ZAKHAROV, a person whose property and interests in property is blocked pursuant to E.O. 14024.

10. LIMITED LIABILITY COMPANY RTK (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ РТК), 1 Visokovoltniy Drive, Building 49, Floor 2, Room 1, Office 28, Moscow 127566, Russia; Tax ID No. 9715415169 (Russia); Registration Number 1227700125510 (Russia) [RUSSIA-EO14024] (Linked to: ZAKHAROV, Nikita Aleksandrovich).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, NIKITA ALEKSANDROVICH ZAKHAROV, a person whose property and interests in property is blocked pursuant to E.O. 14024.

11. LIMITED LIABILITY COMPANY OMP (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ОМП), 3 Stanislavskogo St., Building

31/1, Floor 1, Office 2, Novosibirsk 630079, Russia; Tax ID No. 5403049953 (Russia); Registration Number 1195476035171 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

12. LIMITED LIABILITY COMPANY HARTIS DV (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ХАРТИС ДВ) (a.k.a. KHARTIS DV LLC), 35 Svobodiy St., Building 5, Floor 1, Office 1, Room No. 4, Moscow 125362, Russia; Tax ID No. 7733753978 (Russia); Registration Number 5107746026262 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

13. LIMITED LIABILITY COMPANY ID SOLUTION (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ АЙДИ СОЛЮШН), 60В Dorozhnaya St., Office 421, Moscow 117405, Russia; Tax ID No. 5003091492 (Russia); Registration Number 5115003000327 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

14. OOO MVIZION, 313 Gaydar Alieev kuchasi, Tashkent 100161, Uzbekistan; Tax ID No. 309644860 100113 (Uzbekistan) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY ID SOLUTION).

Designated pursuant to section 1(a)(vi)(B) of E.O. 14024 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, LIMITED LIABILITY COMPANY ID SOLUTION, a person whose property and interests in property is blocked pursuant to E.O. 14024.

15. LIMITED LIABILITY COMPANY SPUTNIK ELECTRONICS (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ СПУТНИК

ЭЛЕКТРОНИКС) (a.k.a. "LLC SPEL"), 12 Gavanskaya St., Building 2B, Room 1-N, Office 1, St. Petersburg 199106, Russia; Tax ID No. 7801636859 (Russia); Registration Number 1147847296960 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

16. LIMITED LIABILITY COMPANY TECHNICAL CENTER WINDEQ (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ТЕХНИЧЕСКИЙ ЦЕНТР ВИНДЕК) (a.k.a. TECHNICAL CENTER VINDEK LLC), 1B/3 Pokrovskaya St., Office 69, Selkhoztekhnika Square, Podolsk 142116, Russia; Tax ID No. 7726551240 (Russia); Registration Number 1067757986493 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

17. LIMITED LIABILITY COMPANY ALFAKOMPONENT (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ АЛЬФАКОМПОНЕНТ), 140E Leninskiy Avenue, Office 407A, Saint Petersburg 198216, Russia; Tax ID No. 7804607729 (Russia); Registration Number 1177847326910 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

18. LIMITED LIABILITY COMPANY FOTOPARK (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ФОТОПАРК), 113A Buynakskovo St., Office 13, Izberbash 368501, Russia; Tax ID No. 0562070207 (Russia); Registration Number 1080562000342 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

19. LIMITED LIABILITY COMPANY BIK INFORM (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ БИК ИНФОРМ), 9 Bumazhnaya St., Room 1A, Office 201-209, Saint Petersburg 190020, Russia; Tax ID No. 7805109081 (Russia); Registration Number 1027802766529 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

20. LIMITED LIABILITY COMPANY NANOCHIP (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ НАНОЧИП), 142 Bolokolamskoe Highway, Office 468, Moscow 125464, Russia; Tax ID No. 7733308984 (Russia); Registration Number 5167746406207 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

21. LIMITED LIABILITY COMPANY N CHIP MSK (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ Н ЧИП МСК) (a.k.a. LLC NANOCHIP MSK (Cyrillic: ООО НАНОЧИП МСК)), 3 Musorgskovo St., Floor 3, Room 317, Moscow 127490, Russia; Tax ID No. 7733380370 (Russia); Registration Number 1227700087340 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

22. LIMITED LIABILITY COMPANY SPUTNIK SPETSPOSTAVKA (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ СПУТНИК СПЕЦПОСТАВКА) (a.k.a. LLC SPUTNIK SP (Cyrillic: ООО СПУТНИК СП)), 12 Gavanskaya St., Room 2B, Suite 5N, Office 2, Saint Petersburg 199106, Russia; Tax ID No. 7801692370 (Russia); Registration Number 1207800172216 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

23. LIMITED LIABILITY COMPANY ENTEP (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ЭНТЕП) (a.k.a. "AVIATOR RC"), 12 Bianki St., Building 2, Room 112, Moscow 108811, Russia; Tax ID No. 7721809577 (Russia); Registration Number 1137746953695 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

24. LIMITED LIABILITY COMPANY SPETSTECHNOTRADE (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ СПЕЦТЕХНОТРЕЙД), 11 Mekhanizatorskiy Lane, Office 105, Izhevsk 426028, Russia; Tax ID No. 1832137908 (Russia); Registration Number 1161832056210 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the metals and mining sector of the Russian Federation economy.

25. LIMITED LIABILITY COMPANY ORELMETALLPOYLMER (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ОРЕЛМЕТАЛЛПОЛИМЕР), 45 Olkhovskaya St., Building 3, Floor 1, Room 1, Office 10, Moscow 105066, Russia; Tax ID No. 5249143334 (Russia); Registration Number 1155249005856 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the metals and mining sector of the Russian Federation economy.

26. BESTOP GLOBLE MFG LIMITED (Chinese Traditional: 百思拓 中國 製造有限公司), Room 10/1003, 1A-1L Weida Commercial Building, Tung Choi Street, Mong

Kok, Kowloon, Hong Kong, China; 1398 Guanguang Road, Guanlan Town, Longhua, Shenzhen, China; Registration Number 1595837 (Hong Kong) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the metals and mining sector of the Russian Federation economy.

27. LIMITED LIABILITY COMPANY LEGION KOMPLEKT (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ЛЕГИОН КОМПЛЕКТ), 13 Ilmenskiy Drive, Building 3, Floor 1, Room 1, Office 1, Moscow 127238, Russia; Tax ID No. 7743232702 (Russia); Registration Number 5177746188219 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

28. BALTELEKTRON LIMITED LIABILITY COMPANY (Cyrillic: БАЛТЕЛЕКТРОН ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ), d. 17, k. 12, etazh 3, kom. 20, ul. 1-Ya Yamskogo Polya, Moscow 125124, Russia; Tax ID No. 7714417321 (Russia); Registration Number 5177746131888 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

29. MAKRO TIM LIMITED LIABILITY COMPANY (Cyrillic: МАКРО ТИМ ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ) (a.k.a. MACRO TEAM LTD), Prospekt Zelenyi, 2, Moscow 111141, Russia; Tax ID No. 7720134018 (Russia); Registration Number 1027739020759 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

30. DAFENG ASIA CO LLC, Mahatma Gandhi Street 15-501, 15 Khoroo, Khan-Uul Dstr, Ulaanbaatar, Mongolia; Tax ID No. 6468772 (Mongolia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

31. LIMITED LIABILITY COMPANY ADVANTA ELECTRO (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ АДВАНТА ЭЛЕКТРО), 3 Chernyshevskovo Lane, Floor 2, Office No. 13, Moscow 127473, Russia; Tax ID No. 7710973254 (Russia); Registration Number 5147746439979 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

32. LIMITED LIABILITY COMPANY COMFORT MAX (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ КОМФОРТ МАКС), 21 Novoryazanskoye Highway, Office 23, Tomilino, Lyuberetskiy, Moscow Region, Russia; 3 Rubtsovskaya Embankment, Building 1, Office 1101, Moscow 105082, Russia; Tax ID No. 7701964528 (Russia); Registration Number 1127746555870 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

33. NEWAY TECHNOLOGIES LIMITED, Room 606 Celebrity Comm, Centre 64 Castle Peak Road, Sham Shuipo, Hong Kong, China; Unit D7, 3/F., Block D, 18-24 Kwai Cheong Road, Mai Shun Industrial Building, Kwai Chung, New Territories, Hong Kong, China; Room 1206, Hua Lianfa West Building, Hua Qiang North Road, Futian District, Shenzhen, Guangdong, China; Registration Number 1252800 (Hong Kong) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY COMFORT MAX).

Designated pursuant to section 1(a)(vi)(B) of E.O. 14024 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or

services to or in support of, LIMITED LIABILITY COMPANY COMFORT MAX, a person whose property and interests in property is blocked pursuant to E.O. 14024.

34. LLC LASER COMPONENTS (Cyrillic: ООО ЛАЗЕРНЫЕ КОМПОНЕНТЫ) (a.k.a. LAZERNYE KOMPONENTY OOO), Shosse Varshavskoe, Dom 1, Stroenie 17, Etazh 2, Komnata 1, Moscow 117105, Russia; Tax ID No. 7704811495 (Russia); Registration Number 1127746532616 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

35. LIMITED LIABILITY COMPANY SCIENTIFIC PRODUCTION COMPANY ELECTRONIC OPTICAL AND MECHANICAL SYSTEMS (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТВЕННОСТЬЮ НАУЧНО ПРОИЗВОДСТВЕННЫЙ КОМПЛЕКС ЭЛЕКТРОННЫЕ ОЛТИЧЕСКИЕ И МЕХАНИЧЕСКИЕ СИСТЕМЫ) (a.k.a. "LLC NPC EOMS" (Cyrillic: "ООО НПК ЭОМС"); a.k.a. "NPK EOMS"), d. 1, str. 17, etazh/komnata 2/1, shosse Varshavskoe, Moscow 117105, Russia; Tax ID No. 7726401559 (Russia); Registration Number 1177746419960 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

36. LIMITED LIABILITY COMPANY STILSOFT (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ СТИЛСОФТ), 15 Mayakovskovo St., Office 111, Stavropol, Stavropol Krai 355012, Russia; Tax ID No. 2634806725 (Russia); Registration Number 1122651024924 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

37. LIMITED LIABILITY COMPANY NEW TECHNOLOGIES (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ НОВЫЕ

ТЕХНОЛОГИИ) (a.k.a. LIMITED LIABILITY COMPANY AERLYON TECHNOLOGIES), 10 Likhachyova St, Room 2, Office 9K, Moscow 115193, Russia; Tax ID No. 9725117563 (Russia); Registration Number 1237700188274 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

38. JOINT STOCK COMPANY NPC SPETSNEFTPRODUKT (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО НПЦ СПЕЦНЕФТЬПРОДУКТ), D. 19A etazh 8 Pom., I kom. 1-11, per. Khlebny, Moscow 121069, Russia; Tax ID No. 1027739694454 (Russia); Registration Number 7706210718 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

39. MOSCOW STATE TECHNICAL UNIVERSITY NAMED AFTER NE BAUMAN (Cyrillic: МОСКОВСКИЙ ГОСУДАРСТВЕННЫЙ ТЕХНИЧЕСКИЙ УНИВЕРСИТЕТ ИМЕНИ НЭ БАУМАНА) (a.k.a. BAUMAN MOSCOW STATE TECHNICAL UNIVERSITY; a.k.a. FEDERAL STATE BUDGETARY EDUCATIONAL INSTITUTION OF HIGHER EDUCATION MOSCOW STATE TECHNICAL UNIVERSITY NAMED AFTER NE BAUMAN NATIONAL RESEARCH UNIVERSITY (Cyrillic: ФЕДЕРАЛЬНОЕ ГОСУДАРСТВЕННОЕ БЮДЖЕТНОЕ ОБРАЗОВАТЕЛЬНОЕ УЧРЕЖДЕНИЕ ВЫСШЕГО ОБРАЗОВАНИЯ МОСКОВСКИЙ ГОСУДАРСТВЕННЫЙ ТЕХНИЧЕСКИЙ УНИВЕРСИТЕТ ИМЕНИ НЭ БАУМАНА НАЦИОНАЛЬНЫЙ ИССЛЕДОВАТЕЛЬСКИЙ УНИВЕРСИТЕТ)), d. 5 str. 1, ul. 2-Ya Baumanskaya, Moscow 105005, Russia; Tax ID No. 7701002520 (Russia); Registration Number 1027739051779 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(iv) of E.O. 14024 for being a political subdivision, agency, or instrumentality of the Government of the Russian Federation economy.

40. LIMITED LIABILITY COMPANY MACHINE BUILDING ASSOCIATION PRESSMASH (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ СТАНКОСТРОИТЕЛЬНОЕ ОБЪЕДИНЕНИЕ ПРЕССМАШ), Ulitsa Baumanskaya, Dom 7, Stroenie 1, Et 2, Kom 55, Moscow 105005, Russia; Tax ID No. 9701032600 (Russia); Registration Number 1167746175442 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

41. LIMITED LIABILITY COMPANY LANMAX (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ЛАНМАКС), 22nd Kilometer Kievsksoe Highway, House 6, Building 1, Moscow 142784, Russia; Tax ID No. 7701870982 (Russia); Registration Number 1107746238324 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

42. DREAM LITE TRADING LLC (Arabic: دريم لايت للتجارة ش.ذ.م.م), PO Box 127113, Office 9, Al Jamal Properties 1, Naif, Dubai, United Arab Emirates; Registration Number 629360 (United Arab Emirates) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

43. LIMITED LIABILITY COMPANY MDIKAM EK (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ МДИКАМ ЭК), 3 Gostinichnaya Street, Moscow 127106, Russia; Tax ID No. 9715229613 (Russia); Registration Number 5157746087384 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

44. JOINT STOCK COMPANY PLASTMASS PLANT (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО ПЛАСТМАСС ЗАВОД), 52 Pobedy Ave., Kopeysk, Chelyabinsk Region 456620, Russia; Tax ID No. 7411009901 (Russia); Registration Number 1117411001388 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

45. BLIKSEM COMPUTERS & REQUISITES TRADING COMPANY LLC (Arabic: بليكسم لتجارة اجهزة الحاسب الالي ولوازمة شركة ذ.م.م.) (a.k.a. BLIKSEM COMPUTERS AND REQUISITES TRADING CO LLC), Deira Al Qusais Industrial Area 1, Dubai, United Arab Emirates; Registration Number 1076083 (United Arab Emirates) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the electronics sector of the Russian Federation economy.

46. LIMITED LIABILITY COMPANY LEX PRIME (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ЛЕКС ПРАЙМ), soor. 12, str. 1, pom. 8/4 P, kom. 8.5, naberezhnaya Presnenskaya, Moscow 123112, Russia; Tax ID No. 9703110243 (Russia); Registration Number 1227700603635 (Russia) [RUSSIA-EO14024] (Linked To: TROTSENKO, Gleb Romanovich).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, GLEB ROMANOVICH TROTSENKO, a person whose property and interests in property is blocked pursuant to E.O. 14024.

47. LIMITED LIABILITY COMPANY START AERO (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ СТАРТ АЭРО), d. 3A str. 6 etazh 1

pom, 2, ul. 1-Ya Frunzenskaya, Moscow 119146, Russia; Tax ID No. 7704366124 (Russia); Registration Number 1167746706379 (Russia) [RUSSIA-EO14024] (Linked To: TROTSENKO, Gleb Romanovich).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, GLEB ROMANOVICH TROTSENKO, a person whose property and interests in property is blocked pursuant to E.O. 14024.

48. LIMITED LIABILITY COMPANY GLENIKS TEKHNOLODZHIS (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ГЛЕНИКС ТЕХНОЛОДЖИС), d. 3A str. 6 etazh 2 pom. 2, ul. 1-Ya Frunzenskaya, Moscow 119146, Russia; Tax ID No. 7704472556 (Russia); Registration Number 1197746037631 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

49. LLC A INVEST (Cyrillic: ООО А ИНВЕСТ), d. 3A str. 6 etazh 2 pom. 5, ul. 1-Ya Frunzenskaya, Moscow 119146, Russia; Tax ID No. 9704171584 (Russia); Registration Number 1227700669350 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the management consulting sector of the Russian Federation economy.

50. LIMITED LIABILITY COMPANY INFRASTRUCTURE CORPORATION AEON (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ИНФРАСТРУКТУРНАЯ КОРПОРАЦИЯ АЕОН) (a.k.a. ООО ІК AEON (Cyrillic: ООО ИК АЕОН)), d. 3A str. 6, ul. 1-Ya Frunzenskaya, Moscow 119146, Russia; Tax ID No. 7704661909 (Russia); Registration Number 1077760229656 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the management consulting sector of the Russian Federation economy.

51. LIMITED LIABILITY COMPANY TSRTI (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ЦРТИ), d. 3A str. 5 etazh 1 pom. A1, ul. 1-Ya Frunzenskaya, Moscow 119146, Russia; Tax ID No. 7704452856 (Russia); Registration Number 1187746293360 (Russia) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY INFRASTRUCTURE CORPORATION AEON).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LIMITED LIABILITY COMPANY INFRASTRUCTURE CORPORATION AEON, a person whose property and interests in property is blocked pursuant to E.O. 14024.

52. LLC BP INZHINIRING (Cyrillic: ООО БП ИНЖИНИРИНГ), d. 14 str. 2 etazh 1 pom. I kom. 28, ul. Bolshaya Novodmitrovskaya, Moscow 127015, Russia; Tax ID No. 9715387264 (Russia); Registration Number 1207700264750 (Russia) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY INFRASTRUCTURE CORPORATION AEON).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LIMITED LIABILITY COMPANY INFRASTRUCTURE CORPORATION AEON, a person whose property and interests in property is blocked pursuant to E.O. 14024.

53. LLC AEON HOLDING DEVELOPMENT (Cyrillic: ООО АЕОН ХОЛДИНГ ДЕВЕЛОПМЕНТ), d. 3A str. 6, etazh 1 pom. 29, ul. 1-Ya Frunzenskaya, Moscow 119146, Russia; Tax ID No. 7704365995 (Russia); Registration Number 1167746703850 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the management consulting sector of the Russian Federation economy.

54. LIMITED LIABILITY COMPANY YUP 2 (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ЮП 2) (a.k.a. "ООО IUP 2"), d. 10 str. 12 etazh 4 Sluzhebn. kom. 14, proezd 2-I Yuzhnoportovy, Moscow 115432, Russia; Tax ID No. 9723103371 (Russia); Registration Number 1207700303788 (Russia) [RUSSIA-EO14024] (Linked To: LLC AEON HOLDING DEVELOPMENT).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LLC AEON HOLDING DEVELOPMENT, a person whose property and interests in property is blocked pursuant to E.O. 14024.

55. LIMITED LIABILITY COMPANY KSK LTD (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ КСК ЛТД), proezd 2-I Yuzhnoportovy d. 21, Moscow 115432, Russia; Tax ID No. 7723012890 (Russia); Registration Number 1037739312764 (Russia) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY YUP 2).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LIMITED LIABILITY COMPANY YUP 2, a person whose property and interests in property is blocked pursuant to E.O. 14024.

56. LIMITED LIABILITY COMPANY TORGRECHTRANS (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ТОРГРЕЧТРАНС), ul. Kuznetski Most 19 str. 1, Moscow 107031, Russia; Tax ID No. 7702845869 (Russia); Registration Number 5147746159897 (Russia) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY KSK LTD).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LIMITED

LIABILITY COMPANY KSK LTD, a person whose property and interests in property is blocked pursuant to E.O. 14024.

57. LLC AEON DEVELOPMENT (Cyrillic: ООО АЕОН ДЕВЕЛОПМЕНТ), d. 3А str. 4, ul, 1-Ya Frunzenskaya, Moscow 119146, Russia; Tax ID No. 7704640264 (Russia); Registration Number 5077746304136 (Russia) [RUSSIA-EO14024] (Linked To: LLC AEON HOLDING DEVELOPMENT).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LLC AEON HOLDING DEVELOPMENT, a person whose property and interests in property is blocked pursuant to E.O. 14024.

58. LIMITED LIABILITY COMPANY RI2 (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ РИ2), d. 12 k. 1 pom. 17/1, ul. Kolomenskaya, Moscow 115142, Russia; Tax ID No. 7725363004 (Russia); Registration Number 1177746279215 (Russia) [RUSSIA-EO14024] (Linked To: LLC AEON DEVELOPMENT).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LLC AEON DEVELOPMENT, a person whose property and interests in property is blocked pursuant to E.O. 14024.

59. LIMITED LIABILITY COMPANY YACHT CLUB RIVER PARK NAGATINO (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ЯХТ КЛУБ РИВЕР ПАРК НАГАТИНО), d. 7 str. 1 kom. 3, ul. Rechnikov, Moscow 115407, Russia; Tax ID No. 9725010010 (Russia); Registration Number 1197746307109 (Russia) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY RI2).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LIMITED

LIABILITY COMPANY RI2, a person whose property and interests in property is blocked pursuant to E.O. 14024.

60. LIMITED LIABILITY COMPANY RECHNIKOV INVEST (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ РЕЧНИКОВ ИНВЕСТ), d. 12 k. 1 pom. 17/1, ul. Kolomenskaya, Moscow 115142, Russia; Tax ID No. 7725682120 (Russia); Registration Number 1097746752421 (Russia) [RUSSIA-EO14024] (Linked To: LLC AEON DEVELOPMENT).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LLC AEON DEVELOPMENT, a person whose property and interests in property is blocked pursuant to E.O. 14024.

61. LIMITED LIABILITY COMPANY RIVER PARK (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ РИВЕР ПАРК), d. 12 k. 1 pom. 17/1, ul. Kolomenskaya, Moscow 115142, Russia; Tax ID No. 7725834292 (Russia); Registration Number 1147746766155 (Russia) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY RECHNIKOV INVEST).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LIMITED LIABILITY COMPANY RECHNIKOV INVEST, a person whose property and interests in property is blocked pursuant to E.O. 14024.

62. LIMITED LIABILITY COMPANY AHD SOUTH PORT (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ АХД ЮЖНЫЙ ПОРТ), d. 3A str. 4, ul, 1-Ya Frunzenskaya, Moscow 119146, Russia; Tax ID No. 9704214132 (Russia); Registration Number 1237700409154 (Russia) [RUSSIA-EO14024] (Linked To: LLC AEON HOLDING DEVELOPMENT).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LLC AEON HOLDING DEVELOPMENT, a person whose property and interests in property is blocked pursuant to E.O. 14024.

63. LIMITED LIABILITY COMPANY RASSVET (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ РАССВЕТ), d. 5 k. 3 kv. 233, ul. Kakhovka, Moscow 117303, Russia; Tax ID No. 7727461014 (Russia); Registration Number 1217700097702 (Russia) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY AHD SOUTH PORT).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LIMITED LIABILITY COMPANY AHD SOUTH PORT, a person whose property and interests in property is blocked pursuant to E.O. 14024.

64. LIMITED LIABILITY COMPANY FLEMSTED (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ФЛЕМСТЭД), d. 1/8 str. 6 etazh 3 pom. I kom. 6, per. 4-I Syromyatnicheski, Moscow 105120, Russia; Tax ID No. 7709959777 (Russia); Registration Number 1147746886033 (Russia) [RUSSIA-EO14024] (Linked To: LLC AEON HOLDING DEVELOPMENT).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LLC AEON HOLDING DEVELOPMENT, a person whose property and interests in property is blocked pursuant to E.O. 14024.

65. LLC TSENTRTEKHKHIMMASH (Cyrillic: ООО ЦЕНТРТЕХХИММАШ), d. 23 str. 1 etazh / kom. 2/14, ul. Bolshaya Novodmitrovkaya, Moscow 127015, Russia; Tax ID No. 7725539970 (Russia); Registration Number 1057747090280 (Russia) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY FLEMSTED).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LIMITED LIABILITY COMPANY FLEMSTED, a person whose property and interests in property is blocked pursuant to E.O. 14024.

66. QUALIFIED DEVELOPER KUTUZOVSKIY 16 LIMITED LIABILITY COMPANY (Cyrillic: СПЕЦИАЛИЗИРОВАННЫЙ ЗАСТРОЙЩИК КУТУЗОВСКИЙ 16 ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ), d. 3 str. 1, ul. Kulneva, Moscow 121170, Russia; Tax ID No. 7715865510 (Russia); Registration Number 1117746359235 (Russia) [RUSSIA-EO14024] (Linked To: LLC AEON HOLDING DEVELOPMENT).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LLC AEON HOLDING DEVELOPMENT, a person whose property and interests in property is blocked pursuant to E.O. 14024.

67. LIMITED LIABILITY COMPANY AHD KUTUZOVSKIY TOWERS (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ АХД КУТУЗОВСКИЙ ТАУЭРС), d. 3A str. 4, ul, 1-Ya Frunzenskaya, Moscow 119146, Russia; Tax ID No. 9704209728 (Russia); Registration Number 1237700299737 (Russia) [RUSSIA-EO14024] (Linked To: LLC AEON HOLDING DEVELOPMENT).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LLC AEON HOLDING DEVELOPMENT, a person whose property and interests in property is blocked pursuant to E.O. 14024.

68. LIMITED LIABILITY COMPANY KALININGRAD BALTTRANS (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ КАЛИНИНГРАД БАЛТТРАНС) (a.k.a. "LIMITED LIABILITY COMPANY KBT"), 16 Zavodskaya

Street, Apartment 3, Ozerki Village, Gvardeyskiy District, Kaliningrad Region, Russia; Tax ID No. 3916016237 (Russia); Registration Number 1173926026130 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

69. LIMITED LIABILITY COMPANY POZITIVINFO (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ПОЗИТИВИНФО), 42 Leytenanta Yanalova Street, Letter B, Floor 5, Suite 7, Kaliningrad, Kaliningrad Region, Russia; Tax ID No. 3904605140 (Russia); Registration Number 1093925003677 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the construction sector of the Russian Federation economy.

70. LIMITED LIABILITY COMPANY PROSPEKT (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ПРОСПЕКТ), 42 Leytenanta Yanalova Street, Letter B, Floor 5, Suite 502/2, Kaliningrad, Kaliningrad Region, Russia; Tax ID No. 3906386743 (Russia); Registration Number 1193926017185 (Russia) [RUSSIA-EO14024] (Linked To: LIMITED LIABILITY COMPANY POZITIVINFO).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LIMITED LIABILITY COMPANY POZITIVINFO, a person whose property and interests in property is blocked pursuant to E.O. 14024.

71. INTERREGIONAL PUBLIC ORGANIZATION FOR THE PROMOTION OF DOMESTIC TRADITIONS AND CULTURAL HERITAGE VECHE (Cyrillic: МЕЖРЕГИОНАЛЬНАЯ ОБЩЕСТВЕННАЯ ОРГАНИЗАЦИЯ СОДЕЙСТВИЯ СОХРАНЕННИЮ ОТЕЧЕСТВЕННЫХ ТРАДИЦИЙ И КУЛЬТУРНОГО НАСЛЕДИЯ ВЕЧЕ) (a.k.a. МОО VECHE), 71 Ismailovskoe Highway, Building 4,

Room 6, Office 9, Moscow 105187, Russia; Tax ID No. 7719288461 (Russia); Registration Number 1097799028348 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(ii)(F) of E.O. 14024 for being complicit in, or having directly or indirectly engaged or attempted to engage in, activities that undermine the peace, security, political stability, or territorial integrity of the United States, its allies, or its partners for or on behalf of, or for the benefit of, directly or indirectly, the Government of the Russian Federation.

72. PUBLIC LEGAL COMPANY MILITARY CONSTRUCTION COMPANY (Cyrillic: ПУБЛИЧНО ПРАВОВАЯ КОМПАНИЯ ВОЕННО СТРОИТЕЛЬНАЯ КОМПАНИЯ) (a.k.a. MILITARY CONSTRUCTION COMPLEX OF THE MINISTRY OF DEFENSE (Cyrillic: ВОЕННО СТРОИТЕЛНЫЙ КОМПЛЕКС МИНИСТЕРСТВА ОБОРОНЫ)), 19 Znamenka St., Building 4, Office 402, Moscow 119160, Russia; Tax ID No. 9704016606 (Russia); Registration Number 1207700151427 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(iv) of E.O. 14024 for being a political subdivision, agency, or instrumentality of the Government of the Russian Federation economy.

73. LLC ABZ BELYI RAST (Cyrillic: ООО АБЗ БЕЛЫЙ РАСТ), 163 Belyi Rast Village, Dmitrovskiy, Moscow Region, Russia; d. 130 k. 1 pom. XVI, shosse Leningradskoe, Moscow 125445, Russia; Tax ID No. 7734391431 (Russia); Registration Number 1167746903830 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the construction sector of the Russian Federation economy.

74. FEDERAL AUTONOMOUS INSTITUTION ROSKAPSTROY (Cyrillic: ФЕДЕРАЛНОЕ АВТОНОМОЕ УЧРЕЖДЕНИЕ РОСКАПСТРОЙ), 2 Igarskiy Drive, Moscow 129329, Russia; Tax ID No. 7718193111 (Russia); Registration Number 1027700221559 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the construction sector of the Russian Federation economy.

75. LIMITED LIABILITY COMPANY ROSKAPSTROY INFRASTRUCTURAL PROJECTS (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ РОСКАПСТРОЙ ИНФРАСТРУКТУРНЫЕ ПРОЕКТЫ) (a.k.a. LLC RKS INFRASTRUCTURE (Cyrillic: ООО РКС ИНФРАСТРУКТУРА)), 2 Igarsky Drive, Office II, Room 2, Moscow 129329, Russia; Tax ID No. 9715421726 (Russia); Registration Number 1227700366321 (Russia) [RUSSIA-EO14024] (Linked To: FEDERAL AUTONOMOUS INSTITUTION ROSKAPSTROY).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, FEDERAL AUTONOMOUS INSTITUTION ROSKAPSTROY, a person whose property and interests in property is blocked pursuant to E.O. 14024.

76. LIMITED LIABILITY COMPANY ROSKAPSTROY CLEAN WATER (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ РОСКАПСТРОЙ ЧИСТЫЕ ВОДЫ) (a.k.a. LLC RKS CHV (Cyrillic: ООО РКС ЧВ); a.k.a. RKS CLEAR VODY LLC), 2 Turgenevskaya Square, Office 2P, Moscow 101000, Russia; Tax ID No. 7713489203 (Russia); Registration Number 1227700271700 (Russia) [RUSSIA-EO14024] (Linked To: FEDERAL AUTONOMOUS INSTITUTION ROSKAPSTROY).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, FEDERAL AUTONOMOUS INSTITUTION ROSKAPSTROY, a person whose property and interests in property is blocked pursuant to E.O. 14024.

77. LIMITED LIABILITY COMPANY ROSKAPSTROY NOVOROSSIYA (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ

РОСКАПСТРОЙ НОВОРОССИЯ) (a.k.a. "RKS NR LLC"), 1 Altufevskoye Highway, Moscow 127106, Russia; 45 Milchakova St., Office 4A, Rostov-on-Don, Russia; per. Nakhimova, d. 6, Mariupol, Donetsk Region 87500, Ukraine; Tax ID No. 6168116983 (Russia); Registration Number 1226100012115 (Russia) [RUSSIA-EO14024] (Linked To: FEDERAL AUTONOMOUS INSTITUTION ROSKAPSTROY).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, FEDERAL AUTONOMOUS INSTITUTION ROSKAPSTROY, a person whose property and interests in property is blocked pursuant to E.O. 14024.

78. LIMITED LIABILITY COMPANY DORIS (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ДОРИС), 118 40 Years of Victory St., Office 43, Izhevsk 426058, Russia; Tax ID No. 1841050040 (Russia); Registration Number 1151841003401 (Russia) [RUSSIA-EO14024] (Linked To: OSETROVA, Maria Aleksandrovna).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, MARIA ALESKANDROVNA OSETROVA, a person whose property and interests in property is blocked pursuant to E.O. 14024.

Erik J. Woodhouse,
Acting Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.
[FR Doc. 2023–26948 Filed 12–7–23; 8:45 am]
BILLING CODE 4710–AE–C

DEPARTMENT OF STATE

[Public Notice: 12280]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: "Joan Jonas: Good Night Good Morning" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''Joan Jonas: Good Night Good Morning'' at The Museum of Modern Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023–26987 Filed 12–7–23; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 12279]

30-Day Notice of Proposed Information Collection: Medical Review Update

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to January 8, 2024.

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: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument, and supporting documents, to Jennifer Monna, Office of Medical Clearances, Bureau of Medical Services, 2401 E Street NW, SA–1, Room H–242, Washington, DC 20522–0101, and who may be reached at 202–663–1657 or at *Monnajl@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Medical Review Update
- *OMB Control Number:* 1405–0131
- *Type of Request:* Reinstatement of a Discontinued Collection
- *Originating Office:* Bureau of Medical Services: MED/CP/CL
- *Form Number:* DS–3057
- *Respondents:* Contractors and eligible family members
- *Estimated Number of Respondents:* 8,782
- *Estimated Number of Responses:* 8,782
- *Average Time Per Response:* 30 minutes
- *Total Estimated Burden Time:* 4,391 hours
- *Frequency:* As needed
- *Obligation to Respond:* Mandatory

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Form DS–3057 is designed to collect medical information to provide medical providers with current and adequate information to base decisions on whether contractors and eligible family members will have sufficient medical resources at a diplomatic mission abroad to maintain the health and fitness of the individual and family members.

Methodology

The respondent will obtain the DS–3057 form from their human resources representative or download the form from a department website. The respondent will complete and submit the form offline.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, U.S. Department of State.

[FR Doc. 2023–27029 Filed 12–7–23; 8:45 a.m.]

BILLING CODE 4710–36–P

DEPARTMENT OF STATE

[Public Notice: 12282]

30-Day Notice of Proposed Information Collection: Statement of Exigent/Special Family Circumstances for Issuance of a U.S. Passport to a Child Under Age 16

ACTION: Notice of request for public comments.

SUMMARY: The Department of State has submitted the information collections described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on these collections from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: The Department will accept comments from the public up to January 8, 2024.

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 information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. You must include the DS form number, information collection title, and the OMB control number in any correspondence (if applicable). You may send requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to the following email address: *Passport-Form-Comments@State.gov.* You must include the DS form number and information collection title in the email subject line.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Statement of Exigent/Special Family Circumstances for Issuance of a U.S. Passport to a Child Under Age 16.
- *OMB Control Number:* 1405–0216.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services (CA/PPT).

- *Form Number:* DS–5525.
- *Respondents:* Individuals or Households.
- *Estimated Number of Respondents:* 28,933.
- *Estimated Number of Responses:* 28,933.
- *Average Time per Response:* 30 minutes.
- *Total Estimated Burden Time:* 14,467 hours per year.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The information collected on the DS–5525, Statement of Exigent/Special Family Circumstances for Issuance of a U.S. Passport to a Child under Age 16, is used in conjunction with the DS–11, Application for a U.S. Passport. The DS–5525 can serve as the statement describing exigent or special family circumstances, which is required if written consent of the non-applying parent or guardian cannot be obtained when the passport application is executed for a child under age 16.

Methodology

Passport Services collects information from U.S. citizens and non-citizen nationals when they complete and submit the DS–5525, Statement of Exigent/Special Family Circumstances for Issuance of a U.S. Passport to a Child under Age 16. Passport applicants can either download the DS–5525 from the internet *travel.state.gov* or obtain the form from an acceptance facility/passport agency. The form must be completed, signed, and submitted along with the applicant's DS–11, Application for a U.S. Passport.

Matthew D Pierce,

Managing Director for Passport Support Operations, Bureau of Consular Affairs, Passport Services, Department of State.

[FR Doc. 2023–27021 Filed 12–7–23; 8:45 am]

BILLING CODE 4710–06–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1296 (Sub-No. 1X)]

R. J. Corman Railroad Property, LLC—Abandonment Exemption—in Campbell County, Tenn.

On April 21, 2023, R. J. Corman Railroad Property, LLC (RJC Railroad Property), a non-operating Class III rail carrier, submitted a petition under 49 U.S.C. 10502 for an exemption from the prior approval requirements of 49 U.S.C. 10903 to abandon what it later clarified as approximately 3.67 miles of line in Campbell County, Tenn. (the Line).[1] According to the updated description, the Line extends approximately 2.0 miles from milepost 33 on the Oneida Line along Beech Fork before reaching a junction from which it continues in a southeasterly direction along Stoney Fork for approximately 1.67 miles before dead-ending in Clinchmore. The Line traverses U.S. Postal Service Zip Code 37714.

On November 17, 2022, the Board conditioned abandonment of a connecting line, known as the Oneida Line, on the abandonment of any 49 U.S.C. 10901 track that could be stranded by abandonment of the Oneida Line. *See R. J. Corman R.R. Prop., LLC—Aban. Exemption—in Scott, Campbell & Anderson Cntys, Tenn.,* AB 1296X, slip op. at 5–6 (STB served Nov. 17, 2022). According to RJC Railroad Property, this abandonment proceeding seeks to resolve the issue of any and all potentially stranded section 10901 track by formally seeking abandonment authority for the Line, which RJC Railroad Property has determined to be the only section 10901 track at issue. (Pet. 3.)

In addition to an exemption from 49 U.S.C. 10903, RJC Railroad Property seeks (1) exemption from the offer of financial assistance (OFA) procedures of 49 U.S.C. 10904 and waiver of the related regulations at 49 CFR 1152.27, (2) exemption from the public use provisions of 49 U.S.C. 10905 and waiver of the related regulations at 49 CFR 1152.28, and (3) waiver of the interim trail use provisions of 49 CFR 1152.29. RJC Railroad Property argues that these provisions are not necessary to carry out the rail transportation policy of 49 U.S.C. 10101 (RTP) and that granting the exemptions and waivers will instead promote the RTP by eliminating unnecessary procedures and expediting the process. (Pet. 12–13.) These requests will be addressed in the Board's final decision.

Based on the information in its possession, RJC Railroad Property states that the Line does not contain federally granted rights-of-way. Any documentation in RJC Railroad Property's possession will be made available to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By decision served July 20, 2023, the Board instituted a proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by March 8, 2024. *See* 49 CFR 1152.26(a); *R. J. Corman R.R. Prop., LLC—Aban. Exemption—in Scott, Campbell, & Anderson Cntys., Tenn.,* AB 1296X et al., slip op. 6 n.9 (STB served Oct. 11, 2023).

Any OFA under 49 CFR 1152.27(b)(2) will be due no later than March 19, 2024 (120 days after the November 20, 2023 deemed filing date of the petition) or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by December 18, 2023, 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)(1)(i).

Following abandonment, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for interim trail use/rail banking under 49 CFR 1152.29 will be due no later than December 28, 2023.[2]

[1] After the Board ordered RJC Railroad Property to clarify the endpoint of the Line, the railroad on November 13, 2023, modified the description of the Line. (*See* RJC R.R. Prop. Reply 1–2, Nov. 13, 2023; *see also* RJC R.R. Prop. Letter, Nov. 28, 2023 (making conforming edits to the petition).) Thereafter, it also amended its Combined Environmental and Historic Report on November 20, 2023. Therefore, for the purpose of calculating upcoming statutory and regulatory dates, November 20, 2023, will be deemed the filing date for the petition for exemption.

[2] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

All pleadings, referring to Docket No. AB 1296 (Sub-No. 1X), 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 RJC Railroad Property's representative, Catherine S. Wright, Jackson Kelly PLLC, 100 West Main Street, Suite 700, Lexington, KY 40588–2150. Replies to the petition are due on or before December 28, 2023.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0294. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

A Draft Environmental Assessment (Draft EA) (or Draft Environmental Impact Statement (Draft EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any other agencies or persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the Draft EA (or Draft EIS). Draft EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on a Draft EA generally will be within 30 days of its service.

Board decisions and notices are available at *www.stb.gov*.

Decided: December 4, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2023–26958 Filed 12–7–23; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1336X]

Katahdin Railcar Services LLC—Discontinuance of Service Exemption—in Monroe County, Ohio

On November 20, 2023, Katahdin Railcar Services LLC (KRS), a Class III rail carrier, filed a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to discontinue service over approximately 12.2 miles of rail line in Monroe County, Ohio, extending between milepost 60.5 near Powhatan Point, Ohio, and milepost 72.7 near Hannibal, Ohio (the Omal Line). The Omal Line traverses U.S. Postal Service Zip Codes 43942 and 43915. The Omal Line includes the following stations: Omal, Clarington, and Powhatan Point.

KRS states that it was authorized to operate the Omal Line pursuant to a lease with the Omal Line's former owner, Ohio River Partners Shareholder LLC (ORPS), in 2020.[1] (Pet. 1.) According to KRS, in 2023 East Ohio Valley Railway LLC (EOVR) obtained Board authority to acquire the Omal Line from ORPS and operate it.[2] KRS states that, pursuant to that authority, EOVR acquired the Omal Line and commenced operations as of October 1, 2023, at which time KRS's lease was terminated. (*Id.* at 1–2.) As such, KRS states that it now seeks authority to discontinue its operations and end its common carrier obligation with respect to the Omal Line. (*Id.*) According to KRS, the proposed discontinuance would not leave any Omal Line customer without access to railroad common carrier service, as all customers now have service via EOVR. (*Id.*)

KRS states that, based on the information in its possession, the Omal Line does not contain federally granted rights-of-way and that any documentation in its possession will be made available to those requesting it. (*Id.* at 3.)

As a condition to this exemption, any employee adversely affected by the discontinuance of service 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).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by March 8, 2024.

Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be environmental review during any subsequent abandonment, this discontinuance does not require an environmental review. *See* 49 CFR 1105.6(c)(5), 1105.8(b).

Any offer of financial assistance (OFA) for subsidy under 49 CFR 1152.27(b)(2) will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner.[3] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by December 18, 2023, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(1)(i).

All filings in response to this notice must refer to Docket No. AB 1336X and 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 KRS's representative, Terence M. Hynes, Sidley Austin LLP, 1501 K Street NW, Washington, DC 20005. Replies to the petition are due on or before December 28, 2023.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245–0294. If you require accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

Board decisions and notices are available at *www.stb.gov.*

Dated: December 1, 2023.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2023–26953 Filed 12–7–23; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36726]

Pan Am Southern LLC—Temporary Overhead Trackage Rights—Boston and Maine Corporation and Springfield Terminal Railway Corporation

On September 21, 2023, Pan Am Southern LLC (PAS) filed a verified notice of exemption under 49 CFR 1180.2(d)(8) to acquire temporary overhead trackage rights over a line

[1] *See Fortress Invest. Grp. LLC—Exemption for Intra-Corp. Fam. Transaction—Ohio River Partners S'holder LLC,* Docket No. FD 36402 (STB served May 15, 2020); *see also Katahdin Railcar Servs. LLC—Change in Operators Exemption—Ohio Terminal Ry.,* Docket No. FD 36487 (STB served March 30, 2021).

[2] *See E. Ohio Valley Ry.—Acquis. & Operation Exemption—Ohio River Partners S'holder LLC,* Docket No. FD 36682 (STB served March 31, 2023).

[3] The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

owned by the Boston and Maine Corporation (B&M) and leased and operated by Springfield Terminal Railway Company (ST). That line generally extends between PAS's existing connection to B&M/ST's tracks at Engineering Station 215+89 at CPF 312 outside Ayer, Mass., and Engineering Station 225+00 outside Ayer, for a total distance of approximately 1,000 feet (the Line).

PAS was authorized to acquire these trackage rights over the Line by notice of exemption served and published in the **Federal Register** on September 28, 2023 (88 FR 66928).[1] The purpose of the trackage rights is to provide the necessary head and tail room to reposition locomotives while PAS procures and installs a ''cross-over'' to address a lack of space on the Line. Currently, the rights are scheduled to expire on December 5, 2023.

Under 49 CFR 1180.2(d)(8), the parties may, prior to the expiration of the temporary trackage rights, file a request for a renewal of the temporary rights for an additional period of up to one year, including the reasons for the extension. PAS states that the cross-over is not expected to be delivered as early as the parties anticipated and, therefore, the parties wish to extend the temporary overhead trackage rights until February 5, 2024. PAS filed a copy of an executed amendment to the temporary trackage rights agreement with its request for an extension.

In accordance with 49 CFR 1180.2(d)(8), PAS's temporary trackage rights over the Line will be extended and will expire on February 5, 2024. The employee protective conditions imposed in the September 28, 2023, notice remain in effect. Notice of the extension will be published in the **Federal Register**.

It is ordered:

1. PAS's temporary trackage rights are extended and will expire on February 5, 2024.

2. Notice will be published in the **Federal Register**.

3. This decision is effective on its service date.

Decided: December 5, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Regena Smith-Bernard,

Clearance Clerk.

[FR Doc. 2023–27022 Filed 12–7–23; 8:45 am]

BILLING CODE 4915–01–P

[1] On September 28, 2023, the Board granted PAS' petition to waive the requirement under 49 CFR 1180.4(g) that a verified notice be filed at least 30 days before the transaction is consummated and allowed the exemption to take effect immediately.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Procurement Thresholds for Implementation of the Trade Agreements Act of 1979

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The U.S. Trade Representative has determined the U.S. dollar procurement thresholds to implement certain U.S. trade agreement obligations, as of January 1, 2024, for calendar years 2024 and 2025.

DATES: This notice is applicable on January 1, 2024, for calendar years 2024 and 2025.

FOR FURTHER INFORMATION CONTACT: Kate Psillos, Deputy Assistant U.S. Trade Representative for WTO and Multilateral Affairs, at (202) 395–9581 or *Kathryn.W.Psillos@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION: Executive Order 12260 requires the U.S. Trade Representative to set the U.S. dollar thresholds for application of Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 *et seq.*). These obligations apply to covered procurements valued at or above specified U.S. dollar thresholds. In conformity with the provisions of Executive Order 12260, and in order to carry out U.S. trade agreement obligations, the U.S. Trade Representative has determined the U.S. dollar procurement thresholds, effective on January 1, 2024, for calendar years 2024 and 2025 as follows:

I. World Trade Organization (WTO) Agreement on Government Procurement

A. *Central Government Entities listed in U.S. Annex 1:*

(1) Procurement of goods and services—$174,000; and

(2) Procurement of construction services—$6,708,000.

B. *Sub-Central Government Entities listed in U.S. Annex 2:*

(1) Procurement of goods and services—$476,000; and

(2) Procurement of construction services—$6,708,000.

C. *Other Entities listed in U.S. Annex 3:*

(1) Procurement of goods and services—$537,000; and

(2) Procurement of construction services—$6,708,000.

II. Chapter 15 of the United States-Australia Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 15–A, Section 1:*

(1) Procurement of goods and services—$102,280; and

(2) Procurement of construction services—$6,708,000.

B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 15–A, Section 2:*

(1) Procurement of goods and services—$476,000; and

(2) Procurement of construction services—$6,708,000.

C. *Other Entities listed in the U.S. Schedule to Annex 15–A, Section 3:*

(1) Procurement of goods and services for List A Entities—$511,402;

(2) Procurement of goods and services for List B Entities—$537,000; and

(3) Procurement of construction services—$6,708,000.

III. Chapter 9 of the United States-Bahrain Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9–A–1:*

(1) Procurement of goods and services—$174,000; and

(2) Procurement of construction services—$13,296,489.

B. *Other Entities listed in the U.S. Schedule to Annex 9–A–2:*

(1) Procurement of goods and services for List B entities—$537,000; and

(2) Procurement of construction services—$16,365,673.

IV. Chapter 9 of the United States-Chile Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section A:*

(1) Procurement of goods and services—$102,280; and

(2) Procurement of construction services—$6,708,000.

B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section B:*

(1) Procurement of goods and services—$476,000; and

(2) Procurement of construction services—$6,708,000.

C. *Other Entities listed in the U.S. Schedule to Annex 9.1, Section C:*

(1) Procurement of goods and services for List A Entities—$511,402;

(2) Procurement of goods and services for List B Entities—$537,000; and

(3) Procurement of construction services—$6,708,000.

V. Chapter 9 of the United States-Colombia Trade Promotion Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section A:*

(1) Procurement of goods and services—$102,280; and

(2) Procurement of construction services—$6,708,000.

B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section B:*
(1) Procurement of goods and services—$476,000; and
(2) Procurement of construction services—$6,708,000.
C. *Other Entities listed in the U.S. Schedule to Annex 9.1, Section C:*
(1) Procurement of goods and services for List B Entities—$537,000; and
(2) Procurement of construction services—$6,708,000.

VI. Chapter 9 of the Dominican Republic-Central American-United States Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9.1.2(b)(i), Section A:*
(1) Procurement of goods and services—$102,280; and
(2) Procurement of construction services—$6,708,000.
B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9.1.2(b)(i), Section B:*
(1) Procurement of goods and services—$476,000; and
(2) Procurement of construction services—$6,708,000.
C. *Other Entities listed in the U.S. Schedule to Annex 9.1.2(b)(i), Section C:*
(1) Procurement of goods and services for List B Entities—$537,000; and
(2) Procurement of construction services—$6,708,000.

VII. Chapter 17 of the United States-Korea Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 17–A, Section A:*
(1) Procurement of construction services—$6,708,000.

VIII. Chapter 13 of the United States-Mexico-Canada Agreement (USMCA)*

Procurement obligations are between the U.S. and Mexico only.
A. *Federal Government Entities listed in the U.S. Schedule to Annex 1001.1a–1:*
(1) Procurement of goods and services—$102,280; and
(2) Procurement of construction services—$13,296,489.
B. *Government Enterprises listed in the U.S. Schedule to Annex 1001.1a–2:*
(1) Procurement of goods and services—$511,402; and
(2) Procurement of construction services—$16,365,674.

IX. Chapter 9 of the United States-Morocco Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9–A–1:*
(1) Procurement of goods and services—$174,000; and
(2) Procurement of construction services—$6,708,000.
B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9–A–2:*
(1) Procurement of goods and services—$476,000; and
(2) Procurement of construction services—$6,708,000.
C. *Other Entities listed in the U.S. Schedule to Annex 9–A–3:*
(1) Procurement of goods and services for List B Entities—$537,000; and
(2) Procurement of construction services—$6,708,000.

X. Chapter 9 of the United States-Oman Free Trade Agreement

A. *Central Level Government Entities listed in the U.S. Schedule to Annex 9, Section A:*
(1) Procurement of goods and services—$174,000; and
(2) Procurement of construction services—$13,296,489.
B. *Other Covered Entities listed in the U.S. Schedule to Annex 9, Section B:*
(1) Procurement of goods and services for List B Entities—$537,000; and
(2) Procurement of construction services—$16,365,673.

XI. Chapter 9 of the United States-Panama Trade Promotion Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section A:*
(1) Procurement of goods and services—$174,000; and
(2) Procurement of construction services—$6,708,000.
B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section B:*
(1) Procurement of goods and services—$476,000; and
(2) Procurement of construction services—$6,708,000.
C. *Other Entities listed in the U.S. Schedule to Annex 9.1, Section C:*
(1) Procurement of goods and services for List B Entities—$537,000; and
(2) Procurement of construction services—$6,708,000.
D. *Autoridad del Canal de Panamá*
(1) Procurement of goods and services—$537,000.

XII. Chapter 9 of the United States-Peru Trade Promotion Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section A:*
(1) Procurement of goods and services—$174,000; and
(2) Procurement of construction services—$6,708,000.
B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 9.1, Section B:*
(1) Procurement of goods and services—$476,000; and
(2) Procurement of construction services—$6,708,000.
C. *Other Entities listed in the U.S. Schedule to Annex 9.1, Section C:*
(1) Procurement of goods and services for List B Entities—$537,000; and
(2) Procurement of construction services—$6,708,000.

XIII. Chapter 13 of the United States-Singapore Free Trade Agreement

A. *Central Government Entities listed in the U.S. Schedule to Annex 13A, Schedule 1, Section A:*
(1) Procurement of goods and services—$102,280; and
(2) Procurement of construction services—$6,708,000.
B. *Sub-Central Government Entities listed in the U.S. Schedule to Annex 13A, Schedule 1, Section B:*
(1) Procurement of goods and services—$476,000; and
(2) Procurement of construction services—$6,708,000.
C. *Other Entities listed in the U.S. Schedule to Annex 13A, Schedule 1, Section C:*
(1) Procurement of goods and services—$537,000; and
(2) Procurement of construction services—$6,708,000.

Andrea Durkin,
Assistant U.S. Trade Representative for WTO and Multilateral Affairs, Office of the United States Trade Representative.

[FR Doc. 2023–27024 Filed 12–7–23; 8:45 am]
BILLING CODE 3390–F4–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2023–1739]

Policy on the Definition of Aeronautical Activities

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed policy: request for comments; extension of comment period.

SUMMARY: On November 15, 2023, the Federal Aviation Administration (FAA) published a Request for comments seeking input on its proposed policy update of the FAA's Office of Airports policy regarding the definition of ''aeronautical activity'' to include unmanned aircraft systems (UAS), advanced air mobility (AAM), and commercial space launch or re-entry vehicle operations. Under Federal law, an airport operator that has accepted

Federal grants or certain Federal land conveyances is obligated to maintain the airport for public aviation use. This proposed update will add UAS, AAM, and commercial space operations to the existing definition of aeronautical activity that is included in FAA Order 5190.6B, FAA Airport Compliance Manual, Appendix Z, and subsequent revisions. The comment period for the request for comments was scheduled to end on December 15, 2023. FAA received several requests to extend the comment period. The FAA is extending the comment period for the request for comments by 30 days.

DATES: The comment period to the request for comments published on November 15, 2023, 88 FR 78448, is extended from December 15, 2023, to January 15, 2024.

ADDRESSES: You may send comments identified by Docket Number FAA–2023–1739 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building, Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to mail address above between 9:00 a.m. and 5 p.m. EST, Monday through Friday, except Federal holidays;
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

For more information, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: In accordance with 5 U.S.C., 553(c), the Department of Transportation (DOT) solicits comments from the public on its proposed Policy on the Definition of Aeronautical Activities. 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.*

Docket: To read background documents or comments received, go to *http://www.regulations.gov* and follow the online instructions for accessing the docket. Or, go to the Docket Management Facility in Room W12–140 of the West Building, Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kevin C. Willis, Director, Office of Compliance and Management Analysis, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–3085; facsimile: (202) 267–5257; email: *kevin.willis@faa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under Federal law, Airport owners/operators (''sponsors'') that have accepted grants under the Airport Improvement Program (AIP) must comply with certain Federal policies included in each AIP grant agreement as sponsor assurances. In addition, sponsors who have acquired land from the Federal government using certain conveyance instruments must abide by similar obligations included in property deeds. The Airport and Airway Improvement Act of 1982 (AAIA) (Pub. L. 97–248), as amended and recodified at 49 U.S.C. 47107(a)(1), as implemented by Sponsor Assurance 22, *Economic Nondiscrimination,* requires that ''the airport will be made available for public use on reasonable conditions and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.'' The FAA defines aeronautical activities as any activity that involves, makes possible, is required for the operation of an aircraft/vehicle, or that contributes to or is required for the safety of such operations (FAA Order 5190.6B, *Airport Compliance Manual,* Appendix Z, (2009)). The order lists examples of aeronautical activities.

The FAA's definition has evolved over time, primarily in response to emerging technologies and increased interest in locating certain activities at public use airports not previously contemplated or subject to FAA oversight. This updated definition serves to accommodate commercial space transportation, UAS, and AAM activities, as well as supports Congressional interest in integrating new technology into the array of services and capabilities offered by federally funded airports. As a result, the FAA believes that commercial space activities, UAS, and AAM operations should be considered aeronautical activities for the purposes of access to a federally-obligated airport.

However, some types of commercial space, UAS, or AAM operations may affect the safety of existing airport facilities, airport operations, or the efficiency of the airspace. Consistent with and in support of the airport sponsor's obligation not to introduce or permit unsafe conditions at the airport, and to mitigate such conditions if they arise, the FAA uses its planning approval, safety review, and/or risk assessment processes to make a determination on (1) whether a particular activity can be safely accommodated at the airport and, if so, (2) the terms and conditions to mitigate risk to an acceptable level for that activity at the airport. In that regard, Congress has made the FAA the final arbiter regarding aviation safety (49 U.S.C. 40101 and 47101.)

II. The Proposed Policy

The updated definition of aeronautical activity in FAA Order 5190.6B, *FAA Airport Compliance Manual,* Appendix Z will be the following:

Any activity that involves, makes possible, or is required for the operation of an aircraft, launch or reentry vehicle, or that contributes to or is required for the safety of such operations. It includes but is not limited to: general and corporate aviation, air taxi and charter operations, scheduled and nonscheduled air carrier operations, pilot training, aircraft rental and sightseeing, aerial photography, aerial application of agricultural agents, aerial advertising and surveying, aircraft sales and services, aircraft storage, sale of aviation fuel products, repair and maintenance of aircraft, repair and maintenance of launch or reentry vehicles, construction of amateur-built/recreational aircraft, sale of aircraft, sale of launch or reentry vehicle parts, parachute or ultralight activities, certain unmanned aircraft systems (UAS), advanced air mobility (AAM) operations, commercial space vehicle operations, and any other activities that because of their direct relationship to the operation of aircraft, UAS, or commercial space launch and re-entry vehicles can appropriately be regarded as aeronautical activities.

Activities such as aircraft and parts manufacturing and storage, aerospace design, research and development, flight simulation/training/management facilities, and/or engine testing facilities that are not associated with the final assembly of an aircraft or commercial space vehicle are not considered aeronautical activities for the purposes of airport access. Model rocket, model aircraft, and recreational UAS

operations are not aeronautical activities for the purposes of airport access.

Kevin C. Willis,

Director, Office of Airport Compliance and Management Analysis.

[FR Doc. 2023–27008 Filed 12–7–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2023–0052]

Agency Information Collection Activities: Notice of Request for Reinstatement of a Previously Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for reinstatement of a previously approved information collection.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for approval of a new (periodic) information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on September 20, 2023. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by January 8, 2024.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 0052 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Paul Jodoin, 202–366–5465, Office of Operations, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, between 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Traffic Incident Management Capability.

OMB Control #: 2125–0650.

Background: Each of the over 6 million crashes per year presents a safety danger to motorists and responders while often causing delays on the nation's roads. It is critical to safety and mobility for these crashes to be mitigated as efficiently and safely as possible. To address these concerns, dozens of Traffic Incident Management (TIM) Programs have been established throughout the country over the past 25–30 years. Most of the top 75 metropolitan areas and several rural areas have some form of TIM Program, often coordinated through a multi-disciplinary committee comprised of all the response disciplines. The TIMSA tool was established to help regions assess the level of TIM Program maturity and to identify areas for improvement.

The information is used by each jurisdiction to better understand opportunities for improving safety and mobility in their region. The FHWA also uses the data to assess progress of the FHWA national TIM program and identify opportunities to help regions improve.

Respondents: Approximately 60 individuals will complete the questionnaire in collaboration with an estimated average of 5 other participants.

Frequency: Annually.

Estimated Average Burden per Response: Approximately 3 hours.

Estimated Total Annual Burden Hours: 180 Annual Hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: December 4, 2023.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2023–26929 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2023–0002–N–35]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) summarized below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On September 25, 2023, FRA published a notice providing a 60-day period for public comment on the ICR. FRA received no comments in response to the notice.

DATES: Interested persons are invited to submit comments on or before January 8, 2024.

ADDRESSES: Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find the particular ICR by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: *arlette.mussington@dot.gov* or telephone: (571) 609–1285; or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: *joanne.swafford@dot.gov* or telephone: (757) 897–9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On September 25, 2023, FRA published a 60-day notice in the **Federal Register** soliciting public

comment on the ICR for which it is now seeking OMB approval. *See* 88 FR 65765. FRA has received no comments related to the proposed collection of information.

Before OMB decides whether to approve this proposed collection of information, it must provide 30-days' notice for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICR regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: Rail Integrity and Track Safety Standards.[1]

OMB Control Number: 2130–0010.

Abstract: The Track Safety Standards regulations under 49 CFR part 213 prescribes minimum safety requirements for railroad track that is part of the general railroad system of transportation. FRA uses this information collection to ensure and enhance rail safety by monitoring complete compliance with all regulatory requirements. While the requirements prescribed in this part generally apply to specific track conditions existing in isolation, a combination of track conditions, none of which individually amounts to a deviation from the requirements in this part, may require remedial action to provide safe operations over that track. Qualified persons inspect track and take action to allow safe passage of trains and ensure compliance with the prescribed standards.

In 2020, FRA published a final rule [2] revising the minimum safety requirements for railroad track. The changes included allowing inspection of rail using continuous rail testing; allowing the use of flange-bearing frogs in crossing diamonds; relaxing the guard check gage limits on heavy-point frogs used in Class 5 track; removing an inspection-method exception for high density commuter lines; and other miscellaneous revisions.

In addition, in 2011, FRA promulgated a rule [3] mandating specific requirements for effective concrete crossties, for rail fastening systems connected to concrete crossties, and for automated inspections of track constructed with concrete crossties. These requirements supplement visual inspections by Class I and Class II railroads, intercity passenger railroads, and commuter railroads.[4]

Type of Request: Revision of a currently approved collection.[5]

Affected Public: Businesses (railroads).

Form(s):

Respondent Universe: 784.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 1,432,181.

Total Estimated Annual Burden: 234,294 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $20,131,107.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Christopher S. Van Nostrand,

Acting Deputy Chief Counsel.

[FR Doc. 2023–26956 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–06–P

[1] Title corrected to reflect the full name in OMB's database.

[2] 85 FR 63362, Oct. 7, 2020.

[3] 76 FR 18073, Apr. 1, 2011.

[4] To more effectively manage FRA's ICRs, the concrete crosstie ICR, OMB Control No. 2130–0592, has been combined with that of track safety standards, OMB Control No. 2130–0010, in this renewal cycle.

[5] The 60-day notice incorrectly categorized the type of request as an ''Extension without change (with changes in estimates) of a currently approved collection.'' Since OMB Control Nos. 2130–0010 and 2130–0592 are combined in this ICR, the type of request, corrected in this 30-day notice, is a ''Revision of a currently approved collection.'' (OMB Control No. 2130–0592 will be discontinued once OMB Control No. 2130–010 is cleared.)

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2010–0045]

New Mexico Rail Runner Express's Request To Amend Its Positive Train Control System

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that, on November 28, 2023, the New Mexico Rail Runner Express (NMRX) submitted a request for amendment (RFA) to its FRA-certified positive train control (PTC) system. FRA is publishing this notice and inviting public comment on the railroad's RFA to its PTC system.

DATES: FRA will consider comments received by December 28, 2023. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

ADDRESSES: *Comments:* Comments may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2010–0045. For convenience, all active PTC dockets are hyperlinked on FRA's website at *https://railroads.dot.gov/research-development/program-areas/train-control/ptc/railroads-ptc-dockets.* All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information.

FOR FURTHER INFORMATION CONTACT: Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov.*

SUPPLEMENTARY INFORMATION: In general, Title 49 United States Code (U.S.C.) Section 20157(h) requires FRA to certify that a host railroad's PTC system complies with Title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTC Safety Plan (PTCSP), a host railroad must submit, and obtain FRA's approval

of, an RFA to its PTC system or PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal or train control system. Accordingly, this notice informs the public that, November 28, 2023, NMRX submitted an RFA to its Interoperable Electronic Train Management System (I–ETMS), which seeks FRA's approval to temporarily disable I–ETMS to facilitate the removal and upgrade of outdated relay logic equipment. That RFA is available in Docket No. FRA–2010–0045.

Interested parties are invited to comment on NMRX's RFA by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA at FRA's sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See *https://www.regulations.gov/privacy-notice* for the privacy notice of regulations.gov. To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,

Director, Office of Railroad Systems and Technology.

[FR Doc. 2023–27002 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2022–0100; Notice 1]

Ford Motor Company, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Ford Motor Company (Ford) has determined that certain model year (MY) 2018–2020 Ford F–150 motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* Ford filed a noncompliance report dated September 8, 2022, and subsequently petitioned NHTSA (the ''Agency'') on September 30, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Ford's petition.

DATES: Send comments on or before January 8, 2024.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the 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 comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/*. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Leroy Angeles, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–5304.

SUPPLEMENTARY INFORMATION:

I. Overview: Ford determined that certain MY 2018–2020 Ford F–150 motor vehicles do not fully comply with paragraph S14.2.1.6 of FMVSS No. 108, *Lamps, Reflective Devices, And Associated Equipment* (49 CFR 571.108).

Ford filed a noncompliance report dated September 8, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Ford petitioned NHTSA on September 30, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Ford's petition is published under 49 U.S.C. 30118 and 30120 and does not represent

any agency decision or another exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 1,439,524 MY 2018–2020 Ford F–150 motor vehicles, manufactured between January 10, 2017, and October 22, 2020, were reported by the manufacturer.

III. Noncompliance: Ford explains that the subject vehicles are equipped with amber side marker lamps that do not comply with the photometry reqiurements of S14.2.1.6 of FMVSS No. 108. Specifically, they failed to meet the minimum photometric requirement of 0.62 candela at test point 10.0D and 32.0L. Specifically, the amber side marker lamps had a luminous intensity that was lower than the 0.62 candela minimum requirement.

IV. Rule Requirements: Paragraph S7.4.13.1, S7.4.13.2, and Table X of FMVSS No. 108 includes the requirements relevant to this petition. Each side marker lamp must be designed to conform to the photometry requirements of Table X, when tested according to the procedure of S14.2.1 for the lamp color as specified by this section; and for each motor vehicle less than 30 feet in overall length, the minimum photometric intensity requirements for a side marker lamp may be met for all inboard test points at a distance of 15 feet from the vehicle and on a vertical plane that is perpendicular to the longitudinal axis of the vehicle and located midway between the front and rear side marker lamps.

V. Background Information: On June 17, 2022, Ford received a letter from NHTSA's Office of Vehicle Safety Compliance stating that Calcoast-ITL, a test lab contracted by NHTSA to conduct FMVSS No. 108 testing on service lamps, found that 3 of 4 front left hand (LH) MY 2018 Ford F–150 head lamps did not meet the FMVSS No. 108 minimum photometry requirement for amber side markers at one test point out of nine. Calcoast-ITL found that all four of the front right hand (RH) MY 2018 Ford F–150 head lamps met the regulatory requirements in FMVSS No. 108. Ford reports that after reviewing the supplier's lamp assembly certification data and production audit testing records, it was determined that the candela values consistently exceeded the minimum requirement. After further review, Ford discovered that the supplier produced lamps on a semi-automated ''main line'' and a non-automated ''secondary'' line. According to Ford's review, the semi-automated main line appeared to be compliant. However, Ford found that the non-automated secondary line was ''susceptible to process variation.'' Furthermore, lamps from the main line were subjected to an end-of-line screening process that included regulatory compliance verification. This screening check was not included in the secondary line. Approximately 96 percent of the lamps were produced on the main line. Ford says that after October 7, 2020, all service parts were produced on the secondary line, as production of the main line ceased when vehicle production ended.

Ford says that further testing of the service parts produced on the secondary line indicated that 72 of 252 LH parts and 47 of 219 RH parts had test point values below the minimum requirement of 0.62 candela when using a rated bulb. Ford claims that all nonconforming data pertains to the parts that were produced on the supplier's secondary line. Ford estimates that approximately 25 percent of the lamps from the secondary line fell below the 0.62 candela minimum requirement, which corresponds to less than one percent of the total vehicle population, approximately 14,935 vehicles.

Ford says that the subject noncompliance may be due to process variation causing tolerance stack-up issues on the lamp supplier's secondary line, resulting in the side marker bulbs being produced with an inner bezel distortion and/or an out-of-position bezel. Ford explains that, given the lack of screening procedures on the secondary line, these defects were not found during manufacturing.

VI. Summary of Ford's Petition: The following views and arguments presented in this section, ''VI. Summary of Ford's Petition,'' are the views and arguments provided by Ford. They have not been evaluated by the Agency and do not reflect the views of the Agency. Ford describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Ford says that when a side marker lamp is tested for compliance with FMVSS No. 108 requirements, only the side marker lamp in the combination headlamp is illuminated and measured. However, Ford explains that the side marker lamp does not automatically illuminate alone during normal vehicle operation. The parking lamp and the side marker lamp are both illuminated with the same amber color when the headlamps are activated. Further, the parking lamp is positioned such that it illuminates the same visual field as the side marker lamp.

To evaluate the effect of the addition of the parking lamp on the illumination of the side marker lamps, Ford measured the illumination of the subject lamps with only the side marker lamp illuminated and then with both lamps illuminated as they would be during regular vehicle operation. Ford determined that the side marker lamp illumination measured at greater values at several FMVSS No. 108 test points that complied with regulatory specifications. Ford says that, according to this data, the parking lamp increased the candela value at each test point by an average of 0.110 to 0.932.

In this evaluation, Ford considered only the lowest measured values for the increased parking lamp illumination at the various test points. The parking lamp's illumination produced an additional 0.125 candela at the test point 10D–32L. When the parking lamp was added to the side marker lamp, all measured values exceeded the 0.62 candela minimum requirement.

Ford conducted a statistical analysis to assess the potential values in a larger vehicle population in order to further evaluate the effects of increased illumination from the parking lamp. For this analysis, Ford used the candela values for 282 LH service lamps with only the side marker illuminated then applied the additional parking lamp illumination values previously described. Ford found that ''the vast majority of vehicles would measure above the 0.62 candela regulatory standard.'' The lowest value Ford anticipates in a vehicle would be 0.55 candela (0.44 + 0.110) which represents the lowest candela value at test point LH 10D–32L, plus the minimum amount of additional illumination that could be measured with the parking lamp illuminated. Ford notes that this value, 0.55 candela, is lower than the required minimum of 0.62 candela by less than 25 percent.

Ford argues that there are two reports that are relevant to this petition. Ford says that these reports indicate that up to a 25 percent difference in a lamp's photometric output is imperceptible to the human eye. The first report, Driver Perception of Just Noticeable Differences of Automotive Signal Lamps,[1] was published in September 1994. The University of Michigan Transportation Research Institute (UMTRI) conducted an additional study in February 1997 extending the 1994 study to low beam automotive headlamps.[2] Ford says that the studies found that the majority of drivers were

[1] Driver Perception of Just Noticeable Differences of Automotive Signal Lamps, was published by Huey, Deker, and Lyons in September 1994 (DOT HS 808 209, September 1994).

[2] (UMTRI–97–4, February 1997).

unable to differentiate the light output between different sources when the difference in illumination was less than 25 percent. Ford contends that the 1994 study indicated that the findings were appropriate for consideration of inconsequentiality petitions involving a noncompliance with the photometry requirements of FMVSS No. 108.

Ford notes that it is not aware of any reports related to the subject noncompliance. Ford recognizes that a lack of reports is not dispositive but believes that it is illustrative of the field performance.[3]

Ford says that NHTSA has granted prior petitions concerning similar noncompliances. Ford believes that NHTSA's rationale for those decisions support the granting of its current petition.

Ford says that NHTSA granted a petition submitted by Nissan North America, Inc. (Nissan)[4] that involved vehicles with side marker lamps in combination head lamps that did not meet the photometric intensity requirements as required by paragraph S7.4.13.1 of FMVSS No. 108. Ford explains that Nissan's petition presented two main arguments: (1) NHTSA should consider the parking lamp photometry along with the side marker lamp because both lamps are always illuminated, and (2) the condition that caused the noncompliance could not be seen by the human eye. In this case, Ford says that NHTSA agreed with Nissan's second argument but rejected the first. Ford says that NHTSA disagreed with Nissan's first argument because Nissan's parking lamp illumination was white and the side marker lamp was amber which would cause a passing motorist to have difficulty determining what part of the vehicle is approaching. Ford contends that this reasoning does not apply to the subject noncompliance because both Ford's parking lamp and side marker lamp are amber. Thus, according to Ford, a passing motorist would not encounter the same difficulty in determining which part of the vehicle is approaching.

Ford says it also reviewed petitions involving a noncompliance with the side reflex reflector and not the side marker lamp. While the petitions do not concern the side marker lamp, Ford believes that NHTSA's rationale in those decisions can be informative. Ford explains that the side reflex reflectors reflect other light and do not illuminate. Ford says that NHTSA has consistently found that a 25 percent change in luminosity is imperceptible to the human eye. Specifically, Ford refers to NHTSA's decision on a petition submitted by Subaru of America (Subaru)[5] that involved failures of luminous intensity on the side reflex reflector and a Hella petition. In that case, Ford explains that the noncompliant lamps were all less than 20 percent of the minimum values. NHTSA granted Subaru's petition and applied the reasoning that the human eye cannot detect a 25 percent change in luminosity.

Ford also cites NHTSA's decision on a petition from Toyota Motor North America (Toyota)[6] in which vehicles were equipped with rear reflex reflectors that did not meet the minimum requirements specified in FMVSS No. 108. Ford says Toyota believed that noncompliance was inconsequential because a change of luminous intensity of 18 percent is imperceptible to the human eye. NHTSA concurred, relying on its own assessment and past precedent stated in the 1991 Hella and Subaru grants of inconsequentiality.

Next, Ford says that NHTSA's rationale in denying a petition submitted by FCA US LLC (FCA)[7] supports its belief that the subject noncompliance should be deemed inconsequential. Ford explains that FCA's petition concerned side reflex reflectors that did not meet the minimum photometry requirements at the observation angle of 0.2 degrees. In that petition, FCA's reflex reflectors were 68.6 percent below the required value. Ford says that the subject side marker lamps ''maintained much closer margins to the standard.''

Finally, Ford refers to a Subaru petition that NHTSA denied in 2022 that involved side reflex reflectors that did not comply with FMVSS No. 108 photometry requirements.[8] In that case, Ford says NHTSA stated that its thinking on the deviation threshold of 25 percent evolved, and that it no longer believes that threshold applies to side reflex reflectors because the photometry criteria for side reflex reflectors are measured in mcd/lux, whereas other lamps are measured in candela. Ford contends that this new thinking should not apply to the subject noncompliance because side marker lamps produce their own illumination and are therefore measured in candela.

Ford concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Ford no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicles distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Ford notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke, III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2023–26960 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–59–P

[3] *See North America Subaru, Inc., Denial of Petition for Decision of Inconsequential Noncompliance*; 87 FR 48764, August 10, 2022.

[4] *Nissan North America, Inc., Grant of Petition for Determination of Inconsequential Noncompliance*; 85 FR 39678 (July 1, 2020).

[5] *Subaru of America, Grant of Petition for Determination of Inconsequential Noncompliance*; 56 FR 59971, (November 26, 1991).

[6] *Toyota Motor North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance*; 85 FR 39679 (July 1, 2020).

[7] *FCA US, LLC, Denial of Petition for Decision of Inconsequential Noncompliance*; 87 FR 57649 (September 15, 2022).

[8] Ford did not provide the **Federal Register** citation but it appears that this refers to *North America Subaru, Inc., Denial of Petition for Decision of Inconsequential Noncompliance*; 87 FR 48764 (August 10, 2022).

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2023–0065]

Agency Information Collection Activities; Notice and Request for Comment; Crash Injury Research and Engineering Network Data Collection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for approval of a new information collection.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for a new information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. *This document describes NHTSA's Crash Injury Research and Engineering Network (CIREN) investigation-based crash data study for which it is seeking OMB approval.*

DATES: Comments must be submitted on or before February 6, 2024.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA–2023–0065 through any of the following methods:

- *Electronic submissions:* Go to the Federal eRulemaking Portal at *http://www.regulations.gov* . Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail or Hand Delivery:* Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To be sure someone is there to help you, please call (202) 366–9322 before coming.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets via internet.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Rodney Rudd, Office of Vehicle Safety Research, Human Injury Research Division (NSR–220), West Building, W46–324, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) 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; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: Crash Injury Research and Engineering Network (CIREN) Data Collection.

OMB Control Number: New.

Form Number(s): TBD.

Type of Request: Request for approval of a new information collection.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: Three years from date of approval.

Summary of the Collection of Information:

The National Highway Traffic Safety Administration (NHTSA) is seeking approval from OMB of this information collection request (ICR) for a new, independent information collection for an investigation-based crash data acquisition system which was previously included under OMB Control Number 2127–0706. NHTSA proposes to collect information from the public as part of a study to improve NHTSA's understanding of injury causation in motor vehicle crashes. NHTSA is authorized, under 49 U.S.C. 30182 and 23 U.S.C. 403 to collect data on motor vehicle traffic crashes to aid in the identification of issues and the development, implementation, and evaluation of motor vehicle and highway safety countermeasures. For decades, NHTSA has been investigating crashes and collecting crash data through its investigation-based data collection systems. The Crash Injury Research and Engineering Network (CIREN) is a multidisciplinary, injury-focused crash data collection program using trauma centers under contract to NHTSA's Office of Vehicle Safety Research. NHTSA also investigates crashes through the Crash Investigation Sampling System (CISS), Special Crash Investigation (SCI), and specific issue-based Special Study data collection studies. Although each of these systems satisfy different purposes and collect data in different manners, they all utilize similar core data elements, procedures, information technology, and protocols for data collection.[1]

NHTSA is seeking approval for a new, independent information collection request for the CIREN program separate from NHTSA's other investigation-based crash data collection systems. The method of case subject identification and selection is unique for CIREN. CIREN collects a purposive sample of injured traffic crash victims from a small number of sites to extensively examine and document injury causation in motor vehicle crashes. The CIREN program enrolls case subjects (crash victims) who have been admitted to eight contracted level-one trauma centers for treatment of injuries sustained in crashes and consent to participate in the study. The collection facilitates detailed review and analysis of medical and engineering data by multidisciplinary teams to evaluate injury causation. The focus of the CIREN program has historically been on seriously-injured occupants of recent model-year motor vehicles, though the program intends to expand to include pedestrians, pedalcyclists, and micromobility (non-motorist) users who have been injured in crashes.

Study personnel at each of the eight contracted CIREN sites review trauma

[1] Additional details about the CISS, SCI, and Special Study data collections are available in the supporting statements for the ICR with OMB Control Number 2127–0706.

registry data to identify potential case subjects based on the study's inclusion criteria. Study teams obtain informed consent from eligible patients according to institutional policies and consent documents. No data is collected from eligible patients who do not provide consent to participate in the study. Participation in CIREN does not affect the case subject's medical treatment. Observations from the CIREN program inform NHTSA research priorities and the data support improvements in motor vehicle safety. CIREN provides non-private data to the public through an online case viewer, database files, and reports.

After an eligible patient provides consent, study personnel retrieve the case subject's medical information and commence the crash investigation. Study personnel retrieve the medical information directly from the hospital's electronic medical record (EMR) system including case subject anthropometry, past medical history, radiological imaging and reports, operative procedure reports, and injury diagnoses. They also request emergency medical services (EMS) response reports from first responders. Study personnel also conduct an interview with the case subject (or a surrogate in cases where the case subject is unable to communicate) to develop an understanding about the crash circumstances. A trained crash investigator locates, visits, measures, and photographs the crash scene and the case subject's vehicle (or the striking vehicle for non-motorist case subjects). They also obtain the police crash report. These data are used to characterize the performance of vehicle safety systems and biomechanical responses of injured individuals in motor vehicle crashes.

Description of the Need for the Information and Proposed Use of the Information: NHTSA investigates real-world crashes and collects detailed crash and medical data in the CIREN program to identify human and vehicle factors related to injury causation in support of NHTSA research. Biomechanical engineers and medical doctors collaboratively review case evidence to establish injury causation scenarios. These detailed factors and scenarios inform research priorities. They may also guide the development and evaluation of effective safety countermeasures such as testing tools and criteria. The data collected also act as a sentinel, providing NHTSA with advanced notice of emerging crash injury problems, and are used to generate research hypotheses. These efforts give motor vehicle researchers an opportunity to specify areas in which improvements may be possible, design countermeasure programs, and evaluate the effects of existing and proposed safety measures. The resulting deidentified database provides NHTSA and the public with access to crash data which contains extensive medical detail, including medical imaging, which is a unique resource among available crash data systems. There is no other source for the biomechanics-focused data which is critical to support crash injury mitigation and prevention research.

Affected Public: People involved in select motor vehicle crashes admitted to contracted trauma centers for treatment; law enforcement jurisdictions that provide access to and a copy of crash reports from the investigated crashes; EMS providers responding to investigated crashes, and tow or salvage facilities that provide access for inspections of involved vehicles.

Estimated Number of Respondents: 1,136.

Study personnel screen trauma records for potentially eligible case subjects, and then approach potential case subjects to gain consent. It is estimated that 362 potential case subjects are approached for consent each year. Of those, an average of 258 provide consent and participate in the interview process. For each of the 258 consented case subjects, study personnel contact the police, EMS agencies, and a tow facility for report documentation and to coordinate the vehicle inspection. The combination of patients (362) and associated contacts (3 × 258) yields 1,136 total respondents each year, on average.

Frequency: On occasion.

Estimated Total Annual Burden Hours: 499 hours.

The CIREN program consists of four (4) information collections. The first information collection covers the consent process for individuals involved in crashes who are deemed potentially eligible for the study at contracted trauma centers. Based on historical data, approximately 362 potential case subjects are approached for study consent each year. The consent process generally requires thirty (30) minutes of the respondent's time during their acute hospital admission, which includes explanation of the study risks and benefits and review of consent language. This burden would apply for every patient approached for consent, regardless of their decision to participate in the study. The estimated total annual burden hours for seeking study consent from eligible case subjects is 181 hours (362 respondents × 0.5 hours).

The second information collection is from individuals who agree to participate in the study. After providing consent, CIREN contractor personnel conduct an interview that requires approximately one hour of the respondent's time during their acute hospital admission. The CIREN program has historically conducted interviews of approximately 258 case subjects per year. Therefore, the estimated total annual burden for case subject interviews is 258 hours (258 respondents × 1.0 hour).

The third information collection for CIREN is obtaining first responder reports to complete the cases. The reports are obtained from police and EMS agencies, and reports are only requested for crash subjects who have consented to participate in the study. NHTSA estimates each query to police agencies takes three (3) minutes (0.05 hours) and each query to EMS agencies takes six (6) minutes (0.1 hours). Therefore, the total estimated annual burden for crash and EMS reports is 39 hours (258 requests × (0.05 hours + 0.1 hours)).

The fourth information collection for CIREN is associated with towing and salvage facility requests for access to case vehicles. Typically, a towing or salvage facility operator will provide the crash investigator permission to enter the facility to inspect the case-involved vehicle as well as provide guidance regarding the location of the vehicle. This process is estimated to take approximately five (5) minutes (0.08 hours) of staff time. CIREN averages 258 visits to towing and salvage facilities each year since most CIREN cases involve inspection of one case vehicle. The total annual burden for towing and salvage facilities is 21 hours (258 requests × 0.083 hours).

Information collection	Number of respondents	Number of responses (per respondent)	Burden per response	Burden per respondent	Total burden (hours)
Potential case subject consent	362	362 (1)	30 minutes	30 minutes	181
Case subject interview	258	258 (1)	1.0 hours	1.0 hours	258
Police report requests	258	258 (1)	3 minutes	3 minutes	13

Information collection	Number of respondents	Number of responses (per respondent)	Burden per response	Burden per respondent	Total burden (hours)
EMS report requests	258	258 (1)	6 minutes	6 minutes	26
Access to towing/salvage facility	258	258 (1)	5 minutes	5 minutes	21
Total					499

Accordingly, NHTSA estimates that the total burden associated with the CIREN program is 499 hours (181 + 258 + 39 + 21).

Estimated Total Annual Burden Cost: $0.

There are no capital, start-up, or annual operation and maintenance costs involved in this collection of information. The respondents would not incur any reporting costs from the information collection beyond the opportunity or labor costs associated with the burden hours. The respondents also would not incur any recordkeeping burden or recordkeeping costs from the information collection. Therefore, NHTSA estimates that there will be no annual burden cost to respondents.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (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 the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Cem Hatipoglu,

Associate Administrator, Office of Vehicle Safety Research.

[FR Doc. 2023–27006 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2023–0116]

Pipeline Safety: Random Drug Testing Rate; Multi-Factor Authentication; and Operator and Contractor Management Information System Reporting

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of Calendar Year 2024 Minimum Annual Percentage Rate for Random Drug Testing; Multi-Factor Authentication (MFA) for Drug and Alcohol (D&A) Management Information System (DAMIS) Reports, Pipeline Operator DAMIS Reporting, and Contractor DAMIS Reporting.

SUMMARY: PHMSA has determined that the minimum random drug testing rate for covered employees will remain at 25 percent during calendar year 2024. For calendar year 2023 reporting, DOT is introducing MFA login procedures for submitting D&A testing data into the DAMIS database. This notice also explains how pipeline operators and contractors will obtain MFA login information.

DATES: Applicable January 1, 2024, through December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Wayne Lemoi, Drug & Alcohol Program Manager, Office of Pipeline Safety, by phone at 909–937–7232 or by email at *wayne.lemoi@dot.gov.*

SUPPLEMENTARY INFORMATION:

Notice of Calendar Year 2024 Minimum Annual Percentage Rate for Random Drug Testing

Operators of gas, hazardous liquid, and carbon dioxide pipeline facilities; liquefied natural gas (LNG) plants; and underground natural gas storage facilities must randomly select and test a percentage of all covered employees for prohibited drug use in accordance with 49 Code of Federal Regulations part 199. Pursuant to 49 CFR 199.105(c)(1), the minimum annual random drug testing rate for all covered employees is 50 percent. However, the Administrator can adjust this random drug testing rate based on the reported positive rate in the industry's random drug tests, which is submitted in operators' annual MIS reports as required by § 199.119(a). In accordance with § 199.105(c)(3), if the reported positive drug test rate is below 1.0 percent for two consecutive calendar years, the Administrator can lower the random drug testing rate to 25 percent of all covered employees.

Pursuant to § 199.105(c)(3), the Administrator is maintaining the PHMSA minimum annual random drug testing rate for all covered employees at 25 percent in calendar year 2024 because the random drug test positive rate for the pipeline industry was reported at less than 1.0 percent in the consecutive calendar years of 2021 and 2022.

Multi-Factor Authentication for DAMIS Reports

In calendar year 2024, DOT will begin using Multi-Factor Authentication (MFA) to limit and control access to DOT's DAMIS database. MFA is not unique to PHMSA or to DAMIS. It is a Federal Government initiative being implemented to protect the integrity and security of Federal Government databases from cybersecurity attacks and other risks. MFA login procedures for ''primary pipeline'' operators and contractors are explained in the applicable sections below.

Pipeline Operator DAMIS Reporting

To collect more accurate pipeline industry DOT D&A test data and to avoid duplicate reporting of D&A test data, PHMSA is limiting the DAMIS reporting to ''primary operators'' and contractors only. The term ''primary operator'' is not used in the D&A testing regulations in part 199; however, the term ''primary operator'' as used herein has the same meaning as the term ''primary entity'' as used in § 191.22 and § 195.64. Moreover, a ''primary operator'' can be a large or small operator as explained below.

Pipeline operators either have a D&A program that includes only one pipeline operator (*i.e.,* one OPID) or an ''umbrella'' type shared D&A program that includes multiple pipeline operators (*i.e.,* more than one OPID). For DAMIS reporting purposes the operator of the single operator D&A program is

the ''primary pipeline operator''. For shared D&A programs, the ''primary operator'' must be identified to PHMSA through Safety Program Relationship (SPR) data before submitting a DAMIS report. Operators are reminded to review their D&A program records to check the SPR status of their D&A program. If changes are needed to properly align the SPR data with the operator's D&A program, the operator must make a written notification to PHMSA.

The PHMSA regulations governing DAMIS reporting (§§ 199.119 and 199.229) are based on whether the primary operator is a large operator or a small operator. Pursuant to §§ 199.119(a) and 199.229(a), a large operator is an operator with more than 50 covered employees. Large operators are required to submit a DAMIS report each calendar year. Pursuant to §§ 199.119(a) and 199.229(a), a small operator is an operator with 50 or fewer covered employees. Small operators are only required to submit a DAMIS report if the operator receives a ''written notice'' from PHMSA requesting a report. PHMSA transmits written notices as messages in the PHMSA Portal in late December each calendar year.

To calculate the number of D&A covered employees to determine whether an operator is a large or small primary operator, include all covered employees of the primary operator plus all covered employees of any business units included in the DAMIS report under a shared D&A program. If your covered employees are in a random drug testing pool managed by a consortium, count only your own covered employees. If you have any covered employees subject to D&A testing under more than one DOT agency, count only those employees who were D&A tested under PHMSA, which is the agency selected on the Federal Drug Testing Custody and Control Form (CCF) or on the Alcohol Testing Form. While contractor employees are covered employees requiring D&A testing, contractor employees are not used to calculate whether a ''primary pipeline operator'' is a large or small operator. Therefore, do not include contractor employees in the above calculations.

Pipeline operators are no longer required to ''accept'' contractor reports. Instead, an operator will simply list the contractor and the contractor's DAMIS report automatically becomes part of the operator's report once the contractor has submitted its report to DAMIS. Furthermore, operators will not be able to view contractor data reports through DAMIS, but can get the report directly from the contractor, if they so desire.

For each contractor listed by a primary operator, DAMIS will show if a *Login.gov invitation* has been generated for the contractor. If no *Login.gov invitation* has been created for the contractor or if the *Login.gov invitation* was created for the wrong email address, the primary operator can generate a new *Login.gov invitation* by entering a new email address for the contractor. This email address cannot already be in use to access DAMIS for a primary operator or a different contractor.

Primary Operator MFA Login: In September 2023, PHMSA communicated by email with primary operators to confirm the email address of the person who will submit the primary operator's DAMIS report. These confirmed email addresses will be loaded into DAMIS by the end of calendar year 2023. In early January 2024, DAMIS will generate a one-time/one-use *Login.gov* invitation for the confirmed email addresses. PHMSA will also make *Login.gov* invitations available in the PHMSA Portal.

Contractor DAMIS Reporting

Because contractors do not have OPIDs, PHMSA uses a Business Tax Identification Number (BTIN) to track contractors in the DAMIS database.

A contractor may perform D&A covered functions for one pipeline operator or multiple operators. Additionally, a contractor may be local, regional, or nationwide, and/or may operate from a single location or from multiple locations. Regardless, the clear intent is for PHMSA and DOT to collect contractor D&A test data that is complete, accurate, and nonrepetitive. Accordingly, each contractor must prepare a single, complete, and accurate DAMIS report that includes all its D&A covered employees and all their DOT D&A test data. A contractor does not prepare or submit a separate and distinct DAMIS report for each pipeline operator or for a contractor's separate offices or locations unless those offices are distinct and separate under their own BTIN. Moreover, a contractor must not report the same covered employees and the same D&A tests in more than one BTIN. If a contractor has more than one BTIN, the contractor must allocate individual employees and their D&A tests results among the BTINs for which they actually worked, or report all the contractor's employees and test results under one BTIN.

PHMSA does not need or require a DAMIS report from each BTIN. PHMSA requires a valid set of contractor D&A test data that reflects the complete and accurate picture of who the contractor D&A tested and what the results of those tests were. PHMSA does not want covered employees or D&A tests to be reported more than once. If test results can be reported under one BTIN, that is acceptable.

PHMSA also recognizes that some pipeline operators perform D&A covered functions for other PHMSA regulated pipeline operators. While this may take place under a contract, pipeline operators with an OPID must never be listed as a contractor by any other pipeline operator in a DAMIS report.

Contractor MFA Login: MFA will allow access for contractors to enter their D&A testing data directly into DAMIS. In September 2023, PHMSA communicated by email with contractors to confirm the email address of the person who will submit the contractor DAMIS report. These confirmed email addresses will be loaded into DAMIS by the end of calendar year 2023. In early January 2024, DAMIS will generate a one-time/one-use *Login.gov invitation* for the confirmed email address. Contractors can also request a new *Login.gov invitation* for a new email address by sending a request to *PHMSAPipelineDAMIS@dot.gov.*

Any primary operator can generate a new *Login.gov invitation* for a contractor by entering an email address that is not already established with *Login.gov* access to DAMIS.

Issued in Washington, DC on December 1, 2023, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2023–27037 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket ID Number: DOT–OST–2014–0031]

Agency Information Collection: Activity Under OMB Review: Report of Passengers Denied Confirmed Space—BTS Form 250

AGENCY: Office of the Assistant Secretary for Research and Technology (OST–R), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office

of Management and Budget (OMB) for an extension of a previously approved collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 5, 2023. There were no comments. As the September 5, 2023, Notice solicits comments from the public on whether it is appropriate for the Department to continue to collect information on oversales from airlines, the issues raised by these comments are beyond the scope of this Notice and will not be addressed here. Specifically, having obsolete regulations that allow three legacy carriers and one discount carrier to control 80% of the domestic aviation market, while banning foreign competitors from offering U.S. domestic flights, and allowing airlines to book to 100% capacity or overbook to increase their revenue stream. With respect to the overbooking comment, the FAA has no jurisdiction in this matter, however, the Department does. And although it is not the Department's policy or purpose to dictate how airlines internally manage their business; this ended with deregulation of the aviation industry in 1979, it is the Department's policy and purpose to protect and standardize how the airlines treat their passengers.

DATES: Written comments should be submitted by January 8, 2024.

FOR FURTHER INFORMATION CONTACT: Cecelia Robinson, Office of Airline Information, RTS–42, OST–R, BTS, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, Telephone Number (202) 893–0515, Fax Number (202) 366–3383 or email *cecelia.robinson@dot.gov.*

Comments: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Title 14 of the Code of Federal Regulations, part 250, addresses how airlines are to conduct their overbooking processes and compensate passengers in the event of an overbooking.

OMB Approval No.: 2138–0018.

Title: Report of Passengers Denied Confirmed Space.

Form No.: BTS Form 250.

Type of Review: Extension of a currently approved collection.

U.S. Air Carriers for Flights They Operate

Respondents: Large certificated air carriers.

Number of Respondents: 15.

Number of Quarterly Responses: 60.

Number of Hours per Response: 10.

Total Annual Burden: 600 hours.

U.S. Air Carriers for Codeshare Flights They Market

Respondents: Large certificated air carriers.

Number of Respondents: 4.

Number of Responses: 16.

Number of Hours per Response: 6.

Total Annual Burden: 96 hours.

Needs and Uses: BTS Form 250 is a one-page report on the number of passengers denied seats either voluntarily or involuntarily, whether these bumped passengers were provided alternate transportation and/or compensation, and the amount of the payment. On November 3, 2016, the Department published a Final Rule (see 81 FR 76800) that changed the number of U.S. air carriers that account for at least 1 percent to half of one percent of domestic scheduled-service passenger revenues who must report all operations with 30 seat or larger aircraft that depart a U.S. airport.

Carriers do not report data from inbound international flights because the protections of 14 CFR part 250 *Oversales* do not apply to these flights. The report allows the Department to monitor the effectiveness of its oversales rule and take enforcement action when necessary. The involuntarily denied-boarding rate has decreased from 4.38 per 10,000 passengers in 1980 to 0.24 per 10,000 passengers in 2019. The publishing of the carriers' individual denied boarding rates has negated the need for more intrusive regulation. The rate of denied boarding can be examined as a continuing fitness factor. This rate provides an insight into a carrier's customer service practices. A rapid sustained increase in the rate of denied boarding may indicate operational difficulties. Because the rate of denied boarding is released quarterly, travelers and travel agents can select carriers with lower incidences of denied boardings. This information is available in the *Air Travel Consumer Report* at: *http://airconsumer.ost.dot.gov/reports/index.htm.* The *Air Travel Consumer Report* is also sent to newspapers, magazines, and trade journals. Without Form 250, determining the effectiveness of the Department's oversales rule would be impossible.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis, and possible use in regulatory and other administrative matters.

Issued in Washington, DC, on December 4, 2023.

William Chadwick, Jr.,

Director, Office of Airline Information, U.S. Department of Transportation.

[FR Doc. 2023–26847 Filed 12–7–23; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Application and Renewal Fees Imposed on Surety Companies and Reinsuring Companies; Increase in Fees Imposed

AGENCY: Bureau of the Fiscal Service, Treasury.

ACTION: Notice of fees imposed on surety companies and reinsuring companies.

SUMMARY: The Department of the Treasury, Bureau of the Fiscal Service, is increasing the fees it imposes on and collects from surety companies and reinsuring companies, effective January 1, 2024.

FOR FURTHER INFORMATION CONTACT: Melvin Saunders, at (304) 480–5108 or *melvin.saunders@fiscal.treasury.gov;* or Bobbi McDonald, at (304) 480–7098 or *bobbi.mcdonald@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION: The Independent Offices Appropriations Act of 1952 (IOAA), codified at 31 U.S.C. 9701, authorizes Federal agencies to establish fees for a service or thing of value provided by the agency to members of the public. Office of Management and Budget Circular A–25 allows agencies to impose user fees for services that confer a special benefit to identifiable recipients beyond those accruing to the general public. Pursuant to 31 CFR 223.22, Treasury imposes fees on surety companies and reinsuring companies seeking to obtain or renew certification or recognition from Treasury. The fees imposed and collected cover the costs incurred by the Government for services performed reviewing, analyzing, and evaluating the

companies' applications, financial statements, and other information. Treasury determines the amount of fees in accordance with the IOAA and the Office of Management and Budget Circular A–25, as amended. The change in fees is the result of a thorough analysis of costs associated with the corporate federal surety bond program.

The new fee rate schedule is as follows:

(1) Examination of a company's application for a Certificate of Authority as an acceptable surety or as an acceptable reinsuring company on Federal bonds: $12,400.

(2) Determination of a company's continued qualification for annual renewal of its Certificate of Authority: $8,000.

(3) Examination of a company's application for recognition as an Admitted Reinsurer: $4,500.

(4) Determination of a company's continued qualification for annual renewal of its authority as an Admitted Reinsurer: $3,200. Questions concerning this notice should be directed to the Surety Bond Branch, Special Assets and Liabilities Division, Bureau of the Fiscal Service, Surety Bonds (A–1G), 257 Bosley Industrial Drive, Parkersburg, WV 26106, Telephone (304) 480–6635.

Timothy E. Gribben,

Commissioner, Bureau of the Fiscal Service.

[FR Doc. 2023–26995 Filed 12–7–23; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of one person that has been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of this person are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley T. Smith, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action

On December 1, 2023, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person are blocked under the relevant sanctions authority listed below.

Individual

1. MARTINEZ MORALES, Luis Miguel (a.k.a. ''MARTINEZ, Miguel''; a.k.a. ''MARTINEZ, Miguel Miguelito''; a.k.a. ''Miguelito''), Colonia Las Hojarascas, Km 19.5 Carretera Interamericana, Mixco, Guatemala; DOB 12 Sep 1989; POB Santa Lucia Cotzumalguapa, Guatemala; nationality Guatemala; Gender Male; Passport 245907203 (Guatemala) expires 15 Nov 2022; National ID No. 2459072030502 (Guatemala) (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(B)(1) of Executive Order 13818 of December 20, 2017, ''Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption,'' 82 FR 60839 (Dec. 26, 2017) for being a foreign person who is a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in, corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery.

Dated: December 1, 2023.

Gregory T. Gatjanis,

Associate Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–27016 Filed 12–7–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Electronic Tax Administration Advisory Committee; Public Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: The Electronic Tax Administration Advisory Committee (ETAAC) will hold a public meeting via telephone conference line.

DATES: Wednesday, Jan. 10, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Alec Johnston, Office of National Public Liaison, at (202) 317–4299, or send an email to *publicliaison@irs.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 5 U.S.C. 10(a)(2) of the Federal Advisory Committee Act, that a public meeting via conference call of the ETAAC will be held on Wednesday, Jan. 10, 2024, at 12:30 p.m. EDT. The purpose of the ETAAC is to provide continuing advice regarding the development and implementation of the IRS organizational strategy for electronic tax administration. ETAAC is an organized public forum for discussion of electronic tax administration issues such as prevention of identity theft and refund fraud. It supports the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC members convey the public's perceptions of IRS electronic tax administration activities, offer constructive observations about current or proposed policies, programs, and procedures, and suggest improvements. Please call or email Alec Johnston to confirm your attendance. Mr. Johnston can be reached at 202–317–4299 or *PublicLiaison@irs.gov.* Should you wish the ETAAC to consider a written statement, please call 202–317–4299 or email: *PublicLiaison@irs.gov.*

Dated: December 4, 2023.

John A. Lipold,

Designated Federal Official, Office of National Public Liaison, Internal Revenue Service.

[FR Doc. 2023–26941 Filed 12–7–23; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 88 Friday,

No. 235 December 8, 2023

Part II

Department of Commerce

Bureau of Industry and Security

15 CFR Parts 740 and 774

Proposed Enhancements and Simplification of License Exception Strategic Trade Authorization (STA); Proposed Rule

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 740 and 774

[Docket No. 231117–0272]

RIN 0694–AJ32

Proposed Enhancements and Simplification of License Exception Strategic Trade Authorization (STA)

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

ACTION: Proposed rule.

SUMMARY: In this rulemaking, the Bureau of Industry and Security (BIS) proposes revising License Exception Strategic Trade Authorization (STA) under the Export Administration Regulations (EAR). The purpose of these changes is to encourage additional use of License Exception STA for ally and partner countries. BIS proposes specific revisions to License Exception STA and includes questions for public comment to help BIS better understand impediments in using License Exception STA. This proposed rule is part of a broader effort announced today that will revise several categories of export licensing requirements and the availability of export license exceptions for key allied and partner countries, as well as for members of certain multilateral export control regimes.

DATES: Comments must be received by BIS no later than February 6, 2024.

ADDRESSES: Comments on this rule may be submitted to the Federal rulemaking portal (*www.regulations.gov*). The *regulations.gov* ID for this rule is: BIS–2023–0019. Please refer to RIN 0694–AJ32 in all comments.

All filers using the portal should use the name of the person or entity submitting the comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential version of the submission. For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC.'' Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. The corresponding non-confidential version of those comments must be clearly marked ''PUBLIC.'' The file name of the non-confidential version should begin with the character ''P.'' Any submissions with file names that do not begin with either a ''BC'' or a ''P'' will be assumed to be public and will be made publicly available through *https://www.regulations.gov.* Commenters submitting business confidential information are encouraged to scan a hard copy of the non-confidential version to create an image of the file, rather than submitting a digital copy with redactions applied, to avoid inadvertent redaction errors which could enable the public to read business confidential information.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, contact Timothy Mooney, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce at 202–482–2440 or by email: *RPD2@bis.doc.gov,* please include ''RIN: 0694–AJ32'' in the subject line.

SUPPLEMENTARY INFORMATION:

I. Background

In this proposed rule, the Bureau of Industry and Security (BIS) describes potential revisions to License Exception Strategic Trade Authorization (STA) under the Export Administration Regulations (EAR). The purpose of these changes is to encourage additional use of License Exception STA for ally and partner countries. This rule proposes changes that would: (1) clarify that License Exception STA is not a list-based license exception; (2) add text to make it more explicit that License Exception STA is eligible for deemed export and deemed reexports; (3) exclude deemed exports and deemed reexports from the requirement to have been listed on an approved license or other approval for ''600 series'' technology; (4) adopt a simpler and consistent approach to identify ECCNs eligible for License Exception STA; and (5) remove the limitation on the use of License Exception APR for reexports between and among certain partner and ally countries to reflect their close coordination with the United States on export controls.

This proposed rule also includes seven questions for public comment to help BIS better understand why License STA is being underutilized by exporters, reexporters, and transferors. BIS also requests comments on whether STA eligibility should be expanded or restricted for specific items, including for specific ECCNs and welcomes comments on additional measures that could further facilitate trade under License Exception STA with partner and ally countries.

This rule includes proposed changes to License Exception STA eligibility for ECCNs 1E001 and 2E003.f, which were previously proposed in the proposed rule ''*Clarifications of Availability and Expansion of Restrictions on Availability of License Exception Strategic Trade Authorization Under the Export Administration Regulations*'' (October 2021 rule) (see 86 FR 58615 (October 22, 2021)). Because this rule is addressing License Exception STA more broadly, such as how items excluded from License Exception STA will be identified and the passage of time since 2021, BIS is re-proposing these restrictions on the STA eligibility for ECCNs 1E001 and 2E003.f. This action will allow for public comment on these proposed changes to License Exception STA eligibility to help to better inform the current Administration's review of License Exception STA eligibility for these two ECCNs. See Section VII.B of this rule for additional background on these proposed changes. BIS encourages parties that may have commented on the October 22 rule to review these proposed changes to ECCN 1E001 and 2E003.f, along with any other interested parties.

Liberalizing Controls for Allies and Partners

Historically, the United States has relied on deep connections with its allies and partners to protect its vital national security and foreign policy interests. In particular, the United States acts in close cooperation with its allies and partners to bring together the international community to address military aggression, threats to sovereignty, and human rights abuses around the world. This is especially true in the context of export controls, in which multilateral and plurilateral controls are typically the most effective path toward accomplishing our national security and foreign policy objectives.

In remarks made on February 4, 2021, regarding America's place in the world, President Biden noted that America's alliances are some of our greatest assets and that leading with diplomacy means standing shoulder to shoulder with and working closely with our allies and key partners, thereby protecting the world against nefarious actors. At that time, President Biden highlighted the fact that the United States would be ''more effective in dealing with Russia when we work in coalition and coordination with other like-minded partners.'' (*https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/04/remarks-by-president-biden-on-*

americas-place-in-the-world/). Consistent with this direction, a year later following Russia's unjustifiable further invasion of Ukraine and Belarus' complicity in that invasion, the United States led formation of and continued alignment within the Global Export Controls Coalition (GECC), now comprising the United States and 38 other global economies. BIS's export controls on Russia and Belarus have been more effective because they have been imposed and maintained in coordination with U.S. allies and partners. At the same time, in addition to the GECC, BIS has forged deeper ally and partner country relationships through a series of bilateral and multilateral export controls dialogues, including under the auspices of the U.S.-European Union Trade and Technology Council (TTC) and the U.S.-Japan Commercial and Industrial Partnership (JUCIP).

The proposed changes with this rule and two other ally and partner rules published today are part of a broad effort to liberalize controls for allies and partner countries under the EAR (15 CFR parts 730–774). Together, these rules will ease several categories of export licensing requirements and increase the availability of export license exceptions for key allied and partner countries, as well as members of certain multilateral export control regimes.

License Exception STA History

License Exception STA was added to the EAR on June 16, 2011 (76 FR 35287) as one of the first actions taken under the Export Control Reform (ECR) Initiative. This license exception was intended to facilitate trade and military interoperability with our closest allies and partners by streamlining the controls under the EAR applicable for certain items destined for export control partner and ally countries. Through two authorizing paragraphs (§ 740.20(c)(1) and (2)), License Exception STA authorizes exports, reexports, and transfers (in-country), including deemed exports and deemed reexports for certain items. Paragraph (c)(1) authorization is applicable to six reasons for control (national security (NS); chemical or biological weapons (CB); nuclear nonproliferation (NP); regional stability (RS); crime control (CC), and/or significant items (SI)) for countries identified in Country Group A:5. Paragraph (c)(2) authorization is available to overcome national security (NS) controls for certain ECCNs. As with all EAR license exceptions, certain terms and conditions must be met to use License Exception STA. In addition, entities that use License Exception STA must confirm that none of the general restrictions on the use of license exceptions under § 740.2 applies.

Since 2011, BIS has updated License Exception STA to clarify certain requirements. For example, a November 11, 2017, final rule (82 FR 50511) added various notes to License Exception STA to clarify the intent of certain provisions, *e.g.,* the 'completing the chain' concept for ''600 series'' items, clarifying foreign governments are not required to provide a prior consignee statement, and clarifying how License Exception STA relates to transfers (in-country). These changes helped with public understanding and encouraged some additional usage of License Exception STA for ally and partner country transactions.

BIS has determined that amending License Exception STA to make the requirements simpler where possible, while still protecting U.S. national security and foreign policy interests, would make License Exception STA more beneficial for key allied and partner countries. Moreover, it is appropriate to reevaluate the effectiveness of License Exception STA and determine how it may be improved to better achieve its original objectives, as well as to better reflect the current export control environment (*e.g.,* taking into account the significant amount of coordination between destinations identified in Country Group A:5 in supplement no. 1 to part 740 (Country Groups) and in supplement no. 3 to part 746 (Countries Excluded from Certain License Requirements of §§ 746.6, 746.7, and 746.8)).

BIS is publishing this rule as a proposed rule to receive comments on the proposed changes and to solicit public comments on general questions about License Exception STA. BIS particularly seeks input on whether any aspect of License Exception STA discourages use of the exception. License Exception STA was intended to be used in almost all cases when available, and BIS believed at the time License Exception STA was added to the EAR that it would be used in almost all cases when available. The use of License Exception STA has grown since 2011, but it remains persistently underutilized. In fiscal year (FY) 2022, 10% of all license applications reviewed by BIS were for transactions eligible for license exception STA. With respect to ''600 series'' munitions items, in FY 2022, 26% of license applications BIS processed were for transactions that were eligible for license exception STA.

Advantages of License Exception STA Over a BIS License

BIS has set out various evaluation criteria below to compare License Exception STA and BIS licenses. BIS has emphasized these points since 2011 in explaining to exporters, reexporters, and transferors the significant advantages to using License Exception STA compared to using a BIS license, with the one exception that License Exception STA does not allow for subsequent use of License Exception Additional Permissive Reexports (APR) under § 740.16(a) or (b). BIS also welcomes comments in response to this proposed rule for commenters to include any additional evaluation criteria that may be relevant when determining whether to use License Exception STA or a BIS license, in particular if those additional evaluation criteria may be why some exporters, reexporters, or transferors prefer using BIS licenses over License Exception STA when it is available.

Evaluation criteria	License exception STA	BIS license
Quantity authorized	No limitation on quantity	Limited to the quantity specified on the license.
Dollar value authorized	No limitation on the dollar value	Dollar value is limited to the dollar value specified on the license and may only exceed that amount when it is within the shipping tolerance provisions under § 750.11, which generally allow for the total dollar value stated on that license to be exceeded by up to 10% of the dollar value.

Evaluation criteria	License exception STA	BIS license
Time needed to obtain the authorization.	License Exception STA is a written authorization in the EAR, so provided you meet the terms and conditions, License Exception STA could be used the same day you determine an authorization is needed.	Applying for a BIS license takes time. In certain cases, an applicant may be able to request expedited review (BIS licenses do not generally require a purchase order), but in most cases the review process will take on average around 40 calendar days from the time the license application is submitted until a final disposition is received from BIS, with processing times for some applications being shorter and some taking much longer.
U.S. Government end-use checks.	Consistent with § 734.11, the U.S. Government may request to conduct an end-use check for items received under License Exception STA, regardless of whether or not the certification requirement in § 740.20(d)(2)(viii) applies to the specific STA transaction [1].	Consistent with § 734.11, the U.S. Government may request to conduct an end-use check for items received under a BIS license. These are done prior to a consignee receiving the items as a pre-license check or after the items are received as a post-shipment verification.
Subsequent transfers (in-country).	An item received under License Exception STA may be transferred (in-country) without requiring an EAR authorization, provided there are no part 744 end-use or end-user license requirements. This concept also applies to ''600 series'' items, but the 'completing the chain concept' as specified in Note 1 to paragraphs (b)(2) and (b)(3) (which this rule would redesignate as Note 1 to paragraph (b)(3)) of License Exception STA would need to be completed for a ''600 series'' item received under License Exception STA.	An item received under a BIS license may only be transferred (in-country) as authorized under the BIS license. Any transfer (in-country), such as to an end user not identified on the license, would require a new license or a separate EAR authorization. This is a significant disadvantage to using a BIS license compared to using License Exception STA.[2]
Restrictions on subsequent reexports.	Commodities shipped pursuant to License Exception STA may not subsequently be reexported pursuant to paragraphs (a) or (b) of License Exception APR under § 740.16(a) or (b) [3].	Unless limited by a condition on the license regarding the use of License Exception APR, a BIS license does not have limitations on the use of License Exception APR under § 740.16(a) or (b).

II. Clarification That License Exception STA Is Not A List-Based License Exception, Adding Additional Compliance Guidance on Steps To Determine if ECCN Is Excluded

In the introductory text to License Exception STA in § 740.20, this rule proposes revising the first sentence and adding two new sentences at the end. The first sentence would specify that License Exception STA is not a list-based license exception. Rather, it is a transaction-based license exception. A list-based license exception requires reviewing the License Exceptions section in an ECCN and seeing an affirmative statement that the list-based license exception is available. License Exception STA does not appear under the License Exceptions section of any ECCN because it is not a list-based license exception; therefore, this additional step is not required for determining whether License Exception STA is available. The sentence this rule proposes to add will make this point clear for exporters, reexporters, and transferors. BIS also welcomes comments on whether it would be more beneficial to turn License Exception STA into a list-based license exception.

Certain information from an ECCN is used to determine whether License Exception STA may be used. For example, the reason(s) for control of an ECCN is (are) needed for determining whether an item classified under an ECCN may be authorized under License Exception STA. In addition, 142 ECCNs contain a Special Conditions STA section, which in most cases excludes the use of License Exception STA for an entire ECCN or portions of an ECCN for destinations identified in Country Group A:6. In 25 of those 142 Special Conditions for STA sections, there are exclusions for entire ECCNs or portions of an ECCN for destinations in Country Groups A:5 and A:6—meaning License Exception STA is not available in any case to authorize those items. As described under section V.A, this proposed rule proposes various changes to the Special Conditions for STA section in the ECCNs to adopt a simpler and consistent approach for excluding ECCNs or certain items under ECCNs from License Exception STA, along with proposing conforming changes to § 740.20(b)(2).

III. Clarifying License Exception STA Is Eligible for Deemed Exports and Deemed Reexports and Excluding Requirement for Recipient To Have Been Approved on a Prior U.S. Government Authorization

A. Clarifying STA Is Available for Deemed Exports and Deemed Reexports

Under the introductory text to § 740.20, this rule proposes revising the first sentence and adding a new second sentence to make it clear at the beginning of License Exception STA that the license exception may be used to authorize deemed exports and deemed reexports. BIS still receives questions from exporters, reexporters, and transferors on whether License Exception STA may be used to authorize deemed exports and deemed reexports, so this step would improve public understanding. The current

[1] Note that also consistent with § 734.11, the U.S. Government may request to conduct an end-use check for items received under any other BIS license exception or No License Required (NLR) designated shipments.

[2] For example, an exporter is exporting a ''600 series'' item to a defense contractor in the U.K. and knows there are three additional defense contractors involved in the manufacturing process prior to the finished item being provided to the U.S. military. This could be authorized under a BIS license instead of using License Exception STA, but if an additional U.K. defense contractor needs to be added that was not contemplated at the time the license was approved, a new license or other EAR license exception would be needed. For ''600 series'' items received under License Exception STA, as noted in the previous column, no authorization would be required to transfer (in-country) to the new entity involved in the manufacturing process, provided the 'completing the chain' concept is still followed for the ''600 series'' item. For other items received under License Exception STA, there is no 'completing the chain' concept, so License Exception STA is even easier to use for transfers (in-country).

[3] This has historically been one advantage to using a BIS license instead of License Exception STA. Today's proposed rule proposes narrowing the scope of the License Exception STA restriction on use of License Exception APR under § 740.16(a) or (b) for destinations identified in both Country Group A:5 and in supplement no. 3 to part 746 to put License Exception STA on a more equal playing field with BIS licenses in this respect.

introductory text prior to these proposed changes uses the phrase ''including releases within a single country of software source code and technology to foreign nationals,'' which has the same meaning as deemed exports and deemed reexports, but to simplify the text, this rule proposes removing that text and adding in its place the terms deemed exports and deemed reexports. The second new sentence this rule would add to the introductory text specifies that for the paragraph (d) requirements, only paragraph (d)(4) is applicable for deemed exports and deemed reexports. Paragraph (d)(4) already specifies this relationship with paragraphs (d)(1) through (3), but this is still a common question that BIS receives on the use of License Exception STA.

B. Addition of a General Statement to Part 740 About the Use of EAR License Exceptions for Deemed Exports and Deemed Reexports

In § 740.1 Introduction, this rule proposes adding one sentence to the end of paragraph (a) (Scope) to clarify that any license exception authorizing exports and reexports of technology also authorizes deemed exports and deemed reexports, provided the terms and conditions for a release of technology under that license exception are met. This rule proposes this sentence to ensure that the scope of license exceptions also extends to deemed exports and deemed reexports provided the criteria are met. Certain EAR license exceptions are available for deemed exports and deemed reexports, such as License Exception Technology and software under restriction (TSR) under § 740.6, but do not include a specific reference to deemed exports and deemed reexports. BIS welcomes comments in response to the rule whether it would be better to include this proposed sentence in § 740.1 or to revise each of the applicable license exception sections in part 740 to add in a reference to deemed exports and deemed reexports.

C. Excluding Deemed Exports and Deemed Reexports From Note to Paragraph (c)(1)

In § 740.20, this rule proposes adding one sentence to the end of the Note to paragraph (c)(1), to specify the note is not applicable to deemed exports or deemed reexports authorized under License Exception STA under § 740.20(c)(1). BIS originally added the Note to paragraph (c)(1) to weed out potential front companies that may have tried to receive ''600 series'' items under License Exception STA under § 740.20(c)(1). The note to paragraph (c)(1) specified that License Exception STA under § 740.20(c)(1) may be used to authorize the export, reexport, or transfer (in-country) of ''600 series'' items only if the purchaser, intermediate consignee, ultimate consignee, and end user have previously been approved on a license or other approval and the note identifies the types of licenses or other approvals that are acceptable. For most exporters, reexporters, or transferors, this Note to paragraph (c)(1) has been easy to comply with and even when an exporter, reexporter, or transferor was not able to meet the terms of the note, that was easily addressed by applying for a license for that transaction. Then once the license was granted, the exporter, reexporter, or transferor would meet the terms of the Note to paragraph (c)(1) and could use License Exception STA going forward, provided the export, reexport, or transfer (in-country) met the other applicable terms and conditions for License Exception STA.

In the deemed export and deemed reexport context for the ''600 series,'' the application of the Note 1 to paragraph (c)(1) has brought about certain unexpected results. First, because the person releasing the ''600 series'' technology to the foreign national would be in a position to vet the person in most cases as part of the employment with the entity making the release, which may include requiring entry into a nondisclosure agreement, the concern with a foreign national being an unknown entity is significantly less compared to an entity on the other side of the world that will be receiving a ''600 series'' item. Second, although the entity making a deemed export or deemed reexport could also apply for a license if needed initially to address the Note to paragraph (c)(1), in most cases once going through the process of obtaining a deemed export license from BIS, the entity making the deemed export or deemed reexport would likely simply rely on the BIS deemed export or deemed reexport license going forward instead of using License Exception STA. This would limit the usefulness of License Exception STA for authorizing ''600 series'' deemed exports and deemed reexports of technology and would not be warranted as a restriction in order to protect U.S. national security and foreign policy interests. At least in part as a result of this restriction, in FY 2022, BIS approved over 60 deemed export or deemed reexport license applications for ''600 series'' that would otherwise have been eligible for license STA because the recipients were nationals of A:5 countries. For these reasons, this rule proposes adding a sentence to the end of the Note to paragraph (c)(1) to exclude deemed exports and deemed reexports from the scope of this note.

BIS has provided past regulatory guidance on this question, which does mitigate some concern about this Note 1 to paragraph (c)(1) discouraging the use of License Exception STA. To make all members of the public aware of this past guidance that BIS has provided to other deemed exporters and deemed reexporters, BIS includes that guidance here on the application of Note 1 to paragraph (c)(1). If the foreign person is a bona fide 'permanent and regular employee' of an entity that has previously been approved as a purchaser, intermediate consignee, ultimate consignee, or end user on a license or other approval, *i.e.,* Directorate of Defense Trade Controls (DDTC) Manufacturing License Agreement (MLA), Technical Assistance Agreement (TAA), Warehouse Distribution Agreement (WDA), or General Correspondence approval (GC) issued by BIS or DDTC at the U.S. Department of State, this would meet the requirement of the Note to paragraph (c)(1). For example, if a foreign national that is a bona fide ''permanent and regular employee'' of a European software company was meeting with a company in the U.S. and ''600 series'' technology or software source code was to be released, it would be sufficient for purposes of the Note to paragraph (c)(1), that the European software company met the scope of the Note to paragraph (c)(1) and this would extend to their bona fide ''permanent and regular employee.'' In addition, if the foreign national had previously been listed individually on a license or other approval, as noted above that would be the second route for meeting the scope of the Note to paragraph (c)(1) for that foreign national. Note that a foreign person being a bona fide ''permanent and regular employee'' of a U.S. entity that previously had been listed as an entity on a license or approval, such as an approved exporter, is not sufficient to meet the scope of the Note to paragraph (c)(1), because the concern in that scenario is with the bona fides of the foreign national and not the U.S. entity. BIS does note that this guidance will no longer be necessary if the proposed change becomes final and effective. BIS encourages as a good compliance practice for entities using License Exception STA for deemed exports and deemed reexports to have measures in place to vet the foreign

national, such as employment screening and the use of non-disclosure agreements. In addition, any deemed export or deemed reexport authorized under License Exception STA will need to comply with the requirements of paragraph (d)(4) (Requirements for releases of software source code or technology within a single country).

V. Simplification of Limitations on Use of License Exception STA Under Paragraph (b)(2) and Special Conditions for STA Section in ECCNs

A. Adopting a Simpler and Consistent ECCN Exclusion Approach for License Exception STA and Clarifying Relationship Between § 740.20(b)(2) and Special Conditions for STA Section in ECCNs

This proposed rule seeks to simplify License Exception STA by adopting a simpler and consistent approach for excluding ECCNs from License Exception STA. These proposed changes are discussed in this Section V.A, which also provides background on the current requirements and how these requirements have evolved since 2011. This rule proposes changes to enable exporters, reexporters, and transferors to more easily, quickly, and consistently determine whether an item is eligible for License Exception STA.

Prior to reviewing the exclusions under § 740.20(b)(2) of License Exception STA, the exporter, reexporter, or transferor should review the Special Conditions for STA section in the applicable ECCN, which may exclude that ECCN or certain items under that ECCN from the use of License Exception STA. Substantively, in order to determine if an ECCN or certain items under that ECCN is excluded from the use of License Exception STA, an exporter, reexporter, or transferor will need to confirm that the item is not excluded under the Special Conditions for STA section of the ECCN and that the ECCN is not otherwise excluded from the use of License Exception STA under § 740.20(b)(2).

ECCNs as a whole or certain items under an ECCN may be excluded from License Exception STA under the Special Conditions for STA section of an Export Control Classification Number (ECCN) or under the exclusions under § 740.20(b)(2). When License Exception STA was originally added to the EAR, the construct was that the Special Conditions for STA section would generally be used to exclude certain items from License Exception STA for Country Group A:6, and the ECCNs exclusions under § 740.20(b)(2) would be used to exclude items completely from License Exception STA for Country Groups A:5 and A:6. However, over time as eligibility for certain ECCNs has been adjusted for License Exception STA, BIS deviated from the general construct for excluding ECCNs or certain items under ECCNs, and this has created unneeded complexity. This rule proposes changes to adopt a simpler and consistent approach for how ECCNs or certain items under ECCNs would be excluded from License Exception STA for Country Group A:6 or for Country Groups A:5 and A:6.

For example, in some of the Special Conditions for STA sections in ECCNs, BIS started excluding those ECCNs or certain items under those ECCNs completely from License Exception STA for Country Groups A:5 and A:6 instead of relying on § 740.20(b)(2), which deviates from the original construct. In other cases, BIS used both Special Conditions for STA sections and § 740.20(b)(2) to exclude ECCNs or certain items under those ECCNs completely from License Exception STA for Country Groups A:5 and A:6. Each of those variants creates unneeded complexity for exporters, reexporters, and transferors trying to understand what ECCNs or portions of ECCNs are excluded under License Exception STA, in particular if they are looking for a consistent construct for how items are being excluded under License Exception STA.

If either the Special Conditions for STA section or § 740.20(b)(2) excludes an item from the use of License Exception STA, then that item is excluded. However, from a compliance perspective, using two different methods, and in certain cases using both methods of exclusion, creates unnecessary complexity. This rule would adopt a consistent, single construct for how ECCNs or portions of ECCNs are excluded from License Exception STA, which should make it easier for exporters, reexporters, and transferors to apply this aspect of License Exception STA.

This rule would make the following changes to § 740.20(b)(2) to improve this aspect of License Exception STA. In § 740.20(b)(2) (Limitations on the Use of License Exception STA), this rule would revise the paragraph heading to read as ''Items excluded from the use License Exception STA for Country Groups A:5 and A:6.'' This rule proposes deleting all of paragraph (b)(2) ECCN exclusions and moving those exclusions into the Special Conditions for STA section of the 29 respective ECCNs, except for existing paragraph (b)(2)(i), and existing paragraph (b)(2)(iii), which would be redesignated as paragraph (b)(2)(ii). This rule also proposes the removal of the redundant paragraph (b)(2)(iv) that specified License Exception STA was not available for items subject to the exclusive export control jurisdiction of another U.S. Government agency. Paragraph (b)(2)(iv) is not needed because § 734.3(b)(1) of the EAR already specifies that items subject to the exclusive export control jurisdiction of another U.S. Government agency are not subject to the EAR. Paragraph (b)(2) would be limited to paragraph (b)(2)(i) specifying that License Exception STA may not be used to overcome parts 744 or 746 license requirements and paragraph (b)(2)(ii) specifying the reasons for control that License Exception STA may not overcome. The remaining paragraphs are under paragraph (b)(2) would be removed and added under the respective 29 ECCNs.

The revisions to the 29 ECCNs would consist of revising 10 of the ECCNs (0A501, 1E001, 3E001, 6D003, 6E001, 6E002, 9D001, 9D002, 9D004, and 9E003), which already include an exclusion for certain portions of those ECCNs to exclude certain items under those ECCNs from License Exception STA for purposes of Country Group A:6, to identify the additional items under those ECCNs that are excluded from License Exception STA for both Country Groups A:5 and A:6. This rule also proposes revising 19 ECCNs (0A502, 0A503, 0A981, 0A982, 0A983, 0E504, 0E982, 1C353, 1C354, 1E351, 2E003, 6A002, 6D002, 6D991, 7D004, 9A001, 9B001, 9E001, 9E002), that do not include a Special Conditions for STA section to add an exclusion for those items for License Exception STA for purposes of Country Group A:5 and A:6. For 1E001, 2E003, 6D002, 7D004, 9B001, 9E001, and 9E002, this rule also proposes additional restrictions for STA eligibility.

As a conforming change to these proposed revisions to paragraph (b)(2), this rule would redesignate Note 1 to paragraphs (b)(2) and (3) as Note 1 to paragraph (b)(3).

BIS welcomes comments on whether the changes above will make it easier for exporters, reexporters, and transferors to use License Exception STA. In order to turn License Exception STA into a list-based license exception, BIS would remove all of the Special Conditions for STA sections in the respective ECCNs and § 740.20(b)(2) and then add STA paragraphs under the License Exceptions section to each of those respective ECCNs. The new STA paragraphs would positively identify the ECCN or ''items'' level paragraphs under those respective ECCNs that are eligible for License Exception STA,

including any applicable exclusions. This would, in certain cases, lead to fairly long STA paragraphs, particularly when accounting for the differences in STA eligibility between Country Groups A:5 and A:6, which may make those provisions harder for exporters, reexporters, and transferors to understand.

Another alternative that BIS welcomes comments on would be to remove all of the Special Conditions or STA sections in 142 ECCNs and § 740.20(b)(2) and then add two new supplements to § 740.20 with one supplement identifying items eligible for License Exception STA for Country Group A:5 and a second supplement identifying the smaller set of only items controlled for National Security (NS) reasons that would be eligible for License Exception STA for Country Group A:6. Although there could be added complexity in taking either of these approaches, both cases would reduce the overall number of steps needed to determine if an item was eligible for License Exception STA.

Lastly, on this aspect of the proposed rule, BIS also welcomes comments on any other alternative approaches that the agency may not have already described above that could be a better approach for identifying which items are eligible for or excluded from License Exception STA.

B. Addition of Note to Paragraph (b)(2) To Provide Additional Clarity Between the Relationship Between § 740.20(b)(2) and Special Conditions for STA Section in ECCNs

In § 740.20, this rule proposes adding a new Note to paragraph (b)(2). This note would provide greater context on the relationship between § 740.20(b)(2) and Special Conditions for STA section in ECCNs. The note would describe the number of Special Conditions for STA sections and the types of items excluded under those ECCNs and clarify how these two exclusion methods work together in defining what ECCNs or other items under those ECCN are excluded from the use of License Exception STA, either for Country Group A:5 and A:6 or for only Country Group A:6.

VI. Removal of Limitation on Use of License Exception APR Under Paragraphs (a) and (b) for Reexports Between and Among Certain Countries To Reflect Their Close Coordination With the United States on Export Controls

In § 740.20(e) (Limitation on subsequent exports, reexports or in country transfers), this rule proposes removing the limitation on the use of License Exception APR (§ 740.16(a) or (b) of the EAR) for commodities that have been exported, reexported, or transferred in-country pursuant to License Exception STA for reexports between and among destinations identified in both Country Group A:5 in supplement no. 1 to part 740 and supplement no. 3 to part 746 of the EAR (*i.e.,* a destination listed in Country Group A:5 but not in supplement no. 3 to part 746 would not eligible for using APR). These destinations have cooperated closely with the United States on export controls, including ensuring appropriate reexport controls were in place on Russia and Belarus after Russia's further invasion of Ukraine. Accordingly, given their effective dual-use export control systems and use of those systems to advance shared national security and foreign policy interests, BIS has determined it would be warranted to give these destinations more permissive treatment to receive items under License Exception APR paragraphs (a) and (b), which prior to this rule, would have required a different EAR authorization, such as using License Exception STA to authorize the reexport to these destinations or a BIS license.

BIS is aware that the limitation on the use of License Exception APR under paragraphs (a) and (b) has for certain reexporters encouraged them to continue to prefer receiving items under BIS licenses instead of agreeing to receive items under License Exception STA. The change this rule would make to paragraph (e) to narrow the scope of the License Exception APR restriction for these destinations would be consistent with U.S. national security and foreign policy interests and is anticipated by BIS to encourage consignees, as well as reexporters and transferors in these destinations for reexports between and among these destinations, to be more receptive to receiving items under License Exception STA, in particular if they have facilities that are located in more than one destination located in both Country Group A:5 and supplement no. 3 to part 746.

This rulemaking also proposes revisions to paragraph (e) for clarity by revising the heading to remove the terms ''exports'' and ''in country transfer.'' The scope of paragraph (e) is a limitation on subsequent reexports, so this rule proposes making this clarification in the heading and in the first sentence of paragraph (e) to remove the second references to subsequently ''exported'' and ''transferred in country.'' Subsequently ''exported'' under License Exception APR is not needed because License Exception APR only authorizes reexports and transfers (in-country), so inclusion of ''exported'' is not needed and may create confusion for exporters, reexporters, and transferors. The inclusion of subsequently ''transferred in country'' is also not needed in the context of this paragraph. A commodity received under License Exception STA may be transferred (in-country) without requiring an EAR authorization, provided there is no part 744 end-use or end user controls applicable. See Note 1 to paragraph (a) of License Exception STA. If the commodity or other item received under License Exception STA is a ''600 series'' item, then the 'completing the chain' concept is applicable (as specified under Note 1 to paragraphs (b)(2) and (3) to License Exception STA, which this rule would redesignate as Note 1 to paragraph (b)(3)), but no additional EAR authorization is required for subsequent transfers (in-country), provided the chain is eventually completed and there are no applicable part 744 end-use or end user controls. Lastly, for clarity, this rule would revise the last sentence of paragraph (e) to remove the term ''export'' and add in its place the term ''reexport.''

VII. BIS Seeks Public Comments on Scope of ECCNs Eligible for STA

To assist BIS in assessing whether the scope of ECCNs currently eligible for STA meets the objective of STA and U.S. national security requirements, BIS seeks public comment on the following issues:

A. What additional items that are currently not eligible for License Exception STA do you believe should have STA eligibility added for Country Group A:5 or for both Country Groups A:5 and A:6? Commenters should identify specific ECCNs and the rationale for adding STA eligibility for Country Group A:5 or both Country Groups A:5 and A:6.

B. What additional items that are currently eligible for License Exception STA do you believe should have STA eligibility removed for Country Group A:5, for Country Group A:6, or for both Country Groups A:5 and A:6? In this rule, the USG is including proposed revisions to the License Exception STA eligibility for items under seven ECCNs in particular.

C. This rulemaking proposes specific regulatory revisions to further limit STA eligibility for the following ECCNs:

1. 1E001: The current STA special condition states that License Exception STA may not be used to ship or transmit

''technology'' according to the General Technology Note for the ''development'' or ''production'' of equipment and materials specified by ECCNs 1A002, 1C001, 1C007.c, 1C010.c or d or 1C012 to any of the destinations listed in Country Group A:6. The proposed revisions to the regulatory text for 1E001 would restrict STA eligibility for 1E001 ''technology'' for the ''development'' or ''production'' of items specified in ECCNs 1A002; 1C001; 1C007.c or .d; 1C008.a.1; 1C009.b; 1C010.b, .c or .d; 1C351.a, .b, .c, .d.11, .d.12, .d.14, .d.15, or .e; 1C353; or 1C354, to any of the destinations listed in Country Group A:5 or A:6. In addition, the proposed revisions to the regulatory text for 1E001 would restrict STA eligibility for ''technology'' according to the General Technology Note for the ''development'' or ''production'' of equipment and materials specified by ECCN 1C012 to any of the destinations listed in Country Group A:6.

2. 2E003: The current 2E003 does not include a Special Conditions for STA section. The proposed revisions to the regulatory text for 2E003 would add a Special Conditions for STA section to restrict STA eligibility for ''technology'' according to the General Technology Note for 2E003.f when used for the application of inorganic overlay coatings on gas turbine engine combustors, or turbine blades, vanes or ''tip shrouds,'' to any of the destinations listed in Country Group A:5 or A:6.

Note for proposed changes to 1E001 and 2E003: *As referenced under the Section I, BIS requested public comment regarding STA eligibility of ECCN 1E001 and 2E003.f in the October 2021 rule. BIS received 6 public comments, and the comments were generally not supportive of new restrictions on STA eligibility for these two ECCNs; however, given the passage of two years and the current rule's request for comments on STA eligibility for other ECCNs, BIS wants to provide the public another opportunity to submit additional comments on 1E001 and 2E003.f, including those six entities that submitting comments previously, as well as any other interested entities.*

3. 6D002: The current STA special condition in § 740.20(b)(2) states that License Exception STA may not be used for ''software'' in ECCN 6D002 ''specially designed'' for the ''use'' of commodities controlled under 6A002.b, to any of the destinations listed in Country Group A:5 or A:6. The proposed revisions to the regulatory text for 6D002 would restrict STA eligibility for software ''specially designed'' for the ''use'' of equipment controlled by 6A008 and 6B008 to both Country Group A:5 and A:6.

4. 7D004: The current STA Special condition states that ''License Exception STA may not be used to ship or transmit ''software'' in 7D004.a to .d and .g to any of the destinations listed in Country Groups A:6.'' The proposed revisions to the regulatory text in 7D004 would extend the STA eligibility restriction to Country Group A:5.

5. 9B001: The current STA Special condition states that ''License Exception STA may not be used to ship commodities in 9B001 to any of the destinations listed in Country Group A:6.'' The proposed revisions to the regulatory text in 9B001 would extend the STA eligibility restriction to Country Group A:5.

6. 9E001: The current STA Special condition states that ''License Exception STA may not be used to ship or transmit any technology in this entry to any of the destinations listed in Country Group A:6.'' The proposed revisions to the regulatory text in 9E001 would extend the STA eligibility restriction so that STA would not be able to used to ship or transmit any technology in 9E001 for the ''development'' of equipment under 9B001 to destinations in Country Group A:5 or A:6.

7. 9E002: The current STA Special condition states that ''License Exception STA may not be used to ship or transmit any technology in this entry to any of the destinations listed in Country Group A:6. The proposed revisions to the regulatory text in 9E002 would extend the STA eligibility restriction so that STA would not be able to used to ship or transmit any technology in 9E002 for the ''production'' of equipment under 9B001 to destinations in Country Group A:5 or A:6.

Note: *BIS requested public comment regarding STA eligibility of ECCN 9E003.k in the interim final rule which implemented decisions from the 2022 Wassenaar Arrangement (WA 2022 rule) (see 88 FR 71932 (October 18, 2023)); comment period for the WA22 rule closes on December 5, 2023. The restrictions BIS proposes for the regulatory text of the STA Special Conditions for ECCNs 6D002, 7D004, 9B001, 9E001, and 9E002 (and 9E003 in the WA 2022 rule) are included solely to provide clarity to the public of the potential scope of such restrictions to facilitate BIS's receipt of informed comments from the regulated public. Such text does not indicate BIS's regulatory intent to adopt such restrictions in final form.*

Comments are welcome from the public on the STA eligibility restrictions proposed in this rule on ECCNs 1E001, 2E003, 6D002, 7D004, 9B001, 9E001, 9E002, as well as any other ECCN. As part of these comments, BIS welcomes information on the impact such changes would have to existing programs and transactions.

VIII. BIS Seeks Public Comments on the Following Additional Questions

In addition to the questions described above that BIS seeks public comments, BIS in this proposed rule also seeks comments on the following questions:

A. What factors contribute to the apparent reluctance of certain exporters, reexporters, and transferors to use License Exception STA or certain consignees to receive items under License Exception STA?

B. What changes should be made to the EAR to encourage greater usage of License Exception STA?

C. What changes or clarifications could be made to the information required on the prior consignee statement required under § 740.20(d)(2) for the ''600 series,'' 9x515 ECCNs, and other ECCNs' prior consignee statements to facilitate increased usage of License Exception STA?

D. What additional changes could be made to License Exception STA to further facilitate exports, reexports, and transfers (in-country) between and among destinations identified in both Country Group A:5 in supplement no. 1 to part 740 and supplement no. 3 to part 746?

E. What are the anticipated effects of requiring use of License Exception STA under the EAR when eligible, like other EAR license exceptions?

F. Should License Exception STA be a list-based license exception?

G. What type of additional BIS outreach materials or outreach activities could encourage greater usage of License Exception STA?

Rulemaking Requirements

1. BIS has examined the impact of this rule as required by Executive Orders 12866, 13563, and 14094, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This rule is considered a ''significant regulatory action'' under section 3(f) of Executive Order 12866.

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

This rule involves the following OMB-approved collections of information subject to the PRA:

• 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 29.4 minutes for a manual or electronic submission;

• 0694–0096 ''Five Year Records Retention Period,'' which carries a burden hour estimate of less than 1 minute;

• 0694–0122, ''Licensing Responsibilities and Enforcement;'' and

• 0607–0152 ''Automated Export System (AES) Program,'' which carries a burden hour estimate of 3 minutes per electronic submission.

BIS expects the burden hours associated with these collections to decease by 221 hours for an estimated cost decrease of $7,735, which is within the estimated burdens and costs of these collections. Additional information regarding these collections of information—including all background materials—can be found at *https://www.reginfo.gov/public/do/PRAMain* by using the search function to enter either the title of the collection or the OMB Control Number.

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 ECRA (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. While section 1762 of ECRA provides sufficient authority for such an exemption, this action is also independently exempt from these APA requirements because it involves a military or foreign affairs function of the United States (5 U.S.C. 553(a)(1)). However, in order to better inform these regulatory changes, BIS is publishing this rule as a proposed rulemaking in order to solicit public comments before being published in final form.

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

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 740 and 774 of the Export Administration Regulations (15 CFR parts 730 through 774) are proposed to be amended as follows:

PART 740—LICENSE EXCEPTIONS

■ 1. The authority citation for part 740 continues 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. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 2. Section 740.1 is amended by adding a sentence at the end of paragraph (a) to read as follows:

§ 740.1 Introduction.

* * * * *

(a) * * * Any license exception authorizing exports and reexports of technology also authorizes deemed exports and deemed reexports, provided the terms and conditions for a release of technology under that license exception are met.

* * * * *

■ 3. Section 740.20 is revised to read as follows:

§ 740.20 License Exception Strategic Trade Authorization (STA).

(a) *Introduction.* This section authorizes exports, reexports, and transfers (in-country), including deemed exports and deemed reexports, in lieu of a license that would otherwise be required pursuant to part 742 of the EAR. For purposes of the paragraph (d) requirements, only paragraph (d)(4) is applicable for deemed exports and deemed reexports. License Exception STA is not a list-based license exception.

Note 1 to paragraph (a): License Exception STA authorizes transfers (in-country) but is only needed to authorize a transfer (in-country) when an EAR authorization is required. If a transfer (in-country) is not being made under STA, the requirements specified in this section do not apply (see Note 1 to paragraph (b)(3) of this section for requirements specific to staying within the scope of the original License Exception STA authorization and the concept of 'completing the chain' for purposes of ''600 series'' items originally authorized under License Exception STA).

(b) *Requirements and Limitations*—(1) *Requirements for Using License Exception STA.*

(i) All of the reasons for control that impose a part 742 license requirement on the export, reexport, or in country transfer must be addressed in at least one authorizing paragraph of this section.

(ii) The party using License Exception STA must comply with all of the requirements in paragraph (d) of this section.

(2) *Items excluded from the use License Exception STA for Country Groups A:5 and A:6.* Items identified under paragraphs (b)(2)(i) and (ii) are excluded from License Exception STA for Country Groups A:5 and A:6.

(i) License Exception STA may not be used in lieu of any license requirement imposed by ''Part 744—Control Policy: End User and End Use Based'' or by ''Part 746—Embargoes and Other Special Controls'' of the EAR.

(ii) License Exception STA may not be used for any item that is controlled for reason of encryption items (EI), short supply (SS), surreptitious listening (SL), missile technology (MT) or chemical weapons (CW);

Note 2 to paragraph (b)(2): In addition to the STA exclusions identified under paragraph (b)(2), 157 ECCNs on the CCL include Special Conditions for STA, which are used to exclude entire ECCNs or parts of ECCNs from the use of License Exception STA for destinations in Country Group A:6 or Country Group A:5 and A:6. If an item is excluded under the Special Conditions section of an ECCN or paragraph (b)(2) of this section, the item may not be exported, reexported, or transferred (in-country) under License Exception STA for that Country Group(s).

(3) *Limitations on the Use of STA that are Specific to ''600 series'' Items.* (i) License Exception STA may not be used for any ''600 series'' items identified in the relevant ECCN as not being eligible for STA.

(ii) License Exception STA may be used to export, reexport, and transfer (in-country) ''600 series'' items to persons, whether non-governmental or governmental, if they are in and, for natural persons, nationals of a country listed in Country Group A:5 (See supplement no. 1 to part 740 of the EAR) or the United States and if:

(A) The *ultimate* end user for such items is the armed forces, police, paramilitary, law enforcement, customs, correctional, fire, or a search and rescue agency of a government of one of the countries listed in Country Group A:5, or the United States Government;

(B) For the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of an item in one of the countries listed in Country Group A:5 or the United States that will be for one, or more, of the following purposes:

(*1*) Ultimately to be used by any such government agencies in one of the

countries listed in Country Group A:5 or the United States Government; or

(*2*) Sent to a person in the United States and not for subsequent export under § 740.9(b)(1) (License Exception TMP for items moving in transit through the United States); or

(C) The United States Government has otherwise authorized the ultimate end use, the license or other authorization is in effect, and the consignee verifies in writing that such authorization exists and has provided the license or other approval identifier to the exporter, reexporter, or transferor (as applicable).

(iii) License Exception STA may not be used to export, reexport, or transfer (in-country) end items described in ECCN 0A606.a, ECCN 8A609.a, ECCN 8A620.a or .b, or ECCN 9A610.a until after BIS has approved their export under STA under the procedures set out in § 740.20(g).

(iv) License Exception STA may not be used to export, reexport, or transfer (in-country) ''600 series'' items if they are ''600 Series Major Defense Equipment'' and the value of such items in the contract requiring their export exceeds $25,000,000.

Note 3 to paragraph (b)(3): Any export, reexport, or transfer (in-country) originally authorized under License Exception STA must stay within the scope of the original authorization. For example, for ''600 series'' items authorized under License Exception STA, such items must be provided to an eligible ultimate end user, such as a Country Group A:5 military, to stay in compliance with the original authorization. This requirement for the ''600 series'' is referred to as 'completing the chain,' meaning regardless of how many times the ''600 series'' item is transferred (in-country) or whether the ''600 series'' item is incorporated into higher level assemblies or other items, the ''600 series'' item must ultimately be provided to an eligible ultimate end user, or be otherwise authorized under the EAR. This applies regardless of whether the ''600 series'' item has been incorporated into a foreign-made item that may no longer be ''subject to the EAR.'' Because the other items eligible for authorization under License Exception STA (9x515 and other non-600 series ECCNs) do not include the ''600 series'' requirements specific to ultimate end user, this 'completing the chain' concept does not apply to 9x515 and other non-600 series ECCNs authorized under License Exception STA. However, the original export, reexport, or transfer (in-country) made under License Exception STA for 9x515 and other non-600 series ECCNs still must comply with the original authorization—meaning the terms and conditions of License Exception STA.

(c) *Authorizing paragraphs*—(1) *Multiple reasons for control.* Exports, reexports, and transfers (in-country) in which the only applicable reason(s) for control is (are) national security (NS); chemical or biological weapons (CB); nuclear nonproliferation (NP); regional stability (RS); crime control (CC), and/or significant items (SI) are authorized for destinations in or nationals of Country Group A:5 (See supplement no.1 to part 740 of the EAR).

Note 4 to paragraph (c)(1). License Exception STA under § 740.20(c)(1) may be used to authorize the export, reexport, or transfer (in-country) of ''600 series'' items only if the purchaser, intermediate consignee, ultimate consignee, and end user have previously been approved on a license or other approval, *i.e.,* Directorate of Defense Trade Controls (DDTC) Manufacturing License Agreement (MLA), Technical Assistance Agreement (TAA), Warehouse Distribution Agreement (WDA), or General Correspondence approval (GC) issued by BIS or DDTC at the U.S. Department of State. Note to paragraph (c)(1) is not applicable to deemed exports or deemed reexports authorized under License Exception STA. BIS encourages as a good compliance practice for entities using License Exception STA to authorize deemed exports and deemed reexports to have measures in place to vet the foreign national, such as employment screening and the use of non-disclosure agreements. In addition, any deemed export or deemed reexport authorized under License Exception STA will need to comply with the requirements of paragraph (d)(4) of this section.

(2) *Controls of lesser sensitivity.* Exports, reexports, and transfers (in-country) in which the only applicable reason for control is national security (NS) and the item being exported, reexported, or transferred (in-country) is not designated in the STA paragraph in the License Exception section of the ECCN that lists the item are authorized for destinations in or nationals of Country Group A:6 (See supplement no. 1 to this part).

(d) *Conditions*—(1) *Requirement to furnish Export Control Classification Number.* (i) The exporter must furnish to the consignee the ECCN of each item to be exported pursuant to this section. Once furnished to a particular consignee, the ECCN that applies to any item need not be refurnished to that consignee at the time the same exporter makes an additional export of the same item, if the information remains accurate at the time of the additional export.

(ii) A reexporter or transferor must furnish to subsequent consignees the ECCN, provided by the exporter or a prior reexporter or transferor, of each item to be reexported or transferred (in-country) pursuant to this section. Once furnished to a particular consignee, the ECCN that applies to any item need not be refurnished to that consignee at the time the same reexporter or transferor makes an additional reexport or transfer (in-country) of the same item, if the information remains accurate at the time of the additional reexport or transfer (in-country).

(iii) For purposes of determining reexport or transfer eligibility under this section, the consignee may rely on the ECCN provided to it by the party required to furnish the ECCN under paragraph (d)(1)(i) or (ii) of this section unless the consignee knows that the ECCN is incorrect or has changed. The word ''knows'' has the same meaning as the term ''knowledge'' in § 772.1 of the EAR.

(2) *Prior Consignee Statement.* The requirements in this paragraph (d)(2) apply to each party using License Exception STA to export, reexport, or transfer (in-country), including reexporters and transferors of items previously received under License Exception STA. The exporter, reexporter, or transferor must obtain the following statement in writing from its consignee(s) prior to exporting, reexporting, or transferring (in-country) the item and must retain the statement in accordance with part 762 of the EAR. One statement may be used for multiple exports, reexports, or transfers (in-country) of the same items between the same parties so long as the party names, the description(s) of the item(s) and the ECCNs are correct. The exporter, reexporter, or transferor must maintain a log or other record (such as documents created in the ordinary course of business) that identifies each shipment made pursuant to this section and the specific consignee statement that is associated with each shipment. For purposes of this paragraph (d)(2), a log or other record is not required for intangible (*i.e.,* electronic or in an otherwise intangible form) exports, reexports, or transfers (in-country) made under License Exception STA, but an exporter, reexporter, or transferor is required, prior to making any export, reexport, or transfer (in-country), to ensure that a prior consignee statement has been obtained pursuant to the requirements of this paragraph (d)(2). (*See* Note 1 to paragraph (d)(3) of this section for additional guidance on intangible exports, reexports, and transfers (in-country), including best practices). Paragraphs (d)(2)(i) through (vi) of this section are required for all transactions. In addition, paragraph (d)(2)(vii) is required for all transactions in ''600 series'' items and paragraph (viii) of this section is required for transactions in ''600 series'' items if the consignee is not the government of a country listed in Country Group A:5 (See supplement no. 1 to part 740 of the EAR). Paragraph (d)(2)(viii) is also

required for transactions including 9x515 items.

[INSERT NAME(S) OF CONSIGNEE(S)]:

(i) Is aware that [INSERT GENERAL DESCRIPTION AND APPLICABLE ECCN(S) OF ITEMS TO BE SHIPPED (*e.g.,* aircraft parts and components classified under ECCN 9A610)] will be shipped pursuant to License Exception Strategic Trade Authorization (STA) in § 740.20 of the United States Export Administration Regulations (15 CFR 740.20);

(ii) Has been informed of the ECCN(s) noted above by [INSERT NAME OF EXPORTER, REEXPORTER OR TRANSFEROR];

(iii) Understands that items shipped pursuant to License Exception STA may not subsequently be reexported pursuant to paragraphs (a) or (b) of License Exception APR (15 CFR 740.16(a) or (b));

(iv) Agrees to obtain a prior consignee statement when using License Exception STA for any reexport or transfer (in-country) of items previously received under License Exception STA;

(v) Agrees not to export, reexport, or transfer these items to any destination, use or user prohibited by the United States' Export Administration Regulations;

(vi) Agrees to provide copies of this document and all other export, reexport, or transfer records (*i.e.,* the documents described in 15 CFR part 762) relevant to the items referenced in this statement to the U.S. Government as set forth in 15 CFR 762.7;

(vii) Understands that License Exception STA may be used to export, reexport, and transfer (in-country) ''600 series'' items to persons, whether non-governmental or governmental, only if they are in and, for natural persons, nationals of a country listed in Country Group A:5 (See supplement no. 1 to part 740 of the EAR) or the United States and if:

(A) The *ultimate* end user for such items is the armed forces, police, paramilitary, law enforcement, customs, correctional, fire, or a search and rescue agency of a government of one of the countries listed in Country Group A:5 or the United States Government;

(B) For the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of an item in one of the countries listed in Country Group A:5 or the United States that will be for one, or more, of the following purposes:

(1) Ultimately to be used by any such government agencies in one of the countries listed in Country Group A:5 or the United States Government; or

(2) Sent to a person in the United States and not for subsequent export under § 740.9(b)(1) (License Exception TMP for items moving in transit through the United States); or

(C) The United States Government has otherwise authorized the ultimate end use, the license or other authorization is in effect, and the consignee verifies in writing that such authorization exists and has provided the license or other approval identifier to the exporter, reexporter or transferor (as applicable).

(viii) Agrees to permit a U.S. Government end-use check with respect to the items.

[INSERT NAME(S) AND TITLE(S) OF PERSON(S) SIGNING THS DOCUMENT, AND DATE(S) DOCUMENT IS SIGNED].

Note 5 to paragraph (d)(2): When multiple consignees who form a network engaged in a production process (or other type of collaborative activity, such as joint development) will be receiving items under License Exception STA, a single prior consignee statement for multiple consignees may be used for any item eligible for export, reexport, or transfer (in-country) under License Exception STA, provided all of the applicable requirements of License Exception STA are met, including those specified in paragraph (d)(2).

Note 6 to paragraph (d)(2): Country Group A:5 and A:6 government consignees are not required to sign or provide a prior consignee statement.

(3) *Notification to consignee of STA shipment.* With each shipment under License Exception STA, the exporter (or reexporter or transferor as applicable), must notify the consignee in writing that the shipment is made pursuant to License Exception STA. The notice must either specify which items are subject to License Exception STA or state that the entire shipment is made pursuant to License Exception STA. The notice must clearly identify the shipment to which it applies. The written notice may be conveyed by paper documents or by electronic methods such as facsimile or email.

Note 7 to paragraph (d)(3): While the exporter, reexporter, and transferor must furnish the applicable ECCN and obtain a consignee statement prior to export, reexport or transfer (in-country) made under License Exception STA in accordance with the requirements of paragraphs (d)(1) and (d)(2) of this section, intangible (*i.e.,* electronic or in an otherwise intangible form) exports, reexports, and transfers (in-country) made under License Exception STA are not subject to the notification requirements of paragraph (d)(3) of this section. However, any export, reexport, or transfer (in-country) made under STA must stay within the scope of the original authorization.

(4) *Requirements for releases of software source code or technology within a single country.* Instead of the requirement of paragraphs (d)(1) through (d)(3) of this section, the party releasing software source code or technology to a national of a country listed in Country Group A:5 or A:6 (See supplement no. 1 to this part) must notify the recipient of the software source code or technology of the restrictions upon further release of the software source code or technology. The notification must either expressly inform the recipient that the EAR impose limits on further disclosure or must be in the form of an agreement in which the recipient agrees to limits on further disclosure. Any such agreement must impose limits that are equivalent to or more restrictive than all limits on further disclosure that are imposed by the EAR. The notification must be in writing and a copy of it must be retained by the party making the release and the recipient of the release. The notification may be in a separate document or included in a document such as a contract or a nondisclosure agreement. If the document has an expiration date, it must provide that the restrictions on disclosure do not expire.

(e) *Limitation on subsequent reexports.* If a commodity has been exported, reexported or transferred in-country pursuant to this section, it may not be subsequently reexported pursuant to paragraphs (a) or (b) of License Exception APR (§ 740.16(a) or (b) of the EAR), except for reexports between and among destinations identified in both Country Group A:5 in supplement no. 1 to this part and supplement no. 3 to part 746 of the EAR. Paragraphs (a) and (b) of License Exception APR do not authorize reexports of software or technology.

(f) *Applicability of Wassenaar Arrangement reporting requirements.* See § 743.1 of the EAR for special reporting requirements that apply to some exports made pursuant to this section.

(g) *License Exception STA eligibility requests for 9x515 and ''600 series'' items*—(1) *Applicability.* Any person may request License Exception STA eligibility for end items described in ECCN 0A606.a, ECCN 8A609.a, ECCNs 8A620.a or .b, ''spacecraft'' in ECCNs 9A515.a.1, .a.2, .a.3, or .a.4, ''sub-orbital craft,'' or items in 9A515.g, 9A610.a, or technology ECCNs 9E515.b, .d, .e, or .f.

(2) *Required information and manner of requests.* Requests for License Exception STA eligibility must be made via the BIS Simplified Network Application Process–Redesign (SNAP–R) system unless BIS authorizes

submission via the paper BIS–748–P Multipurpose Application form. For situations in which BIS 748–P submissions may be authorized, see § 748.1(d)(1). For required information specific to License Exception STA eligibility requests, see supplement no. 1 to part 748, Blocks 5 and 6 and supplement no. 2 to part 748, paragraph (w). In SNAP–R the work type for these applications is ''Export.''

(3) *Timeline for USG review.* The Departments of Commerce, Defense and State will review License Exception STA eligibility requests in accordance with the timelines set forth in Executive Order 12981 and § 750.4. If the License Exception STA request is approved, the process outlined in paragraph (g)(5)(i) of this section is followed.

(4) *Review criteria.* The Departments of Commerce, Defense and State will determine whether the ''end item'' is eligible for this license exception based on an assessment of whether it provides a critical military or intelligence advantage to the United States or is otherwise available in countries that are not regime partners or close allies. If the ''end item'' does not provide a critical military or intelligence advantage to the United States or is otherwise available in countries that are not regime partners or close allies, the Departments will determine that License Exception STA is available unless an overarching foreign policy rationale for restricting STA availability can be articulated. Consensus among the Departments is required in order for an ''end item'' to be eligible for License Exception STA. Such determinations are made by the departments' representatives to the Advisory Committee on Export Policy (ACEP), or their designees.

(5) *Disposition of License Exception STA eligibility requests* —(i) *Approvals.* If the request for STA eligibility is approved, the applicant will receive notification from BIS authorizing the use of the additional License Exception STA for the specific end items requested. This will be in the form of a notice generated by SNAP–R to the applicant. Applicants who receive an approval notification may share it with companies affiliated with them, such as a branch or distributor, and may also take steps to make it public (*e.g.,* on their website) if the applicants so wish. In addition, BIS will add a description of the approved end item in the relevant ECCN and in an online table posted on the BIS website, which removes the restriction on the use of License Exception STA for the end item identified in the approved request. BIS will publish, as needed, a final rule adding this license exception eligibility to the EAR for that ECCN entry or end item.

(ii) *Denials.* If the STA eligibility request is not approved, the applicant will receive written notification from BIS. This will be in the form of a notice generated by SNAP–R to the applicant. Applicants may re-submit STA eligibility requests at any time.

PART 774—THE COMMERCE CONTROL LIST

■ 4. The authority citation for part 774 continues 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.;* 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 5. Supplement No. 1 to part 774 is amended by revising ECCNs 0A501, 0A502, 0A503, 0A981, 0A982, 0A983, 0E504, 0E982, 1C353, 1C354, 1E001, 1E351, 2E003, 3E001, 6A002, 6D002, 6D003, 6D991, 6E001, 6E002, 7D004, 9B001, 9D001, 9D002, 9D004, 9E001, 9E002, and 9E003, to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

0A501 Firearms (except 0A502 shotguns) and related commodities as follows (see List of Items controlled).

License Requirements

Reason for Control: NS, RS, FC, UN, AT

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to entire entry except 0A501.y.	NS Column 1
RS applies to entire entry except 0A501.y.	RS Column 1
FC applies to entire entry except 0A501.y.	FC Column 1
UN applies to entire entry.	See § 746.1 of the EAR for UN controls
AT applies to entire entry.	AT Column 1

License Requirement Note: *In addition to using the Commerce Country Chart to determine license requirements, a license is required for exports and reexports of ECCN 0A501.y.7 firearms to the People's Republic of China.*

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $500 for 0A501.c, .d, and .x.
$500 for 0A501.c, .d, .e, and .x if the ultimate destination is Canada.

GBS: N/A

Special Conditions for STA

STA: License Exception STA may not be used for ECCN 0A501.a, .b, .c, .d, or .e, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR). License Exception STA may not be used for any item in this entry to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) Firearms that are fully automatic, and magazines with a capacity of greater than 50 rounds, are ''subject to the ITAR.'' (2) See ECCN 0A502 for shotguns and their ''parts'' and ''components'' that are subject to the EAR. Also see ECCN 0A502 for shot-pistols. (3) See ECCN 0A504 and USML Category XII for controls on optical sighting devices.
Related Definitions: N/A
Items:

a. Non-automatic and semi-automatic firearms equal to .50 caliber (12.7 mm) or less.

Note 1 to paragraph 0A501.a: *'Combination pistols' are controlled under ECCN 0A501.a. A 'combination pistol' (a.k.a., a combination gun) has at least one rifled barrel and at least one smoothbore barrel (generally a shotgun style barrel).*

Technical Note to 0A501.a: *Firearms described in 0A501.a includes those chambered for the .50 BMG cartridge.*

b. Non-automatic and non-semi-automatic rifles, carbines, revolvers or pistols with a caliber greater than .50 inches (12.7 mm) but less than or equal to .72 inches (18.0 mm).

c. The following types of ''parts'' and ''components'' if ''specially designed'' for a commodity controlled by paragraph .a or .b of this entry, or USML Category I (unless listed in USML Category I(g) or (h)): Barrels, cylinders, barrel extensions, mounting blocks (trunnions), bolts, bolt carriers, operating rods, gas pistons, trigger housings, triggers, hammers/striker, sears, disconnectors, pistol grips that contain fire control ''parts'' or ''components'' (*e.g.,* triggers, hammers/striker, sears, disconnectors) and buttstocks that contain fire control ''parts'' or ''components.''

Technical Note to 0A501.c: *Barrel blanks that have reached a stage in manufacturing in which they are either chambered or rifled are controlled by 0A501.c.*

d. Detachable magazines with a capacity of 17 to 50 rounds ''specially designed'' for a commodity controlled by paragraph .a or .b of this entry.

Note 2 to paragraph 0A501.d: *Magazines with a capacity of 16 rounds or less are controlled under 0A501.x; for magazines with a capacity greater than 50 rounds, see USML Category I.*

e. Receivers (frames) and ''complete breech mechanisms,'' including castings, forgings, stampings, or machined items thereof, ''specially designed'' for a commodity controlled by paragraph .a or .b of this entry.

Note 3 to 0A501.e: *Frames (receivers) under 0A501.e refers to any ''part'' or ''component'' of the firearm that has or is*

customarily marked with a serial number when required by law. This paragraph 0A501.e is synonymous with a ''part'' or ''component'' that is regulated by the Bureau of Alcohol, Tobacco, Firearms and Explosives (see 27 CFR parts 447, 478, and 479,) as a firearm.

f. through w. [Reserved]

x. ''Parts'' and ''components'' that are ''specially designed'' for a commodity classified under paragraphs .a through .c of this entry or the USML and not elsewhere specified on the USML or CCL.

y. Specific ''parts,'' ''components,'' ''accessories'' and ''attachments'' ''specially designed'' for a commodity subject to control in this ECCN or common to a defense article in USML Category I and not elsewhere specified in the USML or CCL as follows, and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor.

y.1. Stocks (including adjustable, collapsible, blades and braces), grips, handguards, or forends, that do not contain any fire control ''parts'' or ''components'' (*e.g.,* triggers, hammers/striker, sears, disconnectors);

y.2 to y.5. [Reserved]

y.6. Bayonets; and

y.7. Firearms manufactured from 1890 to 1898 and reproductions thereof.

Technical Note 1 to 0A501: *The controls on ''parts'' and ''components'' in ECCN 0A501 include those ''parts'' and ''components'' that are common to firearms described in ECCN 0A501 and to those firearms ''subject to the ITAR.''*

Technical Note 2 to 0A501: *A receiver with any other controlled ''part'' or ''component'' (e.g., a barrel (0A501.c), or trigger guard (0A501.x), or stock (0A501.y.1)) is still controlled under 0A501.e.*

Note 4 to 0A501: *Antique firearms (i.e., those manufactured before 1890) and reproductions thereof, muzzle loading and black powder firearms except those designs based on centerfire weapons of a post 1937 design, BB guns, pellet rifles, paint ball, and all other air rifles are EAR99 commodities.*

Note 5 to 0A501: *Muzzle loading and black powder firearms with a caliber less than 20 mm that were manufactured post 1937 that are used for hunting or sporting purposes that were not ''specially designed'' for military use and are not ''subject to the ITAR'' nor controlled as shotguns under ECCN 0A502 are EAR99 commodities.*

Note 6 to 0A501: *Scope mounts or accessory rails, iron sights, sling swivels, and butt plates or recoil pads are designated as EAR99. These commodities have been determined to no longer warrant being ''specially designed'' for purposes of ECCN 0A501.*

Note 7 to 0A501: *A kit, including a replacement or repair kit, of firearms ''parts'' or ''components'' customarily sold and exported together takes on the classification of the most restrictive ''part'' or ''component'' that is included in the kit. For example, a kit containing 0A501.y and .x ''parts,'' is controlled as a 0A501.x kit because the .x ''part'' is the most restrictive ''part'' included in the kit. A complete firearm disassembled in a kit form is controlled as a firearm under 0A501.a, .b, or .y.7.*

0A502 Shotguns; shotguns ''parts'' and ''components,'' consisting of complete trigger mechanisms; magazines and magazine extension tubes; ''complete breech mechanisms;'' except equipment used to slaughter domestic animals or used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use.

License Requirements

Reason for Control: RS, CC, FC, UN, AT, NS

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to shotguns with a barrel length less than 18 inches (45.72 cm).	NS Column 1
RS applies to shotguns with a barrel length less than 18 inches (45.72 cm).	RS Column 1
FC applies to entire entry.	FC Column 1
CC applies to shotguns with a barrel length less than 24 in. (60.96 cm) and shotgun ''components'' controlled by this entry regardless of end user.	CC Column 1
CC applies to shotguns with a barrel length greater than or equal to 24 in. (60.96 cm), regardless of end user.	CC Column 2
CC applies to shotguns with a barrel length greater than or equal to 24 in. (60.96 cm) if for sale or resale to police or law enforcement.	CC Column 3
UN applies to entire entry.	See § 746.1(b) of the EAR for UN controls
AT applies to shotguns with a barrel length less than 18 inches (45.72 cm).	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $500 for 0A502 shotgun ''parts'' and ''components,'' consisting of complete trigger mechanisms; magazines and magazine extension tubes. $500 for 0A502 shotgun ''parts'' and ''components,'' consisting of complete trigger mechanisms; magazines and magazine extension tubes, ''complete breech mechanisms'' if the ultimate destination is Canada.

GBS: N/A

Special Conditions for STA

License Exception STA may not be used to ship any Shotguns with barrel length less than 18 inches controlled in 0A502, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: Shotguns that are fully automatic are ''subject to the ITAR.''

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

Note 1 to 0A502: *Shotguns made in or before 1898 are considered antique shotguns and designated as EAR99.*

Technical Note: *Shot pistols or shotguns that have had the shoulder stock removed and a pistol grip attached are controlled by ECCN 0A502. Slug guns are also controlled under ECCN 0A502.*

0A503 Discharge type arms; non-lethal or less-lethal grenades and projectiles, and ''specially designed'' ''parts'' and ''components'' of those projectiles; and devices to administer electric shock, for example, stun guns, shock batons, shock shields, electric cattle prods, immobilization guns and projectiles; except equipment used to slaughter domestic animals or used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and ''specially designed'' ''parts'' and ''components,'' n.e.s.

License Requirements

Reason for Control: CC, UN

Control(s)	*Country chart (see supp. No. 1 to part 738)*
CC applies to entire entry.	A license is required for ALL destinations, except Canada, regardless of end use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information)
UN applies to entire entry.	See § 746.1(b) of the EAR for UN controls

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A

GBS: N/A

Special Conditions for STA

License Exception STA may not be used to ship any items in 0A503, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: Law enforcement restraint devices that administer an electric shock are controlled under ECCN 0A982. Electronic devices that monitor and report a person's location to enforce restrictions on movement for law enforcement or penal reasons are controlled under ECCN 3A981.

Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

* * * * *

0A981 Equipment designed for the execution of human beings as follows (see List of Items Controlled).

License Requirements

Reason for Control: CC
Control(s): CC applies to entire entry. A license is required for ALL destinations regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See § 742.7 of the EAR for additional information.)

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

Special Conditions for STA

License Exception STA may not be used to ship any items in 0A981, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items:

a. Gallows and guillotines.

b. Electric chairs for the purpose of executing human beings.

c. Air tight vaults designed for the execution of human beings by the administration of a lethal gas or substance.

d. Automatic drug injection systems designed for the execution of human beings by administration of a lethal substance.

0A982 Law enforcement restraint devices, including leg irons, shackles, and handcuffs; straight jackets; stun cuffs; shock belts; shock sleeves; multipoint restraint devices such as restraint chairs; and ''specially designed'' ''parts,'' ''components'' and ''accessories,'' n.e.s.

License Requirements

Reason for Control: CC
Control(s): CC applies to entire entry. A license is required for ALL destinations, except Canada, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information.)

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

Special Conditions for STA

License Exception STA may not be used to ship any items in 0A982, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: Thumbcuffs and fingercuffs are classified under ECCN 0A983, ''specially designed'' implements of torture. Restraint devices that electronically monitor or report the location of confined persons for law enforcement or penal reasons are controlled under ECCN 3A981.
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

Note to ECCN 0A982. *This ECCN applies to restraint devices used in law enforcement activities. It does not apply to medical devices that are equipped to restrain patient movement during medical procedures. It does not apply to devices that confine memory impaired patients to appropriate medical facilities. It does not apply to safety equipment such as safety belts or child automobile safety seats.*

0A983 ''Specially designed'' implements of torture, including thumbscrews, thumbcuffs, fingercuffs, spiked batons, and ''specially designed'' ''parts,'' ''components'' and ''accessories,'' n.e.s.

License Requirements

Reason for Control: CC
Control(s): CC applies to entire entry. A license is required for ALL destinations, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information.)

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

Special Conditions for STA

License Exception STA may not be used to ship any items in 0A983, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

Note to ECCN 0A983. *In this ECCN, ''torture'' has the meaning set forth in Section 2340(1) of Title 18, United States Code.*

* * * * *

0E504 ''Technology'' ''required'' for the ''development'' or ''production'' of commodities controlled by 0A504 that incorporate a focal plane array or image intensifier tube.

License Requirements

Reason for Control: RS, UN, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
RS applies to entire entry.	RS Column 1
UN applies to entire entry.	See § 746.1(b) of the EAR for UN controls
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

Special Conditions for STA

License Exception STA may not be used to ship or transmit any ''technology'' in 0E504, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

* * * * *

0E982 ''Technology'' exclusively for the ''development'' or ''production'' of equipment controlled by 0A982 or 0A503.

License Requirements

Reason for Control: CC
Control(s): CC applies to ''technology'' for items controlled by 0A982 or 0A503. A license is required for ALL destinations, except Canada, regardless of end use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information.)

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

Special Conditions for STA

License Exception STA may not be used to ship or transmit any ''technology'' in 0E982, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

* * * * *

1C353 Genetic elements and genetically modified organisms, as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
CB applies to entire entry.	CB Column 1
AT applies to entire entry.	AT Column 1

License Requirements Notes:

1. Vaccines that contain genetic elements or genetically modified organisms identified in this ECCN are controlled by ECCN 1C991.

2. Unless specified elsewhere in this ECCN 1C353 (e.g., in License Requirement Note 1), this ECCN controls genetic elements or genetically modified organisms for all biological agents and ''toxins,'' regardless of quantity or attenuation, that are identified in the List of Items Controlled for this ECCN,

including genetic elements or genetically modified organisms for attenuated strains of select biological agents or ''toxins'' that are excluded from the lists of select biological agents or ''toxins'' by the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, or the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, in accordance with the APHIS regulations in 7 CFR part 331 and 9 CFR part 121 and the CDC regulations in 42 CFR part 73.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

Special Conditions for STA

License Exception STA may not be used to ship any items in ECCN 1C353, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, and the Centers for Disease Control and Prevention (CDC), U.S. Department of Health and Human Services, maintain controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN, including (but not limited to) certain genetic elements, recombinant nucleic acids, and recombinant organisms associated with the agents or toxins in ECCN 1C351 or 1C354 (for APHIS, see 7 CFR 331.3(c), 9 CFR 121.3(c), and 9 CFR 121.4(c); for CDC, see 42 CFR 73.3(c) and 42 CFR 73.4(c)). (2) See 22 CFR part 121, Category XIV(b), for modified biological agents and biologically derived substances that are subject to the export licensing jurisdiction of the U.S. Department of State, Directorate of Defense Trade Controls.
Related Definition: N/A
Items:

a. Any genetically modified organism that contains, or any genetic element that codes for, any of the following:

a.1. Any gene, genes, translated product or translated products specific to any virus controlled by 1C351.a or .b or 1C354.c;

a.2. Any gene or genes specific to any bacterium controlled by 1C351.c or 1C354.a, or any fungus controlled by 1C351.e or 1C354.b, and which;

a.2.a. In itself or through its transcribed or translated products represents a significant hazard to human, animal or plant health; *or*

a.2.b. Could endow or enhance pathogenicity; *or*

a.3. Any toxins, or their subunits, controlled by 1C351.d.

b. [Reserved].

Technical Notes:

1. Genetically modified organisms include organisms in which the nucleic acid sequences have been created or altered by deliberate molecular manipulation.

2. ''Genetic elements'' include, inter alia, chromosomes, genomes, plasmids, transposons, vectors, and inactivated organisms containing recoverable nucleic acid fragments, whether genetically modified or unmodified, or chemically synthesized in whole or in part. For the purposes of this ECCN 1C353, nucleic acids from an inactivated organism, virus, or sample are considered to be 'recoverable' if the inactivation and preparation of the material is intended or known to facilitate isolation, purification, amplification, detection, or identification of nucleic acids.

3. This ECCN does not control nucleic acid sequences of shiga toxin producing Escherichia coli of serogroups O26, O45, O103, O104, O111, O121, O145, O157, and other shiga toxin producing serogroups, other than those genetic elements coding for shiga toxin, or for its subunits.

4. *'Endow or enhance pathogenicity' is defined as when the insertion or integration of the nucleic acid sequence or sequences is/are likely to enable or increase a recipient organism's ability to be used to deliberately cause disease or death. This might include alterations to, inter alia: virulence, transmissibility, stability, route of infection, host range, reproducibility, ability to evade or suppress host immunity, resistance to medical countermeasures, or detectability.*

* * * * *

1C354 Plant pathogens, as follows (see List of Items Controlled).

License Requirements

Reason for Control: CB, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
CB applies to entire entry.	CB Column 1
AT applies to entire entry.	AT Column 1

License Requirements Notes:

1. All vaccines are excluded from the scope of this ECCN. See ECCN 1C991 for vaccines.

2. Unless specified elsewhere in this ECCN 1C354 (e.g., in License Requirement Note 1), this ECCN controls all biological agents, regardless of quantity or attenuation, that are identified in the List of Items Controlled for this ECCN, including small quantities or attenuated strains of select biological agents that are excluded from the list of PPQ select agents and ''toxins'' by the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, in accordance with their regulations in 7 CFR part 331.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

Special Conditions for STA

License Exception STA may not be used to ship any items in ECCN 1C354, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, maintains controls on the possession, use, and transfer within the United States of certain items controlled by this ECCN (see 7 CFR 331.3(c), 9 CFR 121.3(c), and 9 CFR 121.4(c)). (2) See 22 CFR part 121, Category XIV(b), for modified biological agents and biologically derived substances that are subject to the export licensing jurisdiction of the U.S. Department of State, Directorate of Defense Trade Controls.
Related Definitions: N/A
Items:

a. Bacteria, as follows:

a.1. *Xanthomonas albilineans;*

a.2. *Xanthomonas citri pv. citri (Xanthomonas axonopodis* pv. *citri, Xanthomonas campestris* pv. *citri);*

a.3. *Xanthomonas oryzae* [this species of proteobacteria is identified on the APHIS ''select agents'' list (see Related Controls paragraph for this ECCN), but only the pathovar *Xanthomonas oryzae* pv. *oryzae* (syn. *Pseudomonas campestris* pv. *oryzae*) is identified on the Australia Group (AG) ''List of Plant Pathogens for Export Control''];

a.4. *Clavibacter michiganensis* subsp. *sepedonicus* (*Clavibacter sepedonicus, Clavibacter michiganense* subsp. *sepedonicus, Corynebacterium michiganensis* subsp. *sepedonicum, Corynebacterium sepedonicum*);

a.5. *Ralstonia solanacearum,* race 3, biovar 2;

a.6. *Raythayibactor toxicus* [this bacterium is identified on the APHIS ''select agents'' list (see the Related Controls paragraph for this ECCN), but is not identified on the Australia Group (AG) ''List of Plant Pathogens for Export Control''].

b. Fungi, as follows:

b.1. *Bipolaris oryzae* (*Cochliobolus miyabeanus, Helminthosporium oryzae*);

b.2. *Colletotrichum kahawae* (*Colletotrichum coffeanum* var. *virulans*);

b.3. *Pseudocercospora ulei* (*Microcyclus ulei, Dothidella ulei*);

b.4. *Puccinnia graminis* ssp. *graminis* var. *graminis/Puccinia graminis* ssp. *graminis* var. *stakmanii* (*Puccinia graminis* [syn. *Puccinia graminis* f. sp. *tritici*]);

b.5. *Puccinia striiformis* (syn. *Puccinia glumarum*);

b.6. *Magnaporthe oryzae* (Pyricularia oryzae);

b.7. *Peronosclerospora philippinensis* (*Peronosclerospora sacchari*);

b.8. *Sclerophthora rayssiae* var. *zeae;*

b.9. *Synchytrium endobioticum;*

b.10. *Tilletia indica;*

b.11. *Thecaphora solani;*

b.12. *Phoma glycinicola* (formerly *Pyrenochaeta glycines*) [this fungus is identified on the APHIS ''select agents'' list (see the Related Controls paragraph for this ECCN), but is not identified on the Australia Group (AG) ''List of Plant Pathogens for Export Control''].

c. Viruses, as follows:

c.1. Andean potato latent virus (Potato Andean latent tymovirus);

c.2. Potato spindle tuber viroid.

1E001 ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of items controlled by 1A002, 1A003, 1A004, 1A005, 1A006.b, 1A007, 1A008, 1A101,

1A231, 1B (except 1B608, 1B613 or 1B999), or 1C (except 1C355, 1C608, 1C980 to 1C984, 1C988, 1C990, 1C991, 1C995 to 1C999).

License Requirements

Reason for Control: NS, MT, NP, CB, RS, AT

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to ''technology'' for items controlled by 1A002, 1A003, 1A005, 1A006.b, 1A007, 1B001 to 1B003, 1B018, 1C001 to 1C011, or 1C018.	NS Column 1
NS applies to ''technology'' for items controlled by 1A004.	NS Column 2
MT applies to ''technology'' for items controlled by 1A101, 1B001, 1B101, 1B102, 1B115 to 1B119, 1C001, 1C007, 1C011, 1C101, 1C102, 1C107, 1C111, 1C116, 1C117, or 1C118 for MT reasons.	MT Column 1
NP applies to ''technology'' for items controlled by 1A002, 1A007, 1A231, 1B001, 1B101, 1B201, 1B225, 1B226, 1B228 to 1B234, 1C002, 1C010, 1C111, 1C116, 1C202, 1C210, 1C216, 1C225 to 1C237, or 1C239 to 1C241 for NP reasons.	NP Column 1
CB applies to ''technology'' for items controlled by 1C351, 1C353, or 1C354.	CB Column 1
CB applies to ''technology'' for materials controlled by 1C350 and for chemical detection systems and dedicated detectors therefor, in 1A004.c, that also have the technical characteristics described in 2B351.a.	CB Column 2
RS applies to technology for equipment controlled in 1A004.d.	RS Column 2
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: Yes, except for the following:

(1) Items controlled for MT reasons; or

(2) Exports and reexports to destinations outside of those countries listed in Country Group A:5 (See Supplement No. 1 to part 740 of the EAR) of ''technology'' for the ''development'' or production'' of the following:

(a) Items controlled by 1C001; or

(b) Items controlled by 1A002.a which are composite structures or laminates having an organic ''matrix'' and being made from materials listed under 1C010.c or 1C010.d.

Special Conditions for STA

License Exception STA may not be used to ship or transmit ECCN 1E001 ''technology'' for the ''development'' or ''production'' of items specified in ECCNs 1A002; 1C001; 1C007.c or .d; 1C008.a.1; 1C009.b; 1C010.b, .c or .d; 1C351.a, .b, .c, .d.11, .d.12, .d.14, .d.15, or .e; 1C353; or 1C354, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR). License Exception STA may not be used to ship or transmit ''technology'' according to the General Technology Note for the ''development'' or ''production'' of equipment and materials specified by ECCN 1C012 to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls (1) Also see ECCNs 1E101, 1E201, and 1E202. (2) See ECCN 1E608 for ''technology'' for items classified under ECCN 1B608 or 1C608 that, immediately prior to July 1, 2014, were classified under ECCN 1B018.a or 1C018.b through .m (note that ECCN 1E001 controls ''development'' and ''production'' ''technology'' for chlorine trifluoride controlled by ECCN 1C111.a.3.f—see ECCN 1E101 for controls on ''use'' ''technology'' for chlorine trifluoride). (3) See ECCN 1E002.g for control libraries (parametric technical databases) ''specially designed'' or modified to enable equipment to perform the functions of equipment controlled under ECCN 1A004.c (Nuclear, biological and chemical (NBC) detection systems) or ECCN 1A004.d (Equipment for detecting or identifying explosives residues). (4) ''Technology'' for lithium isotope separation (see related ECCN 1B233) and ''technology'' for items described in ECCN 1C012 are subject to the export licensing authority of the Department of Energy (see 10 CFR part 810). (5) ''Technology'' for items described in ECCN 1A102 is ''subject to the ITAR'' (see 22 CFR parts 120 through 130).

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

* * * * *

1E351 ''Technology'' according to the General Technology Note for the disposal of chemicals or microbiological materials controlled by 1C350, 1C351, 1C353, or 1C354.

License Requirements

Reason for Control: CB, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
CB applies to ''technology'' for items controlled by 1C351, 1C353, or 1C354.	CB Column 1
CB applies to ''technology'' for the disposal of items controlled by 1C350.	CB Column 2
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

License Exception STA may not be used to ship or transmit ''technology,'' as specified in ECCN 1E351, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: N/A

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

* * * * *

2E003 Other ''technology'', as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: Yes, except 2E003.b, .e and .f

Special Conditions for STA

License Exception STA may not be used to ship or transmit any ''technology'' according to the General Technology Note for 2E003.f when used for the application of inorganic overlay coatings on gas turbine engine combustors, or turbine blades, vanes or ''tip shrouds,'' to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: See 2E001, 2E002, and 2E101 for ''development'' and ''use'' technology for equipment that are designed or modified for densification of carbon-carbon composites, structural composite

rocket nozzles and reentry vehicle nose tips.

Related Definitions: N/A

Items:

a. [Reserved]

b. ''Technology'' for metal-working manufacturing processes, as follows:

b.1. ''Technology'' for the design of tools, dies or fixtures ''specially designed'' for any of the following processes:

b.1.a. ''Superplastic forming'';

b.1.b. ''Diffusion bonding''; *or*

b.1.c. 'Direct-acting hydraulic pressing';

b.2. [Reserved]

N.B.: For ''technology'' for metal-working manufacturing processes for gas turbine engines and components, see 9E003 and USML Category XIX

Technical Note: *For the purposes of 2E003.b.1.c, 'direct-acting hydraulic pressing' is a deformation process which uses a fluid-filled flexible bladder in direct contact with the workpiece.*

c. ''Technology'' for the ''development'' or ''production'' of hydraulic stretch-forming machines and dies therefor, for the manufacture of airframe structures;

d. [Reserved]

e. ''Technology'' for the ''development'' of integration ''software'' for incorporation of expert systems for advanced decision support of shop floor operations into ''numerical control'' units;

f. ''Technology'' for the application of inorganic overlay coatings or inorganic surface modification coatings (specified in column 3 of the following table) to non-electronic substrates (specified in column 2 of the following table), by processes specified in column 1 of the following table and defined in the Technical Note.

N.B. This table should be read to control the technology of a particular 'Coating Process' only when the resultant coating in column 3 is in a paragraph directly across from the relevant 'Substrate' under column 2. For example, Chemical Vapor Deposition (CVD) 'coating process' control the ''technology'' for a particular application of 'silicides' to 'Carbon-carbon, Ceramic and Metal ''matrix'' ''composites'' substrates, but are not controlled for the application of 'silicides' to 'Cemented tungsten carbide (16), Silicon carbide (18)' substrates. In the second case, the resultant coating is not listed in the paragraph under column 3 directly across from the paragraph under column 2 listing 'Cemented tungsten carbide (16), Silicon carbide (18)'.

* * * * *

3E001 ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of commodities controlled by 3A (except 3A980, 3A981, 3A991, 3A992, or 3A999), 3B (except 3B991 or 3B992) or 3C (except 3C992).

License Requirements

Reason for Control: NS, MT, NP, RS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to ''technology'' for commodities controlled by 3A001, 3A002, 3A003, 3B001, 3B002, or 3C001 to 3C006.	NS Column 1
MT applies to ''technology'' for commodities controlled by 3A001 or 3A101 for MT reasons.	MT Column 1
NP applies to ''technology'' for commodities controlled by 3A001, 3A201, or 3A225 to 3A234 for NP reasons.	NP Column 1
RS applies to ''technology'' for commodities controlled by 3A090 or 3B090 or ''software'' specified by 3D001 (for 3A090 or 3B090 commodities).	China and Macau (See § 742.6(a)(6))
RS applies to ''technology'' for commodities controlled in 3A090, when exported from China or Macau.	Worldwide (See § 742.6(a)(6))
AT applies to entire entry.	AT Column 1

License Requirements Note: *See § 744.17 of the EAR for additional license requirements for microprocessors having a processing speed of 5 GFLOPS or more and an arithmetic logic unit with an access width of 32 bit or more, including those incorporating ''information security'' functionality, and associated ''software'' and ''technology'' for the ''production'' or ''development'' of such microprocessors.*

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, Special Comprehensive Licenses, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: Yes, except N/A for MT, and ''technology'' for the ''development'' or ''production'' of: (a) vacuum electronic device amplifiers described in 3A001.b.8, having operating frequencies exceeding 19 GHz; (b) solar cells, coverglass-interconnect-cells or covered-interconnect-cells (CIC) ''assemblies'', solar arrays and/or solar panels described in 3A001.e.4; (c) ''Monolithic Microwave Integrated Circuit'' (''MMIC'') amplifiers in 3A001.b.2; and (d) discrete microwave transistors in 3A001.b.3.

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit ''technology,'' as specified in ECCN 3E001 for the ''production'' or ''development'' of commodities controlled by 3A001.b.2 or b.3, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR). License Exception STA may not be used to ship or transmit ''technology'' according to the General Technology Note for the ''development'' or ''production'' of equipment specified by ECCNs 3A002.g.1 or 3B001.a.2 to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of certain ''space-qualified'' atomic frequency standards described in Category XV(e)(9), MMICs described in Category XV(e)(14), and oscillators described in Category XV(e)(15) of the USML are ''subject to the ITAR'' (see 22 CFR parts 120 through 130). See also 3E101, 3E201 and 9E515. (2) ''Technology'' for ''development'' or ''production'' of ''Microwave Monolithic Integrated Circuits'' (''MMIC'') amplifiers in 3A001.b.2 is controlled in this ECCN 3E001; 5E001.d refers only to that additional ''technology'' ''required'' for telecommunications.

Related Definition: N/A

Items: The list of items controlled is contained in the ECCN heading.

Note 1: *3E001 does not control ''technology'' for equipment or ''components'' controlled by 3A003.*

Note 2: *3E001 does not control ''technology'' for integrated circuits controlled by 3A001.a.3 to a.14, having all of the following:*

(a) Using ''technology'' at or above 0.130 μ; and

(b) Incorporating multi-layer structures with three or fewer metal layers.

Note 3: *3E001 does not apply to 'Process Design Kits' ('PDKs') unless they include libraries implementing functions or technologies for items specified by 3A001.*

Technical Note: *A 'Process Design Kit' ('PDK') is a software tool provided by a semiconductor manufacturer to ensure that the required design practices and rules are taken into account in order to successfully produce a specific integrated circuit design in a specific semiconductor process, in accordance with technological and manufacturing constraints (each semiconductor manufacturing process has its particular 'PDK').*

* * * * *

6A002 Optical Sensors and Equipment, and ''Components'' Therefor, as Follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, CC, RS, AT, UN

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
MT applies to optical detectors in 6A002.a.1, or a.3 that are ''specially designed'' or modified to protect ''missiles'' against nuclear effects (*e.g.,* Electromagnetic Pulse (EMP), X-rays, combined blast and thermal effects), and usable for ''missiles''.	MT Column 1
RS applies to 6A002.a.1, a.2, a.3 (except a.3.d.2.a and a.3.e for lead selenide based focal plane arrays (FPAs)), .c, and .f.	RS Column 1
CC applies to police-model infrared viewers in 6A002.c.	CC Column 1
AT applies to entire entry.	AT Column 1
UN applies to 6A002.a.1, a.2, a.3 and .c.	See § 746.1(b) for UN controls

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $500 for 6A002.f.
$3,000; except N/A for MT and for 6A002.a.1, a.2, a.3, .c, and .f.
GBS: N/A

Special Conditions for STA

License Exception STA may not be used to ship any items in ECCN 6A002, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See USML Category XII(e) for infrared focal plane arrays, image intensifier tubes, and related parts and components, subject to the ITAR. (2) See USML Category XV(e) for space-qualified focal plane arrays subject to the ITAR. (3) See also ECCNs 6A102, 6A202, and 6A992. (4) See ECCN 0A919 for foreign-made military commodities that incorporate commodities described in 6A002. (5) Section 744.9 imposes a license requirement on commodities described in ECCN 6A002 if being exported, reexported, or transferred (in-country) for use by a military end-user or for incorporation into an item controlled by ECCN 0A919. (6) See USML Categories XII(e) and XV(e)(3) for read-out integrated circuits ''subject to the ITAR.'' (7) See 6B002 for masks and reticles, ''specially designed'' for optical sensors specified by 6A002.a.1.b or 6A002.a.1.d.
Related Definitions: N/A
Items:

a. Optical detectors as follows:

a.1. ''Space-qualified'' solid-state detectors as follows:

Note: For the purpose of 6A002.a.1, solid-state detectors include ''focal plane arrays''.

a.1.a. ''Space-qualified'' solid-state detectors having all of the following:

a.1.a.1. A peak response in the wavelength range exceeding 10 nm but not exceeding 300 nm; *and*

a.1.a.2. A response of less than 0.1% relative to the peak response at a wavelength exceeding 400 nm;

a.1.b. ''Space-qualified'' solid-state detectors having all of the following:

a.1.b.1. A peak response in the wavelength range exceeding 900 nm but not exceeding 1,200 nm; *and*

a.1.b.2. A response ''time constant'' of 95 ns or less;

a.1.c. ''Space-qualified'' solid-state detectors having a peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm;

a.1.d. ''Space-qualified'' ''focal plane arrays'' having more than 2,048 elements per array and having a peak response in the wavelength range exceeding 300 nm but not exceeding 900 nm;

a.2. Image intensifier tubes and ''specially designed'' ''components'' therefor, as follows:

Note: 6A002.a.2 does not control non-imaging photomultiplier tubes having an electron sensing device in the vacuum space limited solely to any of the following:

a. A single metal anode; or

b. Metal anodes with a center to center spacing greater than 500 µm.

Technical Note: 'Charge multiplication' is a form of electronic image amplification and is defined as the generation of charge carriers as a result of an impact ionization gain process. 'Charge multiplication' sensors may take the form of an image intensifier tube, solid state detector or ''focal plane array''.

a.2.a. Image intensifier tubes having all of the following:

a.2.a.1. A peak response in the wavelength range exceeding 400 nm but not exceeding 1,050 nm;

a.2.a.2. Electron image amplification using any of the following:

a.2.a.2.a. A microchannel plate with a hole pitch (center-to-center spacing) of 12 µm or less; *or*

a.2.a.2.b. An electron sensing device with a non-binned pixel pitch of 500 µm or less, ''specially designed'' or modified to achieve 'charge multiplication' other than by a microchannel plate; *and*

a.2.a.3. Any of the following photocathodes:

a.2.a.3.a. Multialkali photocathodes (*e.g.,* S–20 and S–25) having a luminous sensitivity exceeding 350 µA/lm;

a.2.a.3.b. GaAs or GaInAs photocathodes; *or*

a.2.a.3.c. Other ''III–V compound'' semiconductor photocathodes having a maximum ''radiant sensitivity'' exceeding 10 mA/W;

a.2.b. Image intensifier tubes having all of the following:

a.2.b.1. A peak response in the wavelength range exceeding 1,050 nm but not exceeding 1,800 nm;

a.2.b.2. Electron image amplification using any of the following:

a.2.b.2.a. A microchannel plate with a hole pitch (center-to-center spacing) of 12 µm or less; *or*

a.2.b.2.b. An electron sensing device with a non-binned pixel pitch of 500 µm or less, ''specially designed'' or modified to achieve 'charge multiplication' other than by a microchannel plate; *and*

a.2.b.3. ''III/V compound'' semiconductor (*e.g.,* GaAs or GaInAs) photocathodes and transferred electron photocathodes, having a maximum ''radiant sensitivity'' exceeding 15 mA/W;

a.2.c. ''Specially designed'' ''components'' as follows:

a.2.c.1. Microchannel plates having a hole pitch (center-to-center spacing) of 12 µm or less;

a.2.c.2. An electron sensing device with a non-binned pixel pitch of 500 µm or less, ''specially designed'' or modified to achieve 'charge multiplication' other than by a microchannel plate;

a.2.c.3. ''III–V compound'' semiconductor (*e.g.,* GaAs or GaInAs) photocathodes and transferred electron photocathodes;

Note: 6A002.a.2.c.3 does not control compound semiconductor photocathodes designed to achieve a maximum ''radiant sensitivity'' of any of the following:

a. 10 mA/W or less at the peak response in the wavelength range exceeding 400 nm but not exceeding 1,050 nm; or

b. 15 mA/W or less at the peak response in the wavelength range exceeding 1,050 nm but not exceeding 1,800 nm.

a.3. Non-''space-qualified'' ''focal plane arrays'' as follows:

N.B.: 'Microbolometer' non-''space-qualified'' ''focal plane arrays'' are only specified by 6A002.a.3.f.

Technical Note: Linear or two-dimensional multi-element detector arrays are referred to as ''focal plane arrays'';

Note 1: 6A002.a.3 includes photoconductive arrays and photovoltaic arrays.

Note 2: 6A002.a.3 does not control:

a. Multi-element (not to exceed 16 elements) encapsulated photoconductive cells using either lead sulphide or lead selenide;

b. Pyroelectric detectors using any of the following:

b.1. Triglycine sulphate and variants;

b.2. Lead-lanthanum-zirconium titanate and variants;

b.3. Lithium tantalate;

b.4. Polyvinylidene fluoride and variants; or

b.5. Strontium barium niobate and variants.

c. ''Focal plane arrays'' ''specially designed'' or modified to achieve 'charge multiplication' and limited by design to have a maximum ''radiant sensitivity'' of 10 mA/W or less for wavelengths exceeding 760 nm, having all of the following:

c.1. Incorporating a response limiting mechanism designed not to be removed or modified; and

c.2. Any of the following:

c.2.a. The response limiting mechanism is integral to or combined with the detector element; or

c.2.b. The ''focal plane array'' is only operable with the response limiting mechanism in place.

d. Thermopile arrays having less than 5,130 elements;

Technical Note: A response limiting mechanism integral to the detector element is designed not to be removed or modified without rendering the detector inoperable.

a.3.a. Non-''space-qualified'' ''focal plane arrays'' having all of the following:

a.3.a.1. Individual elements with a peak response within the wavelength range exceeding 900 nm but not exceeding 1,050 nm; *and*

a.3.a.2. Any of the following:

a.3.a.2.a. A response ''time constant'' of less than 0.5 ns; *or*

a.3.a.2.b. ''Specially designed'' or modified to achieve 'charge multiplication' and having a maximum ''radiant sensitivity'' exceeding 10 mA/W;

a.3.b. Non-''space-qualified'' ''focal plane arrays'' having all of the following:

a.3.b.1. Individual elements with a peak response in the wavelength range exceeding 1,050 nm but not exceeding 1,200 nm; *and*

a.3.b.2. Any of the following:

a.3.b.2.a. A response ''time constant'' of 95 ns or less; *or*

a.3.b.2.b. ''Specially designed'' or modified to achieve 'charge multiplication' and having a maximum ''radiant sensitivity'' exceeding 10 mA/W;

a.3.c. Non-''space-qualified'' non-linear (2-dimensional) ''focal plane arrays'' having individual elements with a peak response in the wavelength range exceeding 1,200 nm but not exceeding 30,000 nm;

N.B.: Silicon and other material based 'microbolometer' non-''space-qualified'' ''focal plane arrays'' are only specified by 6A002.a.3.f.

a.3.d. Non-''space-qualified'' linear (1-dimensional) ''focal plane arrays'' having all of the following:

a.3.d.1. Individual elements with a peak response in the wavelength range exceeding 1,200 nm but not exceeding 3,000 nm; *and*

a.3.d.2. Any of the following:

a.3.d.2.a. A ratio of 'scan direction' dimension of the detector element to the 'cross-scan direction' dimension of the detector element of less than 3.8; *or*

a.3.d.2.b. Signal processing in the detector elements;

Note: *6A002.a.3.d does not control ''focal plane arrays'' (not to exceed 32 elements) having detector elements limited solely to germanium material.*

Technical Note: *For the purposes of 6A002.a.3.d, 'cross-scan direction' is defined as the axis parallel to the linear array of detector elements and the 'scan direction' is defined as the axis perpendicular to the linear array of detector elements.*

a.3.e. Non-''space-qualified'' linear (1-dimensional) ''focal plane arrays'' having individual elements with a peak response in the wavelength range exceeding 3,000 nm but not exceeding 30,000 nm;

a.3.f. Non-''space-qualified'' non-linear (2-dimensional) infrared ''focal plane arrays'' based on 'microbolometer' material having individual elements with an unfiltered response in the wavelength range equal to or exceeding 8,000 nm but not exceeding 14,000 nm;

Technical Note: *For the purposes of 6A002.a.3.f, 'microbolometer' is defined as a thermal imaging detector that, as a result of a temperature change in the detector caused by the absorption of infrared radiation, is used to generate any usable signal.*

a.3.g. Non-''space-qualified'' ''focal plane arrays'' having all of the following:

a.3.g.1. Individual detector elements with a peak response in the wavelength range exceeding 400 nm but not exceeding 900 nm;

a.3.g.2. ''Specially designed'' or modified to achieve 'charge multiplication' and having a maximum ''radiant sensitivity'' exceeding 10 mA/W for wavelengths exceeding 760 nm; *and*

a.3.g.3. Greater than 32 elements;

b. ''Monospectral imaging sensors'' and ''multispectral imaging sensors'', designed for remote sensing applications and having any of the following:

b.1. An Instantaneous-Field-Of-View (IFOV) of less than 200 µrad (microradians); *or*

b.2. Specified for operation in the wavelength range exceeding 400 nm but not exceeding 30,000 nm and having all the following:

b.2.a. Providing output imaging data in digital format; *and*

b.2.b. Having any of the following characteristics:

b.2.b.1. ''Space-qualified''; *or*

b.2.b.2. Designed for airborne operation, using other than silicon detectors, and having an IFOV of less than 2.5 mrad (milliradians);

Note: *6A002.b.1 does not control ''monospectral imaging sensors'' with a peak response in the wavelength range exceeding 300 nm but not exceeding 900 nm and only incorporating any of the following non-''space-qualified'' detectors or non-''space-qualified'' ''focal plane arrays'':*

a. Charge Coupled Devices (CCD) not designed or modified to achieve 'charge multiplication'; or

b. Complementary Metal Oxide Semiconductor (CMOS) devices not designed or modified to achieve 'charge multiplication'.

c. 'Direct view' imaging equipment incorporating any of the following:

c.1. Image intensifier tubes having the characteristics listed in 6A002.a.2.a or 6A002.a.2.b;

c.2. ''Focal plane arrays'' having the characteristics listed in 6A002.a.3; *or*

c.3. Solid state detectors specified by 6A002.a.1;

Technical Note: *'Direct view' refers to imaging equipment that presents a visual image to a human observer without converting the image into an electronic signal for television display, and that cannot record or store the image photographically, electronically or by any other means.*

Note: *6A002.c does not control equipment as follows, when incorporating other than GaAs or GaInAs photocathodes:*

a. Industrial or civilian intrusion alarm, traffic or industrial movement control or counting systems;

b. Medical equipment;

c. Industrial equipment used for inspection, sorting or analysis of the properties of materials;

d. Flame detectors for industrial furnaces;

e. Equipment ''specially designed'' for laboratory use.

d. Special support ''components'' for optical sensors, as follows:

d.1. ''Space-qualified'' cryocoolers;

d.2. Non-''space-qualified'' cryocoolers having a cooling source temperature below 218 K (−55 °C), as follows:

d.2.a. Closed cycle type with a specified Mean-Time-To-Failure (MTTF) or Mean-Time-Between-Failures (MTBF), exceeding 2,500 hours;

d.2.b. Joule-Thomson (JT) self-regulating minicoolers having bore (outside) diameters of less than 8 mm;

d.3. Optical sensing fibers specially fabricated either compositionally or structurally, or modified by coating, to be acoustically, thermally, inertially, electromagnetically or nuclear radiation sensitive.

Note: *6A002.d.3 does not apply to encapsulated optical sensing fibers ''specially designed'' for bore hole sensing applications.*

e. [Reserved]

f. 'Read-Out Integrated Circuits' ('ROIC') ''specially designed'' for ''focal plane arrays'' specified by 6A002.a.3.

Note: *6A002.f does not apply to read-out integrated circuits ''specially designed'' for civil automotive applications.*

Technical Note: *A 'Read-Out Integrated Circuit' ('ROIC') is an integrated circuit designed to underlie or be bonded to a ''focal plane array'' (''FPA'') and used to read-out (i.e., extract and register) signals produced by the detector elements. At a minimum the 'ROIC' reads the charge from the detector elements by extracting the charge and applying a multiplexing function in a manner that retains the relative spatial position and orientation information of the detector elements for processing inside or outside the 'ROIC'.*

* * * * *

6D002 ''Software'' ''specially designed'' for the ''use'' of equipment controlled by 6A002.b, 6A008, or 6B008.

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1.
MT applies to ''software'' for equipment controlled by 6A008 or 6B008 for MT reasons.	MT Column 1.
RS applies to ''software'' for equipment controlled by 6A008.j.1.	RS Column 1.
AT applies to entire entry.	AT Column 1.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: Yes, except N/A for the following: (1) Items controlled for MT reasons; (2) ''Software'' ''specially designed'' for the ''use'' of ''space qualified'' ''laser'' radar or Light Detection and Ranging (LIDAR) equipment defined in 6A008.j.1; or (3) ''Software'' ''specially designed'' for the ''use'' of commodities controlled by 6A002.b.

Special Conditions for STA

License Exception STA may not be used to ship or transmit any software under 6D002, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) ''Software'' ''specially designed'' for the ''use'' of ''space-qualified'' LIDAR ''equipment'' ''specially designed'' for surveying or for meteorological observation, released from control under the note in 6A008.j, is controlled in 6D991. (2) See also ECCNs 6D102, 6D991, and 6D992.

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

6D003 Other ''software'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1.
RS applies to paragraph c.	RS Column 1.
AT applies to entire entry.	AT Column 1.

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: Yes, except for 6D003.c and exports or reexports to destinations outside of those countries listed in Country Group A:5 (See Supplement No. 1 to part 740 of the EAR) of ''software'' for items controlled by 6D003.a.

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit any software in ECCN 6D003.c, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR). License Exception STA may not be used to ship or transmit software in 6D003.a to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR).

List of Items Controlled

Related Controls: See also ECCNs 6D103, 6D991, and 6D993.

Related Definitions: N/A

Items:

Acoustics

a. ''Software'' as follows:

a.1. ''Software'' ''specially designed'' for acoustic beam forming for the ''real-time processing'' of acoustic data for passive reception using towed hydrophone arrays;

a.2. ''Source code'' for the ''real-time processing'' of acoustic data for passive reception using towed hydrophone arrays;

a.3. ''Software'' ''specially designed'' for acoustic beam forming for the ''real-time processing'' of acoustic data for passive reception using bottom or bay cable systems;

a.4. ''Source code'' for the ''real-time processing'' of acoustic data for passive reception using bottom or bay cable systems;

a.5. ''Software'' or ''source code'', ''specially designed'' for all of the following:

a.5.a. ''Real-time processing'' of acoustic data from sonar systems controlled by 6A001.a.1.e; *and*

a.5.b. Automatically detecting, classifying and determining the location of divers or swimmers;

N.B.: For diver detection ''software'' or ''source code'', ''specially designed'' or modified for military use, see the U.S. Munitions List of the International Traffic in Arms Regulations (ITAR) (22 CFR part 121).

b. Optical sensors. None.

Cameras

c. ''Software'' designed or modified for cameras incorporating ''focal plane arrays'' specified by 6A002.a.3.f and designed or modified to remove a frame rate restriction and allow the camera to exceed the frame rate specified in 6A003.b.4 Note 3.a;

Optics

d. ''Software'' specially designed to maintain the alignment and phasing of segmented mirror systems consisting of mirror segments having a diameter or major axis length equal to or larger than 1 m;

e. Lasers. None.

Magnetic and Electric Field Sensors

f. ''Software'' as follows:

f.1. ''Software'' ''specially designed'' for magnetic and electric field ''compensation systems'' for magnetic sensors designed to operate on mobile platforms;

f.2. ''Software'' ''specially designed'' for magnetic and electric field anomaly detection on mobile platforms;

f.3. ''Software'' ''specially designed'' for ''real-time processing'' of electromagnetic data using underwater electromagnetic receivers specified by 6A006.e;

f.4. ''Source code'' for ''real-time processing'' of electromagnetic data using underwater electromagnetic receivers specified by 6A006.e;

Gravimeters

g. ''Software'' ''specially designed'' to correct motional influences of gravity meters or gravity gradiometers;

Radar

h. ''Software'' as follows:

h.1. Air Traffic Control (ATC) ''software'' designed to be hosted on general purpose computers located at Air Traffic Control centers and capable of accepting radar target data from more than four primary radars;

h.2. ''Software'' for the design or ''production'' of radomes having all of the following:

h.2.a. ''Specially designed'' to protect the ''electronically scanned array antennae'' specified by 6A008.e; *and*

h.2.b. Resulting in an antenna pattern having an 'average side lobe level' more than 40 dB below the peak of the main beam level.

Technical Note: 'Average side lobe level' in 6D003.h.2.b is measured over the entire array excluding the angular extent of the main beam and the first two side lobes on either side of the main beam.

* * * * *

6D991 ''Software,'' n.e.s., ''specially designed'' for the ''development'', ''production'', or ''use'' of commodities controlled by 6A002, 6A003, 6A991, 6A996, 6A997, or 6A998.

License Requirements

Reason for Control: RS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
RS applies to ''software'' for commodities controlled by 6A002, 6A003, or 6A998.b.	RS Column 1.
RS applies to ''software'' for commodities controlled by 6A998.c.	RS Column 2.
AT applies to entire entry, except ''software'' for commodities controlled by 6A991.	AT Column 1.
AT applies to ''software'' for commodities controlled by 6A991.	AT Column 2.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

Special Conditions for STA

License Exception STA may not be used to ship or transmit any ''software'' in ECCN 6D991 ''specially designed'' for the ''development,'' ''production,'' or ''use'' of commodities controlled under 6A002 or 6A003, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See ECCN 6D002 for ''software'' ''specially designed'' for the ''use'' of commodities controlled under ECCN 6A002.b. (2) See ECCN 6D003.c for ''software'' ''specially designed'' for cameras incorporating ''focal plane arrays'' specified by 6A002.a.3.f and ''specially designed'' to remove a frame rate restriction and allow the camera to exceed the frame rate specified in 6A003.b.4 Note 3.a.

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

* * * * *

6E001 ''Technology'' According to the General Technology Note for the ''Development'' of Equipment, Materials or ''Software'' Controlled by 6A (Except 6A991, 6A992, 6A994, 6A995, 6A996, 6A997, 6A998, or 6A999.c), 6B (Except 6B995), 6C (Except 6C992 or 6C994), or 6D (Except 6D991, 6D992, or 6D993).

License Requirements

Reason for Control: NS, MT, NP, RS, CC, AT, UN

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to ''technology'' for items controlled by 6A001 to 6A008, 6B002 to 6B008, 6C002 to 6C005, or 6D001 to 6D003.	NS Column 1.
MT applies to ''technology'' for items controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, 6B008, 6B108, 6D001, 6D002, 6D102 or 6D103 for MT reasons.	MT Column 1.
NP applies to ''technology'' for items controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225, 6A226, 6D001, or 6D201 for NP reasons.	NP Column 1.
RS applies to ''technology'' for items controlled by 6A002.a.1, .a.2, .a.3, .c, or .f, 6A003.b.3 or .b.4, or 6A008.j.1.	RS Column 1.
CC applies to ''technology'' for equipment controlled by 6A002 for CC reasons.	CC Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to ''technology'' for equipment controlled by 6A002 or 6A003 for UN reasons.	See § 746.1(b) for UN controls

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: Yes, except for the following: (1) Items controlled for MT reasons; (2) ''Technology'' for commodities controlled by 6A002, 6A004.e or 6A008.j.1; (3) ''Technology'' for 6A003 cameras, unless for ''technology'' for the integration of 6A003 cameras into camera systems ''specially designed'' for civil automotive applications; (4) ''Technology'' for ''software'' ''specially designed'' for ''space qualified'' ''laser'' radar or Light Detection and Ranging (LIDAR) equipment defined in 6A008.j.1 and controlled by 6D001 or 6D002; or (5) Exports or reexports to destinations outside of those countries listed in Country Group A:5 (See Supplement No. 1 to part 740 of the EAR) of ''technology'' for the ''development'' of the following: (a) Items controlled by 6A001.a.1.b, 6A001.a.1.e, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.3, 6A001.a.2.a.5, 6A001.a.2.a.6, 6A001.a.2.b, 6A001.a.2.d, 6A001.a.2.e., 6A004.c, 6A004.d, 6A006.a.2, 6A006.c.1, 6A006.d, 6A006.e, 6A008.d, 6A008.h, 6A008.k, 6B008, or 6D003.a; (b) Equipment controlled by 6A001.a.2.c or 6A001.a.2.f when ''specially designed'' for real time applications; or (c) ''Software'' controlled by 6D001 and ''specially designed'' for the ''development'' or ''production'' of equipment controlled by 6B008, or 6D003.a.

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit any ''technology'' in ECCN 6E001 for the ''development'' of commodities controlled under ECCNs 6A002 or 6A003, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR). License Exception STA may not be used to ship or transmit any technology in this entry to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) Technical data directly related to satellites and all other items described in USML Category XV are subject to the ITAR under USML Category XV(f). (2) Technical data directly related to laser systems, infrared imaging systems, and all other items described in USML Category XII are subject to the ITAR under USML Category XII(f). (3) Technical data directly related to read-out integrated circuits described in USML Categories XII(e) or XV(e)(3) is subject to the ITAR under USML Categories XII(f) or XV(f), respectively. (4) See also 6E101, 6E201, and 6E991.

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

6E002 ''Technology'' According to the General Technology Note for the ''Production'' of Equipment or Materials Controlled by 6A (Except 6A991, 6A992, 6A994, 6A995, 6A996, 6A997, 6A998 or 6A999.c), 6B (Except 6B995) or 6C (except 6C992 or 6C994).

License Requirements

Reason for Control: NS, MT, NP, RS, CC, AT, UN

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to ''technology'' for equipment controlled by 6A001 to 6A008, 6B002 to 6B008, or 6C002 to 6C005.	NS Column 1
MT applies to ''technology'' for equipment controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, 6B008, or 6B108 for MT reasons.	MT Column 1
NP applies to ''technology'' for items controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225 or 6A226 for NP reasons.	NP Column 1
RS applies to ''technology'' for items controlled by 6A002.a.1, .a.2, .a.3, .c, or .f, 6A003.b.3 or .b.4, or 6A008.j.1.	RS Column 1
CC applies to ''technology'' for equipment controlled by 6A002 for CC reasons.	CC Column 1
AT applies to entire entry.	AT Column 1
UN applies to ''technology'' for equipment controlled by 6A002 or 6A003 for UN reasons.	See § 746.1(b) for UN controls

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: Yes, except for the following:

(1) Items controlled for MT reasons;

(2) ''Technology'' for commodities controlled by 6A002, 6A004.e, or 6A008.j.1;

(3) ''Technology'' for 6A003 cameras, unless for ''technology'' for the integration of 6A003 cameras into camera systems ''specially designed'' for civil automotive applications ; or

(4) Exports or reexports to destinations outside of those countries listed in Country Group A:5 (See Supplement No. 1 to part 740 of the EAR) of ''technology'' for the ''production'' of the following: (a) Items controlled by 6A001.a.1.b, 6A001.a.1.e, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.3, 6A001.a.2.a.5, 6A001.a.2.a.6, 6A001.a.2.b, 6A004.c, 6A004.d, 6A006.a.2, 6A006.c.1, 6A006.d, 6A006.e, 6A008.d, 6A008.h, 6A008.k, or 6B008; and (b) Items controlled by 6A001.a.2.c or 6A001.a.2.f when

''specially designed'' for real time applications.

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit any ''technology'' in ECCN 6E002 for the ''production'' of commodities controlled under ECCNs 6A002 or 6A003, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR). License Exception STA may not be used to ship or transmit ''technology'' according to the General Technology Note for the ''production'' of equipment specified in the STA exclusion paragraphs found in the License Exception sections of by ECCNs 6A001, 6A002, 6A003, 6A004, 6A006, 6A008, or 6B008 to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) Technical data directly related to satellites and all other items described in USML Category XV are subject to the ITAR under USML Category XV(f). (2) Technical data directly related to laser systems, infrared imaging systems, and all other items described in USML Category XII are subject to the ITAR under USML Category XII(f). (3) Technical data directly related to read-out integrated circuits described in USML Categories XII(e) or XV(e)(3) is subject to the ITAR under USML Categories XII(f) or XV(f), respectively. (4) See also 6E992.

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

* * * * *

7D004 ''Source code'' incorporating ''development'' ''technology'' specified by 7E004.a.2, a.3, a.5, a.6 or 7E004.b, for any of the following: (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit ''software'' in 7D004.a to .d and .g to any of the destinations listed in Country Groups A:5 and A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: See 7D103 and 7D994

Related Definitions: N/A

Items:

a. Digital flight management systems for ''total control of flight'';

b. Integrated propulsion and flight control systems;

c. ''Fly-by-wire systems'' or ''fly-by-light systems'';

d. Fault-tolerant or self-reconfiguring ''active flight control systems'';

e. [Reserved];

f. Air data systems based on surface static data; *or*

g. Three dimensional displays.

Note: 7D004 does not apply to ''source code'' associated with common computer elements and utilities (*e.g.,* input signal acquisition, output signal transmission, computer ''program'' and data loading, built-in test, task scheduling mechanisms) not providing a specific flight control system function.

* * * * *

9B001 Manufacturing equipment, tooling or fixtures, as follows (See List of Items Controlled).

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
MT applies to equipment for engines controlled under 9A001 for MT reasons and for engines controlled under 9A101.	MT column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $5000, except N/A for MT

GBS: Yes, except N/A for MT

Special Conditions for STA

STA: License Exception STA may not be used to ship commodities in 9B001 to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: For ''specially designed'' production equipment of systems, subsystems, ''parts'' and ''components'' controlled by *9A005* to *9A009, 9A011, 9A101, 9A105* to *9A109, 9A111,* and *9A116* to *9A119* usable in ''missiles'' see *9B115.* See also *9B991.*

Related Definitions: N/A

Items:

a. Directional solidification or single crystal casting equipment designed for ''superalloys'';

b. Casting tooling, ''specially designed'' for manufacturing gas turbine engine blades, vanes or ''tip shrouds'', manufactured from refractory metals or ceramics, as follows:

b.1. Cores;

b.2. Shells (moulds);

b.3. Combined core and shell (mould) units;

c. Directional-solidification or single-crystal additive-manufacturing equipment designed for ''superalloys''.

* * * * *

9D001 ''Software'', not specified in 9D003 or 9D004, ''specially designed'' or modified for the ''development'' of equipment or ''technology'' controlled by ECCN 9A001 to 9A004, 9A012, 9A101 (except for items in 9A101.b that are ''subject to the ITAR'', see 22 CFR part 121), 9A106.d. or .e, 9A110, or 9A120, 9B (except for ECCNs 9B604, 9B610, 9B619, 9B990, and 9B991), or ECCN 9E003.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to ''software'' for equipment controlled by 9A001 to 9A004, 9A012, 9B001 to 9B010, and technology controlled by 9E003.	NS Column 1
MT applies to ''software'' for equipment controlled by 9B116 for MT reasons.	MT Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit any software controlled by ECCN 9D001 that is (1)(a) ''software'' that is ''specially designed'' or modified for the ''development'' or ''production'' of components of engines controlled by ECCN 9A001 if such components incorporate any of the ''technologies'' controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.h, or 9E003.i (other than technology for fan or power turbines), ; or (b) equipment controlled by 9B001, or (2) ''specially designed'' or modified for the ''development'' of ''technology'' controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.h, or 9E003.i (other than technology for fan or power turbines).to any of the destinations listed in Country Group A:5 or A:6 (See Supplement No.1 to part 740 of the EAR). License Exception STA may not be used to ship or transmit ''software'' ''specially designed'' or modified for the ''development'' of equipment or

''technology'', specified by ECCNs 9B001.b. or 9E003.a.1, 9E003.a.2 to a.5, 9E003.a.8, or 9E003.hto any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: ''Software'' that is ''required'' for the ''development'' of items specified in ECCNs 9A005 to 9A011, 9A101.b (except for items that are subject to the EAR), 9A103 to 9A105, 9A106.a, .b, and .c, 9A107 to 9A109, 9A110 (for items that are ''specially designed'' for use in missile systems and subsystems), and 9A111 to 9A119 is ''subject to the ITAR''.
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

9D002 ''Software'', not specified in 9D003 or 9D004, ''specially designed'' or modified for the ''production'' of equipment controlled by ECCN 9A001 to 9A004, 9A012, 9A101 (except for items in 9A101.b that are ''subject to the ITAR'', see 22 CFR part 121), 9A106.d or .e, 9A110, or 9A120, 9B (except for ECCNs 9B604, 9B610, 9B619, 9B990, and 9B991).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to ''software'' for equipment controlled by 9A001 to 9A004, 9A012, 9B001 to 9B010.	NS Column 1
MT applies to ''software'' for equipment controlled by 9B116 for MT reasons.	MT Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

Special Conditions for STA

STA: License Exception STA may not be used for 9D002 software that is ''specially designed'' or modified for the ''production'' of components of engines controlled by ECCN 9A001 if such components incorporate any of the ''technologies'' controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.h or 9E003.i (other than technology for fan or power turbines); or equipment controlled by 9B001.
License Exception STA may not be used to ship or transmit ''software'' ''specially designed'' or modified for the ''production'' of equipment specified by 9B001.b to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: ''Software'' that is ''required'' for the ''production'' of items specified in ECCNs 9A005 to 9A011, 9A101.b (except for items that are subject to the EAR), 9A103 to 9A105, 9A106.a, .b, and .c, 9A107 to 9A109, 9A110 (for items that are ''specially designed'' for use in missile systems and subsystems), and 9A111 to 9A119 is ''subject to the ITAR''.
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

* * * * *

9D004 Other ''software'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit any software controlled by ECCN 9D004.f or .g, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR). License Exception STA may not be used to ship or transmit software in 9D004.a and 9D004.c to any of the destinations listed in Country Group A:6 (See supplement no. 1 to part 740 of the EAR)

List of Items Controlled

Related Controls: See also 9D104.
Related Definitions: N/A
Items:

a. 2D or 3D viscous ''software'', validated with wind tunnel or flight test data required for detailed engine flow modelling;

b. ''Software'' for testing aero gas turbine engines, assemblies, ''parts'' or ''components'', having all of the following:

b.1. ''Specially designed'' for testing any of the following:

b.1.a. Aero gas turbine engines, assemblies or components, incorporating ''technology'' specified by 9E003.a, 9E003.h or 9E003.i; *or*

b.1.b. Multi-stage compressors providing either bypass or core flow, specially designed for aero gas turbine engines incorporating ''technology'' specified by 9E003.a or 9E003.h; *and*

b.2. ''Specially designed'' for all of the following:

b.2.a. Acquisition and processing of data, in real time; *and*

b.2.b. Feedback control of the test article or test conditions (*e.g.,* temperature, pressure, flow rate) while the test is in progress;

Note: *9D004.b does not specify software for operation of the test facility or operator safety (e.g., overspeed shutdown, fire detection and suppression), or production, repair or maintenance acceptance-testing limited to determining if the item has been properly assembled or repaired.*

c. ''Software'' ''specially designed'' to control directional solidification or single crystal material growth in equipment specified by 9B001.a or 9B001.c;

d. [Reserved]

e. ''Software'' ''specially designed'' or modified for the operation of items specified by 9A012;

f. ''Software'' ''specially designed'' to design the internal cooling passages of aero gas turbine engine blades, vanes and ''tip shrouds'';

g. ''Software'' having all of the following:

g.1. ''Specially designed'' to predict aero thermal, aeromechanical and combustion conditions in aero gas turbine engines; *and*

g.2. Theoretical modeling predictions of the aero thermal, aeromechanical and combustion conditions, which have been validated with actual turbine engine (experimental or production) performance data.

* * * * *

9E001 ''Technology'' according to the General Technology Note for the ''development'' of equipment or ''software'', controlled by 9A004, 9A012, 9B (except for ECCNs 9B604, 9B610, 9B619, 9B990 and 9B991), or ECCN 9D001 to 9D004, 9D101, or 9D104.

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to ''technology'' for items controlled by 9A004, 9A012, 9B001 to 9B010, 9D001 to 9D004 for NS reasons.	NS Column 1
MT applies to ''technology'' for items controlled by 9A012, 9B001, 9B002, 9B003, 9B004, 9B005, 9B007, 9B104, 9B105, 9B106, 9B115, 9B116, 9B117, 9D001, 9D002, 9D003, or 9D004 for MT reasons.	MT Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit any ''technology'' in this entry for the ''development'' of equipment under 9B001, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no. 1 to part 740 of the EAR).

License Exception STA may not be used to ship or transmit any technology in this entry to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See also 9E101 and 1E002.f (for controls on ''technology'' for the repair of controlled structures, laminates or materials). (2) ''Technology'' required for the ''development'' of equipment described in ECCNs 9A005 to 9A011 or ''software'' described in ECCNs 9D103 and 9D105 is ''subject to the ITAR.''

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

9E002 ''Technology'' according to the General Technology Note for the ''production'' of ''equipment'' controlled by ECCN 9A004 or 9B (except for ECCNs 9B117, 9B604, 9B610, 9B619, 9B990, and 9B991).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
MT applies to ''technology'' for equipment controlled by 9B001, 9B002, 9B003, 9B004, 9B005, 9B007, 9B104, 9B105, 9B106, 9B115 or 9B116 for MT reasons.	MT Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit any ''technology'' in this entry for the ''production'' of equipment under 9B001, to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

License Exception STA may not be used to ship or transmit any technology in this entry to any of the destinations listed in Country Group A:6 (See supplement no. 1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See also 9E102. (2) See also 1E002.f for ''technology'' for the repair of controlled structures, laminates or materials. (3) ''Technology'' that is required for the ''production'' of equipment described in ECCNs 9A005 to 9A011 is ''subject to the ITAR.''

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

9E003 Other ''technology'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, SI, AT

Control(s)	*Country chart (see Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
SI applies to 9E003.a.1 through a.8, .h, .i, and .l.	See § 742.14 of the EAR for additional information
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit any ''technology'' controlled by ECCN 9E003.a.1 to a.5, 9E003.c, 9E003.h, or 9E003.i (other than technology for fan or power turbines), to any of the destinations listed in Country Group A:5 or A:6 (See supplement no.1 to part 740 of the EAR).

License Exception STA may not be used to ship or transmit any technology in 9E003.k to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) Hot section ''technology'' specifically designed, modified, or equipped for military uses or purposes, or developed principally with U.S. Department of Defense funding, is ''subject to the ITAR'' (see 22 CFR parts 120 through 130). (2) ''Technology'' is subject to the EAR when actually applied to a commercial ''aircraft'' engine program. Exporters may seek to establish commercial application either on a case-by-case basis through submission of documentation demonstrating application to a commercial program in requesting an export license from the Department of Commerce in respect to a specific export, or in the case of use for broad categories of ''aircraft,'' engines, ''parts'' or ''components,'' a commodity jurisdiction determination from the Department of State.

Related Definitions: N/A

Items:

a. ''Technology'' ''required'' for the ''development'' or ''production'' of any of the following gas turbine engine ''parts,'' ''components'' or systems:

a.1. Gas turbine blades, vanes or ''tip shrouds'', made from Directionally Solidified (DS) or Single Crystal (SC) alloys and having (in the 001 Miller Index Direction) a stress-rupture life exceeding 400 hours at 1,273 K (1,000 °C) at a stress of 200 MPa, based on the average property values;

Technical Note: *For the purposes of 9E003.a.1, stress-rupture life testing is typically conducted on a test specimen.*

a.2. Combustors having any of the following:

a.2.a. 'Thermally decoupled liners' designed to operate at 'combustor exit temperature' exceeding 1,883 K (1,610 °C);

a.2.b. Non-metallic liners;

a.2.c. Non-metallic shells; *or*

a.2.d. Liners designed to operate at 'combustor exit temperature' exceeding 1,883 K (1,610 °C) and having holes that meet the parameters specified by 9E003.c;

a.2.e. Utilizing 'pressure gain combustion';

Technical Note: *For the purposes of 9E003.a.2.e, in 'pressure gain combustion' the bulk average stagnation pressure at the combustor outlet is greater than the bulk average stagnation pressure at the combustor inlet due primarily to the combustion process, when the engine is running in a ''steady state mode'' of operation.*

Note: T*he ''required'' ''technology'' for holes in 9E003.a.2 is limited to the derivation of the geometry and location of the holes.*

Technical Notes:

1. For the purposes of 9E003.a.2.a, 'thermally decoupled liners' are liners that feature at least a support structure designed to carry mechanical loads and a combustion facing structure designed to protect the support structure from the heat of combustion. The combustion facing structure and support structure have independent thermal displacement (mechanical displacement due to thermal load) with respect to one another, i.e., they are thermally decoupled.

2. For the purposes of 9E003.a.2.d, 'combustor exit temperature' is the bulk average gas path total (stagnation) temperature between the combustor exit plane and the leading edge of the turbine inlet guide vane (i.e., measured at engine station T40 as defined in SAE ARP 755A) when the engine is running in a ''steady state mode'' of operation at the certificated maximum continuous operating temperature.

N.B.: *See 9E003.c for ''technology'' ''required'' for manufacturing cooling holes.*

a.3. ''Parts'' or ''components,'' that are any of the following:

a.3.a. Manufactured from organic ''composite'' materials designed to operate above 588 K (315 °C);

a.3.b. Manufactured from any of the following:

a.3.b.1. Metal ''matrix'' ''composites'' reinforced by any of the following:

a.3.b.1.a. Materials controlled by 1C007;

a.3.b.1.b. ''Fibrous or filamentary materials'' specified by 1C010; *or*

a.3.b.1.c. Aluminides specified by 1C002.a; *or*

a.3.b.2. Ceramic ''matrix'' ''composites'' specified by 1C007; *or*

a.3.c. Stators, vanes, blades, tip seals (shrouds), rotating blings, rotating blisks or 'splitter ducts', that are all of the following:

a.3.c.1. Not specified in 9E003.a.3.a;

a.3.c.2. Designed for compressors or fans; *and*

a.3.c.3. Manufactured from material controlled by 1C010.e with resins controlled by 1C008;

Technical Note: *For the purposes of 9E003.a.3.c, a 'splitter duct' performs the initial separation of the air-mass flow between the bypass and core sections of the engine.*

a.4. Uncooled turbine blades, vanes or ''tip shrouds'' designed to operate at a ''gas path temperature'' of 1,373 K (1,100 °C) or more;

a.5. Cooled turbine blades, vanes or ''tip shrouds'', other than those described in 9E003.a.1, designed to operate at a 'gas path temperature' of 1,693 K (1,420 °C) or more;

Technical Note: *For the purposes of 9E003.a.5, ''gas path temperature'' is the bulk average gas path total (stagnation) temperature at the leading-edge plane of the turbine component when the engine is running in a ''steady state mode'' of operation at the certificated or specified maximum continuous operating temperature.*

a.6. Airfoil-to-disk blade combinations using solid state joining;

a.7. [Reserved]

a.8. 'Damage tolerant' gas turbine engine rotor ''parts'' or ''components'' using powder metallurgy materials controlled by 1C002.b; *or*

Technical Note: *For the purposes of 9E003.a.8, ''damage tolerant'' ''parts'' and ''components'' are designed using methodology and substantiation to predict and limit crack growth.*

a.9. [Reserved]

N.B.: *For ''FADEC systems'', see 9E003.h.*

a.10. [Reserved]

N.B.: *For adjustable flow path geometry, see 9E003.i.*

a.11. 'Fan blades' having all of the following:

a.11.a. 20% or more of the total volume being one or more closed cavities containing vacuum or gas only; *and*

a.11.b. One or more closed cavities having a volume of 5 cm^3 or larger;

Technical Note: *For the purposes of 9E003.a.11, a 'fan blade' is the aerofoil portion of the rotating stage or stages, which provide both compressor and bypass flow in a gas turbine engine.*

b. ''Technology'' ''required'' for the ''development'' or ''production'' of any of the following:

b.1. Wind tunnel aero-models equipped with non-intrusive sensors capable of transmitting data from the sensors to the data acquisition system; *or*

b.2. ''Composite'' propeller blades or prop-fans, capable of absorbing more than 2,000 kW at flight speeds exceeding Mach 0.55;

c. ''Technology'' ''required'' for manufacturing cooling holes, in gas turbine engine ''parts'' or ''components'' incorporating any of the ''technologies'' specified by 9E003.a.1, 9E003.a.2, or 9E003.a.5, and having any of the following:

c.1. Having all of the following:

c.1.a. Minimum ''cross-sectional area'' less than 0.45 mm^2;

c.1.b. ''Hole shape ratio'' greater than 4.52; *and*

c.1.c. ''Incidence angle'' equal to or less than 25°; *or*

c.2. Having all of the following:

c.2.a. Minimum ''cross-sectional area'' less than 0.12 mm^2;

c.2.b. ''Hole shape ratio'' greater than 5.65; *and*

c.2.c. ''Incidence angle'' more than 25°;

Note: *9E003.c does not apply to ''technology'' for manufacturing constant radius cylindrical holes that are straight through and enter and exit on the external surfaces of the component.*

Technical Notes:

1. For the purposes of 9E003.c, the ''cross-sectional area'' is the area of the hole in the plane perpendicular to the hole axis.

2. For the purposes of 9E003.c, ''hole shape ratio'' is the nominal length of the axis of the hole divided by the square root of its minimum 'cross-sectional area'.

3. For the purposes of 9E003.c, ''incidence angle'' is the acute angle measured between the plane tangential to the airfoil surface and the hole axis at the point where the hole axis enters the airfoil surface.

4. For the purposes of 9E003.c, methods for manufacturing holes include ''laser'' beam machining, water jet machining, Electro-Chemical Machining (ECM) or Electrical Discharge Machining (EDM).

d. ''Technology'' ''required'' for the ''development'' or ''production'' of helicopter power transfer systems or tilt rotor or tilt wing ''aircraft'' power transfer systems;

e. ''Technology'' for the ''development'' or ''production'' of reciprocating diesel engine ground vehicle propulsion systems having all of the following:

e.1. 'Box volume' of 1.2 m^3 or less;

e.2. An overall power output of more than 750 kW based on 80/1269/EEC, ISO 2534 or national equivalents; *and*

e.3. Power density of more than 700 kW/m^3 of 'box volume';

Technical Note: *For the purposes of 9E003.e.1, ''box volume'' is the product of three perpendicular dimensions measured in the following way:*

Length: The length of the crankshaft from front flange to flywheel face;

Width: The widest of any of the following:

a. The outside dimension from valve cover to valve cover;

b. The dimensions of the outside edges of the cylinder heads; or

c. The diameter of the flywheel housing;

Height: The largest of any of the following:

a. The dimension of the crankshaft centerline to the top plane of the valve cover (or cylinder head) plus twice the stroke; or

b. The diameter of the flywheel housing.

f. ''Technology'' ''required'' for the ''production'' of ''specially designed'' ''parts'' or ''components'' for high output diesel engines, as follows:

f.1. ''Technology'' ''required'' for the ''production'' of engine systems having all of the following ''parts'' and ''components'' employing ceramics materials controlled by 1C007:

f.1.a. Cylinder liners;

f.1.b. Pistons;

f.1.c. Cylinder heads; *and*

f.1.d. One or more other ''part'' or ''component'' (including exhaust ports, turbochargers, valve guides, valve assemblies or insulated fuel injectors);

f.2. ''Technology'' ''required'' for the ''production'' of turbocharger systems with single-stage compressors and having all of the following:

f.2.a. Operating at pressure ratios of 4:1 or higher;

f.2.b. Mass flow in the range from 30 to 130 kg per minute; *and*

f.2.c. Variable flow area capability within the compressor or turbine sections;

f.3. ''Technology'' ''required'' for the ''production'' of fuel injection systems with a ''specially designed'' multifuel (*e.g.,* diesel or jet fuel) capability covering a viscosity range from diesel fuel (2.5 cSt at 310.8 K (37.8 °C)) down to gasoline fuel (0.5 cSt at 310.8 K (37.8 °C)) and having all of the following:

f.3.a. Injection amount in excess of 230 mm^3 per injection per cylinder; *and*

f.3.b. Electronic control features ''specially designed'' for switching governor characteristics automatically depending on fuel property to provide the same torque characteristics by using the appropriate sensors;

g. ''Technology'' ''required'' for the ''development'' or ''production'' of 'high output diesel engines' for solid, gas phase or liquid film (or combinations thereof) cylinder wall lubrication and permitting operation to temperatures exceeding 723 K (450 °C), measured on the cylinder wall at the top limit of travel of the top ring of the piston;

Technical Note: *For the purposes of 9E003.g, ''high output diesel engines'' are diesel engines with a specified brake mean effective pressure of 1.8 MPa or more at a speed of 2,300 r.p.m., provided the rated speed is 2,300 r.p.m. or more.*

h. ''Technology'' for gas turbine engine ''FADEC systems'' as follows:

h.1. ''Development'' ''technology'' for deriving the functional requirements for the ''parts'' or ''components'' necessary for the ''FADEC system'' to regulate engine thrust or shaft power (*e.g.,* feedback sensor time constants and accuracies, fuel valve slew rate);

h.2. ''Development'' or ''production'' ''technology'' for control and diagnostic ''parts'' or ''components'' unique to the ''FADEC system'' and used to regulate engine thrust or shaft power;

h.3. ''Development'' ''technology'' for the control law algorithms, including ''source code'', unique to the ''FADEC system'' and used to regulate engine thrust or shaft power;

Note: *9E003.h does not apply to technology related to engine-''aircraft'' integration required by civil aviation authorities of one or more Wassenaar Arrangement Participating States (See Supplement No. 1 to part 743 of the EAR) to be published for general airline use e.g., installation manuals, operating instructions, instructions for continued airworthiness) or interface*

functions e.g., input/output processing, airframe thrust or shaft power demand).

i. ''Technology'' for adjustable flow path systems designed to maintain engine stability for gas generator turbines, fan or power turbines, or propelling nozzles, as follows:

i.1. ''Development'' ''technology'' for deriving the functional requirements for the ''parts'' or ''components'' that maintain engine stability;

i.2. ''Development'' or ''production'' ''technology'' for ''parts'' or ''components'' unique to the adjustable flow path system and that maintain engine stability;

i.3. ''Development'' ''technology'' for the control law algorithms, including ''source code'', unique to the adjustable flow path system and that maintain engine stability;

Note: *9E003.i does not apply to ''technology'' for any of the following:*

a. Inlet guide vanes;

b. Variable pitch fans or prop-fans;

c. Variable compressor vanes;

d. Compressor bleed valves; or

e. Adjustable flow path geometry for reverse thrust.

j. ''Technology'' ''required'' for the ''development'' of wing-folding systems designed for fixed-wing ''aircraft'' powered by gas turbine engines.

N.B.: *For ''technology'' ''required'' for the ''development'' of wing-folding systems designed for fixed-wing ''aircraft'' specified in USML Category VIII (a), see USML Category VIII (i).*

k. ''Technology'', not specified in 9E003.a, 9E003.h, or 9E003.i, ''required'' for the ''development'' of any of the following components or systems, ''specially designed'' for aero gas turbine engines to enable ''aircraft'' to cruise at Mach 1 or greater for more than 30 minutes:

k.1. Propulsion inlet systems;

k.2. Propulsion exhaust systems;

k.3. 'Reheat systems';

k.4. 'Active thermal management systems' to condition fluids used to lubricate or cool 'engine rotor supports';

k.5. Oil-free 'engine rotor supports'; or

k.6. Systems to remove heat from 'compression system' core gas path flow.

Technical Notes: For the purposes of 9E003.k:

1. Propulsion inlet systems include core flow pre-coolers.

2. 'Reheat systems' provide additional thrust by combusting fuel in exhaust and/or bypass flow downstream of the last turbomachinery stage. 'Reheat systems' are also referred to as afterburners.

3. 'Active thermal management systems' employ methods other than passive oil-to-air cooling or oil-to-fuel cooling, such as vapor cycle systems.

4. 'Compression system' is any stage or combination of stages between the engine inlet face and the combustor that increases gas path pressure through mechanical work.

5. An 'engine rotor support' is the bearing supporting the main engine shaft that drives the compression system or turbine rotors.

N.B. 1. See 9E003.h for engine control technology.

N.B. 2. See 9E003.i for adjustable flow path systems technology.

l. ''Technology'' not otherwise controlled in 9E003.a.1 through a.8, a.10, and .h and used in the ''development'', ''production'', or overhaul of hot section ''parts'' or ''components'' of civil derivatives of military engines controlled on the U.S. Munitions List.

* * * * *

Thea D. Rozman Kendler,

Assistant Secretary for Export Administration.

[FR Doc. 2023–26681 Filed 12–7–23; 8:45 am]

BILLING CODE 3510–33–P

FEDERAL REGISTER

Vol. 88 Friday,
No. 235 December 8, 2023

Part III

Consumer Product Safety Commission

16 CFR Part 1110
Certificates of Compliance; Proposed Rule

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1110

[CPSC Docket No. 2013–0017]

Certificates of Compliance

AGENCY: Consumer Product Safety Commission.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission or CPSC) is issuing a supplemental notice of proposed rulemaking (SNPR) to revise the agency's rule for Certificates of Compliance (certificates). The SNPR proposes to align the certificate rule with other CPSC rules on testing and certification, and to implement, for imported CPSC-regulated products and substances, electronic filing of certificates (eFiling) with U.S. Customs and Border Protection (CBP).

DATES: Submit comments by February 6, 2024.

ADDRESSES: Comments related to the Paperwork Reduction Act (PRA) aspects of the proposed rule should be directed to the Office of Information and Regulatory Affairs, the Office of Management and Budget, Attn: CPSC Desk Officer, FAX: 202–395–6974, or emailed to *oira_submission@omb.eop.gov.*

You may submit all other comments, identified by Docket No. CPSC–2013–0017, by any of the following methods:

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

Mail/Hand Delivery/Courier/Confidential Written Submissions: Submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *https://www.regulations.gov.* Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier/confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov,* and insert the docket number, CPSC–2013–0017, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Arthur Laciak, Project Manager, eFiling Program Specialist, Office of Import Surveillance, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7516, or by email to: *alaciak@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

The Commission proposes to revise the rule for certificates, codified at 16 CFR part 1110 (part 1110 or the 1110 rule) to clarify certificate requirements for all regulated products and substances, to align the rule with other testing rules, and to implement electronic filing of certificates for imported products with CBP (eFiling).[1] Only finished products or substances that are subject to a CPSC rule, ban, standard, or regulation, are required to be tested and certified, and only such finished products that are imported into the United States for consumption or warehousing would be required to eFile certificates with CBP. Section 14(g)(4) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2063(g)(4)) gives CPSC the authority to require eFiling, by rule.[2]

The Commission established part 1110 to implement sections 14(a) and (g) of the CPSA (15 U.S.C. 2063(a) and (g)), which provide requirements for the content, form, and availability of certificates. After passage of the Consumer Product Safety Improvement Act of 2008 (CPSIA), which amended section 14 of the CPSA to add testing and certification requirements for CPSC-regulated consumer products and substances, the Commission sought to bring clarity and reduce burden to stakeholders through part 1110, by, among other things, limiting the parties required to issue certificates and allowing electronic certificates (available through email or a worldwide web link) to ''accompany'' product shipments instead of paper certificates. 73 FR 68328 (Nov. 18, 2008).

After gaining experience with certificates in 2013, the Commission issued a notice of proposed rulemaking (NPR) to revise part 1110 to align with rules for testing children's products under 16 CFR part 1107 (part 1107 or the 1107 rule) and component part testing under 16 CFR part 1109 (part 1109 or the 1109 rule), and to require eFiling of certificates for imported consumer products with CBP at the time of filing the CBP entry, or the time of filing the entry and entry summary, if both are filed together. 15 U.S.C. 2063(g)(4)); 78 FR 28080 (May 13, 2013) (2013 NPR).[3] As described in section II.D of this preamble, since 2013 the Commission has undertaken a series of projects to support an eFiling program. Building on the 2013 NPR, this SNPR proposes to amend part 1110 to, among other things: revise terminology to integrate concepts introduced in the 1107 and 1109 rules; broaden the definition of ''importer'' to address commenters' concerns about the product certifier having control over and knowledge of the goods; allow private labelers to test and certify products; and implement eFiling for imported, CPSC-regulated consumer products and substances.

I. Statutory Authority

Section 102 of the CPSIA amended section 14(a) of the CPSA to require that manufacturers (including importers) and private labelers issue certificates for all consumer products subject to a consumer product safety rule under the CPSA, or a similar rule, ban, standard, or regulation under any other law enforced by the Commission, that are imported for consumption or warehousing, or distributed in commerce. 15 U.S.C. 2052(a)(11) and

[1] This SNPR includes information and analysis from the Staff Briefing Package: Supplemental Notice of Proposed Rulemaking to Revise 16 CFR part 1110 for Certificates of Compliance to Implement eFiling, dated November 8, 2023 (Staff's SNPR Briefing Package), available at: *https://www.cpsc.gov/s3fs-public/Ballot-Package-Draft-SNPR-to-Revise-16-CFR-part-1110-Certificates-of-Compliance.pdf?VersionId=3DjqxMqgXJNQ0yeFRgKzfsRj2GgKenqD.*

[2] On November 15, 2023, the Commission voted (4–0) to publish this supplemental notice of proposed rulemaking.

[3] ''Entry'' for CBP purposes is a declaration of goods arriving in the United States, whereas an ''entry summary'' contains additional documentation necessary for CBP to assess duties, collect statistics, and determine whether other requirements of law have been met. *See* 19 CFR 141.0a(a) and (b). For more information on CBP's entry processes see: *https://www.cbp.gov/trade/programs-administration/entry-summary-and-post-release-processes.*

2063(a)(1). Certificates for children's products (Children's Product Certificates or CPCs) must be based on testing performed by a third party conformity assessment body whose accreditation to perform such testing has been accepted by the Commission. 15 U.S.C. 2063(a)(2). Certificates for non-children's products (General Certificates of Conformity or GCCs) must be based on a test of each product or a reasonable testing program. 15 U.S.C. 2063(a)(1)(A). Section 14(a)(1)(B) of the CPSA requires that certificates specify each rule, ban, standard, or regulation applicable to the product. 15 U.S.C. 2063(a)(1)(B).

Section 14(g) of the CPSA contains additional requirements for the form, content, and availability of certificates. 15 U.S.C. 2063(g). Section 14(g)(1) of the CPSA requires that each certificate identify the manufacturer (including importer) or private labeler issuing the certificate, as well as any third party conformity assessment body on whose testing the certificate depends. 15 U.S.C. 2063(g)(1). At a minimum, certificates must include the date and place of manufacture; the date and place where the product was tested; each party's name, full mailing address, and telephone number; and contact information for the individual responsible for maintaining records of test results. *Id.* Section 14(g)(2) of the CPSA requires that every certificate be legible and that all contents be in English; contents can additionally be in another language. 15 U.S.C. 2063(g)(2).

Certificates must accompany the applicable product or shipment of products covered by the certificate, and a copy of the certificate must be furnished to each distributor or retailer of the product. Upon request, the manufacturer (including importer) or private labeler issuing the certificate must provide a copy of the certificate to the Commission. 15 U.S.C. 2063(g)(3). Finally, section 14(g)(4) of the CPSA states that in consultation with the Commissioner of Customs, CPSC may, by rule, provide for the electronic filing of certificates up to 24 hours before arrival of an imported product. Upon request, the manufacturer (including importer) or private labeler issuing the certificate must provide a copy of such certificate to the Commission and to CBP. 15 U.S.C. 2063(g)(4).

In addition to the statutory authority to require certificates for regulated products and substances, as outlined in sections 14(a) and (g) of the CPSA, the Commission has general authority with regard to certificates pursuant to section 3 of the CPSIA, which provides that ''the Commission may issue regulations, as necessary, to implement this Act and the amendments made by this Act.'' Notes to 15 U.S.C. 2051 (citing Pub. L. 110–314, 3, Aug. 14, 2008, 122 Stat. 3017).

II. Background: Certificates and eFiling

A. The 1110 Rule

As noted, the CPSIA expanded section 14 of the CPSA to require testing and certification of consumer products subject to a consumer product safety rule, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission. 15 U.S.C. 2063(a)(1). When the Commission initially issued the 1110 rule to implement this requirement, it adopted an approach that was ''streamlined, at least in its initial phase.'' 73 FR 68328 (Nov. 18, 2008). The rule designated the importer as the sole entity responsible for issuing certificates for imported consumer products, stating that to ''accompany'' a product or product shipment, the certificate must be available to the Commission no later than the time when the product or shipment is available for inspection in the United States. *Id.* The rule designated domestic manufacturers as the sole entity responsible for issuing certificates for domestically manufactured products, stating that such certificates must be available to the Commission upon request before the product or shipment is introduced into domestic commerce. *Id.*

The rule provided that the requirements in section 14(g)(1) and (3) of the CPSA that a certificate ''accompany'' a product or product shipment, be furnished to retailers and distributors, and be provided to CPSC upon request, could be satisfied by providing the statutorily required certificate information by electronic means. The rule explained that the certificate must be reasonably accessed by information on the product or accompanying the product or shipment, for example, a unique identifier that can be accessed via a Uniform Resource Locator (URL) or other electronic means. 73 FR 68330–31. In practice, many importers and manufacturers email certificates to CPSC in PDF format, when requested. The existing 1110 rule did not implement the authority in section 14(g)(4) of the CPSA to have certificates for imported products be eFiled with CBP. 15 U.S.C. 2063(g)(4).

The 2008 rule was not expected to be permanent. Instead, the Commission explained at the time that it ''expects that with time CPSIA's expanded certification requirements will become more routine and it then would consider whether this rule needs to be revised based on actual experience.'' 73 FR 68328.

B. The 2013 Notice of Proposed Rulemaking

By 2012, CPSC staff had worked to refine the Risk Assessment Methodology (RAM) required by section 222 of the CPSIA, and had begun to grapple with the rise of internet-based companies selling consumer products (eCommerce) and direct-to-consumer shipments, which made CPSC's interdiction of non-compliant products more challenging. To address those concerns, and to be able to use certificate data for targeting and enforcement of CPSC's rules at the ports, CPSC proposed in the 2013 NPR to implement eFiling of certificates with CBP for regulated, imported products, pursuant to section 14(g)(4) of the CPSA.

The 2013 NPR also sought to revise part 1110 to integrate the rule into the testing and certification regime contemplated in then-new parts 1107 and 1109. The 1107 rule sets forth requirements for children's product testing and certification, including when and how products must be tested and certified, and recordkeeping requirements. The 1109 rule sets forth conditions and requirements for component part testing and certification for both children's and non-children's products. Both rules introduced new concepts and terminology related to certificates that are not present in the 1110 rule of 2008.

CPSC received over 500 comments from more than 70 commenters, as summarized in section III of this preamble, many asserting that implementation of the proposed eFiling requirement was infeasible and unreasonable due to the lack of information technology (IT) infrastructure for CBP to accept such data. At that time, CBP had not yet completed its Automated Commercial Environment (ACE) interface nor the Partner Government Agency (PGA) Message Set, which now enable importers or their brokers to submit electronic import data. For its part, CPSC had not yet fully implemented the RAM.

Since publication of the 2013 NPR, CPSC has implemented RAM 2.0 and CBP has implemented ACE and developed the PGA Message Set.[4] In

[4] CBP created the PGA Message Set to collect from importers additional agency-related import data for partner government agencies, or PGAs, and transmit the data elements via ACE at time of entry or entry summary. CPSC created two PGA Message Sets: the Full Message Set and Reference Message

Continued

2016 and 2017, CPSC conducted an eFiling Alpha Pilot, in coordination with CBP, involving eight volunteer participants who successfully eFiled a limited set of targeting/enforcement data for regulated products. Also, in 2017, CPSC conducted a Certificate Study to assess CPCS's ability to use certificates and the information on them for risk assessment and targeting of regulated, imported consumer products. In December 2020, the Commission approved of a multi-year plan to implement an eFiling program at CPSC.[5] The next steps in this eFiling plan include the ongoing eFiling Beta Pilot, which is scheduled to begin accepting data in the fall of 2023, and developing this SNPR.[6]

C. CPSC's Risk Assessment and Targeting Efforts for Imported Consumer Products

CPSC's RAM currently receives an electronic feed of import entry data collected by CBP. The RAM is optimized to ingest CBP's data, using algorithms to identify potentially noncompliant consumer product shipments for CPSC's inspection. However, the data ingested by RAM are collected by CBP for its enforcement and tariff purposes, which do not always align with CPSC's risk assessment purposes. CPSC's Certificate Study confirmed that CPSC can analyze certificate data focused specifically on product manufacturing and testing to improve RAM's precision in targeting and identifying high-risk shipments for examination.

Currently, CPSC's import enforcement methodology is labor-intensive and lacks an efficient means of using product-specific data to identify potentially non-compliant products. CPSC co-locates staff alongside CBP staff at ports of entry to target shipments for examination. Once identified, staff request that CBP place a shipment on hold and transport it to an examination station for CPSC inspection; an examination hold creates delay that costs businesses and CPSC time and money. Accordingly, stakeholders and CPSC have a common interest in reducing examinations of compliant products and maximizing examinations of products that are likely to be violative. Currently, certificates are collected only after a shipment is stopped for examination; certificate data are not used to target shipments for examination. Using certificate data for more precise targeting would maximize examination efficiency for stakeholders and staff; keep hazardous, violative products out of consumer's hands; and reduce burden by not delaying compliant product and not holding up shipments at the port while waiting to receive a certificate.

Using certificate data can also improve CPSC's ability to target low-value shipments. CPSC's current targeting capabilities were designed for larger commercial shipments for which the Commission receives CBP data. CPSC's port staff are currently unable to pinpoint with a high degree of certainty potentially non-compliant and hazardous products in low-value shipments, which CBP refers to as ''*de minimis* shipments,'' and international mail shipments, which can lead to CPSC inspections that delay release of compliant products. Specifically, using product-specific certificate information such as product description, finished product manufacturer, date of manufacture, and date and place of testing, would provide CPSC with greater insights into all imported products and substances, including *de minimis* shipments. Hundreds of thousands of *de minimis* shipments enter the United States daily; the ability to use algorithms to assess the data and identify higher-risk shipments, even those of low value that occur frequently, would enhance CPSC's ability to focus limited resources to identify and interdict higher risk shipments.

Finally, although CBP is unable to process any certificate data collected for international mail shipments subject to CPSC requirements via ACE, the SNPR proposes a modified eFiling requirement for international mail. Importers using international mail would be required to enter certificate data into the Product Registry [7] before the shipment arrives in the United States, so that staff can analyze this data and target mail shipments for examination.

D. CPSC eFiling Related Projects Since the 2013 NPR

1. eFiling Alpha Pilot (2016)

After publication of the 2013 NPR, CPSC conducted a pilot to test the feasibility of eFiling certain ''targeting/enforcement data elements'' on a certificate by participant industry volunteers. The 2016 eFiling Alpha Pilot was a 6-month, joint initiative between CPSC, CBP, and eight volunteer importers to establish and assess the infrastructure and processes required for a successful eFiling program. Participants used a process similar to that used in the current eFiling Beta Pilot, having a choice between entering data elements in a Product Registry, and providing a reference number to the Product Registry when filing PGA Message Set data with CBP, or filing all data elements in a PGA Message Set. CPSC staff issued a report detailing the procedure and results of the eFiling Alpha Pilot, available on CPSC's website: *https://www.cpsc.gov/s3fs-public/eFiling_Alpha_Pilot_Evaluation_Report-May_24_2017.pdf?uK.UhjHabKD5yjQ.1w06tudrnvuuWIra.*

2. Certificate Study (2017)

Following the eFiling Alpha Pilot, from October 2017 to February 2018, CPSC staff conducted a Certificate of Compliance Study to assess any correlation between the timing and availability of a certificate, the data provided on a certificate, and the violation rate of imported finished consumer products. Staff's eFiling Certificate of Compliance Study Assessment is available on CPSC's website at: *https://www.cpsc.gov/s3fs-public/eFiling-Certificate-Study-Evaluation-Report-FINAL.pdf.*

Staff's analysis of the data collected in this study indicates that the ability to provide a certificate within 24 hours of CPSC's request is strongly associated with product compliance. The limited data set indicated that an entry is five times more likely to have a violation if a certificate is never provided to CPSC, and three times more likely if one is provided later than 24 hours after CPSC's request. Staff also identified four data elements from certificates that show potential correlations to the rate of violations. Other data elements on a certificate, such as the list of applicable citations, would allow CPSC similarly to apply algorithms to target certain products and/or rules.

Set. When using a Full Message Set, certifiers will provide all certificate data in the form of data elements. When using a Reference Message Set, certifiers will provide a reference ID to certificate data entered into CPSC's Product Registry.

[5] The 2020 staff briefing package to implement an eFiling program at CPSC is available at: *https://cpsc.gov/s3fs-public/CPSC-Plan-to-Create-an-eFiling-Program-for-Imported-Consumer-Products.pdf?BYXOLX2gJmF4NaAN1LCMmqiXRISuaRkr=*. The record of commission action is available at: *https://www.cpsc.gov/s3fs-public/RCA-CPSC-Plan-to-Create-an-eFiling-Program-for-Imported-Consumer-Products.pdf.*

[6] The **Federal Register** Notice announcing the Beta Pilot can found here: *https://www.regulations.gov/document/CPSC-2022-0020-0001.*

[7] The Product Registry is a certificate database created and maintained by CPSC. Importers can enter or upload certificate data for regulated consumer products and substances that can be referenced on an entry filing each time the product is imported without having to re-enter the relevant data elements.

3. eFiling Beta Pilot (Current)

On December 18, 2020, the Commission approved staff's recommended plan to implement eFiling and to conduct an eFiling Beta Pilot, in collaboration with CBP, that would collect certificate data via a PGA Message Set.[8] Following this, on June 10, 2022, the Commission issued a **Federal Register** Notice (87 FR 35513 (June 10, 2022)) [9] to announce the eFiling Beta Pilot and recruit volunteers. The eFiling Beta Pilot has a product scope of approximately 300 Harmonized Tariff Schedule (HTS) codes prioritized for imports and includes all data fields on a certificate. CPSC updated the Product Registry used in the Alpha Pilot, to create a one-time data entry repository of certificate data that can be referenced in a PGA Message Set multiple times as a product is offered for importation. Additionally, staff has been meeting with a subset of nine participant volunteers to advise in IT development for the eFiling Beta Pilot. Meeting logs and related material for this work are available on *https://www.regulations.gov* on docket number CPSC–2022–0020. CPSC's website also includes information on eFiling and the eFiling Beta Pilot, available at: *https://www.cpsc.gov/eFiling.*

The purpose of the eFiling Beta Pilot is to build upon the Alpha Pilot, develop and test the infrastructure necessary to support a full-scale eFiling requirement, inform CPSC's rulemaking effort, and develop internal procedures to support enforcement. The Beta Pilot will also advance the ''Single Window'' [10] concept to facilitate electronic collection, processing, sharing, and reviewing of trade data and documents required by CPSC during the cargo import process, and will assist CPSC in targeting imports more accurately to facilitate the flow of legitimate trade and enhance targeting of noncompliant trade.

The eFiling Beta Pilot also will assess CPSC and importer capabilities for eFiling certificate data elements via the PGA Message Set and incorporating the data elements into CPSC's RAM to risk score and interdict noncompliant products. The Beta Pilot will include more participants than the Alpha Pilot (over 30, more than in the Alpha Pilot), include more data elements (dates of manufacture and testing), and involve more varied consumer products under CPSC's jurisdiction (products classified under approximately 300 HTS codes).

4. Developing an eFiling System

To minimize burden, CPSC's eFiling System will allow importers to enter certificate data through two means: Full Message Set or Reference Message Set using the Product Registry.[11] When using the Full Message Set, the importer will submit all certificate data elements via CBP's ACE. When using the Reference Message Set, the importer will enter all certificate data elements into the Product Registry prior to filing entry with CBP, and they will submit a unique reference identifier (ID) via ACE.[12] Tab B of Staff's SNPR Briefing Package contains the CBP and Trade Automated Interface Requirement, which details the technical requirements to file each Message Set in ACE.

The Product Registry allows importers, or their designees, to enter the certificate data elements via a user interface, batch upload, and/or Application Programing Interface (API) upload. The user interface is a step-by-step process, where the importer submits one certificate at a time. The batch upload allows the importer to submit multiple certificates using a Comma-Separated Value (CSV) template. The API upload allows the importer to build an API connection via the Product Registry and their data systems to instantaneously enter certificates.

Additionally, the Product Registry provides multiple features to improve the importer's interaction. The importer has a business account in the Product Registry where users representing the importer can view all certificates submitted into the registry. The importer can also provide other third parties, such as a broker or test laboratory, with different levels of permission to submit certificate data on their behalf. Tab A of Staff's SNPR Briefing Package contains a detailed user guide for the Product Registry as used during the eFiling Beta Pilot.

III. Response to Comments

In response to the 2013 notice of proposed rulemaking (2013 NPR) to revise 16 CFR part 1110, CPSC received over 500 comments from over 70 different commenters. Comment summaries include a code to identify the commenter, as shown in Table 1. Below we summarize and respond to the public comments by topic.

TABLE 1—COMMENTER KEY

2	Rich Frog Industries.	40	Bicycle Product Suppliers Association.
3	Douglas Boysen.	41	American Apparel and Footwear Association (AAFA).
4	DT Swiss, Inc.	42	American Promotional Events.
7	The Hosiery Association.	43	Tom Dixon.
8	Shayla Sharp.	44	UPS Supply Chain Solutions.
9	GS1 US.	45	Consumer Specialty Products Association.
10	Wald & Co, Inc.	46	Juvenile Products Manufacturers Association (JPMA).
11	Frette S.R.L.	47	Toy Industry Association (TIA).
12	National Customs Brokers and Forwarders Association of America (NCBFAA).	48	Erika Hickey.
13	American Eagle Superstore.	49	Handmade Toy Alliance.
14	Writing Instrument Manufacturers Association.	50	National Association of Manufacturers (NAM).
15	US Council for International Business.	51	Magicforest.
16	Marisol, International.	52	Terra Experience.
17	National Association of Foreign Trade Zones (NAFTZ).	53	Borderfree.
18	FedEx.	55	American Eagle Outfitters.

[8] *See Supra,* n.5.

[9] *https://www.regulations.gov/document/CPSC-2022-0020-0001.*

[10] ACE is CBP's system through which the U.S. government has implemented the ''single window,'' the primary system for processing all trade-related import and export data required by government agencies. The ''single window'' transitions away from paper-based procedures to provide government and industry faster, more streamlined processes.

[11] The eFiling system collectively refers to the PGA Message Set and Product Registry and process of filing certificate data. Certifiers (meaning importers, manufacturers, or private labelers) are responsible for the certificate data submitted, but brokers or other designated parties can upload data and certify products on the certifier's behalf.

[12] Other trade parties, such as brokers and laboratories, may enter certificate data into the Product Registry on the certifier's behalf.

TABLE 1—COMMENTER KEY—Continued

19	Pacific Coasts Council of Custom Brokers & Freight Forwarders Association (PCCCBFFA).	56	European Union (EU).
20	Express Association of America.	58	Association of American Publishers, Inc.; Book Manufacturers Institute, Inc.; & Printing Industries of America.
21	Lego.	59	Unique Industries, Inc.
22	Motorcycle Industry Council.	60	B.J. Alan Company.
23	Footwear Distributors & Retailers of America.	61	Bestway International.
24	YKK.	63	Handmade Toy Alliance.
25	Glazing Industry Code Committee.	64	RILA & National Retail Federation (NRF).
26	American Fireworks Standards Laboratory.	66	Van Fleet Associates, Inc.
27	Terra Experience.	67	Integration Point.
28	US Association of Importers of Textiles and Apparel.	71	American Home Furnishings, Alliance.
29	Hallmark Cards.	72	NCBFAA.
30	American Architectural Manufacturers Association.	74	U.S. Council for International Business.
31	Galaxy Fireworks.	75	Toy Industry Association.
32	Association of Home Appliance Manufacturers.	76	Hennes & Mauritz L.P.
33	The Art and Creative Materials Institute (ACMI).	77	33 Trade Associations.
34	Ian Brodie.	78	OPEI.
35	National Retail Federation.	79	RILA & NRF.
36	Fashion Jewelry and Accessories Trade Association.	80	Bicycle Product Suppliers Association.
37	Fireworks Over America.	81	AAFA.
38	Outdoor Power Equipment Institute (OPEI).	82	UPS Supply Chain Solutions.
39	Retail Industry Leaders Association (RILA).		

A. Section 1110.3—Definitions

Comment 1: A commenter (C35) stated that proposed 16 CFR 1110.3(b) causes confusion with too many certificate types.

Response 1: The terms and definitions described in proposed § 1110.3(b) are for the reader's clarity; neither the NPR nor SNPR create new certificate types. Indeed, most of the terms in proposed § 1110.3 are already used in section 14 of the CPSA or in another CPSC rule, such as 16 CFR parts 1107 and 1109.

Comment 2: A commenter (C18) was concerned about CPSC's proposed definition of ''importer'' in the NPR to be the ''importer of record'' or IOR (as defined in the Tariff Act of 1930, as amended), because the proposed definition could conflict with other CPSC rules. For example, the commenter stated that the ''importer'' required to certify products in 16 CFR part 1109 (the component part rule), may not be the IOR, who is the required certifier in the 2013 NPR. The commenter suggested that CPSC not make the IOR responsible for certification, because the IOR is the party making the official import declaration to CBP, not the party causing the goods to enter the country, who is the party with the most knowledge of the product. The commenter recommended that CPSC change the definition of ''importer'' to include a party with an ownership or beneficial interest in the imported products, so that the party with the most information about the product would be responsible for testing and certification.

Similarly, other commenters questioned who should be an ''importer'' with certification responsibilities under part 1110. For example, several commenters (C12, C16, C19, C20, C32, C44, C67, C71, C82) stated that customs brokers should not fall within the definition of ''importer'' because they do not have sufficient knowledge of the products to ensure compliance nor are they the ''beneficial party in interest.'' Commenter C18 stated the same argument with regard to consignees acting as importers of record, and other commenters (C7, C14, C36) asserted that private labelers should not be responsible for certifying for the same reasons.

Response 2: The CPSA does not define ''importer.'' [13] We agree that expanding the definition of who can be an ''importer'' in part 1110 beyond the IOR, for the purposes of testing and certification, is beneficial to stakeholders and to CPSC's eFiling and enforcement efforts. Accordingly, the SNPR proposes to broaden the definition of ''importer'' in proposed § 1110.3(b) to include any party that could be an importer under CBP's definition of importer, as found under 19 CFR 101.1, as well as other parties that have a financial interest in the consumer product being offered for import and effectively caused the consumer product to be imported into the United States. Thus, the SNPR proposes that an ''importer'' may be the importer of record; consignee; or owner, purchaser, or party that has financial interest in the consumer product being offered for import and effectively caused the consumer product to be imported into the United States.

Under the proposed definition of ''importer,'' a person holding a valid customs broker's license can be an importer. Retaining customs brokers in the definition gives them the option to assume responsibility for certification on behalf of their clients if that is a service they wish to provide. Additionally, because of the expanded definition of ''importer'' and CPSC's need to recognize the party assuming responsibility, the SNPR requires the party certifying compliance be identified in § 1110.11(a)(5).

Comment 3: Two commenters (C36, C50) stated that under section 3(b) of the CPSA, CPSC does not have the authority to include common carriers in the definition of ''importer.''

Response 3: Section 3(b) of the CPSA prohibits CPSC from deeming common carriers, contract carriers, third party logistics providers, and freight forwarders to be a manufacturer (including importer), distributor, or retailer ''solely by reason of receiving or transporting a consumer product in the ordinary course of its business as such a carrier or forwarder.'' 15 U.S.C. 2052(b). Neither the 2013 NPR or this SNPR would deem such carriers as manufacturers or importers for receiving or transporting goods. However, if a common carrier, contract carrier, third party logistics provider, or freight forwarder contracts with another party to provide services as a licensed customs broker, and in that capacity chooses to act as the IOR and attests to

[13] The CPSA states that the terms '' 'import' and 'importation' include reimporting a consumer product manufactured or processed, in whole or in part, in the United States.'' 15 U.S.C. 2052(a)(9). The CPSA also states that the term '' 'manufacturer' means any person who manufactures or imports a consumer product.'' 15 U.S.C. 2052(a)(11).

the content of the certificate at the time it is eFiled, CPSC is justified in holding that carrier responsible for the information on a certificate. In that case, the carrier is not acting in the ordinary course of its business as a carrier or forwarder, but is instead acting as the IOR or a customs broker. The revised definition of ''importer'' in the SNPR should alleviate some concern, because an IOR is not the only party that can certify a product. However, a common carrier can remove themselves from any responsibility to certify consumer products by choosing not to act as a customs broker, choosing not to act as the IOR, or ensuring that the importer, as defined in proposed § 1110.3(b), certifies the product.

Comment 4: Several commenters (C17, C35, C38) remarked that the definition of private labeler is unclear. Commenter C17 stated that the terms ''brand,'' ''trademark,'' and ''to carry'' a brand or trademark are vague terms that may not be applied consistently. Commenter C38 requested clarification whether a private labeler must certify when the product does not contain the name or trademark of the manufacturer.

Response 4: Section 3(a)(12)(A) of the CPSA defines ''private labeler'' as the ''owner of a brand or trademark on the label of a consumer product which bears a private label.'' 15 U.S.C. 2052(a)(12)(A). Section 3(a)(12)(B) further explains that a consumer product bears a private label when the product (or its container) is labeled with the brand of a person other than a manufacturer, the person with whose brand the product (or container) is labeled has caused the product to be so labeled, and the brand of a manufacturer does not appear on the label. 15 U.S.C. 2052(a)(12)(B). Consistent with the statute, the term ''private labeler'' is generally understood to refer to products manufactured by one company but sold under the brand name of another company. The private labeler is one of the three parties stated in section 14 of the CPSA that may certify a product. Section 1110.7(b) of the SNPR proposes that for domestically manufactured products, the private labeler must issue a certificate that meets the requirements of part 1110, unless the manufacturer issues the certificate.

B. Section 1110.5—Products Required To Be Certified

Comment 5: Several commenters (C31, C36, C48, C49, C52, C63) urged CPSC to specifically accommodate small businesses, which have fewer compliance resources. Several commenters (C31, C49) stating specifically that the extra security, IT infrastructure, and customs broker fees associated with eFiling, will be ''out of range,'' ''catastrophic,'' or a ''significant burden'' on small manufacturers and businesses in general. Two commenters (C52, C63) suggested that eFiling should be optional for small importers, instead of a mandatory requirement, to assist small businesses with small volumes or those that are from countries that do not have any competitive options for third party testing. Other commenters (C49, C52, C63) stated that small businesses usually issue paper certificates and are not prepared to file electronically. One commenter (C52) proposed that the CPSC should differentiate between importers/producers of ''low risk'' and ''high risk'' toys and children's products to avoid excessive burdens on small producers and importers.

Additionally, commenter C8 recommended that CPSC create a new set of requirements for ''micro-businesses'' that would be exempted from third party testing for component parts and finished products. Instead of a certificate, the commenter proposed that these ''micro-businesses'' could provide a supplier's Material Safety Data Sheet (MSDS).

Response 5: The CPSA's certificate requirements do not contain a small business exception. Indeed, an exception for imported products could undermine the goal of protecting consumer safety by using certificate data to target non-compliant and potentially hazardous consumer products. However, section 14(i)(4) of the CPSA does provide third party testing relief for certain rules for Small Batch Manufacturers of children's products, which allows for testing of certain product safety standards at any third party laboratory, instead of a CPSC-accredited laboratory.[14] Moreover, CPSC has a Small Business Ombudsman to assist small businesses with questions related to compliance with CPSC rules.

CPSC developed a web-based application, the Product Registry, to reduce burden for importers, especially for small businesses. CPSC's Product Registry is a web-accessible database that will not require any additional IT infrastructure for certifiers to use and has its own internal security. Firms do not need to create their own web infrastructure to host certificate data. Small businesses can enter the information into the Product Registry and use the system to maintain certificates. Firms can also enter data using batch uploads, which are available in several formats. Additionally, firms can choose to have a third party, such as a test lab, enter data into the Product Registry on their behalf. The Product Registry is designed to be flexible to allow businesses to use the system in a manner that reduces cost and burden.

Comment 6: Commenters C44 and C82 suggested that the CPSC consider implementing a certificate exception for *de minimis* shipments. The commenter maintains that a *de minimis* exception would leave CPSC and CBP with a greater ability to use its resources to monitor and target product safety compliance of higher-value shipments that contain larger quantities of consumer goods.

Response 6: Congress did not provide a *de minimis* exception from certificate requirements. Furthermore, one of the emerging hazards since the 2013 NPR is the growth in direct-to-consumer shipments, which are often *de minimis*. These shipments may be of lower value, but the volume of such shipments is growing rapidly, and they are particularly challenging to monitor. Staff has found hazardous, non-compliant products in *de minimis* shipments. The ability to collect certificate data at entry for these lower-value shipments, and to assess these shipments for targeting purposes, will enhance CPSC's ability to enforce our rules, bans, standards, and regulations, and to protect consumer safety.

Regarding compliance burden, CBP has standardized the means of collecting additional data elements for PGAs using entry type 86 (ET86) for lower-value shipments. A broker may now use ET86 for *de minimis* shipments to append the CPSC PGA Message Set.

Comment 7: Commenter C53 argues that, as an IOR for returned goods, they are unable to test and certify such goods. The commenter urges CPSC to ''consider products exported by U.S. retailers and then returned (reimported) to that retailer as 'Goods Returned' and exempt from the certificate requirement,'' regardless of entry type.

Response 7: Section 14 of the CPSA does not provide an exemption from the certificate requirements for returned goods. As with the existing 1110 rule and consistent with the statute, under the proposed rule certificates are required for finished products that are imported for consumption or warehousing and subject to a consumer product safety rule.

[14] *See https://www.cpsc.gov/Business--Manufacturing/Small-Business-Resources/Small-Batch-Manufacturers-and-Third-Party-.*

C. Section 1110.7—Who Must Certify Finished Products

Comment 8: Several commenters (C14, C36, C39) opposed the proposed changes to § 1110.7 in the 2013 NPR, which expanded who could be a certifier for both imported and domestic products and required private labelers to certify products that are privately labeled, unless another party certifies the product. Commenters encouraged CPSC to retain the existing language in current 16 CFR 1110.7, which they believe clearly identifies the party responsible for issuing the certificate. Commenter C36 stated that CPSC should recognize that either the importer, domestic manufacturer, or private labeler may certify, as provided in section 14 of the CPSA.

Response 8: Upon consideration of the comments, the SNPR simplifies the 2013 NPR proposal in § 1110.7 for imported consumer products. CPSC has more information on imported consumer products than the agency had in 2013, because CPSC now receives a data feed from CBP that, while focused on trade enforcement and tariff collection rather than safety, identifies the relevant firms for each shipment. Moreover, with the additional certificate data collected via a PGA Message Set, CPSC can enforce the certificate requirement against an importer or a private labeler, even if neither firm is the entity submitting the required certificate data.

The SNPR proposes a revision to the definition of ''importer,'' allowing any party that can be the importer of record under proposed § 1110.3 to certify. Currently, CPSC expects the IOR to issue a certificate; however, in some cases the IOR is not the party with a beneficial ownership in the goods that causes importation of the consumer product, which makes enforcement challenging. The proposed expansion of the ''importer'' definition both responds to comments and should assist CPSC in identifying responsible parties.

For domestically manufactured products, the SNPR retains the 2013 NPR's proposal that privately labeled products be certified by the private labeler, unless the manufacturer issued the certificate. CPSC proposed this requirement because products that are privately labeled do not display the manufacturer's name or contact information. Such products are typically designed and produced according to the specifications and requirements of the brand owner. Firms that do not want to be responsible for issuing a certificate as a private labeler for domestically manufactured products need only ensure that the name of the manufacturer appears on the product. 15 U.S.C. 2052(a)(12).

Comment 9: Commenters (C36, C45, C47, C50, C71) suggested that any party in the supply chain should be allowed to certify, including brand owners/private labelers and foreign manufacturers. Other commenters (C15, C74) stated that foreign manufacturers of direct-to-consumer products should be required to certify, but certification by brand owners/private labelers should be optional. One commenter (C35) was unclear if the brand owner/private labeler or foreign manufacturer should certify under proposed § 1110.7(a) for imported direct-to-consumer products. Another commenter (C14) stated that responsibility for certifying should be placed on importers because foreign manufacturers might not comply.

Response 9: As stated in response to comment 2, the SNPR broadens the definition of ''importer'' in part 1110 to include any firm that could be an importer under CBP's definition in 19 CFR 101.1. Therefore, any entity that falls within this definition would be allowed to provide certificate data for imported consumer products. For direct-to-consumer imports not involving a broker, the party with financial interest in the product being offered for import and who effectively caused the consumer product to be imported into the United States, which could be the foreign manufacturer or the seller who sold the product on an online marketplace, would be considered the importer and the party responsible for certifying. Regarding foreign manufacturers that supply products for U.S. distribution, they are subject to the requirements of the CPSA and CPSC has the authority to refuse admission for noncompliant products under section 17(a) of the CPSA. 15 U.S.C. 2066(a).

Comment 10: A commenter (C16) claimed that requiring brokers to be responsible for certification duplicates work being done by the importer, because the importer is already responsible for producing the certificates. The commenter argued that the proposal in the NPR would increase brokerage costs to importers, damage the importers' ability to be profitable, dilute the information chain, and increase the risk of mistaken reporting. Another commenter (C20) stated that holding brokers responsible for certification will result in increased requests by brokers for powers of attorney, which in turn will require greater CBP staffing, and ultimately, increased costs to the consumer. Another commenter (C44) asserted that CPSC's cost estimates for filing certificates are too low because they do not account for a necessary increase in broker's fees to offset the extra labor associated with becoming familiar with the products being imported and applicable requirements. The commenter also stated that requiring certificate information to be filed at the time of entry will slow the filing and delay delivery and increase warehouse costs. The commenter suggested reducing the burden of the proposed rule by paring down the required information to only that necessary for effective targeting and allowing the upload of the required information by PDF to cut down on the amount of data entry.

Response 10: As previously noted, the proposed definition of ''importer'' in this SNPR has been expanded to include firms that could be an importer under CBP's definition. Consequently, customs brokers are not the only entity that can certify. They can, however, assume that responsibility as a service provided to clients if they choose. Moreover, the Product Registry will allow importers to store certificate data for repeated imports of the same product, which will lessen the burden of preparing certificates.

Because entry filing most often occurs in advance of a shipment's arrival, adding a PGA Message Set with entry or entry summary will not impede the movement of a shipment, so warehousing costs and delivery times should not be impacted. Finally, CBP will not accept large amounts of data in PDF format, because it is difficult to store and search or manipulate. Since 2013, CBP and CPSC have built and demonstrated the necessary infrastructure to receive entry data and associated PGA Message Set data, which has been successfully tested and will be further developed through the Beta Pilot, making PDF submission outmoded.

Comment 11: A commenter (C39) stated that if the Commission changes who is responsible for issuing certificates from a domestic manufacturer to a private labeler, private labelers such as retailers who are removed from the manufacturing process would be required to establish compliance programs to exercise due diligence over domestic manufacturers. The commenter stated that such programs will impose new burdens on the supply chain, increase end-use consumer prices, and have a potential negative impact on interstate commerce, costs for which are not accounted for in the proposed rule. The commenter also asserted that the Commission should not change the requirement of who must issue a certificate from the manufacturer

to the private labeler for domestically produced products, because CPSC has not identified a rational basis for the change. Another commenter (C14) asserted that often the importer or private labeler does not know the actual manufacturer. Commenter (C49) stated that burden will increase for small manufacturers, because the same material will be tested by multiple private labelers. Similarly, commenter (C4) stated that burden will increase for their firm, because the commenter does not know whether their end customer will use their manufactured products for children's products.

Response 11: Private labelers who do not want to test and certify can contract with their manufacturers to ensure that the products they are responsible for introducing into commerce are compliant with all applicable consumer product safety rules and meet testing and certification requirements. For enforcement purposes, the NPR proposed to require either the domestic manufacturer or the private labeler to issue the certificate, because no other party would have the necessary knowledge of the product to be able to certify. This SNPR retains the language in proposed § 1110.7(b) of the 2013 NPR.

Comment 12: Commenters (C44, C82) noted that the United States Postal Service (USPS) does not act as the IOR for mail shipments and cannot be held responsible for issuing certificate information. Due to that, the commenters asked how the proposed rule will govern mail operations and what party would issue the certificate.

Response 12: While the SNPR's proposed definition of importer in § 1110.3(b) does not include the USPS, the definition does include several parties who could be considered the importer. Section 1110.13(a)(1) of the SNPR would require certificates for international mail shipments to be entered in the Product Registry before the product arrives in the United States. Under the proposed definition of ''importer,'' either the U.S.-based firm receiving the shipment or the foreign firm that sent the shipment could be considered the importer. Staff recommends that only one of those firms enter certificate data into the Product Registry and attest to the accuracy of the information, preferably the U.S.-based firm so that the certifier can be more easily contacted.

Comment 13: Several commenters (C33, C38, C45, C52, C74) urged that recertification not be required for each batch of a product if there has not been a material change to the product. The commenters also suggested that if the certificate scope is allowed to cover several years of production, then the burden on the manufacturer will be greatly reduced.

Response 13: For regulated children's products, certifiers are required to follow testing and certification requirements as described in 16 CFR parts 1107 and 1110. Part 1107 requires three types of testing for children's products: initial certification testing; periodic testing; and material change testing. Children's product certificates must be updated after periodic and material change testing, because when new testing is conducted, the information on the certificate, namely the testing date, will have changed. This SNPR does not change any of these requirements.

Non-children's products are required to meet part 1110, meaning that each product must be compliant based on a test of each product or a reasonable testing program, and must remain compliant. CPSC recommends, but does not require, that non-children's products also be periodically tested (most companies do so yearly) and re-tested when there is a material change in the products' design or manufacture that could affect compliance. Again, the SNPR does not propose to change these requirements.

D. Section 1110.9—Certificate Language and Format

Comment 14: Many commenters (C7, C10, C11, C13, C17, C31, C35, C36, C39, C41, C42, C43, C45, C46, C47, C50, C56, C60) opposed proposed revisions to § 1110.09(c) in the 2013 NPR, which provided that an electronic certificate must be accessible ''without password protection, to the Commission, CBP, distributors, and retailers.'' Several commenters stated that preventing password protection for delivery of certificates to distributors and retailers would constitute a disclosure of proprietary information, which would be in violation of section 6(a) of the CPSA, 15 U.S.C. 2055(a). Other commenters similarly expressed concern that the lack of password protection would allow fraudulent companies to falsify certificates and competitors to access commercial secrets.

Response 14: In light of the comments received, the SNPR does not propose to prohibit password protection but rather leaves this issue for resolution between certifiers and their retailers and distributers. To date, in the absence of a prohibition on password protection, no retailer or distributor has complained to the Commission that they do not have access to certificate data.

E. Section 1110.11—Certificate Content

Comment 15: Several commenters (C39, C64, C78) stated that the proposed certificate data elements to be collected at import are ''unclear,'' ''unobtainable,'' and ''unnecessary'' and question the utility of the data elements in enhancing CPSC's risk assessment. These commenters further stated that CPSC should work with stakeholders to identify necessary data elements to limit industry's burden. Commenters (C64, C78) expressed that CPSC should not collect duplicative information already provided on CBP entry forms.

Response 15: Section 14(g) of the CPSA sets forth the minimum requirements for certificates and provides CPSC with the authority to add more requirements through rulemaking. As described in section II.D.2 of this preamble, CPSC previously conducted a Certificate Study in 2017 and found that several data elements indicate a higher risk of a noncompliant, hazardous product. Staff advises that the data elements proposed in the SNPR are necessary to match the certificate to the product being examined and to enhance CPSC's risk assessment, and are not duplicative of information already provided on CBP entry forms. If CPSC required eFiling of only a subset of the data elements for a certificate, importers would have the burden to maintain two sets of certificate data.

Comment 16: One commenter (C78) expressed that the proposed required description of the product is duplicative of the information provided by the HTS code and the quantity of units.

Response 16: HTS codes are typically very broad and will contain multiple products under one code. For example, 9403.20.0017 contains ''Toddler beds, bassinets, cradles, play yards and other enclosures for confining children'' made of metal. The code alone does not necessarily indicate which product a certificate would reference. Instead, the SNPR proposes that the certifier provide at least one specified unique identifier, as well as a sufficient description, to match the finished products to the certificate.

Comment 17: Commenter C9 suggested that CPSC allow the use of other product identifiers, such as a GS1 Global Trade Item Number (GTIN), to be used as an identifier of products covered by a certificate. The commenter stated that the use of this bar code system with the electronic certificate will allow industry to use the same information currently on their products and minimize the cost of compliance.

Response 17: A GTIN provides useful information for product identification.

Accordingly, the SNPR proposes to allow it as one of up to five product identifiers on a certificate: GTIN, model number, serial number, Stock Keeping Unit (SKU), or Universal Product Code (UPC). CPSC is developing capabilities to retrieve the required certificate data from the Global Data Synchronization Network (GDSN).

Comment 18: Several commenters (C24, C45, C46, C47, C50) expressed confusion regarding the date of initial certification and requested clarification as to how it differs from other dates, including the date of manufacture. A few commenters believe this data element is unnecessary.

Response 18: After considering the comments and enforcement efforts, the SNPR does not propose to include a separate date of initial certification. Analysis of certificates demonstrates that the date of manufacture and the date of testing, required by section 14(g) of the CPSA, and the date of entry, are sufficient to meet the statutory requirements as well as for CPSC's risk assessment.

Comment 19: Several commenters (C38, C45, C47, C51, C78, C80) opposed the 2013 NPR's proposal to require an indication of the scope of products covered by the certificate, claiming it to be difficult to determine.

Response 19: After considering the comments and gaining additional experience through the development of eFiling, CPSC does not include in the SNPR a new data element for the scope of products covered by the certificate. Instead, CPSC will rely on the product description and other identifiers on the certificate, along with CBP's entry data, to match a finished product to the certificate.

Comment 20: Several commenters (C38, C46, C49, C78) questioned the value of including a list of all applicable consumer product safety rules for CPSC's targeting efforts and does not believe that inclusion of this information is warranted. Another commenter (C47) stated that listing the consumer product safety rules is redundant, because the test reports already include this list.

Response 20: Section 14(a)(1)(B) of the CPSA requires that each rule, ban, standard, or regulation applicable to the product be specified on the certificate. Staff advises that the list of all applicable rules is a critical data element for CPSC's risk assessment and targeting efforts. Although the list also is on test reports, test report data elements are not filed in a PGA Message Set, so that information is not in an electronic format for CPSC's use within the RAM. CPSC maintains a list of rules that require testing and certification on the agency's website, and the list will also be maintained in the Product Registry. Standardizing this information in the Product Registry and for the Full PGA Message Set will allow CPSC to target shipments using the rules listed on a certificate. For example, CPSC can compare the list of rules with the product information and identification of the testing laboratory to validate that the product was tested to the expected rules and that the named laboratory is accredited to conduct such tests. Accordingly, the SNPR retains the requirement to provide the list of rules for which a product is subject.

Comment 21: One commenter (C78) stated that requesting the certifying party's name, mailing address, email, address, and telephone number is redundant, because the IOR is already provided in the Customs entry documents.

Response 21: Section 14(g)(1) requires that ''every certificate required under this section shall identify the manufacturer or private labeler issuing the certificate.'' The certifying party's name, mailing address, email address, and telephone number are necessary for CPSC to appropriately identify and contact the responsible party. Furthermore, the IOR provided on the CBP entry documents may not always be the correct certifying party under the SNPR proposal. In some cases, the IOR is the customs broker or express carrier facilitating importation and transmission of the data, which may not be the importer for purposes of certification.

Comment 22: Two commenters (C21, C45) stated that it is preferable to provide generic contact information for the record custodian, rather than a specific person's contact information, because it would be unreasonable for a single person to provide coverage for every potential problem on a certificate. Another commenter (C82) stated that CPSC should not collect data that is unlikely to determine compliance, like the record custodian contact information.

Response 22: Section 14(g)(1) requires that the certificate contain the ''contact information for the individual responsible for maintaining records of test results.'' Accordingly, the SNPR proposes to retain this data element. However, we agree with the commenters that generic contact information is acceptable, as long as the generic email address and telephone number is actively monitored by a knowledgeable person and the certifying firm is responsive within 24 hours of CPSC's initial contact.

Comment 23: Multiple commenters (C36, C37, C42, C47, C51, C76, C78) opposed including the name and address of the manufacturer, finding this data element unnecessary and duplicative, because country of origin and foreign factory information are already provided on the entry documents. Other commenters (C10, C13, C26, C43, C49) asked CPSC to remove the requirement for a street address if the street address is unavailable. Additionally, three commenters (C43, C46, C78) found this data element too burdensome for importers to manually enter, as well as too granular for CPSC's use.

Response 23: Section 14(g) of the CPSA requires every certificate to contain the date and place of manufacture, and to provide the full mailing address for each party, which includes a manufacturer. Additionally, section 16(c) of the CPSA, 15 U.S.C. 2065(c), requires disclosure of the identity of the manufacturer of a product by name, address, or such other identifying information as the CPSC officer or employee may request, to the extent that such information is known or can be readily determined. Accordingly, we interpret the place of manufacture to include the full address (including manufacturer name; street; city; state or province; and country or administrative region). Being able to accurately identify the manufacturer of the finished product with a street address is necessary for effective risk assessment and targeting. Indeed, in 2017 staff found in its Certificate Study that the manufacturer city is a data element that can be associated with a higher risk of a hazardous product.

If the street address is unavailable, then the certifier should provide a detailed location, consistent with the manufacturer country's mailing address standard. The address must be sufficient to describe the specific location where CPSC can send correspondence or inspect the facility. Certifiers can use different methods to provide this information. For example, if using the Product Registry, the manufacturer's name and address will be saved with a user-generated ID under the certifier's business account, so that it can be easily referenced when creating future certificates.

Comment 24: One commenter (C56) asked for clarification whether all suppliers must be listed on the certificate.

Response 24: Consistent with section 3(a)(10) of the CPSA, 15 U.S.C. 2052(a)(10), the manufacturer that must be listed on the certificate is the entity responsible for manufacturing,

producing, or assembling the finished product (or component part if issuing a component part certificate). This is clarified in proposed § 1110.11 of the SNPR.

Comment 25: A few commenters (C38, C45, C49, C51, C59) stated that providing the date of manufacture is redundant and burdensome, and should not be included.

Response 25: Section 14(g) requires every certificate to contain the date of manufacture. The 2017 Certificate Study demonstrated that date of manufacture, when compared to the date of testing, assists CPSC in determining compliance. CPSC is testing this data element in the eFiling Beta Pilot and retains this statutory date element in the SNPR.

Comment 26: Many commenters opposed requiring the name of the manufacturer and the place of manufacturing, including the address, because this information is considered confidential business information or a trade secret. Commenters were concerned that providing this information on the certificate may result in dealers, retailers, and competitors bypassing them and dealing directly with the manufacturer, resulting in economic injury and competitive harm. One commenter (C33) stated that trade secrets are protected by federal and state law.

Response 26: Section 14(g) provides the minimum data elements for certificates, which include the place and date of manufacture and ''each party's name, full mailing address, [and] telephone number.'' Because this is a statutory requirement, certificates provided to CPSC must contain this information. Moreover, section 16(c) of the CPSA, 15 U.S.C. 2065(c), requires that upon request by a Commission officer or employee, every importer, retailer, or distributor of a consumer product or substance must identify the manufacturer and provide the name, address, or other identifying information. Thus, certifiers must supply manufacturer names and contact information to the Commission pursuant to sections 14 and 16 of the CPSA. CBP and CPSC will maintain business confidential data systems for eFiled certificates, which will be submitted directly to government systems with appropriate safeguards to secure the information.

Comment 27: One commenter (C52) opposed the requirement for providing the manufacturer address for small businesses, because the address is often a home address and the commenter is concerned for the safety of the family.

Response 27: Section 14(g) of the CPSA requires the place of manufacture to be provided on the certificate. Furthermore, for imported products, certificate data will be entered into a government system, which follow industry-standard data security protocols, for use by the Commission and CBP. Section 14(g) does not require certificate disclosure to the public and for any information requests, CPSC will follow the procedures set forth in 16 CFR 1015.

Comment 28: One commenter (C38) requested that CPSC retain the certifier's ability to code information on a certificate as allowed on a permanent certification label for power mowers described in 16 CFR 1205.35(c). Additionally, the commenter recommended that the allowance for the addition of a website address to the certificate, which can be used by consumers or CPSC to request additional, nonproprietary information.

Response 28: Section 1205.35 of the power mower rule, issued in 1979, requires a reasonable testing program and a five-data point certificate label that is on the product and visible to the consumer. The information on this label is allowed to be coded. 16 CFR 1205.35(c). In 2008, however, Congress revised certificate requirements in section 14 of the CPSA for all regulated products; manufacturers of power mowers now must meet the requirements in part 1205, and also sections 14(a) and 14(g) as implemented through part 1110. The on-product certificate label requirement thus remains, but the SNPR would require an additional two-year record keeping requirement, several additional data elements for both domestic and foreign-manufactured product certificates, and an eFiled certificate for imported power mowers. Codes created by individual companies will not be allowed on eFiled certificates. The SNPR includes in proposed § 1110.11(b) the ability to add to the certificates a website address and other information (such as testing).

Comment 29: One commenter (C34) objected to providing contact information for CPSC-accepted laboratories on CPCs, because CPSC already has that information.

Response 29: The Product Registry will contain a list of CPSC-accepted third party laboratories for each regulation. If using a Full PGA Message Set, certifiers can reference the third party laboratory using a four-digit code that CPSC will maintain, along with contact information for CPSC-accepted third party laboratories. Certifiers need only provide contact information for other testing laboratories and for domestically manufactured products.

Comment 30: Several commenters (C21, C32, C36, C40, C47, C50, C78) objected to the requirement for an attestation as proposed in § 1110.11 (a)(10) of the 2013 NPR and recommended removing this section from the rule. For example, commenter C21 opined that the attestation will make the certificate 'busy' and adds little value, because certifiers will add the language even if they do not follow the rules. This commenter further stated that certifiers in compliance with 16 CFR part 1110 understand their obligations and the gravity of providing the certificate and suggested that the Commission clearly state the certifier's obligations in the regulation, which would provide ''a tacit attestation.''

Two commenters (C32, C50) stated that the attestation requirement is not authorized by section 14(g) of the CPSA and has no legal significance, because the obligation to submit truthful information to the government is already applicable under current law. Commenter (C40) noted that the ''capacity for human error on a certificate is not trivial'' and suggested that CPSC clarify that the individual is not liable for attesting to the accuracy of the certificate. This commenter suggested withdrawing this requirement and adding a statement that firms which demonstrate the existence of a compliance plan ''administered in accordance with 16 CFR parts 1107 and 1109 will not be found to have reason to know that a certificate is false or misleading.''

Response 30: Section 14(g) sets forth the *minimum* data elements for the certificate; CPSC has authority to add data elements through rulemaking. An attestation helps to ensure the responsibility of the certifying party to know what they are certifying on behalf of the firm, and the firm's liability for a false certification. In addition, to specifically acknowledge the ''capacity of human error,'' the SNPR's attestation language states that ''the information in this certificate is true and accurate to the best of my knowledge, information, and belief.''

Regarding burden, any certifier using the Product Registry will have only one click to accept the attestation and will have the option for bulk attestation. Any certifier using the Full Message Set will only have one additional field for the attestation. CPSC is testing this attestation in the eFiling Beta Pilot.

F. Section 1110.13—Certificate Availability

Comment 31: Commenters (C12, C20, C23, C26, C28, C36, C42, C46, C47, C49, C55, C64, C71, C74, C81) suggested that CPSC should retain the current ''on-demand'' certification system. Commenter (C2) states that retaining the ability to satisfy the certificate requirement by presenting certificates upon request or in a password protected website is preferable to the proposed changes. Other commenters (C3, C81) stated that CPSC's proposal to require electronic filing of certificates of compliance for regulated imported consumer products with CBP at the time of filing the entry or entry summary contravenes the CPSIA, which calls for GCCs to be submitted ''upon request,'' suggesting that GCCs need not be submitted with each shipment.

Response 31: Section 14(g)(3) of the CPSA establishes several requirements regarding the availability of certificates, which must: ''accompany the applicable product or shipment of products covered by the same certificate''; be furnished to each distributor or retailer of the product; and be furnished to the Commission upon request. Additionally, section 14(g)(4) specifically provides that the Commission can, by rule, require eFiling of certificates for imported consumer products.

Certificates that are collected on an ad hoc basis, either as a hard-copy or a PDF copy via email, are not in a data-usable format that can be processed into CPSC's RAM and risk scored. To implement section 14(g)(4) of the CPSA, proposed § 1110.13 of the SNPR requires the eFiling of all certificates for regulated imported finished products, including CPCs and GCCs, at the time of filing entry or entry summary, if both entry and entry summary are filed together. CPSC intends to use certificate data to risk score shipments and enforce its statutes and regulations. If this rule is finalized, an eFiled certificate would meet the ''accompany'' requirement in section 14(g)(3) of the CPSA and the requirement in proposed § 1110.13(a).

Comment 32: Several commenters (C7, C18, C20, C21, C47, C60, C66, C71) suggested that there should be alternate ways to submit certificate data, such as a URL, to reduce burden. Another commenter (C32) agreed with proposed § 1110.0(c)'s allowance of electronic certificates in multiple forms, suggesting that CPSC also allow a Quick Response (QR) code as an acceptable means of providing access to an electronic certificate. Additionally, several commenters (C2, C21, C71, C74) stated that they will have to submit the same certificates more than once because of the electronic and hard copy requirements.

Response 32: The SNPR clarifies in § 1110.9(b) that a hard copy or an electronic certificate meets the requirements described in § 1110.13(b), to furnish a certificate to each distributor or retailer, and in § 1110.13(c) to provide a certificate for inspection upon request by CPSC or CBP.

However, the SNPR would require that for imported consumer products to meet the ''accompany'' requirement in section 14(g) of the CPSA, certificate data elements must be eFiled with CBP using a PGA Message Set at the time of entry or entry summary. Certifiers will have several means to provide certificate data to CPSC for regulated products, including a Product Registry with a Reference PGA Message Set, and a Full PGA Message Set. CPSC may still ask for a certificate, however, for domestically manufactured products and as otherwise allowed by the statute, to verify eFiled certificate data, or for other purposes. Certificates for domestically manufactured products can still be provided through email or a URL. A QR code would be an acceptable means of providing access to an electronic certificate, pursuant to proposed § 1110.9(c), but would not meet the requirement for an eFiled certificate as proposed in § 1110.13(a). Finally, to address burden, CPSC created a Product Registry to allow certifiers to submit certificate data once upon importation, and thereafter to use a reference PGA Message Set to identify the certificate data already entered in the Product Registry each time products covered by that certificate are imported.

Comment 33: A commenter (C45) stated that a requirement for a unique identifier to be ''identified prominently on the finished product, shipping carton, or invoice'' would potentially crowd an occupied area on product labels. Another commenter (C35) stated that an overt display of a unique identifier is unnecessary and may be duplicative.

Response 33: The electronic certificate data may not be easily accessible to retailers and distributors, and to CBP or CPSC upon request, if the unique identifier is not ''identified prominently.'' Accordingly, the SNPR proposes to maintain the requirements for prominence for certifiers that choose to use electronic forms of a certificate. We seek comment, however, on whether the prominence of an electronically available certificate on an invoice or shipping container is still important and appropriate to address in the final rule.

Comment 34: Commenters (C40, C74) suggested that CPSC interpret ''accompany'' to mean eFiling of the certificate with CBP, or a certificate with electronic access to distributors and retailers. The commenters also stated that an additional physical certificate is not necessary.

Response 34: The SNPR clarifies in proposed § 1110.13(a) that an eFiled certificate (filed in ACE using a PGA Message Set) meets the ''accompany'' requirement. Furthermore, proposed § 1110.9(c) clarifies that because an electronic certificate meets the ''furnishing'' and ''availability'' requirements in §§ 1110.13(b) and (c), respectively, a physical copy of the certificate meets the same requirements.

Comment 35: Several Commenters (C10, C13, C26, C31, C37, C43) stated that the current system of allowing certifiers to furnish certificates to distributors and retailers through ''grant of reasonable access'' or ''on demand'' should be maintained, instead of requiring they be made available for each shipment. One commenter (C47) stated that if certificates are furnished to retailers, CPSC should not dictate the method for how it is done. Other commenters (C10, C42) stated that the change will be a ''costly shift'' from the current regulation and result in the hiring of additional staff.

Response 35: Section 14(g)(3) of the CPSA requires that ''a copy of the certificate shall be furnished to each distributor and retailer of the product.'' This differs from the requirement in the same section, stating that ''every certificate . . . shall accompany the appliable product or shipment of products covered by the same certificate,'' and from the eFile authority in section 14(g)(4) of the CPSA. The SNPR would require certificates for imported consumer products to be eFiled using one of two methods described in section II.D.4 of this preamble. Otherwise, the SNPR does not dictate how a certificate must be furnished to each distributor and retailer; electronic certificates for these purposes are allowed, but not required.

Comment 36: A commenter (C38) suggested that CPSC clarify that a domestically manufactured product is not required to be accompanied by a certificate. Another commenter (C52) recommended that small batch manufacturers be treated like domestic manufacturers in that their certificates need not be submitted to CPSC until the products enter commerce.

Response 36: Consistent with the existing 1110 rule, the SNPR requires

that certificates for domestically manufactured products be issued before a product is introduced into commerce, and made available to CPSC upon request, either in hard copy or through electronic means. Small batch manufacturers can receive testing relief through a program described on CPSC's website (see response to Comment 5). Unless entitled to relief through that program, small batch manufacturers must issue certificates and meet the certificate availability requirements that apply to all domestic or imported consumer products.

G. Section 1110.17—Recordkeeping Requirements

Comment 37: Commenter C35 stated that the NPR provides no rationale for the proposed requirement that GCCs and supporting records be maintained for five years. The commenter stated that this new requirement is confusing and will not improve product safety, because a three-year record retention already is mandated in some existing CPSC safety standards. Commenter C14, in contrast, noted that companies already keep customs entry records for five years or longer, and thus has no objection to the proposed increased retention time for GCCs.

Response 37: Pursuant to 28 U.S.C. 2462, the statute of limitations to litigate a civil fine, penalty, or forfeiture for a consumer product safety violation is five years. Commenter C14 is correct that customs entry records must be maintained for five years (*see* 19 CFR 163.4). Additionally, 16 CFR 1107.26(b) and 16 CFR 1109.5(j) have five-year record retention requirements. To be consistent with these record retention periods and the statute of limitations, the SNPR retains the proposed requirement that GCCs and supporting records be maintained for five years. We note that CBP recordkeeping requirements may differ from CPSC requirements, depending on the commodity and the circumstances of entry filing.

H. Section 1110.19—Component Part Certificates

Comment 38: Several commenters (C23, C35, C36, C38, C40, C47, C49, C50, C56, C71, C80) expressed confusion regarding the difference between certificates for component parts, for finished products, and for replacement parts of consumer products.

Response 38: Proposed § 1110.3(b) defines ''component part'' as a product or substance that is intended to be used in the manufacture or assembly of a finished product, and is not intended for sale to, or use by, consumers as a finished product. The SNPR defines a ''finished product'' as a product or substance that is ''regulated by the Commission that is imported for consumption or warehousing or is distributed in commerce.'' The SNPR definition explains that parts of such products or substances, including replacement parts, that are imported for consumption or warehousing, or are distributed in commerce, and that are packaged, sold, or held for sale to, or use by, consumers, are considered finished products.

Only finished products subject to a rule must be tested and certified. Component part certificates are voluntary and are not required to accompany an imported component part, are not required to be furnished to retailers and distributors (as described in proposed § 1110.13(b)), and are not to be eFiled.

Not all replacement parts are finished products that require testing and certification. A replacement part of a consumer product that meets the definition of a finished product may be subject to part 1110, if the replacement part is subject to a rule. For example, a handlebar stem for a bicycle that is sold to consumers as a replacement part requires a certificate, because handlebar stems, either as a stand-alone product or as part of a finished bicycle, must be tested for strength in accordance with 16 CFR 1512.18(g). Additionally, parts of toys, such as doll accessories, that are sold to consumers as a separate finished product, must comply with all applicable rules, including for example lead in paint and/or lead content. If the same doll accessories were imported for manufacturing purposes and not for consumption or warehousing, and were intended to be combined with a doll for sale, then such accessories would not be a finished product required to be certified until they are part of a finished product.

Comment 39: Two commenters (C22, C38) objected to the requirement to certify replacement parts for products with many replaceable items, such as ATVs and walk-behind power mowers, which commenters allege will result in an increase to the overall burden that was not included in the burden estimate for the NPR. Commenter C22 stated that most replacement parts do not have serial numbers and needing to track each part will result in a tremendous logistical challenge. Additionally, the same commenter claimed that the proposed rule will expand the definition of finished products and apply it to replacement parts, which do not have their own safety standard.

Response 39: As explained in response to comment 38, product parts that are unregulated by CPSC and not sold to consumers, but are instead intended to be used in manufacturing a consumer product, are not required to be tested and certified. To be subject to testing and certification under section 14 of the CPSA and part 1110, a product must be a finished product, as defined in proposed § 1110.3(b), that is subject to one or more regulations.

Comment 40: Two commenters (C49, C52) suggested that certification requirements specifically include ''retail component parts.'' The commenter defines these as component parts purchased at a retail establishment, which would be primarily purchased by handmade toy makers and small businesses. The commenter suggested that certificates for ''retail component parts'' be voluntary.

Response 40: Component parts of a toy, such as doll clothing or accessories, are finished products when sold to consumers. If such finished products are subject to a regulation, section 14 of the CPSA requires that they be tested and certified. Accordingly, although the SNPR does not contain a separate definition for ''retail component parts,'' the definition of ''finished product'' in proposed section § 1110.3(b) would include these products.

eFiling System and eFiling Pilots

I. CBP's IT Infrastructure

Comment 41: Numerous commenters were concerned in 2013 that CBP systems then lacked the ability to accept electronic certificates in any format. For example, numerous commenters were concerned that CBP's system did not have the capacity to upload PDF/electronic files. Commenters advised that CPSC should wait and work with CBP to fully develop the International Trade Data System (ITDS), which would allow the direct submission of certificates via ACE.

Response 41: As described in sections II.C and II.D.4 of this preamble, CPSC and CBP have established the technology infrastructure to meet the requirements of eFiling. CPSC and CBP conducted an initial eFiling pilot, the Alpha Pilot, in 2016–17 that used the PGA Message Set to transmit certificate data to CPSC's RAM for risk assessment. CPSC and CBP are currently conducting an eFiling Beta Pilot with importers and their customs brokers, to further test eFiling certificate data.

Comment 42: Commenter C71 stated that CPSC should allow companies to use barcodes to upload certificate data.

Response 42: CBP's PGA Message Set data structure does not allow for a bar code to upload PGA data. However, the SNPR would allow use of a GTIN (in numeric format), which is typically displayed on consumer products in barcode format, as part of the data element to describe the consumer product in proposed § 1110.11(a)(1).

Comment 43: Several commenters (C15, C16, C20, C21, C31, C36, C40, C55, C64) stated that because CPSC does not have the infrastructure to review uploaded PDF certificates from CBP and neither agency is staffed for eFiling, the new reporting requirements will slow the entry clearance process during peak import seasons, which can result in increased local storage capacity and irregular deliveries.

Response 43: As described in section II.D of this preamble, certificate data would be submitted to CBP as data elements and seamlessly incorporated into CPSC's RAM for risk analysis using algorithms. If the RAM algorithm increases the risk score for a shipment based on certificate data, staff can identify the shipment for examination, and will also be able to review the certificate data for each shipment, along with entry documents.

Because CBP is now capable of accepting certificate data elements via ACE, the entry clearance process will not be slowed. In fact, CPSC expects that certifiers who provide consistent and accurate certificate data will see a reduction in their shipments' risk scores, which would lower the chance of a hold for exam. Thus, CPSC expects that eFiling will facilitate compliant trade.

Comment 44: Commenters (C12, C14, C20, C28, C44, C47, C64, C72, C76) stated that it is essential that CPSC's electronic certificate filing requirement reflect the complexity of the international supply chain, including different modes of transportation, and can process the large amounts of data it will receive, so as not to delay the delivery of goods. One commenter (C12) claimed that filing 24 hours prior to entry is unrealistic, because many imported products will require multiple certificates. Commenter C28 stated that the NPR's alternative option of allowing, rather than requiring eFiling, would be sufficient for effective targeting and the added benefits of requiring electronic filing of certificates will not outweigh the burden on importers.

Response 44: As described in section II.D of this preamble, certifiers will have multiple means of eFiling certificates that address the commenters' concerns, including using a CPSC-managed Product Registry to enter and maintain certificate data. At entry, certifiers can reference a certificate in the Product Registry whenever the product is imported. Regardless of the mode of shipment, importers can reference a pre-existing data set when submitting a PGA Message Set. Importers can also choose to eFile all data elements each time a product is imported. Companies or brokers also can maintain their own product registries, and eFile the same data set multiple times to improve efficiency. CBP's systems can accept the certificate data, including multiple certificates for each entry line, up to 24 hours before arrival, which is the timeframe specified in section 14(g)(4) of the CPSA. CBP and CPSC have already tested this capability in the eFiling Alpha Pilot and are testing it again now in the eFiling Beta Pilot.

Finally, as stated in section II.D.2 of this preamble, CPSC found an increased risk of a product safety violation for shipments without an accompanying certificate, as well as an increased risk with certain data elements. Thus, voluntary filing of certificates is not an effective way for CPSC to enforce the certificate requirement or to identify violative products. Importers of noncompliant products are less likely to file certificates if eFiling is not required.

Comment 45: Several commenters (C15, C18, C20, C66) suggested that CPSC and/or CBP should notify companies regarding which HTS codes and associated shipments require certificates.

Response 45: Importers are responsible for knowing whether the products they import are required to be tested and certified before entering the United States. A list of all regulated products covered by the 2013 NPR and this SNPR, for both children's products [15] and non-children's products,[16] is maintained on CPSC's website. For importers using the Product Registry, this information is maintained in the software as well. For importers that want to eFile using a Full PGA Message Set, the list of regulations and associated codes is also stored on CPSC's website.[17]

CBP will inform filers when a certificate may be expected with their entry based on the associated HTS code. For the Beta Pilot, CPSC created a publicly available list of HTS codes, maintained on CPSC's website (available at *https://www.cpsc.gov/eFiling*), which gives HTS codes for regulated consumer products within CPSC's jurisdiction. CBP and CPSC will use these codes to inform importers regarding the potential for having to file a certificate. CPSC has also developed CBP Customs and Trade Automated Interface Requirements (CATAIR) explaining how to file both Reference and Full PGA Message Sets that use HTS Codes associated with products that could fall within CPSC's certificate requirement. This CATAIR is available at *www.cpsc.gov/eFiling,* and is attached as Tab B to Staff's SNPR Briefing Package.

J. CPSC's IT Infrastructure

Comment 46: Commenter C18 recommends using the ITDS and leveraging the automated process of receiving entry and entry summary information from CBP to eliminate paper-based processes. Commenter C45 suggests having a ''check box'' stating that the importer has a certificate on file, as an alternative to filing the certificate.

Response 46: CPSC currently uses ITDS as part of the RAM to screen shipments of consumer products intended for import into the United States, including consumer products potentially in violation of health and safety laws. eFiling will continue to use ITDS to receive certificate data. And, as stated in section II.D.4 of this preamble, to streamline data collection the eFiling system will have a Product Registry database maintained by CPSC.

Data collection will be automated and streamlined, but will not rely on a ''check box'' option to indicate that the importer has the required certificate, because a check box, without associated data, is insufficient for CPSC's enforcement and targeting needs as described in section II.C of this preamble.

Comment 47: Commenters (C19) suggested that CPSC contemplate a web portal, whereby the ''Responsible Party'' can file the electronic certificate data elements. The Commission could then evaluate the data elements for inspection targeting purposes. Similar comments were filed by several commenters (C7, C67, C71, C72, C78, C82), all of whom recommended the ability to file certificate data for products that could be used more than

[15] Children's product rules requiring testing and certification: *https://www.cpsc.gov/Business--Manufacturing/Testing-Certification/Lab-Accreditation/Rules-Requiring-Third-Party-Testing.*

[16] Non-Children's product rules requiring testing and certification: *https://www.cpsc.gov/Business--Manufacturing/Testing-Certification/Lab-Accreditation/Rules-Requiring-a-General-Certificate-of-Conformity.*

[17] *https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cpsc.gov%2Fs3fs-public%2FBetaPilotCitationandExemptionCodesv2Cleared_0.xlsx%3FVersionId%3D_Cv6CJDAJ0u8UiigH9CNgQy1ax3b4G.b&wdOrigin=BROWSELINK.*

once, to minimize the burden of repeated data entry.

Response 47: CPSC understands that a certificate database can be an efficient way to reduce burden. Accordingly, as described in sections II.D of this preamble, CPSC developed the suggested web portal, called the Product Registry, as part of the eFiling System. As contemplated by commenters, the Product Registry allows certifiers to electronically enter the certificate data elements for each regulated product once, and then submit a reference to this dataset each time the product is imported thereafter.

K. eFiling Procedures, Pilots, and Stakeholder Engagement

Comment 48: Several commenters (C23, C36, C47, C64, C79, C80, C81) objected to the implementation of the 2013 NPR due to the lack of previous studies and pilots, and because the 2013 NPR allegedly did not identify problems with the current system. Several commenters (C15, C19, C77, C78, C79) suggested that CPSC withdraw the 2013 NPR until after the Commission addresses submitted comments. Commenters (C19, C46, C64, C77, C78) requested that CPSC engage with stakeholders more intensely to address various concerns related to the RAM, administrative and financial burdens, trade barriers, and streamlining the certificate process.

Response 48: Please see the discussion in section II.D of this preamble regarding CPSC's pilots and Certificate Study, stakeholder engagement, and how CPSC will use certificate data to target shipments containing noncompliant consumer products and substances. Section XI of Staff's SNPR Briefing Package further details CPSC staff's outreach and education activities relating to certificates and eFiling.

Comment 49: In 2013 a commenter (C79) recommended at least 18 months before implementation of the eFiling requirement.

Response 49: Based on developments since the 2013 NPR and experience in the Beta Pilot thus far, the SNPR proposes a 120-day effective date for a final rule and seeks public comment on this proposed effective date.

Comment 50: A few commenters (C17, C64, C74, C75, C77) referenced Executive Order 13659, Streamlining the Export/Import Process for America's Businesses, signed by President Obama on February 19, 2014, and CPSC's role in and execution of the ''Single Window'' for imports and exports. These commenters suggested that CPSC work with either the Border Interagency Executive Council (BIEC) or Customs Operations Advisory Committee (COAC) to craft a rule that accommodates the needs of stakeholders.

Response 50: CPSC actively collaborates with CBP regarding the ''Single Window'' for imports and engages with the BIEC and with COAC. Throughout development of the eFiling program, CPSC has updated the BIEC and COAC at their regular meetings. CPSC also incorporates data from ITDS in its RAM for targeting and enforcement. CPSC also worked with CBP to develop the PGA Message Set, which is the means for certifiers to eFile certificate data. CPSC continues to work and consult with CBP on import surveillance issues, including the eFiling Alpha and Beta Pilots, and this rulemaking.

Comment 51: Several commenters (C15, C39, C41, C64, C74, C81, C82) requested CPSC consider working with the CBP Importer Self-Assessment (ISA) or Customs-Trade Partnership Against Terrorism (CTPAT) programs to carve out eFiling exceptions for importers participating in these programs, who are currently considered ''trusted traders.'' These commenters proposed a specific exception for trusted traders from certificate filing ''at-entry'' and instead would have CPSC allow these traders to provide certificates ''on-demand,'' as they do today. One commenter (C15) suggested that CPSC should not require new data elements besides those already part of the ISA.

Response 51: Because the requirements for CTPAT and other ''trusted trader'' programs do not particularly relate to potential consumer product safety hazards, and CPSC historically has found product safety violations for CTPAT members, the SNPR does not provide an exemption for members of ''trusted trader'' programs.

Comment 52: A commenter (C77) suggested that the CPSC establish a permanent stakeholder advisory group to regularize needed input into product safety issues of mutual importance.

Response 52: While CPSC staff agrees there could be benefits from a stakeholder advisory group, the establishment of such a group is out of scope for this rulemaking.

Comment 53: One commenter (C74) stated that CPSC should allow multiple products on one certificate.

Response 53: The SNPR proposes that certificate data identify the finished product with a sufficient description to allow staff to identify the product in question. To reduce the potential for disrupting importation of compliant products that appear on the same certificate as a potentially non-compliant product, the SNPR proposes that each certificate contain information for only one product. If a product is materially different, meaning that it has a different product design, manufacturing process (including location), or source of component parts (including paints and materials) from another similar product, then each product should have a separate eFiled certificate. In other words, if a certifier expects that the difference in a product can affect compliance, then each product should have a separate eFiled certificate. For an explanation of what the Commission means by materially different products, see 16 CFR 1107.23.

For example, wearing apparel is typically made of the same material and ships with various styles and sizes of similar products. Accordingly, the SNPR would allow multiple models that were composite tested together, so long as there is no material change, to be included on one certificate. CPSC will consider the multiple models as one product, which should be referenced by one ID in the Product Registry or the Full Message Set. For example, multiple styles, sizes, and colors of the same shirt can be on the same certificate, referenced by one ID, because the differences in styles, sizes, and colors are not considered a material change. Also, if a product is comprised of a bundle of finished products, importers can provide one certificate that covers all products in the bundle or multiple certificates covering each individual product in the bundle.

Comment 54: One commenter (C26) expressed concern that units of a product may come from several different manufacturing or testing batches and, therefore, there may be several different certificates associated with the product.

Response 54: A product that was manufactured in different test facilities or in several different batches and tested separately would likely require a separate certificate for each batch, depending on the materials used and timing of testing, because each batch would likely have different testing information. The certifier is responsible for keeping track of manufacturing processes, product batches, and associated testing and certification, as has been the case since 2008, when the existing 1110 rule was published. CPSC's Product Registry is designed to assist certifiers in managing certificates for different products and product batches, where each certificate will be uniquely identified.

Comment 55: Three commenters stated that requiring the electronic filing

of certificates will not only result in burden for importers, but also increase burden for the government. One commenter (C35) predicted that the processing of millions of PDF certificates would be overly expensive and recommended that any new requirements be integrated into existing supply chain and import practices. A second commenter (C81) stated that processing times will increase and CBP will have to rely upon manual release for a huge number of entries, especially during peak season. A third commenter (C55) questioned whether CPSC and CBP will be able to handle shipments without certificates and how the information will be validated for accuracy.

Response 55: CBP has been collecting electronic data for other partner government agencies since 2016. The increase in data collected, in the form of data elements, will not result in increased processing times, because the data will be electronically transmitted to CPSC and initially reviewed by algorithms in the RAM. CPSC has been co-located with CBP at ports across the country since 2008 and already processes shipments lacking accompanying certificates. CBP and CPSC will incorporate data quality checks into the PGA Message Set to validate the accuracy of the certificate data.

Comment 56: Several commenters (C15, C20, C36, C74, C81) asked for clarity about what will happen if a certificate contains an error or is not provided at all. One commenter (C36) asked whether a violation occurs if the importer characterizes a CPC as a GCC or vice versa. Another commenter (C15) asked CPSC to articulate the impact to importers if a certificate is not submitted upon entry.

Response 56: Currently, before issuing a violation, CPSC staff considers whether any inaccurate information on the certificate was deliberate, or inadvertently erroneous. For example, a firm's mischaracterization of its certificate as a CPC rather than a GCC, or vice versa, is unlikely to result in a violation in the first instance if the underlying testing that supports the certificate is correctly conducted and accurate. Enforcement for noncompliant certificates includes a range of options, such as increasing an importer's risk score, which increases the risk of a hold for examination, and rejecting an entry that lacks certificate data, contains incomplete or inaccurate information, or lacks a disclaim message if no certificate is required for a flagged HTS code.

Comment 57: Commenter (C17) suggested that the rule clearly state that products admitted into and/or produced in a foreign trade zone (FTZ) are not subject to CPSC requirements, including those for certification. The commenter noted that CPSC requirements should only apply to goods entered into the United States from the FTZ for consumption via a CBP Form 7501, instead of the CBP Form 3461, because Form 7501 includes details about the products making entry, whereas Form 3461 gives only estimates of the quantity and type of products. Other commenters (C21, C67, C74) also sought clarification on when a certificate must be filed for products leaving an FTZ.

Response 57: The SNPR would apply to all finished goods entering the United States for consumption or warehousing, even if being imported from an FTZ, as specified in proposed §§ 1110.5 and 1110.13(a)(1). The CPSA does not exempt consumer products from testing and certification requirements based on the mode of importation. For products entering the United States from an FTZ, certificate data should be filed with CBP Form 7501, which details the products making entry.

Comment 58: Three commenters (C15, C17, C43) sought clarification on how the NPR will impact the first-in-first-out (FIFO) inventory management system employed in FTZs. One commenter (C15) added that for products that are multi-sourced by different manufacturers under a FIFO system, tying certificates to the physical product would be cumbersome and costly.

Response 58: The SNPR requires certifiers to match the correct certificate data to the correct product at the time of entry, so that the data can be used for targeting in CPSC's RAM. Furthermore, the SNPR proposes an effective date 120 days after publication of a final rule in the **Federal Register**. Therefore, FTZ users would have time to update their software after a final rule is issued. Alternatively, a certifier importing products from an FTZ could provide multiple certificates at entry that may apply to the product being imported, so that the certifier avoids the risk of having no certificate or providing an incorrect certificate.

Particular Consumer Products

L. Walk-Behind Power Mowers

Comment 59: Two commenters (C38, C78) claimed that the NPR contradicts the certification requirements for walk-behind power lawn mowers in 16 CFR part 1205. Commenters note that § 1205.35(a) states that the certificate shall be in the form of a durable label on the finished product and that § 1205.36(a) states that an importer can rely in good faith on the foreign manufacturer's testing. Commenters requested that the current certificate requirements in 16 CFR part 1205 be retained, rather than the filing requirements of the NPR.

Response 59: As explained in response to comment 28, after the Commission issued 16 CFR part 1205 in 1979, Congress revised section 14(a)(1) of the CPSA, adding requirements for certification for all regulated consumer products. The on-product label certificate required in § 1205.35 remains, and is helpful for consumers to identify the product, certifier, and the production lot of the mower, in the case of a recall. However, the on-product certificate does not meet the statutory requirements for the form, content, and availability of certificates in sections 14(a) and (g) of the CPSA, or the Commission's rule in part 1110. For example, § 1205.35(b) does not contain all data elements required in CPSA section 14(g)(1) and proposed § 1110.11. Accordingly, the SNPR maintains the requirement that mowers subject to part 1205 must also meet the certificate requirements in part 1110, including eFiling. Importers can continue to rely on a foreign manufacturer's testing and/or certification to certify imported products pursuant to 16 CFR part 1109. Moreover, the Product Registry is designed to allow certifiers to give permissions to other trade partners to enter data or certify products on their behalf.

M. Textiles and Wearing Apparel

Comment 60: One commenter (C55), a clothing retailer, stated that creating certificates ''guaranteeing'' conformity with the Flammable Fabrics Act may not reflect true compliance, because vendors can alter test reports and certificates. Another commenter (C56) noted that third party testing and product certification are not required in the European Union for textile and clothing products. The commenter also adds that adult clothing manufactured in the United States is not subject to mandatory third party testing.

Response 60: Altering or falsifying a test report or certificate is a prohibited act under section 19(a)(6) of the CPSA, and likely a criminal act, as set forth in 18 U.S.C. 1001. Where the facts warrant, the Commission may refer criminal acts to the Department of Justice for prosecution.

Section 14(a)(1) of the CPSA requires certification for any product which is subject to a consumer product safety rule under any regulation enforced by the Commission. Therefore, clothing textiles require certification to the

applicable rules, irrespective of textile requirements in the European Union.[18]

Comment 61: Commenter (C56) requested that fabric tests based on the International Organization for Standards (ISO) standards and testing to EN597–1 (Furniture—Evaluation of Flammability of Mattresses and Upholstered Bed Bases) be considered suitable for the certification of mattresses subject to CPSC's flammability requirements. The commenter suggested exempting silk from testing to 16 CFR part 1610, Standard for the Flammability of Clothing Textiles.

Response 61: Testing required to support a valid certificate under part 1110 is prescribed under the specific CPSC regulation to which the product is subject. What constitutes valid testing to support a required certificate, or qualifies as an exemption from the requirements of a regulation, is outside the scope of this rulemaking.

N. Architectural Glazing Materials

Comment 62: Two commenters (C25, C30) argued that the NPR should only apply to glazing materials and not to architectural products containing glazing materials. Commenters stated that manufacturers of the architectural products are already responsible for meeting the testing and certification requirements under 16 CFR part 1201. Additionally, these commenters asserted, the NPR would effectively amend 16 CFR 1201.5 without complying with the process requirements of the Administrative Procedure Act (APA).

Response 62: As noted, in 2008 Congress expanded the testing and certification requirements for regulated products in section 14 of the CPSA. The SNPR does not disrupt existing testing or certification requirements regarding who must test or certify products in 16 CFR part 1201. Section 1201.5(a) states that manufacturers and private labelers of glazing materials covered by part 1201 shall comply with the requirements of section 14 of CPSA and regulations issued under it. Like the existing part 1110, proposed § 1110.7(a) states that ''[e]xcept as otherwise provided in a specific rule, ban, standard, or regulation enforced by CPSC, for a finished product manufactured outside of the United States that must be accompanied by a certificate as set forth in § 1110.5, the importer must issue a certificate that meets the requirements of this part.'' Proposed § 1110.7(b) contains a similar statement regarding domestically manufactured products. Thus, to the extent that finished products subject to part 1201 are imported for consumption or warehousing, or distributed in commerce, they should continue to follow the requirement in § 1205.5(a) regarding who should issue a certificate.

O. Bicycles

Comment 63: Two commenters (C40, C80) claimed that the bicycle industry does not have the resources to meet the certificate requirements and that there is no evidence that the additional burden would improve safety. Specifically, the commenters claimed the bicycle supply chain is not able to easily match bicycle components and accessories with particular certificates. In addition, one commenter (C40) suggested that certificates should not be required for bicycle replacement parts.

Response 63: Section 14(a)(1) of the CPSA requires certification for any product which is subject to a consumer product safety rule under any regulation enforced by the Commission. Certification is only required for component or replacement parts if they are sold as finished products to consumers and if they are subject to a regulation. If the component part itself is not required to be tested for compliance with any part of a regulation, as distributed in commerce, then no testing or certification is required.

P. Refrigerators

Comment 64: One commenter (C32) stated that the NPR would impose substantial administrative costs on household refrigeration manufacturers, yet few distributors or retailers request copies of certificates of conformity. The commenter also requested that 16 CFR part 1750 be included in a ''cleanup list'' for future legislative reform, because most modern refrigerators do not use latching mechanisms to hold the door closed.

Response 64: eFiling for refrigerators is justified by the considerations discussed in section II of this preamble. The request for refrigerators to be on a ''cleanup list'' for future legislative reform is outside the scope of this rule. However, in 2019, the Commission issued a statement of policy announcing that for household refrigerators that bear a safety certification mark indicating compliance with the Underwriters Laboratory Standard 60335–2–24, Household and Similar Electrical Appliances—Safety—Part 2–24: Particular Requirements for Refrigerating Appliances, Ice-Cream Appliances and Ice-Makers, CPSC will not enforce the requirement that every manufacturer issue and provide a GCC. 84 FR 37767 (Aug. 2, 2019). CPCS's CATAIR, Tab B of Staff's SNPR Briefing Package, explains how importers of refrigerators can file a ''disclaim'' with CBP to avoid an error for not filing a certificate PGA Message Set.

Q. Fireworks

Comment 65: Two commenters (C31, C61) stated the requirements set in the 2013 NPR are ''virtually impossible'' for fireworks, because these products are not serialized or lot-controlled.

Response 65: Certain fireworks are subject to CPSC regulation and must be certified under existing law, and those certificates must be based on a test of each product or upon a reasonable testing program. Certificate requirements are found in section 14 of the CPSA and part 1110, and have been in effect since 2008. We seek additional comment on how regulated fireworks meet this requirement now and how they can meet the eFiling requirement in the SNPR.

Analysis of Cost and Burden

R. Costs, Burden, the RFA and PRA

Comment 66: Several commenters (C14, C20, C32, C36, C40, C47, C55, C75) stated that the Paperwork Reduction Act (PRA) and Initial Regulatory Flexibility Analysis (IRFA) did not accurately estimate the impact of the NPR on businesses, especially for large importers and specific industries, and did not reflect publicly available business information. One commenter (C49) suggested that the rule's requirements would be costly or otherwise detrimental to small businesses and the associated annual burden would be $27,500 per firm rather than the estimated $275.

Two commenters (C39, C51) suggested that CPSC is not correctly estimating the recordkeeping burden by failing to take into account a realistic number of entries, IT costs for importers, and costs to private labelers to implement new testing and certification processes. One commenter (C41) stated that the proposed five-year paperwork retention period is longer than the three-year requirement in some current rules and is not supported by data. The commenter claimed that the burden calculated for the GCC for the apparel industry does not consider

[18] Note that in 2016, the Commission issued enforcement discretion stating that no certificate is required for adult wearing apparel that falls within one of the testing exemptions in § 1610.1(d). *https://www.federalregister.gov/documents/2016/03/10/2016-04533/statement-of-policy-on-enforcement-discretion-regarding-general-conformity-certificates-for-adult*. Children's wearing apparel that falls within § 1610.1(d) must still issue a certificate and claim the testing exemption.

retention of GCCs and supporting test reports.

Response 66: Tabs C and D of Staff's SNPR Briefing Package, and sections VI and VII of this preamble, contain revised RFA and PRA analyses for the revised part 1110 and the eFiling requirement. These analyses can be more specific now that the IT solutions are developed and have been tested. As explained in the updated analysis, the burden of the SNPR consists of a marginal increase in recordkeeping for some non-children's products from three to five years and an additional eFiling requirement for importers of regulated consumer products. The SNPR requires importers to eFile certificates each time a regulated product is imported, but this burden is small.

CPSC conducted an eFiling Alpha Pilot in 2016 with importers and brokers and determined the costs of eFiling were minimal. CPSC created a Product Registry, described in section II.D.4 of this preamble, which allows for one-time data entry for certificates that importers can reference each time the product is imported, without reentering data. The Product Registry also provides an IT solution for the storage and management of certificate data. No technological system is required other than a basic computer or laptop and an internet connection, which are normal business capital expenditures. No technical skills are required other than the ability to navigate the Product Registry website and fill out a series of web forms. Larger firms may invest in technology or processes to automate this process such as APIs or bulk data uploads to further reduce time burden. The PRA analysis in section VII of this preamble and Tab D of Staff's SNPR Briefing Package, estimates the burden of eFiling, including the time and cost burden for firms that may elect to automate data upload into the Product Registry. As explained in Tab C of Staff's SNPR Briefing Package, CPSC does not expect that the proposed rule would significantly impact small manufacturers and importers. Over time, moreover, the new eFiling requirement should reduce burden for importers who eFile compliant certificate data. Staff anticipates that additional certificate data will allow for better targeting of shipments with potentially hazardous products. Importers who file compliant certificate data may see a reduction in their risk scores, which may result in a reduced number of shipments placed on hold and examined and shorter wait times associated with exams.

Comment 67: A few commenters (C39, C42, C46, C79) expressed concern that brokers and importers would have technical challenges implementing the rule, leading to costs for infrastructure upgrades and programming/software development. Commenters asserted that linking their IT systems with the brokers' IT systems would cost between $30,000 and $500,000. In addition, commenters stated that increasing the number of data fields will incrementally increase the cost for the certifier and thus consumers. The commenters also expressed concern that importers and their supply chain partners will incur costs in creating new electronic certificates.

Response 67: The commenters' concerns have been addressed by use of the existing PGA Message Set structure and the creation of the Product Registry, which can be used to create, store, and transmit certificates. The only interface requiring more than basic technical knowledge is the API interface, which CPSC is not mandating be used. However, firms that do choose to use this function would experience efficiency gains and time savings.

Comment 68: Several commenters (C33, C43, C61, C80) expressed concern over the asserted complexity of filing certificates for multiple products within a shipment and the resulting burden, delays, duplication, and supply chain disruptions. Commenter (C21) stated that CPSC is underestimating the numbers of shipments per importer and the number of certificates required per shipment.

Response 68: As described in section II.D of this preamble, to reduce cost and burden, CPSC developed the Product Registry, which allows importers to enter certificates prior to filing entry. Importers can reference a certificate stored in the Product Registry in a short PGA Message Set at Entry each time the product is imported. CPSC tested this concept in 2016 in the eFiling Alpha Pilot. During the eFiling Alpha Pilot, multiple certificates were successfully filed for a single entry. CPSC learned that importers that used the Product Registry were able to re-use certificates multiple times, alleviating potential burden from re-entering certificate information. The Commission's burden estimate reflects this efficiency.

Comment 69: One commenter (C49) claimed that CPSC and Congress use different definitions for small entities.

Response 69: CPSC applies the definitions for small businesses as prescribed in the Small Business Regulatory Enforcement Fairness Act. Additionally, CPSC uses the definition for Small Business Manufacturer as found under section 14(i)(4) of the CPSA.

Comments Regarding Justifications for the Proposed Requirements

S. Alleged Rulemaking Defects

Comment 70: Many commenters (C14, C23, C35, C36, C39, C40, C46, C61, C64, C71, C76) alleged that the NPR's proposal was burdensome and unnecessary and that the Commission failed to identify sufficient evidence that the eFiling proposal would enhance targeting of violative products or improve safety.

Response 70: CPSC explained in the 2013 NPR that the CPSA allows CPSC to require eFiling with CBP by rule, and that CPSC would use certificate data to target noncompliant, imported consumer products. *See, e.g.,* 78 FR 28088–89. The preamble to this SNPR provides additional detail of the efforts in outreach, education, pilots, study, and infrastructure investment that have occurred over the last ten years to refine how importers will file certificate data, provide burden reduction options for importers, and demonstrate how CPSC will use the data to target noncompliant shipments. CPSC has also updated the burden estimate for this rule, demonstrating that eFiling for importers that are compliant with existing certificate requirements will not have a significant economic impact on industry. Finally, the efficiencies gained by using technology will not only improve enforcement of individual certificate violations, but also aid in the identification of noncompliant, hazardous shipments. eFiling will allow CPSC to use its staff assigned to ports more efficiently to focus on examinations of noncompliant shipments.

Comment 71: A commenter (C71) stated that by establishing two types of certificates (the GCC and CPC), the NPR goes beyond the authorization of the CPSA.

Response 71: CPSC is implementing the testing requirements in section 14 of the CPSA, which creates this distinction. CPCs for children's products must be supported by third party testing, whereas GCCs for non-children's products must be based on a test of each product or a reasonable testing program; third party testing is not required for GCCs. Other than the type of testing required to support the certificate, all data elements on GCCs and CPCs are the same.

Comment 72: Several commenters (C21, C71, C50, C61) stated that the proposed requirement to file certificates with CBP diverges from the intent of Congress as expressed in CPSA section 14(g)(4) and poses a substantial burden to importers.

Response 72: Section 14(g) sets forth minimum content requirements that CPSC may implement and expand through rulemaking, and section 14(g)(4) expressly allows CPSC to require eFiling with CBP by rule. The Certificate Study demonstrated that certifiers fulfill certificate data requirements in a variety of ways; but to use certificate data for algorithmic targeting, CPSC must standardize the presentation of this information. Thus, CPSC is clarifying expectations for standardized certificate data, which is consistent with CPSC's authority in sections 3 and 14 of the CPSA, and with notice and comment rulemaking under section 553 of the APA.

Since 2013, moreover, CPSC has developed the Product Registry with substantial input from importers that is on-going in the Beta Pilot, to ease burdens on industry and assist in standardization of the format and content of certificate data for imported products.

Additionally, since 2013 CBP completed ACE development as the ''single window'' for Federal agencies to collect required data at entry. CBP has now implemented the PGA Message Set, which is attached to an entry; CPSC will use this now well-developed method to receive certificate data, as contemplated by the statutory framework for imported products.

Comment 73: Many commenters objected to requiring certificates for products that are either subject to a ban or have a testing exemption, stating that CPSC does not have the authority to require certificates for products that do not require testing. One commenter (C23) stated that ''negative'' certificates would be especially complicated when children's products have many component parts subject to different rules, alleging that the CPSA does not authorize the CPSC to issue a rule requiring a finished product certifier to list each component in a children's product and require separate product safety rule certification of each component part. Commenter C22 suggested that the proposal would require certifiers to list every rule that a product is not subject to, or risk enforcement. Two commenters (C41, C47) noted previous CPSC guidance (Statement of Policy: Testing and Certification of Lead Content in Children's Products, and Statement of Policy: Testing of Component Parts With Respect To Section 108 of the Consumer Product Safety Improvement Act) and an FAQ stating: ''If, however, your children's product is wholly composed of components that satisfy the determinations and/or satisfy the determinations on inaccessibility, and there are no other applicable children's product safety rules, then you do not have to issue a children's product certificate.''

Response 73: Section 14 of the CPSA requires that certificates list all *applicable* rules, bans, standards, and regulations. Accordingly, all finished product certificates, including children's products, must list all applicable rules, bans, standards, and regulations. 15 U.S.C. 2063(a)(1)(B). The certificate is attesting that the product was tested to these rules and passed. Where multiple rules apply, as may be the case with children's products, for example, the certificate should list all applicable rules; the testing information where testing was required and successfully conducted under the listed rules; and any exceptions or exemptions that apply under the listed rules.

CPSC recognizes several types of testing and/or certificate ''exceptions'' or ''exemptions.'' To address the issues raised by the commenters, proposed § 1110.11(c) is now prefaced with ''[u]nless otherwise provided by the Commission,'' the certifier should replace the lab place and date with the testing exclusion code. This phrase is intended to encompass any existing or future Commission enforcement discretion or other policy statements that provide testing or certification guidance. Therefore, as stated in the quoted FAQ, the Commission will not require certificates for products that are subject to Commission enforcement discretion or are otherwise wholly exempt or excluded from testing.

Importers will use CBP's ''disclaim'' feature for non-regulated products within CPSC's jurisdiction and for products that are regulated but do not require certification. CPSC's CATAIR explains how to file a ''disclaim'' in a PGA Message Set for products such as adult wearing apparel and refrigerators that are not required to issue a certificate based on the Commission's enforcement discretion. Using CBP's ''disclaim'' option reduces burden for importers by not requiring a certificate and allows CPSC to capture data on why an importer did not file the expected certificate data.

Tab B of Staff's SNPR Briefing Package, and the Commission's website (*https://www.cpsc.gov/eFiling*) provide CPSC's CATAIR detailing how these exemptions and exceptions are addressed by the eFiling requirement, as well as a list of all exemption/exception codes being tested during the Beta Pilot. The Product Registry will also assist importers to understand the available testing exemption/exception codes using drop down menus. CPSC encourages certifiers to review this information and submit comments on the proposed implementation of this requirement. Domestic manufacturers can also use this information to understand certificate requirements and how testing exemptions or exclusions should be noted on a certificate.

Finally, the 2013 NPR discussed the issues involved in certifying to a ban, discussing that some bans do not remove an entire product category from the market, rather, they ban certain hazardous product characteristics. 78 FR 28080. The Commission's website contains a list of product safety rules, bans, standards, and regulations that require certification in a GCC.[19]

Comment 74: A commenter (C74) stated that certificates should be required at manifest and provide only those elements included in the importer security filing requirements.

Response 74: Manifest occurs at an earlier import stage than entry. CBP has now finalized using the PGA Message Set to collect data required by PGAs. The PGA Message Set is tied to filing CBP's entry. Accordingly, CPSC will use this existing infrastructure to establish an eFiling requirement for certificates.

Comment 75: Commenter C7 suggested requiring a full certificate at customs entry would create differential treatment between imports and domestically produced goods. Another commenter (C56) pointed out Article 5.1.2. of the World Trade Organization's Technical Barriers to Trade (TBT) Agreement, stating that conformity assessment procedures should not be adopted or applied with the effect of creating unnecessary obstacles to international trade, and should not be applied more strictly than necessary to importers.

Response 75: The SNPR does not impose different testing or data element requirements on certificates for imported products. Unless otherwise provided by the Commission, all finished products or substances regulated by CPSC are required to be tested and certified as compliant, regardless of whether products are manufactured within the United States or imported. Regarding the eFiling process, CPSC's economic analysis demonstrates that for compliant importers, the PGA Message Set requirement will not have a significant impact on small (or large) importers, and thus the requirement should not create an obstacle to trade.

[19] *https://www.cpsc.gov/Business--Manufacturing/Testing-Certification/Lab-Accreditation/Rules-Requiring-a-General-Certificate-of-Conformity.*

Comment 76: The EU requested that the CPSC supply additional information on the rationale for imposing third party testing requirements for the flammability of children's clothing and apparel.

Response 76: The SNPR does not require third party testing of the children's clothing and apparel standards set forth in 16 CFR part 1610. Rather, 15 U.S.C. 2063(a)(2) and 16 CFR part 1107 require third party testing to all children's product rules. Part 1107 has been in effect for more than 10 years.

IV. Description and Explanation of Proposed Revisions to Part 1110

Below we explain the basis for the SNPR to amend the current 1110 rule and describe the provisions of the current rule, proposed revisions in the 2013 NPR, and how the 2023 SNPR either retains or changes the 2013 proposals. Because of the number of changes, the Commission proposes to strike and replace the existing 1110 rule in its entirety, as described below.

A. Purpose and Scope (§ 1110.1)

Current rule: Existing § 1110.1 describes the purpose and scope of the rule, explaining that the rule limits the entities required to issue certificates; specifies the content, form, and availability of certificates; and specifies the form of electronic certificates. 16 CFR 1110.1(a). Existing § 1110.1(b) explains that the rule does not implement eFiling certificates with CBP under section 14(g)(4) of the CPSA.

2013 NPR: The 2013 NPR proposed to increase the number of entities responsible for issuing certificates, stating that the purpose was to ''specify'' the entities that must issue certificates. Proposed § 1110.1(b) explained that the rule would implement section 14(g)(4) and require certificates for imported products to be eFiled with CBP. 78 FR 28081. The proposed changes also would clarify which provisions in part 1110 apply to voluntary component part certificates.

2023 SNPR: The SNPR maintains the scope proposed in 2013, with non-substantive editorial changes.

B. Definitions (§ 1110.3)

Current rule: This section of part 1110 defines ''electronic certificate'' as ''a set of information available in, and accessible by, electronic means that sets forth the information required by CPSA section 14(a) and section 14(g) and that meets the availability requirements of CPSA section 14(g)(3)'' and states that definitions of section 3 of the CPSA and additional definitions in the CPSIA apply to part 1110.

2013 NPR: The 2013 NPR added 13 new definitions to introduce concepts and terms used in the 1107 and 1109 rules and to clarify the requirements of part 1110. 78 FR 28081–82.

2023 SNPR: The SNPR maintains the additional terms proposed in the 2013 NPR, adds several more terms, and revises several definitions. Newly defined terms include: ''eFiled certificate,'' to differentiate an electronic certificate from a certificate that is submitted to CBP in a PGA Message Set, and ''Product Registry,'' to describe the CPSC-maintained repository for certificate data. The SNPR revises several definitions to better describe the types of merchandise under CPSC's jurisdiction, which includes not only consumer products, but also hazardous substances. The SNPR replaces the term ''General Conformity Certificate'' with ''General Certificate of Conformity,'' because the latter is the statutory term.

The SNPR broadens the definition of ''importer'' to include any entity CBP allows to be an importer of record (19 U.S.C. 1484(a)(2)(B)). Proposed § 1110.3 also defines additional terms to develop the revised definition of ''importer'' in the SNPR, such as ''importer of record,'' ''consignee,'' and ''owner or purchaser.'' These definitions are based on CBP's definitions, found in 19 CFR 101.1 and Customs Directive 3530–002A, with slight changes to reflect CPSC's purposes.

The 2013 NPR proposed to codify the existing policy of placing the obligation to test and certify consumer products and substances on the IOR. In response to comments on the NPR and staff's experience with enforcement, the SNPR broadens the definition of ''importer'' beyond the IOR to allow a party familiar with the products with a beneficial ownership in the goods to be the importer responsible for testing and certification. The revised definition of ''importer'' includes the IOR, consignee, owner, or purchaser, which are typically all parties that have a financial interest in the products or substances being imported, and effectively caused the consumer product to be imported into the United States. The private labeler, which could certify a privately labeled product, is also included under this proposed definition, because a private labeler can be the consignee, owner, or purchaser.

C. Products Required To Be Certified (§ 1110.5)

Current rule: The current § 1110.5 states what is an acceptable form for certificates. In the existing rule, the Commission sought to allow ''electronic certificates'' to ease the burden of placing paper copies of certificates in a shipping container or box. Accordingly, the existing rule explains that a certificate that is in hard copy or electronic form and complies with all applicable requirements of part 1110 meets the certificate requirements of section 14 of the CPSA. The existing rule states that the importer or domestic manufacturer must also meet the underlying statutory requirements to support a certificate, meaning the required testing and/or other bases to support certification and issuance of certificates.

2013 NPR: The 2013 NPR proposed to revise § 1110.5 to state when a certificate is required, clarifying that only finished products subject to a consumer product safety rule under the CPSA, or similar rule, ban, standard, or regulation under any other law enforced by the Commission, that are imported for consumption or warehousing, or are distributed in commerce, need to be accompanied by a certificate. This is a restatement of the statutory requirement. Use of the term ''finished product'' in the 2013 NPR clarified that component parts of a consumer product are not required to be certified; the 1109 rule allows for voluntary component part testing and/or certification, but testing or certification of component parts not intended to be offered for sale as finished products is never required. 78 FR 28082–83.

The 2013 NPR also explained when banned products are required to be certified, stating that bans ''generally remove the subset of products with hazardous characteristics, but still leave some products subject to CPSC regulation. In sum, manufacturers of products in a category where a subset of the products are subject to a ban must still issue certificates.'' 78 FR 28082. The 2013 NPR provided a list of bans for which a GCC certifying compliance is required. 78 FR 28083. This list is also maintained on CPSC's website at *https://www.cpsc.gov/Business--Manufacturing/Testing-Certification/Lab-Accreditation/Rules-Requiring-a-General-Certificate-of-Conformity.*

2023 SNPR: The SNPR retains proposals in the 2013 NPR clarifying that a certificate is required only when: (1) the product is a finished product; (2) the product is subject to a consumer product safety rule under the CPSA, or similar rule, ban, standard, or regulation under any other law enforced by the Commission; and (3) the product is imported for consumption or warehousing, or is distributed into commerce.

D. Who Must Certify Finished Products (§ 1110.7)

Current Rule: Section 1110.7 of the existing rule states that, except as otherwise provided in a specific standard, for products manufactured outside the United States the importer is required to certify the product and provide a certificate, as required by section 14(a) of the CPSA. Certificates must be available to the Commission as soon as the product is available for inspection in the United States. For products manufactured in the United States, the manufacturer must certify products and provide the required certificate. Certificates must be available prior to the introduction of the product or shipment into domestic commerce.

2013 NPR: Section 1110.7 of the 2013 NPR continued to require that, unless a specific rule states otherwise, importers certify imported products, except for products that are delivered directly to consumers in the United States, such as products purchased through an internet website. For products delivered directly to a consumer, the Commission proposed that the foreign manufacturer be required to issue a certificate, unless the product bears a private label, and then the private labeler would be required to issue a certificate. Thus, the 2013 NPR would have placed on a private labeler the responsibility for ensuring testing and certification of privately labeled products, either by testing and certifying the product, or by ensuring that the manufacturer has done so. The proposed revision clarified that the consumer would not typically be responsible for certifying a product, even if the consumer could technically meet the definition of an ''importer'' under a direct-purchase scenario. 78 FR 28083–84.

For finished products manufactured in the United States that are required to be certified, the 2013 NPR maintained the requirement that, unless a specific rule requires otherwise, a manufacturer must issue the certificate. But, as with imported products, the 2013 NPR placed testing and certification responsibility for domestically manufactured, privately labeled products on the private labeler. The 2013 NPR allowed private labelers to continue to rely on a manufacturer's certification if they choose to do so and follow the requirements in part 1109. *Id.*

2023 SNPR: For imported consumer products that require testing and certification, the SNPR retains requirements from the existing rule, rather than the changes proposed in the 2013 NPR. The SNPR requires that, unless a specific rule states otherwise, only importers, as newly defined, must issue a certificate for imported products. However, a private labeler could assume responsibility for certifying an imported product under the SNPR, because a private labeler would fall within the definition of a consignee, owner, or purchaser of the goods under the new importer definition proposed in § 1110.3.

For domestically manufactured finished products, the SNPR maintains the 2013 NPR proposal that, unless otherwise required in a specific rule, the manufacturer must issue the certificate, except for consumer products or substances that are privately labeled. When a product is privately labeled, a manufacturer name does not appear on the product. Accordingly, for such products, placing responsibility on the private labeler is both pragmatic and appropriate. However, the SNPR proposes to allow private labelers to continue to rely on a manufacturer's testing or certification if they choose to do so. Importantly, if a manufacturer's name appears on a product, the product is not privately labeled under the definition in section 3 of the CPSA, 15 U.S.C. 2052(a)(12), and the manufacturer would be required to test and certify the product.

The SNPR moves the requirement regarding the availability of certificates for imports and domestic products, found in § 1110.7(c) of the existing rule, to proposed § 1110.13.

E. Certificate Language and Format (§ 1110.9)

Current Rule: Section 1110.9 of the existing rule provides that certificates may be in hard copy or electronic form and must be provided in English but also may be provided in any other language.

2013 NPR: The 2013 NPR maintained the two requirements in the existing rule with minor edits. The 2013 NPR continued to allow a broad range of formats for electronic certificates, as long as the certificate is identified by a unique ID and can be accessed online via a URL or other electronic means. The 2013 NPR proposed that the unique ID be ''identified prominently on the finished product, shipping carton, or invoice.'' The 2013 NPR discussed that experience with electronic certificates had shown that they can be effective when they are easily accessible. 78 FR 28084–85.

The 2013 NPR proposed that electronic certificates be available without password protection, stating that the number of manufacturers, private labelers, and importers that certify products could make the maintenance of password information burdensome on CPSC and diminish the efficiencies achieved by allowing electronic certificates. 78 FR 28085. The 2013 NPR also clarified that electronic certificates, the URL or other electronic means, and the unique ID must be accessible to the Commission, CBP, distributors, and retailers ''on or before the date the finished product is distributed in commerce.'' *Id.*

Finally, the requirements for electronic certificates in the 2013 NPR only applied to: products manufactured in the United States; foreign-manufactured products that are delivered directly to a consumer in the United States; certificates furnished to retailers and distributors; and imported finished products after importation, such as when requested by CPSC or CBP. 78 FR 28084. The 2013 NPR specifically excluded certificates filed with CBP from the electronic certificate requirements in this section, because certificates eFiled with CBP would likely require different formatting based on CBP's system of records. *Id.*

2023 SNPR: The SNPR retains most of the language proposed in the 2013 NPR with several changes for clarity. Proposed § 1110.9 (a) states that an eFiled certificate must be in English. Certificate data eFiled in an IT system built by CBP, or uploaded into CPSC's Product Registry, must be in English based on system design. Proposed § 1110.9 (a) provides that a hard copy or electronic certificate must be in English, but may also contain the same content in any other language.

Proposed § 1110.9(b) clarifies the formats for eFiled and for hard copy and electronic certificates. The SNPR proposes that an eFiled certificate must meet the requirements in proposed § 1110.13(a), and that certificates furnished to retailers, distributors, or to CPSC pursuant to § 1110.13(b) and (c) may be provided in hard copy or electronically.

Proposed § 1110.9(c) describes the format for the electronic certificates described in § 1110.13(b) and (c), which are used to furnish a certificate to retailers or distributors, or to CBP or CPSC upon request. Based on the agencies' IT development and comments received, the SNPR removes the provision that an electronic certificate must not be password protected. eFiled certificates will be filed into a government IT system with appropriate protections. However, if an importer provides a password protected electronic certificate to CPSC or CBP, the password must be provided to the relevant agency at the same time.

F. Certificate Content (§ 1110.11)

Current Rule: This section of the existing rule identifies the statutorily required seven data elements that must be present on all certificates: (1) information identifying the product covered by the certificate; (2) a list of all applicable rules for which the product is being certified; (3) the name, full mailing address, and telephone number of the importer or domestic manufacturer certifying the product; (4) the name, email address, full mailing address, and telephone number of the individual maintaining records of test results; (5) the date (minimally, the month and year) and place (including city and state, country, or administrative region) of manufacture; (6) the date and place (including city and state, country, or administrative region) where the product was tested; and (7) the name, full mailing address, and telephone number of the laboratory that conducted any required third party testing.

2013 NPR: The 2013 NPR proposed to clarify and expand upon the existing seven data elements and to add three new data elements that would assist in identifying the products covered by the certificate. 78 FR 28085–88. It clarified that additional identifying information for products may be included on a certificate, such as UPCs and GTINs. 78 FR 28085. The NPR allowed more than one product on a certificate, provided they were created at the same factory and relied upon the same testing. *Id.* The 2013 NPR also proposed to modify certificate content requirements to allow for certificates to cover finished products or component parts. Accordingly, the NPR proposed to require finished product certificates to list all applicable rules, while component part certificates would list only those rules for which the component part is being certified (because certifiers of component parts can choose which standards to test and certify to, and they may not know all of the standards that eventually may apply to the component part when it is integrated with a finished product). 78 FR 28086.

The three proposed new content requirements for certificates were date of initial certification, scope of the certificate, and attestation certifying compliance. The existing rule requires the date of initial certification, but it only applies to electronic certificates. Proposed § 1110.11(a)(2) of the NPR sought to ensure that all certifiers are using the same date on certificates. 78 FR 28086. Proposed § 1110.11(a)(3) sought to require the scope of the finished product or component part for which the certificate applies, so that CPSC can better match a certificate to a product. 78 FR 28086. Finally, to educate certifiers of their legal obligations, proposed § 1110.11(a)(10) required an attestation certifying compliance indicating that the information provided by the certifier is true and accurate. 78 FR 28087.

The 2013 NPR also proposed in § 1110.11(b), (c), and (d), to describe more fully the requirements for certificate formats. 78 FR 28088. Proposed § 1110.11(b) would allow, but not require, the certifier to include a URL or other electronic means on the certificate, along with identification of the custodian of records, to allow for electronic access to supporting records such as test records. Proposed § 1110.11(c) described what certifiers must do when a product is subject to more than one consumer product safety rule, and the certifier is claiming a testing exception for some, but not all, of the applicable rules. Proposed § 1110.11(d) clarified that although each applicable rule must be listed on a certificate, finished product certifiers are not required to conduct duplicative third party testing for any rule that refers to or incorporates fully another applicable consumer product safety rule or similar rule, ban, standard, or regulation under any other law enforced by the Commission. 78 FR 28088.

2023 SNPR: The SNPR requires the seven statutory data elements in the existing rule, and includes only one of the three additional requirements proposed in the 2013 NPR—attestation. However, the SNPR provides additional detail on the required data elements. Below we describe each data element proposed in § 1110.11(a) of the SNPR.

Product Identification (§ 1110.11(a)(1)): The SNPR proposes to require identification of the finished product covered by the certificate, including at least one unique ID from a list of seven options and a sufficient description to match the finished product to the certificate. Certifiers may provide optional additional IDs to assist with product identification. The SNPR would clarify that ''identification'' means a unique ID is necessary for eFiling, so that certificates can be better tracked in the Product Registry and RAM. CPSC expects that it would be easier for importers to provide a unique ID that already exists for the product as allowed by the SNPR, instead of having certifiers manage an additional identifier assigned by CPSC but invites comment on this question.

The SNPR also proposes to expand the term ''description'' from the 2013 NPR to mean a ''sufficient description to match the finished product to the certificate.'' Currently, the description in a certificate is sometimes insufficient to enable CPSC staff to determine whether the certificate describes the product being examined.

List of Applicable Rules (§ 1110.11(a)(2)): The SNPR would retain without change the requirement in the existing rule and the 2013 NPR to provide a list of all applicable rules to which the product is being certified. The eFiling system makes this requirement easier for certifiers because CPSC will provide a standardized list of all rules, each assigned a code. When eFiling certificate data, the certifier would only need to select from these codes, either in the Full Message Set or in the Product Registry.

Identification of Certifier (§ 1110.11(a)(3)): The SNPR would maintain the requirement from the 2013 NPR to identify the party certifying compliance of the finished product(s), including the party's name, street address, city, state or province, country or administrative region, electronic mail (email) address, and telephone number. Adding a more specific street address interprets the statutory requirement for a ''full mailing address,'' and would assist staff in distinguishing facilities or locating certifiers for site visits. If a certifying party's physical location does not have a street address, then a location identification typical of the country of origin, or a GPS coordinate, is also permissible. We also retain the proposal to include an email address, which is intended to improve communication between CPSC and the certifying party, particularly across time zones.

Contact for Records (1110.11(a)(4)): The SNPR proposes to maintain the requirement from the existing rule and 2013 NPR to provide the identity and contact information for the individual maintaining records of test results. As with the certifier's contact information, the SNPR describes in more detail the concept of a ''full mailing address'' to include ''street address, city, state or province, country or administrative region, electronic mail (email) address, and telephone number.'' The 2013 NPR also referenced the recordkeeping sections of the Code of Federal Regulations that apply to GCCs and CPCs, which the SNPR maintains.

The SNPR clarifies that the individual maintaining records may be a position title, provided that this position is always staffed and responsive to CPSC's requests. This change is in response to public comments concerned that the individual maintaining the records of test results may leave the company or

otherwise be unavailable, and that a position title would provide continuity.

Manufacture Date and Place (1110.11(a)(5)): The SNPR would maintain the requirement from the existing rule to provide the date when the finished product(s) were manufactured, produced, or assembled. The first date of a batch run is the date of manufacturing. The SNPR also maintains the statutory requirement from the existing rule to provide the place where the finished product(s) were manufactured. The SNPR aligns the manufacturer information with the other data elements regarding contact information, proposing to require the manufacturer name, street address, city, state or province, country or administrative region, email address, and telephone number where the finished product(s) were manufactured, produced, or assembled. This requirement is consistent with section 14(g)(1) of the CPSA which requires ''each party's name, full mailing address, [and] telephone number.'' CPSC proposes to require additional manufacturer detail, for eFiling in particular, because staff has experienced situations where it is difficult to distinguish between multiple firms with similar addresses and contact the correct manufacturer. If a location does not have a street address, a location identification typical of the country of origin or a GPS coordinate is permissible.

Test Date and Place (1110.11(a)(6)): The SNPR would maintain the requirement from the existing rule to provide the date when the finished product(s) were tested for compliance. The SNPR, however, amends this requirement to clarify that the required date is the most recent date of testing. This change is to aid CPSC in assessing the validity and integrity of a certificate, and to promote consistency across certificates for CPSC and certifiers, particularly where laboratory testing is done over several days.

The SNPR maintains the requirement from the existing rule to provide the place where the finished product(s) were tested for compliance. The SNPR standardizes the contact information required, including the name of each third party conformity assessment body or other party on whose testing the certificate depends, and the street address (or locally comparable location identification), city, state or province, country or administrative region, email address, and telephone number. The SNPR requires an email address, so staff has another means of contacting the testing laboratory.

Attestation (§ 1110.11(a)(7)): The SNPR proposes to maintain the requirement from the 2013 NPR to provide an attestation certifying compliance, indicating that the information provided by the certifier is true and accurate and that the certified product complies with all rules, bans, standards, or regulations applicable to the product under the CPSA or any other Act enforced by the Commission. We note that the Product Registry contains a certifier attestation and also allows an importer to designate third parties that can enter certificate information and certify on behalf of the importer, if such permission is granted. The importer remains responsible for the information provided to CPSC, making an attestation by each party entering information important to maintain accountability for the information.

The SNPR does not include two proposals from the 2013 NPR: the date of initial certification and the scope of the finished product(s) covered by the certificate. Based on revisions to the identification of the product, and manufacture and test dates, the proposed new fields are now unnecessary because CPSC will know the date of laboratory testing and the date the certificate was filed. Similarly, the proposed product identification requirement of at least one unique ID and a ''sufficient description to match the finished product to the certificate'' makes it unnecessary to have a statement of the scope of the finished product(s). However, the SNPR would allow certifiers to provide production start and end dates and lot numbers as optional fields.

Furthermore, the SNPR retains the proposal in § 1110.11(b) of the 2013 NPR for a certificate to optionally include a URL or other electronic means, along with the identification of the custodian of records, to allow for electronic access of supporting records, such as test records. If certifiers provide this information, staff can more easily confirm the veracity of the certificate. The SNPR contains minor clarifications that specify the sections of the CFR containing the recordkeeping requirements for supporting records.

The SNPR also retains the proposal in § 1110.11(c) of the 2013 NPR for certifiers to list all claimed testing exclusions, instead of providing the date and place where the product was tested for compliance. The Product Registry lists all available exclusions for each rule, streamlining and standardizing how to record these exclusions. These exclusions will also be maintained on CPSC's website for use in a Full PGA Message Set. The SNPR does not keep the proposal to include the basis for each exclusion, because this is resolved by stating the testing exclusion. Many certifiers already list their testing exclusions, so this requirement will standardize the process for all certifiers. Furthermore, this requirement would only be relevant when the product is subject to a product safety rule. If no product safety rule or similar rule, ban, standard, or regulation applies, or the product is subject to enforcement discretion (such as adult wearing apparel relying on § 1610.1(d), which only requires a disclaim), then no certificate would be required.

Finally, the SNPR retains the proposal in § 1110.11(d) regarding duplicative testing. The SNPR states that certifiers are not required to conduct duplicative testing for any rule that refers to, or incorporates fully, another applicable consumer product safety rule or similar rule, ban, standard, or regulation under any other law enforced by the Commission. This proposal is maintained for the same reasons stated in the 2013 NPR, to reduce burden for certifiers.

G. Certificate Availability (§ 1110.13)

Current Rule: Section 1110.13(a) of the existing rule restates the statutory requirement in section 14(g)(3) of the CPSA that certificates must ''accompany'' each product or product shipment and be furnished to distributors and retailers. Section 1110.13(a)(1) and (2) explains how electronic certificates satisfy the ''accompany'' and ''furnish'' requirements of that section, and § 1110.13(b) states that an electronic certificate must have a means to verify the date of its creation or last modification.

2013 NPR: The 2013 NPR proposed to move the requirements for electronic certificates to proposed § 1110.9(c), while proposed § 1110.13 addressed when certificates had to ''accompany'' a product or product shipment, be ''furnished'' to retailers or distributors, and be ''furnished'' to CPSC and CBP. The 2013 NPR also proposed that certificates be eFiled with CBP prior to arrival of an imported product, as authorized in section 14(g)(4) of the CPSA. 78 FR 28088.

Proposed § 1110.13(a)(1) of the 2013 NPR stated that for imported products to meet the ''accompany'' requirement, importers must eFile certificates with CBP, either when the entry is filed, or when the entry and entry summary are

filed, if they are filed together.[20] The NPR explained that only finished products would require certification, and that certificates filed in the form of data elements would allow more efficient targeting. 78 FR 28089. The 2013 NPR acknowledged that, at that time, CBP was not yet able to collect PGA data. 78 FR 28089.

Proposed § 1110.13(a)(2) of the 2013 NPR required that for finished products manufactured domestically to meet the ''accompany'' requirement, the finished product certifier must make the certificate available for inspection by CPSC on or before the date the finished product is distributed in commerce. 78 FR 28089.

Proposed § 1110.13(a)(3) of the 2013 NPR stated that for imported finished products that are required to be certified and that are delivered directly to a consumer in the United States, the finished product certifier could either eFile the certificate with CBP, or they could make the certificate available for inspection by CPSC on or before the date the finished product is distributed in commerce. In the case where no entry is filed, a finished product certifier could meet the ''accompany'' requirement either by placing a hard copy of the certificate in the box with the product or by following the requirements for an electronic certificate. 78 FR 28089.

Proposed § 1110.13(b) of the 2013 NPR restated the statutory requirement in section 14(g)(3) of the CPSA that finished product certificates be furnished to distributors and retailers. Proposed § 1110.13(c) of the NPR added a new section reflecting the requirement in section 14(g)(3) that certificates must be furnished to CPSC and CBP upon request. The proposal states that certificates be made available immediately upon request by the CPSC or CBP. The preamble to the 2013 NPR defined the term ''immediately'' to mean ''within 24 hours,'' as it has been interpreted by CPSC in other rules. 78 FR 28089.

2023 SNPR: The SNPR retains some of the 2013 NPR's proposals and amends others. Now that the IT solutions are available and more fully developed, proposed § 1110.13(a) in the SNPR points to a CPSC-specific CATAIR and Product Registry that contain the IT solutions for eFiling. Thus, for example, the SNPR does not retain a separate ''accompany'' requirement for imported finished products that are delivered directly to a consumer in the United States, but rather provides for collecting these certificates electronically.

Like the 2013 NPR, proposed § 1110.13(a) explains that a finished product certificate must accompany each finished product or finished product shipment required to be certified pursuant to § 1110.5. Additionally, § 1110.13(a) requires that each certificate describe a single product. One product per certificate allows the RAM to conduct risk analysis on unique products in a shipment, which allows better targeting of potentially violative products and avoids delaying delivery of products in a shipment that do not warrant examination.[21]

Proposed § 1110.13(a)(1) of the SNPR states that GCC or CPC data elements for an imported product must be eFiled in ACE at the time of entry filing, or entry summary, if both are filed together, and as provided in CPSC's CATAIR (and discussed in Tab B of the Staff SNPR Briefing Package). The requirement applies to all imported finished products subject to a CPSC regulation, including *de minimis* shipments and products imported from an FTZ. The SNPR also explains that for finished products that are imported by mail, the finished product certifier must enter the required GCC or CPC data elements into CPSC's Product Registry prior to the product or substance arriving in the United States.

Proposed § 1110.13(b) of the SNPR maintains the statutory requirement from the 2013 NPR to ''furnish'' a required CPC or GCC to each distributor or retailer. Proposed § 1110.13(c) of the SNPR maintains the statutory requirement to make certificates available for inspection immediately upon request by CPSC or CBP. To be clear regarding the expectation, the SNPR proposes in the regulation text that ''immediately'' means within 24 hours. The 2013 NPR stated this in the preamble.

H. Legal Responsibility for Certificate Information (§ 1110.15)

Current Rule: Current § 1110.15 states that another entity may maintain an electronic certificate platform, but the certifier is still responsible for ensuring its validity, accuracy, completeness, and availability.

2013 NPR: The 2013 NPR maintained the requirement in the existing rule with slight edits. 78 FR 28090.

2023 SNPR: Proposed § 1110.15 of the SNPR maintains the NPR requirement, but proposes that the entity that maintains an electronic certificate platform and enters the requisite data into U.S. Government systems on behalf of the certifier may also certify the product(s) on the certifier's behalf. This addition accommodates diverse relationships between certifiers and their trade partners to better facilitate trade. The SNPR maintains accountability for certifiers, who are ultimately responsible for testing and certification. Certifiers will have the ability in the Product Registry to manage permissions for trade partners to enter data and/or to certify products, including managing the roles of specific individuals who enter data or certify products on the certifier's behalf. Certifiers should exercise due diligence if they allow another entity to certify on their behalf.

I. Recordkeeping Requirements (§ 1110.17)

Current Rule: The current rule does not contain recordkeeping requirements.

2013 NPR: The 2013 NPR proposed a new § 1110.17 to establish recordkeeping requirements. 78 FR 28090. For CPCs, the 2013 NPR summarized the existing recordkeeping requirements in other rules that apply to CPCs, including §§ 1107.26, 1109.5(g), and 1109.5(j), all of which have a five-year record retention period based on the applicable statute of limitations. The 2013 NPR proposed to align the record retention requirements for GCCs with those for CPCs, such that certifiers would maintain the certificate and supporting test records for at least five years. 78 FR 28090. The NPR explained that maintenance of such records may, for example, aid both the certifier and the Commission in the event of an investigation or product recall. *Id.*

2023 SNPR: Proposed § 1110.17 of the SNPR maintains the recordkeeping requirement from the 2013 NPR. CPCs have a five-year record retention period based on the 1107 and 1109 rules and the statute of limitations for enforcement.

J. Component Part Certificates (§ 1110.19)

Current Rule: The current rule does not address component part certificates.

2023 NPR: Proposed § 1110.19 of the 2013 NPR added a new section to clarify for stakeholders which sections of the 1110 rule apply to voluntary component part certificates. If a finished product certifier chooses to rely on a component part certificate, the component part certificate must meet the requirements

[20] An entry summary (CBP Form 7501) must be filed within 10 days of the cargo's release from CBP custody or within 10 working days after entry of the merchandise and estimated duties deposited.

[21] See, for example, § 1107.23, which explains a ''material change'' to a children's product. Products that are not the same in all material respects cannot be on the same certificate.

of the 1109 rule, as well as the form, content, and availability requirements described in the 2013 NPR. 78 FR 28090.

2023 SNPR: The SNPR's proposal retains the component part certificate requirements from the 2013 NPR.

V. Effective Date

The APA generally requires that the effective date of a rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). The Commission proposes that a final rule for revisions to 16 CFR part 1110 will become effective 120 days after publication in the **Federal Register**. Although the SNPR makes few changes in the certificate requirements for domestic manufacturers, importers will require this time to onboard with CPSC's Product Registry and upgrade software to send a PGA Message Set to their broker for eFiling.

The proposed 120-day effective date is consistent with the experience of eFiling Beta Pilot participants that advised on IT solutions and initially tested the eFiling system. CPSC expects that once software is updated to submit entry data to CBP, gaining login credentials into the Product Registry will take less than 10 minutes and training will take less than two hours. CPSC seeks comment on the proposed effective date and intends to consider the experience of all Beta Pilot participants when considering a final effective date.

VI. Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) requires that agencies review a proposed rule for the rule's potential economic impact on small entities, including small businesses, unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603. Tab C of the Staff's SNPR Briefing Package, which we summarize in this section, assesses the impact of the SNPR on small businesses. Based on staff's analysis, the Commission certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

Staff assesses that firms affected by the SNPR import or domestically manufacture products that fall under numerous North American Industry Classification System (NAICS) codes and HTS codes.[22] Using these guidelines, staff estimates that as many as 43,061 small firms import regulated non-children's consumer products and substances annually, and will be required to eFile GCCs, while 211,148 firms annually import regulated children's products and would be required to eFile CPCs.

A. Compliance, Reporting, and Recordkeeping Requirements of the SNPR

The SNPR would impose a new reporting burden on importers who must eFile certificates at the time of entry, or at entry summary, if both entry and entry summary are filed together. The SNPR would also impose a minor additional recordkeeping burden for GCCs, which is the mandatory retention of records for two additional years in most cases, from three to five years. To achieve compliance with the SNPR's eFiling requirements, small importers of products requiring either a GCC or CPC could possibly incur costs from several activities including: (1) the costs of inputting and filing certificate information with CBP through a PGA Message Set; (2) the one-time conversion costs of updating technology; and (3) broker fees.

Because of the creation of CPSC's Product Registry, CPSC does not expect small businesses to need to invest in technology to eFile certificates. A small business only needs a laptop with a hard drive for storing records and an internet connection to enter certificates into the Product Registry. Larger importers and manufacturers who import larger volumes of regulated consumer products and substances would be more likely to invest in technology to enable batch uploads of data into the Product Registry, or to create their own registries. But because the SNPR does not require a technology investment, and because small importers are unlikely to need to invest in new technology, we do not forecast technology costs in this burden analysis.

The Commission anticipates that 95 percent of importers will choose to use the Product Registry, and this estimate holds for small importers. When using the Product Registry, the Reference PGA Message Set is a shortened data set that only requires a few data elements, including the Unique ID for the certificate stored in CPSC's Product Registry each time the associated product is imported. Accordingly, if importers use the Product Registry and a Reference PGA Message Set at the time of entry, 95 percent of importers will bear an additional 20 second burden per Reference Message Set filed during entry, while five percent of importers will bear a one minute burden per Full Message Set filed.

CPSC does not expect the SNPR to change the number of firms that chose to use brokers. Brokers typically charge a fee for each entry line that is filed. Through discussions with importers and brokers, Commission staff understands that this fee is greatly dependent on the number of entry lines filed, and the complexity of the PGA Message Set. The latter factor is greatly reduced by importers electing to use the Product Registry. By using the Product Registry, each time the same product is imported the importer can streamline eFiling by supplying the Unique ID for the associated product certificate to the broker.

Tab C of Staff's SNPR Briefing Package explains staff's procedure in classifying small businesses using NAICS codes. The Commission requests comment on staff's procedure, including methods of obtaining more precise estimates of percentages of small businesses belonging to a given NAICS, how many small firms covered by the SNPR fall within that NAICS, and how many certificates these firms may create.

Table 1 in Tab C of Staff's SNPR Briefing Package shows an estimated 43,061 small businesses that will need to eFile GCCs with CBP and keep records for certificates and supporting information. Staff estimates that the net cost of the SNPR's additional burdens on small suppliers of general use products is $611,089. On average, each small business will spend approximately $14 ($611,089/43,061 ≈ $14) on the SNPR's new requirements. This can be described as the cost of eFiling these certificates, with a small increase in the time cost of recordkeeping each certificate.

Table 2 in Tab C of Staff's SNPR Briefing Package shows that an estimated 211,148 small businesses will need to eFile CPCs with CBP. The total additional cost to eFile for children's products suppliers is $922,934 annually. This means on average, that each small business will spend approximately $4 ($922,934/211,148 ≈ $4) annually to comply with the SNPR. Note that the five-year recordkeeping requirement for children's products is consistent with the existing requirements of 16 CFR part 1107. Therefore, the additional burden that the SNPR imposes on small importers supplying children's products is that of eFiling. Except for the potential for

[22] The full list of HTS codes can be found in the Appendix to Tab D of Staff's SNPR Briefing Package.

some small private labelers to need to test and certify privately labeled children's products, domestic manufacturers will have no change in burden pursuant to the SNPR.

For the $18 per firm costs (assuming both a $14 cost per firm for GCCs and $4 per firm for CPC impacts) to be greater than the one percent threshold that indicates a significant burden, a firm's revenues would have to be less than $1,800 per year. We seek comment on the average annual revenues of small businesses within the impacted industries, as well as on alternative industry classifications that we should consider when classifying the relevant industry for SBA purposes.

B. Alternatives for Reducing the Adverse Impact on Small Businesses

Instead of the proposals in the SNPR, CPSC considered the alternatives of making the eFiling of certificates at entry voluntary rather than mandatory, and requiring PDF submissions of certificates rather than eFiling certificates.

Allowing, rather than requiring, certificates for imported products to be eFiled at entry would still require certificates to be made available for examination upon request, as it is now. Allowing, instead of requiring, certificates to be eFiled at entry could reduce the burden on small businesses, but it would not enhance the Commission's ability to target shipments for examination by using the additional certificate data elements collected via eFiling and to verify the accuracy of certificates. Noncompliant firms likely would not choose to eFile certificates, thwarting CPSC's ability to identify noncompliant products using algorithms and decreasing the accuracy and capabilities of algorithms that can learn based on eFiled data.

The alternative of requiring PDF submissions of certificates, to be uploaded into CBP's Document Image System, would not enhance the Commission's ability to target shipments for examination by using the additional certificate data elements collected via eFiling. It is cumbersome to extract data from PDF files for targeting purposes, and PDF files require a relatively large amount of storage space to maintain, particularly compared to isolated data elements.

C. Request for Comment

Based on staff's analysis, we conclude that the additional burden imposed by the SNPR is small when compared to one percent of the revenue for small firm typical of its industry. The SNPR does not change small firms' statutory obligations to certify that their products meet applicable safety standards. The SNPR adds a minor burden of an additional two years of recordkeeping for GCCs, and adds a reporting burden for importers to eFile certificates with CBP using the PGA Message Set. These additional burdens add approximately $1.5 million in cost to the industry, which is small when compared to the respective 43,000 and 211,000 suppliers of non-children's and children's products.

Small businesses that believe they would be affected by the SNPR are encouraged to submit comments. The comments should be specific and describe the potential impact and its magnitude, and the industry in which the firm resides.

VII. Paperwork Reduction Act

This SNPR contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the PRA. 44 U.S.C. 3501–3521. The PRA requires an agency to publish the following information:

- a title for the collection of information;
- a summary of the collection of information;
- a brief description of the need for the information and the proposed use of the information;
- a description of the likely respondents and proposed frequency of response to the collection of information;
- an estimate of the burden that will result from the collection of information; and
- notice that comments may be submitted to OMB.

44 U.S.C. 3507(a)(1)(D). The SNPR creates a new collection of information for certificates for non-children's products, and would expand the existing collection for Third Party Testing of Children's Products, OMB Control No. 3041–0159. The Children's Product OMB control number would be expanded to include eFiling certificates for imported children's products that are subject to a CPSC rule requiring certification. Tab D of Staff's SNPR Briefing Package contains a detailed burden analysis by CPSC regulation. We summarize that information here. In accordance with OMB's requirement, the Commission provides the following information:

Title: (1) Certification of Non-Children's Products; (2) Amendment to Third Party Testing of Children's Products, approved previously under OMB Control Number 3041–0159.

Summary, Need, and Use of Information: Sections I and II of this preamble, and Tab D of Staff's SNPR Briefing Package, contain this information.

Respondents and Frequency: For products manufactured outside of the United States, respondents include importers of consumer products and substances subject to a CPSC-enforced regulation. For products manufactured within the United States, respondents include manufacturers and private labelers of consumer products and substances subject to a CPSC-enforced regulation.

Estimated Burden: CPSC has estimated the respondent burden in hours and the estimated labor costs to respondents.

Estimate of Respondent Burden: Below we categorize and estimate the burden created by both the statute and the SNPR for children's and non-children's regulated products as follows:

Certificates: The burden associated with the creation of certificates (GCCs and CPCs). This can be considered a general recordkeeping burden.

Disclosure: The burden derived from disclosing certificate information and from furnishing the certificates to these third parties (distributors and retailers). This is considered a third party disclosure.

Recordkeeping: The burden associated with the initial storage and routine maintenance of records, including records of the certificates and any supporting and testing documentation, for a period of five years. This is considered a recordkeeping burden.

eFiling: The initial burden from electronically filing the certificates, using either the CPSC-maintained Product Registry or the systems provided by the brokers that support importers' activities, as well as the routine burden on importers submitting associated Full or Reference PGA Message Sets. This would be considered a reporting burden.

The additional burden imposed specifically by the SNPR includes (1) the additional recordkeeping period for GCCs from three to five years and (2) eFiling GCC and CPC data for regulated, imported finished consumer products and substances.

A. Total Burden for GCCs

CPSC estimates that there may be 49,364 non-children's products firms subject to the SNPR. Staff expects these firms to create 1,333,952 certificates and spend 111,163 hours on their creation. These same firms must keep the records supporting the certificates for a period

of five years. This annual burden comes to 27,791 hours. The firms must also furnish each certificate to retailers and distributors of the product upon request; thus, we estimate an additional 0.25 hours (15 minute) burden for third party disclosure. This sums to 333,488 hours.

Staff estimates the number of responses for eFiling as 18,997,724 and estimates the eFiling burden as 200,532 hours. The aggregate burden associated with the SNPR for non-children's products suppliers is 672,973 hours and has a total cost of $27,399,039. This number includes burden imposed by statute, which the non-children's products suppliers would bear in absence of the SNPR. The net burden from the SNPR—excluding the statutory burden—is 202,755 hours and the net cost is $6,828,781. Table 2 shows that importers of general use products requiring a GCC bear most of both the statutory burden and the additional burden from the eFiling requirement.

Staff expects that 82 percent of the firms subject to the SNPR will be importers with the remaining 18 percent as manufacturers. We estimate the statutory burden borne by importers as 536,950 hours (80%) and the expected burden to manufacturers as 136,023 hours (20%). The net burden from the SNPR is 202,115 hours for importers (99.7%) and 640 hours for manufacturers (0.3%). Tab D of Staff's SNPR Briefing Package explains in more detail the methodology staff used to derive the burden estimate, as well as a PRA burden estimate for each regulated product that was used to calculate these totals.

TABLE 2—TOTAL BURDEN ON NON-CHILDREN PRODUCTS COVERED BY PART 1110

Total burden	Respondents	Frequency of response	Responses	Response time	Burden hours	Cost per burden hour	Total cost of burden
Certificates	49,364	27.0	1,333,952	0.0833	111,163	$76.26	$8,477,268
Disclosure	49,364	27.0	1,333,952	0.2500	333,488	33.68	11,231,879
Recordkeeping	49,364	27.0	1,333,952	0.0208	27,791	33.68	935,990
eFiling	40,665	467.2	18,997,724	0.0106	200,532	33.68	6,753,902
Total	49,364	465.9	22,999,581	0.0293	672,973	40.71	27,399,039
Additional Burden from the Rule							
Total	49,364	384.9	18,997,724	0.0107	202,755	[23] 33.68	6,828,781
Manufacturers:							
Certificates	8,699	44.2	384,066	0.0833	32,006	76.26	2,440,741
Disclosure	8,699	44.2	384,066	0.2500	96,017	33.68	3,233,838
Recordkeeping	8,699	44.2	384,066	0.0208	8,001	33.68	269,486
eFiling	0	0.0	0	0.0000	0	0.00	0
Total	8,699	132.5	1,152,199	0.1181	136,023	43.70	5,944,065
Additional Burden to Manufacturers							
Total	8,699	0.0	0	0.0000	640	33.68	21,559
Importers:							
Certificates	40,665	23.4	949,886	0.0833	79,157	76.26	6,036,527
Disclosure	40,665	23.4	949,886	0.2500	237,472	33.68	7,998,042
Recordkeeping	40,665	23.4	949,886	0.0208	19,789	33.68	666,503
eFiling	40,665	467.2	18,997,724	0.0106	200,532	33.68	6,753,902
Total	40,665	537.3	21,847,382	0.0246	536,950	39.96	21,454,974
Additional Burden to Importers							
Total	40,665	467.2	18,997,724	0.0106	202,115	33.68	6,807,222

B. Total Burden for eFiling CPCs

Section 14 of the CPSA requires third party testing of children's products that are subject to an applicable children's product safety rule to ensure compliance with such rule. Based on this testing, manufacturers, including importers, are required to certify compliance of their products to the applicable standards. The burden associated with certificate production, recordkeeping, and disclosure is already subject to an OMB control number, 3041–0159, for children's product testing, as set forth in 16 CFR parts 1107 and 1109. The SNPR adds a certificate eFiling requirement for importers of finished children's products and estimates the reporting burden for this requirement.

Table 3 presents CPSC's estimate that there are 244,000 firms producing children's products. Staff estimates that 27,540 imported children's products are subject to a children's product safety rule and would be annually required to eFile certificates, with an estimated eFile burden of 290,710 hours. This number only includes burden imposed by the SNPR, so the net burden from the SNPR is also 290,710 hours, and the net cost of the SNPR ($9,791,126) equals the total cost.

[23] Total compensation for Office and Administrative Support Occupation in Goods-producing industries as of March of 2023. U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' March 2023, Table 4. *See https://www.bls.gov/news.release/archives/ecec_06162023.pdf.*

TABLE 3—eFILING CHILDREN'S PRODUCT CERTIFICATES (CPC)

Total burden	Respondents	Frequency of response	Responses	Response time	Burden hours	Cost per burden hour	Total cost of burden
eFiling	224,000	123.0	27,540,984	0.0106	290,710	$33.68	$9,791,126
Additional Burden from the Rule							
Total	224,000	123.0	27,540,984	0.0106	290,710	33.68	9,791,126

C. Burden Estimate Breakdowns by Imported and Domestically Manufactured Products

Table 4 provides a summary of the analysis for imported products, and Table 5 provides a summary of this analysis for domestically manufactured products. Tab D of Staff's SNPR Briefing Package contains additional detail on how staff estimated the number of respondents and responses.

TABLE 4—IMPORT DATA ANALYSIS BY PRODUCT

Product	Total		CPC		GCC	
	Total respdnts	Total responses	Percent of resp as CPC	CPC responses	Percent of resp as GCC	GCC responses
Architectural Glazing Materials	792	11,717	0	0	100	11,717
Artificial Emberizing Materials	16	5	0	0	100	5
ATVs	41	37,795	25	9,449	75	28,346
Baby Changing Products	4,027	523,490	100	523,490	0	0
Bassinets and Cradles	76	2,299	100	2,299	0	0
Bedside Sleepers	230	75,979	100	75,979	0	0
Bicycle Helmets	624	16,300	50	8,150	50	8,150
Bicycles	194	125,796	50	62,898	50	62,898
Bunk Beds—Furniture	2,076	89,801	75	67,351	25	22,450
Button Batteries	57	523	0	0	100	523
Candles with metal-cored wicks	2,616	27,843	0	0	100	27,843
Carpets and Rugs	186	261,374	25	65,344	75	196,031
Carriages and Strollers	243	9,030	100	9,030	0	0
CB Antennas	538	12,594	0	0	100	12,594
Cellulose Insulation	5,764	46,511	0	0	100	46,511
Children's folding chairs and stools	1,273	67,489	100	67,489	0	0
Children's Sleepwear	112	66,855	100	66,855	0	0
Cigarette & Multipurpose Lighters	69	3,908	0	0	100	3,908
Clacker Balls	4,863	10,243	100	10,243	0	0
Clothing Storage Units	2,992	316,923	0	0	100	316,923
Consumer Patching Compounds	864	13,101	0	0	100	13,101
Crib mattresses	154	8,294	100	8,294	0	0
Cribs	81	14,206	100	14,206	0	0
Dive Sticks and Other Similar Articles	2,003	4,853	100	4,853	0	0
Drywall	68	35,134	0	0	100	35,134
Electrically Operated Toys or Articles	1,012	15,794	100	15,794	0	0
Fireworks	132	47,076	0	0	100	47,076
Frame Child Carriers	0	0	100	0	0	0
Furniture	1,092	5,402,165	0	0	100	5,402,165
Garage Door Openers	3,451	10,533	0	0	100	10,533
Gates and Enclosures	87	7,018	100	7,018	0	0
Hand-Held Infant Carriers	0	0	100	0	0	0
High Chairs	172	14,990	100	14,990	0	0
Imitation Firearms	992	3,853	0	0	100	3,853
Infant Bath Seats	73	507	100	507	0	0
Infant Bath Tubs	1,594	5,929	100	5,929	0	0
Infant Bouncer Seats	82	5,224	100	5,224	0	0
Infant Sleep Products	739	80,644	100	80,644	0	0
Infant Swings	95	1,388	100	1,388	0	0
Infant Walkers	33	3,183	100	3,183	0	0
Lawn Darts	2,353	4,704	0	0	100	4,704
Liquid Nicotine Packaging	536	2,242	0	0	100	2,242
Magnets	908	34,846	0	0	100	34,846
Matchbooks	71	241	0	0	100	241
Mattresses	329	167,504	50	83,752	50	83,752
Pacifiers	146	4,166	100	4,166	0	0
Paints	812	154,543	0	0	100	154,543
Play Yards	71	3,400	100	3,400	0	0
Pool and Spa Drain Covers	2,636	33,397	0	0	100	33,397
Portable Bedrails	7,605	29,814	100	29,814	0	0
Portable Fuel Containers	386	5,974	0	0	100	5,974
Portable Gas Containers	386	5,974	0	0	100	5,974
Portable Hook-On Chairs	564	5,328	0	0	100	5,328
Power Mowers	111	18,865	0	0	100	18,865
Rattles	592	7,939	100	7,939	0	0
Refrigerator Coors	140	74,190	0	0	100	74,190
Refuse Bins	2,407	2,717	0	0	100	2,717

TABLE 4—IMPORT DATA ANALYSIS BY PRODUCT—Continued

Product	Total		CPC		GCC	
	Total respdnts	Total responses	Percent of resp as CPC	CPC responses	Percent of resp as GCC	GCC responses
Sling Carriers	0	0	100	0	0	0
Soft Infant and Toddler Carriers	0	0	100	0	0	0
Special Packaging (PPPA)	310	1,410,691	0	0	100	1,410,691
Stationary Activity Centers	37	3,093	100	3,093	0	0
Swimming Pool Slides	886	4,184	0	0	100	4,184
Toddler Beds	76	1,839	100	1,839	0	0
Toys	1,926	1,349,066	100	1,349,066	0	0
Vinyl Plastic Film	729	33,719	50	16,859	50	16,859
Wearing Apparel	220	16,290,891	50	8,145,446	50	8,145,446

TABLE 5—DOMESTIC MANUFACTURER DATA BY PRODUCT CATEGORY

CFR	Product categories	NAICS	NAICS_Desc	Respdnts
16 CFR part 1201	Architectural Glazing Materials	327211	Flat Glass Manufacturing	19
16 CFR part 1201	Architectural Glazing Materials	321911	Wood Window and Door Manufacturing	48
16 CFR part 1201	Architectural Glazing Materials	326199	All Other Plastics Product Manufacturing: Doors and door frames, plastics, manufacturing.	139
16 CFR part 1201	Architectural Glazing Materials	327215	Glass Product Manufacturing Made of Purchased Glass	50
16 CFR part 1201	Architectural Glazing Materials	332321	Metal Window and Door Manufacturing	45
16 CFR part 1305	Artificial Emberizing Materials	327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing: Asbestos products (except brake shoes and clutches) manufacturing.	7
16 CFR part 1420	ATVs	336999	All other transportation equipment manufacturing: All-terrain vehicles (ATVs), wheeled or tracked, manufacturing.	5
16 CFR part 1203	Bicycle Helmets	339920	Sporting and athletic goods manufacturing	38
16 CFR part 1512	Bicycles	336991	Motorcycle, bicycle, and parts manufacturing: Bicycles and parts manufacturing.	125
16 CFR part 1500.17(a)(13)	Candles w/Metal Core Wicks	339999	All other miscellaneous manufacturing: candle manufacturing	1,000
16 CFR parts 1630 and 1631	Carpets and Rugs	314110	Carpet and rug mills	185
16 CFR parts 1630 and 1631	Carpets and Rugs	314999	All other miscellaneous textile product mills	219
16 CFR part 1204	CB Band Base Station Antennas	334220	Radio and television broadcasting and wireless communications equipment manufacturing.	10
16 CFR part 1209	Cellulose Insulation	321219	Reconstituted Wood Product Manufacturing	65
16 CFR part 1210 and 1212	Cigarette Lighters	339999	All other miscellaneous manufacturing: Cigarette lighters (except precious metal) manufacturing.	29
16 CFR part 1261	Clothing Storage Units	337122	Nonupholstered Wood Household Furniture Manufacturing	2,012
16 CFR part 1261	Clothing Storage Units	337127	Institutional Furniture Manufacturing	581
16 CFR part 1507; 16 CFR 1500.17(3) and 1500.17(8).	Fireworks Devices	325998	All other miscellaneous chemical product and preparation manufacturing: Fireworks manufacturing.	
16 CFR parts 1213	Furniture (bunk beds)	337122	Nonupholstered Wood Household Furniture Manufacturing	50
16 CFR part 1303	Furniture (paint & entrapment)	337122	Nonupholstered Wood Household Furniture Manufacturing	201
16 CFR part 1303	Furniture (paint & entrapment)	337127	Institutional Furniture Manufacturing	29
16 CFR part 1303	Furniture (paint & entrapment)	337121	Upholstered Household Furniture Manufacturing	73
16 CFR part 1303	Furniture (paint & entrapment)	337211	Wood Office Furniture Manufacturing	15
16 CFR part 1303	Furniture (paint & entrapment)	337212	Custom Architectural Woodwork and Millwork Manufacturing	52
16 CFR part 1303	Furniture (paint & entrapment)	337214	Office Furniture (except Wood) Manufacturing	5
16 CFR part 1211	Garage Door Openers	335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing: Garage door openers manufacturing.	9
16 CFR part 1306	Lawn Darts	339920	Sporting and Athletic Goods Manufacturing	10
15 USC sec 1472a	Liquid Nicotine Packaging	325411	Medicinal and Botanical Manufacturing: Nicotine and derivatives (*i.e.*, basic chemicals) manufacturing.	278
16 CFR part 1262	Magnets	327110	Pottery, Ceramics, and Plumbing Fixture Manufacturing—Magnets, permanent, ceramic or ferrite, manufacturing.	7
16 CFR part 1262	Magnets	332999	All Other Miscellaneous Fabricated Metal Product Manufacturing—Magnets, permanent, metallic, manufacturing.	18
16 CFR part 1202	Matchbooks	325998	All other miscellaneous chemical product and preparation manufacturing: Matches and matchbook manufacturing.	6
16 CFR parts 1632 and 1633	Mattresses, Pads, and Sets	337910	Mattress manufacturing	314
16 CFR parts 1632 and 1633	Mattresses, Pads, and Sets	337121	Upholstered Household Furniture Manufacturing	686
16 CFR part 1303	Paints and Coatings	325510	Paint and coating manufacturing	100
16 CFR part 1304	Patching Compounds	327999	All Other Miscellaneous Nonmetallic Mineral Product Manufacturing: Asbestos products (except brake shoes and clutches) manufacturing.	10
16 CFR part 1460	Portable gas containers	326199	All Other Plastics Product Manufacturing	10
16 CFR part 1700	PPPA	324110	Petroleum Refineries: Solvents made in petroleum refineries	16
16 CFR part 1700	PPPA	325180	Other Basic Inorganic Chemical Manufacturing—Fuel propellants, solid inorganic, not specified elsewhere by process, manufacturing; Caustic soda (*i.e.*, sodium hydroxide) manufacturing, Potassium hydroxide *(i.e.*, caustic potash) manufacturing.	94
16 CFR part 1700	PPPA	325194	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing: Turpentine.	13
16 CFR part 1700	PPPA	325199	All Other Basic Organic Chemical Manufacturing: Fuel propellants, solid organic, not specified elsewhere by process, manufacturing.	156
16 CFR part 1700	PPPA	325411	Medicinal and Botanical Manufacturing: Dietary supplements, uncompounded, manufacturing.	115

TABLE 5—DOMESTIC MANUFACTURER DATA BY PRODUCT CATEGORY—Continued

CFR	Product categories	NAICS	NAICS_Desc	Respdnts
16 CFR part 1700	PPPA	325412	Pharmaceutical Preparation Manufacturing	262

D. Cost to the Federal Government

The estimated annual cost of the information collection requirements to the Federal Government is approximately $1.2 million, which includes 2,080 staff hours to manage the eFiling program and $1 million in contracting costs. This estimate is based on an average annual compensation for a mid-level salaried GS–13 employee of $88.45 per hour. Assuming that approximately 2,080 hours will be required annually, this results in an annual labor cost of $183,976 ($88.45 per hour × 2,080 hours = $183,976) plus an annual contracting cost of $1 million in IT development for an annual cost to the government of $1.2 million. Contracting costs are expected to decrease over time and will only be required for ongoing operations and maintenance.

E. Comments

CPSC has submitted the information collection requirements of this rule to OMB for review in accordance with PRA requirements. 44 U.S.C. 3507(d). CPSC requests that interested parties submit comments regarding information collection to the Office of Information and Regulatory Affairs, OMB (see the **ADDRESSES** section at the beginning of this NPR).

Pursuant to 44 U.S.C. 3506(c)(2)(A), the Commission invites comments on:

- whether the proposed and revised collections of information are necessary for the proper performance of CPSC's functions, including whether the information will have practical utility;
- the accuracy of CPSC's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- ways to enhance the quality, utility, and clarity of the information the Commission proposes to collect;
- ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology; and
- the estimated respondent cost other than burden hour cost.

VIII. Environmental Considerations

The Commission's regulations address whether the agency is required to prepare an environmental assessment or an environmental impact statement. Under these regulations, certain categories of CPSC actions normally have ''little or no potential for affecting the human environment,'' and therefore, do not require an environmental assessment or an environmental impact statement. 16 CFR 1021.5(c). Rules regarding product certification fall within this categorical exclusion. 16 CFR 1021.5(c)(2).

IX. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), addresses the preemptive effect of CPSC's consumer product safety standards. Part 1110, however, is a procedural rule, not a consumer product safety standard. Therefore, the preemption provision of section 26(a) of the CPSA would not apply to a final rule.

X. Request for Comments

The Commission requests comment on all aspects of the SNPR, including specifically the following items:

- proposed definition of ''importer'';
- whether the proposed requirement in § 1110.9(c) regarding the prominence of an electronically available certificate on an invoice or shipping container is supported by a valid concern for furnishing a certificate;
- how do regulated fireworks meet the obligation to test and certify now, and how will regulated fireworks meet the eFiling requirement in the SNPR if finalized;
- eFiling options and solutions for products imported from an FTZ;
- the proposed effective date of 120 days after publication of a final rule in the **Federal Register**;
- analysis and information regarding small business impacts, including:
  - whether CPSC can obtain more precise estimates of percentages of small businesses belonging to a given NAICS, how many small firms covered by the SNPR fall within that NAICS, and how many certificates these firms may create; and
  - the average annual revenues of small businesses within the impacted industries, as well as alternative industry classifications that CPSC should consider when classifying the relevant industry for SBA purposes; and
- PRA burden estimates.

List of Subjects in 16 CFR Part 1110

Administrative practice and procedure, Business and industry, Certificate, Certification, Children, Component part certificate, Consumer protection, Electronic filing, Imports, Labeling, Product testing and certification, Reporting and recordkeeping requirements, Record retention, Regulated products.

For the reasons stated in the preamble, the Commission proposes to revise 16 CFR part 1110 to read as follows:

PART 1110—CERTIFICATES OF COMPLIANCE

Sec.

Authority: 15 U.S.C. 2063, Secs. 3 and 102 of Pub. L. 110–314, 122 Stat. 3016, 3017 (2008), Pub. L. 112–28 (2011).

§ 1110.1 Purpose and scope.

This part specifies the entities that must issue certificates for finished products in accordance with section 14(a) of the Consumer Product Safety Act (CPSA), as amended, 15 U.S.C. 2063(a); specifies certificate content, form, and availability requirements that must be met to satisfy the requirements of section 14 of the CPSA; requires importers to file certificates electronically (eFile) with CBP for imported finished products that are required to be certified; and clarifies which provisions of this part apply to component part certificates. This part does not address the type or frequency of testing necessary to support a certificate.

§ 1110.3 Definitions.

(a) The definitions of section 3 of the CPSA, 15 U.S.C. 2052, and additional definitions in the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110–314, apply to this part.

(b) Additionally, the following definitions apply for purposes of this part:

Automated Commercial Environment (*ACE*) means the automated and electronic system for processing

commercial importations that is operated by CBP in accordance with the National Customs Automation Program established in Subtitle B of Title VI—Customs Modernization, in the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, 2170, December 8, 1993) (Customs Modernization Act), or any other CBP-authorized electronic data interchange system.

CBP or *Customs* means U.S. Customs and Border Protection.

Certificate or *certificate of compliance* means a certification that the finished products or component parts within the scope of the certificate comply with the consumer product safety rules under the CPSA, or similar rules, bans, standards, or regulations under any other law enforced by the Commission, as set forth on the certificate. ''Certificate'' and ''certificate of compliance'' generally refer to all three types of certificates: General Certificates of Conformity (GCC), Children's Product Certificates (CPC), and component part certificates.

Certifier means the party who issues a certificate of compliance.

Children's Product Certificate (CPC) means a certificate of compliance for a finished product issued pursuant to section 14(a)(2) of the CPSA, 15 U.S.C. 2063, and part 1107 of this chapter.

Commission or *CPSC* means the United States Consumer Product Safety Commission.

Component part means a component part of a consumer product or other product or substance regulated by the Commission, as defined in § 1109.4(b) of this chapter, that is intended to be used in the manufacture or assembly of a finished product, and is not intended for sale to, or use by, consumers as a finished product.

Component part certificate means a certificate of compliance for a *component part,* as defined in this section.

Consignee means the recipient of the goods being shipped or transported and who typically takes ownership of consumer products or other products or substances regulated by the Commission once they have cleared customs. A consignee includes the ''ultimate consignee,'' who is the party in the United States to whom the overseas supplier sold, consigned, or delivered the imported merchandise.

eFiled certificate means an electronic filing of the data elements in § 1110.11 in ACE, in the format required in § 1110.13(a).

Electronic certificate means a set of information available in, and accessible by, electronic means that sets forth the information required in § 1110.11, in the format described in § 1110.9(c).

Finished product means a consumer product or other product or substance regulated by the Commission that is imported for consumption or warehousing or is distributed in commerce. Parts of such products or substances, including replacement parts, that are imported for consumption or warehousing or are distributed in commerce that are packaged, sold, or held for sale to, or use by, consumers are considered finished products.

Finished product certificate means a certificate of compliance for a finished product, as defined in this section. There are two types of finished product certificates: Children's Product Certificates and General Certificates of Conformity.

Finished product certifier means a party who is required to issue a finished product certificate pursuant to § 1110.7.

General Certificate of Conformity (GCC) means a certificate of compliance for a finished product issued pursuant to section 14(a)(1) of the CPSA, 15 U.S.C. 2063(a)(1).

Importer means the importer of record; consignee; or owner, purchaser, or party that has a financial interest in the product or substance being offered for import and effectively caused the product or substance to be imported into the United States. An importer can also be a person holding a valid customs broker's license, pursuant to 19 U.S.C. 1641, when appropriately designated by the owner, purchaser, or consignee of the product or substance. For purposes of testing and certification, CPSC will not typically consider a consumer purchasing or receiving products for personal use or enjoyment to be an importer.

Importer of Record means the entity listed as the importer of record on CBP forms 3461 and 7501.

Owner or purchaser means any party with a financial interest in the imported product or substance, including, but not limited to, the actual owner of the goods, the actual purchaser of the goods, a buying or selling agent, a person or firm who imports on consignment, or a person or firm who imports under loan or lease.

Product Registry means a database created and maintained by CPSC that allows for the electronic entry of data elements required on GCCs and CPCs, as provided in § 1110.11. This definition includes any CPSC successor system.

Third party conformity assessment body means a testing laboratory whose accreditation has been accepted by the CPSC to conduct certification testing on children's products.

§ 1110.5 Products required to be certified.

Finished products subject to a consumer product safety rule under the CPSA, or similar rule, ban, standard, or regulation under any other law enforced by the Commission, which are imported for consumption or warehousing, or are distributed in commerce, must be accompanied by a GCC or a CPC, as applicable.

§ 1110.7 Who must certify finished products.

(a) *Imports.* Except as otherwise provided in a specific rule, ban, standard, or regulation enforced by CPSC, for a finished product manufactured outside of the United States that must be accompanied by a certificate as set forth in § 1110.5, the importer must issue a certificate that meets the requirements of this part.

(b) *Domestic products.* Except as otherwise provided in a specific rule, ban, standard, or regulation enforced by the Commission, for a finished product manufactured in the United States that must be accompanied by a certificate, as set forth in § 1110.5, the manufacturer must issue a certificate that meets the requirements of this part. However, if a finished product manufactured in the United States is privately labeled, the private labeler must issue a certificate that meets the requirements of this part, unless the manufacturer issues the certificate.

§ 1110.9 Certificate language and format.

(a) *Language.* An eFiled certificate must be in the English language. All other certificates, including hard copy and electronic certificates, must be in the English language and may also contain the same content in any other language.

(b) *Format.* Certificates for finished products that are manufactured outside the United States and offered for importation into the United States for consumption or warehousing are required to be eFiled using the format required in § 1110.13(a)(1). All other certificates must be made available as provided in § 1110.13(b) and (c), and may be provided in hard copy or electronically, as set forth in (c) of this section.

(c) *Electronic certificates.* An electronic certificate meets the requirements of § 1110.13(b) and (c) if it is identified prominently on the finished product, shipping carton, or invoice by a unique identifier and can be accessed via a World Wide Web uniform resource locator (URL) or other electronic means, provided that the certificate, the URL or other electronic means, and the unique identifier are

accessible, along with access to the electronic certificate itself, to the Commission, CBP, distributors, and retailers, on or before the date the finished product is distributed in commerce. If the electronic certificate is password protected, the password must be provided at the same time as the certificate when requested by CPSC or CBP.

§ 1110.11 Certificate content.

(a) *Content requirements.* Each certificate must:

(1) Identify the finished product(s) covered by the certificate. Certifiers must provide at least one of the following unique identifiers: global trade item number (GTIN), model number, registered number, serial number, stock keeping number (SKU), universal product code (UPC), or alternate identifier, along with a sufficient description to match the finished product to the certificate. Certifiers may also include other identifiers, such as lot number, model style, and model color, that may assist with product identification.

(2) State each consumer product safety rule under the CPSA, or similar rule, ban, standard, or regulation under any law enforced by the Commission, to which the finished product(s) are being certified. Finished product certificates must identify separately all applicable rules, bans, standards, or regulations.

(3) Identify the party certifying compliance of the finished product(s), as set forth in § 1110.7, including the party's name, street address, city, state or province, country or administrative region, electronic mail (email) address, and telephone number.

(4) Identify and provide contact information (consisting, at a minimum, of the individual's name, street address, city, state or province, country or administrative region, email address, and telephone number) for the individual maintaining the records stated in this paragraph. An individual can be a position title, provided that this position is always staffed and responsive to CPSC's requests.

(i) Records of test results on which a GCC is based, and records described in §§ 1109.5(g) and (j) of this chapter (where applicable).

(ii) Records of test results and other records on which a CPC is based, as required by § 1107.26, and § 1109.5(g) and (j) of this chapter (where applicable).

(iii) Records of test results and other records on which a component part certificate is based, as required by § 1109.5(g) and (j) of this chapter.

(5) Provide the date (month and year, at a minimum) and place (including a manufacturer name, street address, city, state or province, country or administrative region, email address, and telephone number) where the finished product(s) were manufactured, produced, or assembled. For manufacturing runs over a series of days, provide the initial date of manufacture (month and year, at a minimum).

(6) Provide the most recent date and places (including the name of each third party conformity assessment body or other party on whose testing the certificate depends: name, street address, city, state or province, country or administrative region, email address, and telephone number) where the finished product(s) were tested for compliance with the rule(s), ban(s), standard(s), or regulation(s) cited in § 1110.11(a)(4).

(7) Include the following attestation:

I hereby certify that the finished product(s) covered by this certificate comply with the rules, bans, standards, and regulations stated herein, and that the information in this certificate is true and accurate to the best of my knowledge, information, and belief. I understand and acknowledge that it is a United States federal crime to knowingly and willfully make any materially false, fictitious, or fraudulent statement, representation, or omission on this certificate.

(b) *Electronic access to records.* In addition to identification of the custodian of records as described in § 1110.11(a)(6), a certificate may include a URL, or other electronic means, which provides electronic access to the required underlying records to support the certificate as specified in §§ 1107.26 and 1109.5(g), or any other applicable consumer product safety rule, ban, standard, or regulation enforced by the Commission.

(c) *Statutory or regulatory testing exclusions:* Unless otherwise provided by the Commission, if a certifier is claiming a statutory or regulatory testing exclusion to an applicable consumer product safety rule or similar rule, ban, standard, or regulation, then in addition to listing all applicable rules, bans, standards, and regulations as required under § 1110.11(a)(2) and in lieu of providing the date and place where testing was conducted for that regulation under § 1110.11(a)(6), a certifier shall list on the certificate the applicable testing exclusions.

(d) *Duplicative testing not required.* Although certificates must list each applicable rule, ban, standard, or regulation separately, finished product certifiers are not required to conduct duplicative third party testing for any rule that refers to, or incorporates fully, another applicable consumer product safety rule or similar rule, ban, standard, or regulation under any other law enforced by the Commission.

§ 1110.13 Certificate availability.

(a) *Accompanying certificates.* A certificate issued by a finished product certifier must accompany each finished product or finished product shipment required to be certified pursuant to § 1110.5. Each certificate must describe only one product.

(1) In the case of finished products that are manufactured outside the United States and are offered for importation into the United States for consumption or warehousing, including products offered for importation from a Foreign Trade Zone or products under the *de minimis* value (as defined in § 901 of the Trade Facilitation and Trade Enforcement Act of 2015 or any successor act), the finished product certifier must eFile the GCC or CPC data elements required under § 1110.11 in ACE at the time of filing the CBP entry, or the time of filing the entry and entry summary, if both are filed together, as provided in CPSC's PGA Message Set CATAIR Implementation Guide (including revisions thereto). In the case of finished products that are manufactured outside of the United States and imported as a mail shipment, the finished product certifier must enter the GCC or CPC data elements required under § 1110.11 into CPSC's Product Registry prior to the product or substance arriving in the United States.

(2) In the case of finished products manufactured in the United States, the finished product certifier must issue the required certificate on or before the date the finished product is distributed in commerce, and make the certificate available for inspection immediately, meaning within 24 hours, upon request by CPSC.

(b) *Furnishing certificates.* A finished product certifier must furnish a required GCC or CPC to each distributor or retailer of the finished product.

(c) *Availability.* Certifiers must make certificates available for inspection immediately, meaning within 24 hours, upon request by CPSC or CBP.

§ 1110.15 Legal responsibility for certificate information.

Certifiers may, directly or through another entity, maintain an electronic certificate platform, enter the requisite data into the Product Registry or into ACE, or certify the product(s) or substance(s). The certifier is legally

responsible for the information in a certificate, including its validity, accuracy, completeness, and availability.

§ 1110.17 Recordkeeping requirements.

For CPCs and component part certificates, certifiers must satisfy the recordkeeping provisions contained in §§ 1107.26, 1109.5(g), and 1109.5(j) of this chapter, as applicable. For GCCs, certifiers must maintain for at least five years from their creation the certificate and supporting test records required under this chapter.

§ 1110.19 Component part certificates.

Pursuant to part 1109 of this chapter, component part certificates are voluntary. Certificates should not be filed in ACE upon importation of component parts. Certifiers of component parts must meet the requirements in part 1109 of this chapter, and component part certificates must meet the form, content, and availability requirements described in §§ 1110.9, 1110.11, 1110.13(c), 1110.15, and 1110.17.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2023–25911 Filed 12–7–23; 8:45 am]

BILLING CODE 6355–01–P

FEDERAL REGISTER

Vol. 88 Friday,
No. 235 December 8, 2023

Part IV

Federal Communications Commission

47 CFR Parts 52 and 64
Protecting Consumers From SIM-Swap and Port-Out Fraud; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 52 and 64

[WC Docket No. 21–341; FCC 23–95, FR ID 186823]

Protecting Consumers from SIM-Swap and Port-Out Fraud

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission adopted a *Report and Order* that adopts measures designed to address two fraudulent practices bad actors use to take control of consumers' cell phone accounts and wreak havoc on people's financial and digital lives without ever gaining physical control of a consumer's phone. The *Report and Order* revises the Commission's Customer Proprietary Network Information (CPNI) and Local Number Portability (LNP) rules to require wireless providers to adopt secure methods of authenticating a customer before redirecting a customer's phone number to a new device or provider. The *Report and Order* also require wireless providers to immediately notify customers whenever a SIM change or port-out request is made on customers' accounts, and take additional steps to protect customers from SIM swap and port-out fraud.

DATES: Effective January 8, 2024, except for revisions to 47 CFR 52.37(c), 52.37(d), 52.37(e), 52.37(g) (instruction 3), 64.2010(h)(2), 64.2010(h)(3), 64.2010(h)(4), 64.2010(h)(5), 64.2010(h)(6), and 64.2010(h)(8) (instruction 6), which contain information collection requirements and are delayed indefinitely. The FCC will publish a document in the **Federal Register** announcing the effective date for those Sections.

ADDRESSES: Federal Communications Commission, 45 L Street SW, Washington, DC 20554. In addition to filing comments with the Office of the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Nicole Ongele, Federal Communications Commission, 45 L Street SW, Washington, DC 20554, or send an email to *PRA@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For further information, contact Melissa Kirkel at *melissa.kirkel@fcc.gov*. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele, *Nicole.Ongele@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in WC Docket No. 21–341, FCC 23–95, adopted on November 15, 2023 and released on November 16, 2023. The full text of the document is available on the Commission's website at *https://docs.fcc.gov/public/attachments/FCC-23-95A1.pdf*. To request materials in accessible formats for people with disabilities (*e.g.* braille, large print, electronic files, audio format, etc.), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice).

Compliance with the rule changes adopted in this *Report and Order* shall not be required until the later of: (i) six months after the effective date of this *Report and Order;* or (ii) after the Office of Management and Budget (OMB) completes review of any information collection requirements associated with this *Report and Order* that the Wireline Competition Bureau determines is required under the Paperwork Reduction Act.

Paperwork Reduction Act of 1995 Analysis

This document contains new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public to comment on the information collection requirements contained in this Report and Order as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

In this *Report and Order,* we have assessed the effects of required customer notifications and notices, and related recordkeeping requirements, to protect customers from SIM swap and port-out fraud, and find that they do not place a significant burden on small businesses. Although no commenters specifically addressed whether such requirements may place burdens on small wireless providers, we note that CCA advised the Commission to ''keep in mind the constraints with which many small carriers operate against in adopting security measures,'' asserting that any rules ''should allow carriers to use technologies that are reasonably available and have choice in the approach to take in authenticating their customers.'' As a general matter, the baseline, flexible rules we adopt reflect our recognition that, in some cases, strict prescriptive requirements to prevent SIM swap and port-out fraud could be technically and economically infeasible for wireless providers to implement, particularly for smaller providers. We emphasize that the record shows that many wireless providers already have in place some of the policies and procedures we adopt today and that our rules may therefore only require them to adapt, refine, or consistently apply those existing practices. Additionally, by setting baseline requirements and giving wireless providers flexibility on how to meet them, we allow providers to adopt the most cost-effective and least burdensome solutions to achieve the level of security needed to protect customers against SIM swap and port-out fraud in a given circumstance. We have further minimized the potential burdens of customer notifications by declining to prescribe particular content and wording and giving wireless providers flexibility on how to deliver such notifications. Similarly, for customer notices, we declined to require a specific format and content, and we declined to require such notices be delivered to customers annually. Further, we mitigated potential burdens of the recordkeeping requirement by declining to require that wireless providers include historic data in their recordkeeping, which we acknowledged would be particularly burdensome for small providers, and declining to require that providers report this data to the Commission regularly.

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 Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

I. Synopsis

1. Today we revise our CPNI and LNP rules to provide greater protection to customers from SIM swap and port-out fraud. The cornerstone of our action is a requirement that wireless providers use secure methods of authenticating customers prior to performing SIM changes and number ports. Other rules

we adopt reinforce that requirement, including that wireless providers adopt processes for responding to failed authentication attempts, institute employee training for handling SIM swap and port-out fraud, and establish safeguards to prevent employees who interact with customers from accessing CPNI until after customers have been authenticated. We also adopt rules that will enable customers to act to prevent and address fraudulent SIM changes and number ports, including requiring that wireless providers notify customers regarding SIM change and port-out requests, offer customers the option to lock their accounts to block processing of SIM changes and number ports, and give advanced notice of available account protection mechanisms. We further establish requirements to minimize the harms of SIM swap and port-out fraud when it occurs, including requiring wireless providers to maintain a clear process for customers to report fraud, promptly investigate and remediate fraud, and promptly provide customers with documentation of fraud involving their accounts. Finally, to ensure wireless providers track the effectiveness of authentication measures used for SIM change requests, we require that they keep records of SIM change requests and the authentication measures they use.

2. In adopting these rules, we balance the need to protect customers from the harms of SIM swap and port-out fraud with the goal of preserving the relative ease with which customers can obtain legitimate SIM changes and number ports. The record reflects that the vast majority of SIM change and port-out requests are legitimate. It also shows that the efficient and effective processing of SIM changes and port-out requests promotes customer choice and competition and prevents interruptions in access to wireless services that are vital to customers' everyday lives. Service interruptions can be particularly problematic when they hamper the ability of customers to access emergency services. We agree with the Competitive Carriers Association (CCA) that ''enhanced requirements for SIM swap and port-out requests can implicate the customer experience and can intentionally or unintentionally serve as impediments to legitimate requests to change devices or change providers.'' We are wary of setting rigid requirements that would impose significant burdens on customers without substantially protecting against SIM swap and port-out fraud. We also recognize that prescribing particular security methods can place greater burdens on some customers because of their technical and financial means, digital literacy, accessibility needs, and other particularized circumstances. We anticipate that the approach we take today will provide meaningful protection to customers while preserving the competition and customer choice that SIM changes and number porting are meant to facilitate and avoiding undue burdens that hinder access to wireless services.

3. To that end, we set baseline rules, rather than prescriptive requirements, that establish a uniform framework across the mobile wireless industry for the types of policies and procedures providers must employ to combat SIM swap and port-out fraud. The record indicates that several wireless providers already rely, at least partly, on some of these policies and procedures. We are concerned, however, that a lack of consistency in how wireless providers apply these measures and a lack of uniformity in the use of these measures industry-wide leaves some customers vulnerable to SIM swap and port-out fraud. The rules we adopt ensure that all wireless providers are taking consistent and comprehensive steps to address this fraud. For wireless providers that already employ the measures we require, in many cases our rules simply raise the bar by requiring them to adapt, refine, or consistently apply those existing practices. For wireless providers that do not, our new rules require them to implement new practices to meet the baseline standards. We anticipate that our approach will ensure that customers receive effective protection from SIM swap and port-out fraud regardless of the wireless telecommunications services they purchase or the wireless provider from whom they purchase them.

4. In setting baseline requirements, rather than prescriptive rules, our approach also gives wireless providers the flexibility to establish the specific fraud protection measures they use so that they can deliver the most advanced protections available. The record provides substantial evidence that to best combat SIM swap and port-out fraud, wireless providers need flexibility. In particular, we are persuaded that wireless providers need such flexibility so that they can adapt their security methods to keep pace with the evolving threat landscape. Verizon notes that ''fraudsters are sophisticated and constantly look to circumvent any protections, no matter how robust.'' We also recognize that ''[r]apid technological changes introduce new vulnerabilities that existing rules may be unequipped to address.'' We are therefore concerned by record evidence that a static set of prescriptive requirements may incentivize some wireless providers to rely exclusively on those security methods and discourage them from innovating and adopting new and improved practices to address evolving fraud techniques used by bad actors. We also share concerns that setting specific requirements could either provide a roadmap for bad actors seeking to commit fraud or lock in measures that quickly prove to be ineffective or obsolete. The aim of our action today is to better protect telecommunications customers from fraudulent schemes; in doing so, it is important that our rules, while functioning as baseline safeguards, do not serve as obstacles to adoption of better security practices. Indeed, the record asserts that establishing rules that provide flexibility will incentivize wireless providers to develop and adopt new and improved methods to protect against SIM swap and port-out fraud and enable them to quickly adapt their security measures to respond to evolving techniques and technologies used by bad actors. Accordingly, we agree with AT&T that ''[t]he best way to combat ever-evolving fraud tactics is to allow industry players the ability to adapt and respond to these changing threats in real-time,'' and we afford wireless providers this flexibility with the rules we adopt in this *Report and Order.*

5. Flexibility will also permit wireless providers to use the specific security practices that are effective and appropriate under the circumstances. We are persuaded that any given measure will rarely prove foolproof, necessary, or suitable in all instances, and therefore that wireless providers should have the ability to tailor the security mechanisms they use. AT&T, for instance, asserts that it has had success in deploying measures strategically to reduce the incidents of SIM swap and port-out fraud, and with our rules, we seek to foster such outcomes. Our flexible approach enables wireless providers to implement security measures that are designed to address a customer's particular circumstances and preferences, and also allows wireless providers to implement measures that are best suited for their business models, technologies, and the services they offer. We also recognize that some wireless providers may seek to use a risk-based model, whereby they apply different mechanisms to protect customers based on the likelihood of fraud for a particular SIM change or port-out request, and we do not want to

hinder these targeted efforts. For these reasons, we conclude that wireless providers should have the flexibility to determine which specific measure will be most effective at protecting customers against SIM swap and port-out fraud in a given circumstance in accordance with our baseline rules.

6. We further anticipate that our flexible approach will enhance protections for customers without placing undue costs and burdens on wireless providers. We are cognizant that in some instances, strict prescriptive requirements to prevent SIM swap and port-out fraud could be technically and economically infeasible for wireless providers to implement, particularly for smaller providers. Even in the instances when wireless providers do have the means to implement prescriptive requirements, those requirements could prove burdensome on providers if they become obsolete or ineffective and providers are compelled to maintain them alongside new and better practices they adopt to address the evolving threat landscape. By setting baseline requirements and giving wireless providers flexibility on how to meet them, we allow providers to adopt the most cost-effective and least burdensome solutions to achieve the level of security needed to protect customers against SIM swap and port-out fraud in a given circumstance. Additionally, because many of our rules build on existing mechanisms that many wireless providers already use, we expect that our new rules will further minimize the costs and burdens for those providers.

A. Strengthening the Commission's CPNI Rules To Protect Consumers

7. In this section, we adopt baseline measures designed to reduce the incidence of SIM swap fraud without impinging on customers' ability to upgrade and replace their devices. As proposed in the *SIM Swap and Port-Out Fraud Notice,* we require wireless providers to use secure methods to authenticate customers that are reasonably designed to confirm a customer's identity prior to effectuating SIM changes, but we depart from our proposal specifying particular methods of authentication, to allow providers the flexibility they need to implement the most modern and effective authentication methods on an ongoing basis. We also adopt rules to require wireless providers to implement procedures to address failed authentication attempts and to notify customers of SIM change requests prior to effectuating a SIM change. Additionally, we adopt rules that allow customers to lock their accounts to prevent SIM changes, require wireless providers to track the effectiveness of the authentication measures they have implemented, and safeguard against employee access to CPNI prior to authentication. In each instance, we afford wireless providers needed flexibility while enhancing protections for customers.

8. The record makes clear that because SIMs are only used to facilitate service for mobile wireless devices, SIM swap fraud is a practice that is exclusive to mobile wireless services. Thus, we apply these new requirements to providers of commercial mobile radio service (CMRS), as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, including resellers of CMRS. We apply these new requirements to all SIM changes that wireless providers perform. Further, we require wireless providers to implement these rules with respect to customers of both pre-paid and post-paid services, consistent with the protections afforded by Section 222. We see no reason why the protections should not apply to all customers of CMRS, including customers of resellers, particularly considering indications in the record that pre-paid customers are disproportionately impacted by fraud and that many customers impacted by such fraud are low-income customers who can ill afford such losses. Under this definition, our new rules apply to both facilities-based wireless providers as well as resellers of wireless services. Additionally, given that Section 332(c)(1)(A) of the Act requires that providers of commercial mobile service be treated as common carriers, 47 U.S.C. 332(c)(1)(A), our rules cover ''any officer, agent, or other person acting for or employed by any common carrier or user, acting within the scope of his employment.'' We make clear, however, that the rules we adopt today do not require providers to collect more information about pre-paid customers than they otherwise do in the normal course of business, nor should they be interpreted to impose disparate burdens on pre-paid customers related to information collection or authentication.

1. Customer Authentication Requirements

9. We update our CPNI rules to protect customers from the risk of fraudulent SIM swaps by requiring wireless providers, prior to conducting a SIM change, to use secure methods to authenticate a customer that are reasonably designed to confirm a customer's identity, except to the extent otherwise required by the Safe Connections Act or the Commission's rules implementing that statute. We define ''SIM,'' for purposes of these rules, as ''a physical or virtual card associated with a device that stores unique information that can be identified to a specific mobile network.'' The record reflects significant support for strengthening authentication requirements for SIM change requests, and we find that the requirement we adopt today most appropriately balances the need to increase protection for customers from these types of fraudulent schemes while providing wireless providers the flexibility the record shows they need to respond to new and emerging threats. We encourage wireless providers to use secure authentication methods that accommodate the needs of the broad spectrum of customers they may serve. We are persuaded by commenters that a general security authentication standard will afford customers the highest level of protection by allowing wireless providers to implement the authentication methods raised in the record, or develop new authentication methods, in ways that both account for advances in the technology and tactics used by bad actors and that work best for their customers and the particular services they offer. Additionally, we believe this flexibility alleviates record concerns about the limited information wireless providers may have to authenticate customers of pre-paid accounts.

10. The Safe Connections Act of 2022, Public Law 117–223, 136 Stat. 2280 (Safe Connections Act), which is codified at 47 U.S.C. 345, requires wireless providers to separate lines from a multi-line account upon request of a survivor of domestic violence and other related crimes and abuses. 47 U.S.C. 345(b)(1). In an Order adopted today implementing the Safe Connections Act, the Commission adopted rules to require covered providers to attempt to authenticate, using multiple authentication methods if necessary, that a survivor requesting a line separation is a user of a specific line or lines. Covered providers must use methods that are reasonably designed to confirm the survivor is actually a user of the specified line(s) on the account when the survivor is not the primary account holder or a designated user, and this authentication shall be sufficient for requesting a SIM change when made in connection with a line separation request. To the extent this requirement differs from other authentication

requirements, including those in 47 CFR 64.2010, the line separation authentication requirements the Commission adopts to implement 47 U.S.C. 345 serve as an exception to those other requirements. We also make clear that the Safe Connections Act-related exceptions to our new SIM change and LNP rules for any SIM change or port-out requests made in connection with a legitimate line separation request apply regardless of whether a line separation request is technically or operationally infeasible.

11. While the approach we take today gives wireless providers the *flexibility* to adapt to evolving threats, it also creates an *obligation* that they adapt to those threats. Specifically, our rule establishes a requirement that wireless providers regularly, but not less than annually, review and, as necessary, update their customer authentication methods to ensure those methods continue to be secure. The record reflects that while many authentication measures may be effective today, evolving tactics may mean those methods will not work tomorrow or in all circumstances. If wireless providers fail to evolve their authentication methods over time, we expect their methods eventually will become ineffective. Therefore, we require wireless providers to regularly, but not less than annually, review their authentication methods, and update them as necessary to ensure that the authentication methods remain effective.

12. Because we impose a general requirement for secure and reasonably designed customer authentication, both permitting and obligating wireless providers to design effective methods to authenticate customers, we decline to enumerate the four specific authentication methods the Commission specified in the *SIM Swap and Port-Out Fraud Notice* as those that would meet the standard of secure authentication methods. Those four methods were: (i) the use of a pre-established password; (ii) a one-time passcode sent via text message to the account phone number or a pre-registered backup number; (iii) a one-time passcode sent via email to the email address associated with the account; or (iv) a passcode sent using a voice call to the account phone number or a preregistered back-up telephone number. No commenters supported our imposing these as the exclusive forms of authentication. We are convinced by the record that specifying approved authentication methods may incentivize wireless providers to rely exclusively on those methods or discourage them from adopting new methods to address evolving techniques used by bad actors. Further, some commenters assert that requiring specific authentication methods would be burdensome for wireless providers. Additionally, the record reflects that setting specific authentication methods could provide a roadmap for bad actors seeking to commit fraud. The record also highlights potential vulnerabilities of the four authentication methods we proposed, which counsels against us codifying these as secure methods of authentication in perpetuity. For these reasons, we conclude it is most appropriate to allow wireless providers to analyze and implement the most effective and secure methods of authenticating customers requesting a SIM change. For similar reasons, we also decline to require carriers to comply with the National Institute of Standards and Technology (NIST) Digital Identity Guidelines or other standards proposed in the record.

13. We nevertheless place boundaries on the use of certain information for customer authentication for SIM change requests in light of evidence in the record of their particular vulnerability. Namely, we conclude, consistent with our proposal, that methods of authentication that use readily available biographical information, account information, recent payment information, and call detail information do not constitute secure methods of authentication. We decline to establish an exigent circumstances exception on the use of this information for authentication for when customers are traveling and may not have access to or remember a PIN, as CTIA asked us to consider. We believe that such an exception would establish a significant loophole for fraudulent activity and note that in these circumstances, customers can use alternative methods of authentication, such as email. We strongly encourage providers to work with customers to develop backup authentication practices for use in these types of scenarios. We seek comment in the *Further Notice* on whether we should harmonize our CPNI rules with the SIM change rules we adopt today, and we therefore take no action, at this time, to amend our existing rules to prohibit providers from relying on recent payment and call detail information to authenticate customers for online, telephone, or in-person access to CPNI.

14. We decline to restrict the use of SMS-based customer authentication for SIM change requests, but we strongly encourage wireless providers to use this mechanism only when paired with other secure methods of authentication, *i.e.,* as part of multi-factor authentication (MFA). In the *SIM Swap and Port-Out Fraud Notice,* we sought comment on the potential security vulnerabilities of SMS-based authentication. The record clearly expresses concern about the security risks of SMS-based authentication when used by third parties, such as financial institutions, largely because this authentication method becomes vulnerable following fraudulent SIM swaps. The record evidence is less clear that SMS-based authentication is an insecure mechanism in every instance it is used, such as to authenticate the identity of individuals requesting a SIM change, particularly when sent over a provider's own network, rather than the Public Switched Telephone Network (PSTN). We also acknowledge that, in some instances, it may be the most practical means a provider can authenticate a customer, particularly when considering the needs of a particular customer. We anticipate that the approach we take here strikes the right balance between protecting customers against SIM swap fraud while preserving the relative ease with which customers can obtain legitimate SIM changes. We emphasize, however, that our rules create an ongoing obligation that wireless providers ensure the authentication methods they use are secure. Accordingly, permitting wireless providers to use SMS-based authentication does not create a safe harbor for use of this authentication method. We will continue to monitor the use of SMS-based authentication and may later revisit our decision to permit its continued use.

2. Response to Failed Authentication Attempts

15. We require wireless providers to develop, maintain, and implement procedures for responding to failed authentication attempts in connection with a SIM change request that are reasonably designed to prevent unauthorized access to a customer's account, which, among other things, take into consideration the needs of survivors pursuant to the Safe Connections Act and our implementing rules. We are bolstered by the Princeton University researchers who found evidence that wireless providers' procedures to respond to suspicious authentication attempts may be inadequate or nonexistent. Specifically, they determined that some wireless providers only required callers to successfully respond to one authentication challenge to obtain a SIM change even if the caller had failed numerous previous authentication attempts. While the *SIM Swap and Port-*

Out Fraud Notice raised these issues, no commenters offered evidence to counter the researchers' findings. Without procedures in place to respond to failed authentication attempts, bad actors can seek to circumvent wireless provider authentication mechanisms to fraudulently obtain a SIM change. We anticipate that requiring wireless providers to establish procedures to respond to failed authentication attempts that are reasonably designed to prevent unauthorized access to a customer's account will impede these fraud attempts. We conclude that whatever burdens may be associated with this requirement are outweighed by the Commission's interest in protecting customers against fraudulent activity.

16. At the same time, we are persuaded by T-Mobile's argument that wireless providers need flexibility with respect to failed authentication attempts because it is common for customers to lose or forget their authentication data, leading to multiple failed attempts. As such, we decline at this time to adopt prescriptive requirements for how wireless providers must respond to failed authentication attempts in connection with a SIM change request. We find that anchoring this rule in a reasonableness standard will give wireless providers flexibility to design procedures to handle failed authentication attempts that protect against fraudulent activity while preventing unnecessary burdens on legitimate customer activity. We decline, however, to adopt CTIA's suggestion to require the development and implementation of such procedures only where a wireless provider has reason to believe multiple authentication attempts are fraudulent; CTIA does not address how such determinations would be made absent the very procedures we require.

17. We decline, at this time, to adopt a requirement that wireless providers immediately notify customers in the event of multiple failed authentication attempts in connection with SIM change requests. Industry commenters assert that ''in many cases, providers will not be able to discern whether a failed authentication attempt is 'in connection with a SIM change request' or some other type of transaction involving account access for which authentication is needed and fails,'' and that ''a carrier does not typically know why a customer authenticates until after the customer has successfully authenticated.'' Further, commenters raise concerns that tracking such attempts across platforms could be technically challenging, though we are not persuaded that doing so is technically infeasible. For example, CTIA's proposal that carriers should only be required to develop and implement procedures for responding to multiple failed authentication attempts ''where a carrier has reason to believe such attempts are fraudulent'' implies that wireless carriers can and do track multiple authentication attempts, or, at a minimum, are technically capable of doing so. Given these concerns, we find that requiring wireless providers to notify customers immediately of multiple failed authentication attempts associated with a SIM change request is not appropriate at this time. However, we seek comment in the *Further Notice* below whether we should require wireless providers, or all telecommunications carriers, to notify customers immediately of all failed authentication attempts to help protect customers from account fraud, as well as how wireless providers could implement a customer notice requirement for multiple failed authentication attempts.

18. We also decline to require that wireless providers delay SIM changes for 24 hours in the event of failed authentication attempts while notifying customers via text message and/or email regarding the failed authentication attempts. The record reflects that strict requirements involving 24-hour delays or account locks could be overly burdensome for customers that are engaged in legitimate SIM changes. We also anticipate that the requirement to develop, maintain, and implement procedures for responding to failed authentication attempts in connection with a SIM change request that are reasonably designed to prevent unauthorized access to a customer's account, coupled with the requirement we adopt below that wireless providers immediately notify customers upon receiving a SIM change request, will be sufficient to empower customers to quickly address unauthorized SIM change attempts.

3. Customer Notification of SIM Change Requests

19. To provide customers with an early warning that their account may be subject to fraudulent activity, we adopt our proposal to require wireless providers to provide immediate notification to customers of any requests for a SIM change associated with the customer's account and specify that the notification must be sent before a wireless provider effectuates a SIM change, except to the extent otherwise required by the Safe Connections Act of 2022 (47 U.S.C. 345) the Commission's rules implementing that statute. The record evinces firm support for this requirement and provides good reason—time is often of the essence with SIM swap fraud, and notifying customers of a SIM change request before effectuating the request will enable customers to act promptly to mitigate damages and inconvenience resulting from fraudulent or inadvertent SIM changes. We also expect that requiring notification before the request is processed will prevent the notification from being sent to the bad actor after a SIM swap has occurred. For these reasons, we agree with Princeton University that ''[t]here is an unambiguous and material security upside,'' to immediate customer notification of SIM change requests, and ''the only downside is a very infrequent notification that the customer can easily discard'' for legitimate requests.

20. We therefore disagree with AT&T's contention that notification of all SIM change requests is unnecessary because ''AT&T employs various tools to assess the risk level of a particular postpaid SIM change or port-out request and very often can determine at the outset that a request is legitimate.'' The notification requirement we adopt today will provide a uniform safety measure for all requests across the mobile wireless industry, which we anticipate will reduce the instances and mitigate the harms of SIM swap fraud. We also disagree with AT&T's assertion that customers will become so inundated with SIM change notifications that they will ''eventually become numb or immune to them or tire of and consciously choose to ignore them, thus undermining all value they might otherwise have when the threat of fraud is real.'' Nothing in the record, or our understanding of the SIM change process, supports the notion that customers request SIM changes at such a rate that, upon the adoption of this rule, wireless providers will be forced to inundate their customers with the required notifications. For the same reasons, we decline AT&T's request that we modify the mandatory SIM change request notification requirement ''either to (1) standalone SIM transactions—*i.e.,* SIM swaps that do not include a device change or upgrade—based on the lower propensity for fraud in transactions involving new devices, or (2) SIM transactions that a carrier identifies as having a high propensity for fraud,'' on the basis such notifications could cause customer confusion, concern, and fatigue, and could increase costs for carriers because such notifications increase customer calls.

21. Also contrary to AT&T's assertions, we do not anticipate that the notification requirement we adopt today

will be overly burdensome for wireless providers to implement. As an initial matter, wireless providers should already have processes in place to immediately notify customers of certain account changes involving CPNI in accordance with our existing rules, so they should be able to build on these processes to provide immediate notification regarding SIM change requests. The record also demonstrates that some wireless providers already notify customers of SIM change requests in most instances and therefore will only need to update their processes to notify customers in all cases. Additionally, as discussed below, we give wireless providers flexibility on how to provide the required notifications, which we expect further minimizes any potential burdens associated with our new rule. For the same reasons, we decline CTIA's request ''to let providers determine whether a notice is warranted or effective in the first instance'' on the basis that such flexibility is needed to deal with instances, for example, when a phone is lost or stolen and expedient forms of notification may not be available. We do not prohibit wireless providers from processing SIM change requests after the notification is sent, and because bad actors may attempt to commit SIM swap fraud by claiming that a device is lost or stolen, that is precisely the type of situation when we want to ensure customers are provided a notification of a SIM change request. In any event, we find that the benefits of our notification requirement outweigh the potential burdens.

22. We permit wireless providers to determine the method of providing notifications regarding SIM change requests involving a customer's account, but specify that the notifications must be reasonably designed to reach the customer associated with the account, and sent in accordance with customer preferences, if indicated. For example, this would include delivering a notification in the language of the customer's choosing, if the wireless provider permits communications preferences in other languages and the customer has previously indicated such choice. Although some commenters suggest that we should specify the means by which a wireless provider should deliver SIM change request notifications, we agree with industry commenters that providers need flexibility to determine the most appropriate method to notify their customers of a pending SIM change request, so that providers can account for ''the complexities of notifications in various contexts,'' as well as the technical capabilities, accessibility needs, or broadband access of individual customers. For example, when a customer is requesting a SIM change because the customer's phone is lost or stolen, our flexible approach enables wireless providers to use methods of notification that are most likely to reach the customer under those circumstances, such as an email or a text or call to a pre-determined back-up phone number. We also aim to enable wireless providers to send notifications in accordance with customer preferences, needs, and established expectations. As such, we permit wireless providers to use existing methods of notification that are reasonably designed to reach the customer associated with the account, and we encourage them to adopt new notification methods as they are developed to stay responsive to evolving fraud schemes. Such methods include, but are not limited to, live or automated telephone calls, text messages, emails, or push notification through wireless provider software applications. We acknowledge that our new rule differs from our existing rule that providers deliver notification of other account changes involving CPNI, which specifies that those notifications may be delivered through a carrier-originated voicemail or text message to the telephone number of record, or by mail to the address of record. We find that departing from the existing rule's approach is appropriate given the depth of harm that can occur from SIM swap fraud, the need for wireless providers to be able to choose the most effective method of quickly alerting customers so that customers can take action to mitigate harm, and the importance of providers adopting new forms of notification.

23. Our rule also gives carriers the flexibility to design a notification process that accommodates scenarios beyond individual customers, such as a business customer seeking bulk SIM changes to upgrade their equipment. We note that nothing in the customer safeguard rules we adopt today is inconsistent with or intended to supersede the Commission's existing business customer exemption, which permits telecommunications carriers to ''bind themselves contractually to authentications regimes other than those described in this section for services they provide to their business customers that have both a dedicated account representative and a contract that specifically addresses the carriers' protection of CPNI.''

24. We also decline to prescribe particular content or wording of SIM change notifications, recognizing that wireless providers are in the best position to determine what will most effectively notify customers of SIM change requests and potential fraud and will need to tailor notifications to customers' service plans and circumstances. Nevertheless, consistent with the record and our CPNI rules, we specify that such notifications must use clear and concise language that provides sufficient information to effectively inform a customer that a SIM change request involving the customer's SIM was made. We observe that our rule does not prohibit wireless providers from using different content and wording for notifications depending on a provider's risk assessment of a given SIM change request, so long as the notification uses clear and concise language and is reasonably designed to reach the actual customer.

25. We further decline to require a delay for customer verification or acknowledgement in connection with notifications prior to completing a SIM change request. In the *SIM Swap and Port-Out Fraud Notice,* we sought comment on whether we should require a 24-hour delay (or other period of time) before a wireless provider effectuates a SIM change while notifying the customer via text message, email, the provider's app, or push notification, and requesting verification of the request. This approach received minimal support in the record, and we are convinced by other record evidence that the burdens of delay and verification requirements outweigh the benefits, particularly given how regularly customers seek legitimate SIM changes. For instance, CTIA explains that a blanket delay would ''make it exceedingly difficult for a consumer to obtain a new phone and continued service when a device breaks or is lost, representing a full day where that consumer could not rely on their wireless service for . . . 'keeping in touch with friends through voice calls and text messages' [and] placing life-saving public safety calls.'' AT&T and T-Mobile echoed these concerns. We also anticipate that the authentication, notification, and remediation requirements we adopt today will sufficiently mitigate fraudulent SIM change requests without the need for a burdensome delay and verification process. While we do not require wireless providers to implement a delay and verification process, we permit them to do so in instances when they determine these measures are necessary

to protect against fraud, but stress that this process should not be used to delay legitimate SIM change requests.

4. Account Locks for SIM Changes

26. We require wireless providers to offer all customers, at no cost, the option to lock or freeze their account to stop SIM changes. We anticipate that this requirement will provide customers with more consistent and meaningful protection against SIM swap fraud, and this expectation is supported by the record, which reflects that account locks can be powerful tools against SIM swap fraud, particularly for customers that are at high-risk of being a target of the practice. We adopt our proposal that account locks must be offered to all customers at no cost because we find that a customer's financial means should not dictate their access to this enhanced security measure, particularly since customers with lesser financial means may suffer the greatest consequences of SIM swap fraud. This requirement is consistent with other Commission rules governing preferred carrier freezes for Local Exchange Carriers, *see* 47 CFR 64.1190, as well as the requirements adopted for port-out locks. To simplify the ability for customers to take advantage of account locks for SIM changes and number ports, we encourage wireless carriers to offer customers the ability to activate both locks in one step.

27. Like the other rules we adopt today, we give wireless providers flexibility on how to comply with this measure. In particular, the record does not evince a need for us to prescribe a method or methods for customers to unlock their accounts or impose a waiting period before an unlocked account can be transferred, and as such, we decline to do so at this time. We do require, however, that the process to activate and deactivate an account lock must not be unduly burdensome for customers such that it effectively inhibits them from implementing their choice. Additionally, we stress that when activated, wireless providers must not fulfill SIM change requests until the customer deactivates the lock, except to the extent otherwise required by the Safe Connections Act or the Commission's rules implementing that statute. We find that the account lock requirement is technically feasible, particularly given evidence that some wireless providers already offer this feature to customers. Additionally, we are unpersuaded by AT&T's claim that ''building a system that is capable of widespread adoption of [account locks] would entail significant carrier costs and time for questionable gain.'' We anticipate that because of these existing account lock offerings and the flexible approach we take, the rule will not be unduly costly for wireless providers to implement, and that to the extent there are costs associated with the requirement, they are outweighed by the associated benefits of preventing fraudulent activity.

28. Consistent with this flexible approach, we permit wireless providers to proactively initiate a SIM swap lock on a customer's account when a provider believes the customer may be at high risk of fraud. We are persuaded by T-Mobile's assertion that such capability is valuable because wireless providers are sometimes positioned to know when a customer is at high risk of SIM swap fraud and that this tool allows them to help customers secure their accounts. However, we require that wireless providers promptly provide clear notification to the customer that the lock has been activated with instructions on how the customer can deactivate the account lock if the customer chooses, and to promptly comply with the customer's legitimate request to deactivate the account lock. We also caution wireless providers that any proactive initiation of a SIM change lock must be limited in duration and extend only so long as the high risk of fraud is evident to the provider. In establishing this limitation, we intend to prohibit wireless provider abuse of SIM change locks to avoid, among other outcomes, preventing the customer from terminating service with the provider or moving to another competing provider.

29. Given the protection that account locks can provide to customers, we conclude that it should be offered to customers of both pre-paid and post-paid services. We are unpersuaded by AT&T's assertion that pre-paid service is not amenable to account locks because ''[s]ome prepaid customers provide little personal information when they activate their account,'' which could make it difficult to authenticate a customer to unlock an account. Because the account lock is an optional security measure for customers, wireless providers can, if necessary, require customers to provide information to use for authentication purposes to activate the account lock.

30. We also disagree with AT&T that an account lock option ''should remain a tool that carriers can choose, but are not required, to offer.'' AT&T acknowledges that ''[a]ccount locks can be an effective tool to increase the security of customer accounts on occasion,'' but it suggests that because ''they are not needed to manage the risk of fraud in every case and for every customer,'' wireless providers should not be required to offer them to all customers. While AT&T's approach would leave the choice of whether an account lock is necessary exclusively in the hands of wireless providers, we conclude this choice should be placed principally in the hands of the customer, the party that is potentially at risk for SIM swap fraud, and therefore we require providers to offer the option to all customers. Likewise, AT&T's concern that ''an account lock can be a source of friction'' even for a postpaid customer when the ''customer forgets having placed the freeze on the account or dislikes the efforts needed to unfreeze the account'' is not, we conclude, a valid basis for declining to require that wireless providers offer SIM change locks. The benefits of this account security measure outweigh any potential friction, and we expect that wireless providers can take steps to mitigate any such friction if they choose, such as by providing customers with periodic reminders that they have activated the account lock and on how they can deactivate the lock. Because of the authentication challenges for pre-paid customers and the potential friction for customers who may not want SIM changes to be more difficult, we decline to require account locks be activated by default, on an opt-out basis, as BPI/BITS suggests. We are also unconvinced by comments claiming that SIM change locks may be of limited value to customers. This requirement empowers high-risk and security-minded customers to enable additional protections beyond the enhanced authentication requirements and other security measures we adopt today, and it need not be activated by a large percentage of customers for it to be valuable.

5. Tracking Effectiveness of SIM Change Protection Measures

31. We require wireless providers to establish processes to reasonably track and maintain information regarding SIM change requests and their authentication measures, and to retain that information for a minimum of three years. We agree with the Princeton University researchers that a tracking requirement will equip wireless providers ''to measure the effectiveness of their customer authentication and account protection measures,'' and find that they would not otherwise be able to do so effectively without collecting such information. Consistent with recommendations in the record by the Princeton University researchers, we specifically require wireless providers to collect and maintain the following information regarding SIM change

requests and authentication measures: the total number of SIM change requests, the number of successful SIM changes requests, the number of failed SIM change requests, the number of successful fraudulent SIM change requests, the average time to remediate a fraudulent SIM change, the total number of complaints received regarding fraudulent SIM changes, the authentication measures the wireless provider has implemented, and when those authentication measures change. We also strongly encourage them to collect and retain any additional information that will help them measure the effectiveness of their customer authentication and account protection measures. We find that the three-year retention period is appropriate because it allows providers to track the effectiveness of their measures over time and ensures the information is available for a sufficient time should the Commission request it for review. The requirement that wireless providers collect and maintain information regarding when authentication measures change simply means that providers must track the introduction and removal of such measures, and not updates or refinements to existing measures.

32. We disagree with CTIA's assertions that a recordkeeping requirement will divert resources from combating incidences of SIM swap fraud. Instead we find that this data tracking requirement is critical to wireless providers' efforts to keep ahead of evolving fraud techniques. And the record reflects that some wireless providers already track and analyze information regarding SIM swap fraud and their account protection measures to improve those measures, indicating that this is a practical and cost-effective practice. Thus, while we recognize that this recordkeeping requirement may not be without cost, particularly for wireless providers who do not already collect such information, we find that the benefits of this requirement far exceed any potential costs.

33. We agree with CTIA that the data tracking and retention requirements should only be prospective in nature, and as such, we make clear that our rule does not obligate wireless providers to research and collect historic data. We conclude that including historic data in the data tracking requirements we adopt would be burdensome, or even impossible, for small wireless providers and those who do not already track this information. We decline to adopt reporting and audit requirements in conjunction with our data tracking requirement, but we do require wireless providers to make the information they collect available to the Commission upon request. Because the information we require wireless providers to collect does not include personally identifiable information (PII) or CPNI, wireless providers will not be required to provide PII or CPNI in response to Commission requests for this information, but the Enforcement Bureau may request PII or CPNI in the course of a specific investigation. Although regular reporting and audit requirements can improve wireless provider incentives and accountability, we do not find that such measures are necessary at this time in light of the other measures we adopt today and providers' ongoing commitment to be vigilant in combating fraud. We maintain the ability to obtain collected information from wireless providers as needed, not only as a potential tool to evaluate whether providers are implementing sufficient measures to address SIM swap fraud, but also to evaluate whether the specific requirements we adopt today continue to be effective or in need of updates to address the evolution of fraud techniques. Consequently, we find that there are insufficient benefits of a regular reporting requirement to outweigh the potential costs.

6. Safeguards on Employee Access to CPNI

34. We require wireless providers to establish safeguards and processes so that employees who receive inbound customer communications are unable to access CPNI in the course of that customer interaction until after a customer has been properly authenticated. We find, based on the record before us, that requiring wireless providers to limit access to CPNI by employees who receive inbound customer communications until after the customer has been properly authenticated will help to minimize the incidences of SIM swap fraud by preventing customer service representatives from inadvertently or intentionally assisting bad actors in fraudulent schemes. We are persuaded that, even with the customer service representative training requirements we adopt today, allowing employees who receive inbound customer communications to access CPNI prior to proper authentication of the customer is unnecessary and possibly ''invites adversaries to exploit sympathetic, inattentive, or malicious customer service representatives for account access.'' While we anticipate that employees will comply with training requirements in good faith, ''[t]here should be no opportunity for a representative to give a hint or a free pass'' that will help bad actors commit fraud. We therefore conclude that requiring wireless providers to establish safeguards and processes so that employees who receive inbound customer communications are unable to access CPNI in the course of that customer interaction until after the customer has been properly authenticated—''a straightforward fix'' and standard data security best practice—will provide meaningful protection in helping to combat SIM swap fraud. We find that the benefits of this requirement outweigh any potential costs, and that any such costs will be mitigated by allowing telecommunications carriers flexibility to determine the particular safeguards and processes that will prevent employees who receive inbound customer communications from accessing CPNI in the course of that customer interaction until after a customer has been properly authenticated. Below, we seek comment on whether to require all telecommunications carriers to limit access to CPNI by employees who receive inbound customer communications until after the customer has been properly authenticated to minimize customer account fraud.

35. We decline to adopt other suggested employee safeguards that are overly prescriptive and for which the costs outweigh the benefits. In the *SIM Swap and Port-Out Fraud Notice* we sought comment on other ways to avoid employee malfeasance, such as requiring two employees to sign off on every SIM change. Although we anticipate that two-employee sign off could be an effective account protection mechanism and encourage wireless providers to use this procedure when appropriate, we are persuaded by AT&T's argument that requiring this procedure for every SIM change would be a significant burden on legitimate SIM change requests given the uncertainty regarding whether it would prevent SIM swap fraud in most instances, and therefore decline to adopt it. We also reject several other requirements proposed in the record concerning customer service representatives who perform SIM changes. Specifically, a mandate that employees who perform SIM swaps be subject to enhanced background checks may be financially and practically infeasible for large and small wireless providers alike, and could create an incentive for providers to reduce the number of employees capable of

performing SIM changes, which would slow the processing of legitimate changes. Requiring employees to swipe a company badge when entering secure facilities is a good practice that we encourage wireless providers to adopt, but the record does not address how this requirement would serve to prevent SIM swap fraud. The proposal to require employees to sign a restrictive confidentiality agreement is faulty for the same reason. Moreover, a proposed restriction on use of performance incentives is overly broad, could stifle competition, and might prevent customers from accessing special offers. Finally, we decline to adopt a proposal that wireless providers ''be required to have heightened SIM swap customer care during [weekends and evenings].'' We find that providers are best positioned to implement procedures tailored to the level of risk at any given time and should have the flexibility to adjust their practices to address the evolving nature of fraudulent activity.

7. Telecommunications Carriers' Duty To Protect CPNI

36. While the record shows that some wireless providers have implemented CPNI security practices beyond those required by current rules, SIM swap fraud persists. We are also concerned that some wireless providers may view the protection measures we adopt today as sufficient, rather than baseline, protections against SIM swap fraud. To ensure that wireless providers adapt their security practices on an ongoing basis to address evolving techniques used by bad actors to commit SIM swap fraud, we take this opportunity to remind all telecommunications carriers of their statutory duty to ''protect the confidentiality of proprietary information of, and relating to . . . customers,'' and their continuing preexisting legal obligation to ''take reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI.'' Consistent with the Commission's approach in the *2007 CPNI Order,* we conclude that these existing legal obligations necessarily obligate telecommunications carriers to proactively and regularly review and monitor their policies and procedures to ensure that they continue to be effective at addressing evolving fraud techniques against customer accounts and services—including SIM swap and port-out fraud—and to conduct analyses of fraud incidents to determine how the fraud occurred and implement measures to prevent such tactics from being successful again in the future.

B. Strengthening the Commission's Number Porting Rules To Protect Consumers

37. Given the potential for consumer harm from port-out fraud, we conclude that the time is ripe to strengthen our number porting rules with baseline measures to increase the protections for customers against fraudulent port-outs. As with our new SIM change rules, the backbone of our new number porting rules is a requirement that wireless providers use secure methods to authenticate customers that are reasonably designed to confirm a customer's identity prior to effectuating number ports, and we also require wireless providers to notify customers of port-out requests and allow customers to lock their accounts to prevent port-outs. To future-proof our requirements, we give wireless providers flexibility in how to implement them. We anticipate that these new rules will work together to provide meaningful protection to customers while preserving the efficient and effective processing of port-out requests that promotes customer choice and competition. As with our new SIM change rules, we apply these new requirements exclusively to providers of CMRS, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations, including resellers of CMRS, as the record shows that port-out fraud is focused on mobile wireless customers. We likewise require wireless providers to implement these rules with respect to customers of both pre-paid and postpaid services.

1. Customer Authentication Requirements

38. We revise our porting rules to require that wireless providers use secure methods to authenticate customers that are reasonably designed to confirm a customer's identity before completing a port-out request, except to the extent otherwise required by the Safe Connections Act or the Commission's rules implementing that statute. Consistent with our new SIM change authentication rules, we require wireless providers to regularly, but not less than annually, review and, as necessary, update their customer authentication methods to ensure those methods continue to be secure.

39. The Safe Connections Act prohibits wireless providers from making a line separation contingent on a prohibition or limitation on number portability, provided such portability is technically feasible. The Commission's rules adopted today implementing the Safe Connections Act require covered providers to attempt to authenticate, using multiple authentication methods if necessary, that a survivor requesting a line separation is a user of a specific line or lines. Covered providers must use methods that are reasonably designed to confirm the survivor is actually a user of the specified line(s) on the account when the survivor is not the primary account holder or a designated user. To the extent this requirement differs from other authentication requirements, including those in 47 CFR 64.2010, the line separation authentication requirements the Commission adopts to implement 47 U.S.C. 345 serve as an exception to those other requirements.

40. As in the SIM change context, we are persuaded by commenters that a general security authentication standard will best allow wireless providers the flexibility to respond to advances in the technology and tactics used by bad actors, providing the greatest protection for customers, and enabling providers to implement authentication methods in ways that work best for the particular services they offer. The record reflects that the benefits of allowing wireless providers to determine the best method for authenticating customers outweigh speculative concerns that absent standardized authentication methods, nationwide providers could arbitrarily determine which authentication methods or controls are sufficient before effectuating ports. We note also that under the Act and our existing rules, all carriers are required to complete legitimate ports, and that our new customer authentication requirements do not give carriers the authority to make determinations about the sufficiency of another carrier's authentication methods—that responsibility will belong to the Commission, and we will address any concerns regarding the adequacy of authentication methods, as well as inappropriate port denials, as needed. We also agree with CCA that our approach will better serve small wireless providers by permitting them to ''use technologies that are reasonably available and have choice in the approach to take in authenticating their customers.'' Additionally, as we concluded with regard to authentication for SIM changes, this flexible approach should resolve concerns about authenticating customers of pre-paid accounts.

41. We are mindful of the potential effect on competition of our new customer authentication requirements, and thus, we require that the secure authentication methods wireless providers adopt accommodate the needs

of the broad spectrum of customers they may serve, including those who do not have data plans or data-enabled devices, have varying degrees of technological literacy, or have disabilities or accommodation needs. To illustrate, we observe that wireless providers may find requiring a one-time port-out PIN obtained through a provider app is an effective means for authenticating customers with a data-enabled smart phone, but that authentication measure may not be a feasible option for customers without data plans or smartphones, or for those customers who are unable to navigate the technology. As such, this requirement may necessitate the use of multiple authentication methods, such as in-person authentication using government-issued identification, over-the-phone authentication, or alternative methods for individuals with disabilities.

42. We do not anticipate that using secure methods to authenticate a customer requesting a port-out will be burdensome to wireless providers or unreasonably delay the processing of port-out requests. The record reflects that many wireless providers have already developed and implemented some form of customer authentication for port-out requests. The approach we adopt today will allow wireless providers to continue using or building upon what is already working in the industry, helping to streamline implementation and costs. We expect wireless providers to design and implement customer authentication processes for port-out requests that minimize porting delays and maintain the industry agreed-upon two-and-a-half hour porting interval for wireless ports.

2. Customer Notification of Port-Out Requests

43. We also revise our numbering rules to require wireless providers to provide immediate notification to their customers whenever a port-out request is made, sent in accordance with customer preferences, if indicated, and specify that the notification must be sent before a provider effectuates a port, except to the extent otherwise required by the Safe Connections Act of 2022 (47 U.S.C. 345) or the Commission's rules implementing that Act. For example, this would include delivering a notification in the language of the customer's choosing, if the wireless provider permits communications preferences in other languages and the customer has previously indicated such choice. We require that wireless providers notify their customers ''immediately'' of a porting request to not only ensure that porting requests are processed efficiently, but also help alert customers quickly to potential fraud to allow them to mitigate damages and inconvenience resulting from fraudulent or inadvertent port-outs. The notification requirement will provide a uniform safety measure for all port-out requests across the mobile wireless industry, which we anticipate will reduce the instances of port-out fraud. For the same reasons we raised in the SIM change context, we decline to impose a blanket yes/no verification requirement for authentication attempts.

44. As with SIM change notifications, we decline to prescribe particular methods for providing port-out notifications or particular content and wording for these notifications, but do require that the notification methods be reasonably designed to reach the customer associated with the account and that the content and wording use clear and concise language that provides sufficient information to effectively inform a customer that a port-out request involving the customer's number was made. We recognize that wireless providers are in the best position to determine which notification methods and what content and wording will be most effective at notifying customers of port-out requests and potential fraud under the particular circumstances, including the real-world security needs of the transaction, and the technical capabilities, accessibility needs, or broadband access of individual customers. As such, we encourage wireless providers to leverage existing notification methods that are reasonably designed to reach the customer associated with the account, and to adopt new notification methods as they are developed to stay responsive to evolving fraud schemes.

45. On balance, we find that benefits accrued from early warning to customers of potential fraudulent account activity outweigh any potential burdens imposed on wireless providers by this notification requirement. First, we find that customer notification of port-out requests is unlikely to prevent or unreasonably delay customer porting requests, as we require ''immediate'' notification and do not require a delay or customer verification or acknowledgement of that notification before continuing the porting-out process. Second, because wireless providers are already familiar with notifying customers regarding changes to their accounts, and in many cases likely already notify customers of port-out requests, we anticipate that wireless providers will face low burdens in implementing today's customer notification requirement for port-out requests. We also expect that these existing notification systems can be leveraged to help minimize any potential costs associated with notifying customers of port-out requests. Third, we disagree with AT&T's assertion that customer notification of port-out requests will result in notice fatigue, undermining its efficacy. Nothing in the record supports the notion that customers request port-outs at such a rate that, upon the adoption of this rule, wireless providers will be forced to inundate their customers with the required notifications. For the same reasons, we decline CTIA's request that customer notification of port-out requests be ''limited to situations where the carrier determines that there is an increased risk of fraud'' on the basis that the notification requirements ''threaten to cause customer confusion, concern, and fatigue,'' and could increase costs for carriers because such notifications increase customer calls. As such, we conclude that the significant benefits of alerting customers to potential fraudulent account activity outweighs any speculative negative impacts on wireless providers or customers.

3. Account Locks for Port-Outs

46. For the same reasons explained above with respect to SIM change requests, we require wireless providers to offer their customers, at no cost, the ability to lock or freeze their accounts to stop port-outs. We anticipate that this requirement will provide customers with more consistent and meaningful protection against fraudulent port-outs. The record reflects that account locks can be powerful tools against fraudulent port-outs, particularly for customers that are at high-risk of being a target of the practice. As in the SIM swap context, we conclude that it should be offered to customers of both pre-paid and post-paid services, and that this requirement is feasible for both categories of customers despite assertions to the contrary. Because the account lock is an optional security measure for customers, carriers can, if necessary, require customers to provide information to use for authentication purposes to activate and deactivate the account lock.

47. Like the other rules we adopt today, we give wireless providers flexibility on how to comply with the measure. In particular, the record does not evince a need for us to prescribe a method or methods for customers to unlock or unfreeze their accounts or impose a waiting period before an unlocked account can be transferred, and as such, we decline to do so at this time. Although we do not prescribe the

exact form of the account lock mechanism wireless providers must adopt, the process to activate and deactivate an account lock must not be unduly burdensome for customers such that it effectively inhibits them from implementing their choice. We stress that when activated, wireless providers must not fulfill port-out requests until the customer deactivates the lock, except to the extent otherwise required by the Safe Connections Act or the Commission's rules implementing that statute. We decline CTIA's request that the Commission find that mandatory port-out PINs satisfy this requirement. We discuss the benefits and drawbacks of port-out PINs as a method of *customer authentication,* above. We disagree that a mandatory port-out PIN has the same effect as an optional account lock; while the two protections serve complementary functions, one is focused on customer authentication for a specific one-time request, and the other functions as a customer directed general account security feature.

48. Consistent with this flexible approach, and as we did with the SIM change rules, we permit wireless providers to proactively initiate a port-out lock on a customers' account when they believe a customer may be at high risk of fraud, so long as providers promptly provide clear notifications to those customers that a lock has been activated with instructions on how the customers can deactivate account locks if they choose and promptly deactivates the account lock upon receipt of the customer's legitimate request to do so. We also caution wireless providers that any proactive initiation of a port-out lock must be limited in duration and extend only so long as the high risk of fraud is evident to the provider. In establishing this limitation, we intend to prohibit wireless provider abuse of port-out locks to avoid, among other outcomes, preventing the customer from terminating service with the provider or moving to another competing provider.

49. As with account locks for SIM changes, given that several wireless providers already voluntarily offer account locks to all their customers, and coupled with the flexible approach we adopt, we are unpersuaded by AT&T's claim that implementing account lock offerings will be unduly costly and time-consuming for wireless providers. To the extent there are costs associated with the requirement, we find that they are outweighed by the benefits.

4. Wireless Port Validation Fields

50. After review of the record, we decline to codify the wireless port validation fields. We also decline to require wireless providers to implement a customer-initiated passcode field for all wireless-to-wireless number porting requests. Currently, the mobile wireless industry uses four data fields of customer-provided information to validate a wireless-to-wireless porting request: telephone number, account number, five-digit ZIP code, and passcode (if applicable). In the *SIM Swap and Port-Out Fraud Notice,* we sought comment on whether we should ''codify the types of information carriers must use to validate simple wireless-to-wireless port requests.'' While some commenters did not oppose codification of some of the customer-provided wireless data fields, they preferred that the Commission continue to give wireless providers the flexibility to adjust to business and customer needs. We are persuaded by the record that separate codification of the customer-provided data fields for validation of wireless-to-wireless ports is not necessary at this time, as we have been provided no evidence that wireless providers are not complying with the validation obligations imposed in the *Four Fields Declaratory Ruling.* As such, we decline to separately codify the customer-provided wireless-to-wireless port validation fields at this time.

C. Additional Consumer Protection Measures

51. In the *SIM Swap and Port-Out Fraud Notice,* we sought comment on whether we should adopt additional measures to address the problems associated with SIM swap and port-out fraud. As discussed below, we require that wireless providers inform customers of any account protection mechanisms the provider offers, ensure that customer service representatives are trained to recognize bad actors' attempts at these fraudulent schemes, and deliver timely resolution of SIM swap and port-out fraud when it does occur. We decline, however, to establish a working group to further study and develop solutions to address the harms of SIM swap and port-out fraud. We also decline to adopt other proposals in the record regarding wireless provider liability and dispute resolution related to SIM swap and port-out fraud.

52. *Customer Notice of Account Protection Measures.* Many of the account protection measures wireless providers offer and that we require wireless providers to adopt today are designed to empower customers to take steps to protect themselves from SIM swap and port-out fraud if they choose, but this empowerment will be stifled if customers are not effectively made aware of the measures that are available. Accordingly, we require wireless providers to provide notice, using clear and concise language, of any account protection measures the provider offers, including the measures we adopt in this *Report and Order,* and make this notice easily accessible via provider websites and applications. We decline to specify the exact format or content of the required notice, as we agree with CCA that wireless providers are well-positioned to determine exactly how best to communicate information about account protection measures to their customers. The record also demonstrates that some wireless providers have already developed content to educate customers about some account protection measures.

53. We decline to require wireless providers to deliver an annual notice to customers regarding the availability of the account protection mechanisms they offer. The record does not exhibit support for this requirement and we have no basis for concluding that it would be meaningfully more beneficial for customers than our requirement that wireless providers make notice about the availability of account protection measures easily accessible through provider websites and applications. We therefore decline to adopt an annual notice requirement.

54. *Employee Training.* We require wireless providers to develop and implement training for employees on how to identify, investigate, prevent, and remediate SIM swap and port-out fraud. We find that adopting this employee training requirement will serve as a ''first line of defense'' against these damaging and evolving practices by preparing employees to defend against such fraud and preventing them from inadvertently or intentionally assisting bad actors in fraudulent schemes.

55. We agree with Verizon that ''customer care and employee training programs are critical for preventing and identifying unauthorized and high-risk SIM changes for postpaid customers,'' and we find that all customers will benefit from employee training. The record reflects the industry's recognition of the importance of employee training; the country's three largest wireless providers—Verizon, T-Mobile, and AT&T—have already implemented some training measures for customer service representatives to identify, prevent, and remediate fraud. The record also shows, however, that some wireless providers' current practices for customer service representative training may be lacking, as there are reported instances of wireless provider employees failing to identify, prevent, or quickly remediate

SIM swap and port-out fraud. We have previously determined that customer service training requirements play an important role in safeguarding the proper use of CPNI and have required telecommunications carriers to train their personnel on when they are and are not authorized to use CPNI. We similarly conclude that the employee training requirement we adopt today is necessary to ensure customer service representatives are prepared to identify, prevent, and remediate fraudulent SIM change and port-out activity.

56. In applying this requirement, we give wireless providers flexibility on designing their training programs. But we do require that all employees who may communicate with customers regarding SIM changes and number ports must be trained on how to recognize potentially fraudulent requests, how to recognize when a customer may be the victim of fraud, and how to direct potential victims and individuals making potentially fraudulent requests to employees specifically trained to handle such incidents. Given that (1) some wireless providers already train employees on how to address fraud, (2) our new training requirement builds upon our existing CPNI training rule, and (3) we are providing wireless providers with flexibility on how to design their training programs, we do not anticipate that imposing this training requirement will be overly costly for wireless providers.

57. *Requirements to Remedy SIM Swap and Port-Out Fraud.* We are concerned that in some cases, ''consumers who have been the victims of SIM swaps or port-out fraud have had difficulties obtaining assistance from the carriers'' when they report it. Accordingly, we require wireless providers to maintain a clearly disclosed, transparent, and easy-to-use process for customers to report SIM swap and port-out fraud, promptly investigate and take reasonable steps within their control to remediate such fraud, and, upon request, promptly provide customers with documentation of SIM swap and port-out fraud involving their accounts. These measures must be provided to victims of SIM swap and port out fraud at no cost. We anticipate that, in combination, these requirements will serve to minimize the harms that victims experience as a result of SIM swap and port-out fraud.

58. Our requirement that wireless providers maintain a clearly disclosed, transparent, and easy-to-use process for customers to report SIM swap and port-out fraud rests on our concern that customers currently struggle to report SIM swap and port-out fraud to their wireless providers. When customers are unable to find information about how to report such fraud or use existing customer service avenues to do so, it not only frustrates these customers, it prevents initiation of steps to investigate and remediate the fraud, which increases the risk that fraudsters will be able to use a victim's SIM or phone number to accomplish further fraud. We anticipate that clear methods for reporting SIM swap and port-out fraud that are transparent to customers will ''ensure that customers have easy access to information they need to report SIM swap, port-out, or other fraud.'' We decline to specify the exact means wireless providers must put in place for customers to report SIM swap and port-out fraud, but we stress that the process must be a clearly disclosed, transparent, and easy-to-use process for customers to notify providers.

59. We require wireless providers to establish procedures to promptly investigate and take reasonable steps within their control to remediate SIM swap and port-out fraud because the record demonstrates that even when victims of SIM swap and port-out fraud are successful in reporting such fraud to their providers, they have difficulty obtaining assistance from their providers to remediate the fraud. This is consequential because ''[i]dentity theft, including SIM swap fraud, can cause intense anxiety for victims and must be addressed in a timely manner to prevent financial losses and exposure of personal information.'' Thus, we conclude that ''it should be easy for a customer to get access to appropriate carrier resources that can help mitigate the significant harms caused by SIM swap or port-out fraud.'' Although we do not specify the procedures that wireless providers must adopt, we agree with commenters that investigations must be instigated and resolved expeditiously.

60. To ensure victims of SIM swap and port-out fraud have additional means to resolve other consequences that result from SIM swap and port-out fraud, we require wireless providers to give customers documentation regarding such fraud on their accounts, upon request. In the *SIM Swap and Port-Out Fraud Notice,* we recognized that ''customers sometimes need documentation of the fraud incident to provide to law enforcement, financial institutions, or others to resolve financial fraud or other harms of the incident'' and acknowledged that ''[a] SIM swap or port-out fraud victim may have difficulty obtaining such documentation from the carrier because the carrier may not have processes in place to produce such documentation.'' Requiring wireless providers to give fraud victims supporting documentation will enable those victims to seek remedies from other institutions for additional fraud that bad actors achieve using a victim's SIM or phone number. We do not specify the form that such documentation must take or exactly what information it must contain, but it should be reasonably designed to permit customers to demonstrate to other entities that they were victims of SIM swap or port-out fraud and that bad actors may have used access to a victim's telecommunications services to carry out additional fraud. Such documentation must address the customer's interest in protecting his or her account(s) or identity but may be tailored not to include other proprietary, confidential, or law-enforcement-related information regarding the SIM swap or port-out fraud or the account. Additionally, because of the potential harms that can flow from SIM swap and port-out fraud, we also require wireless providers to provide this documentation promptly.

61. We anticipate that the benefits of our requirements will outweigh any potential costs. Although commenters did not address the costs of the additional measures we adopt here, we note that at least one wireless provider has already adopted processes for customers to report SIM swap and port-out fraud, to investigate and remediate such fraud, and to provide documentation of such fraud to customers upon request. We also anticipate that allowing wireless providers flexibility in how to abide by these new requirements will enable them to adopt cost-effective procedures that will also allow them to successfully resolve SIM swap and port-out fraud incidents when they occur.

62. To maintain the flexibility we believe will be required for wireless providers to adequately tailor and adapt their practices to address SIM swap and port-out fraud, we decline to impose prescriptive measures raised in the *SIM Swap and Port-Out Fraud Notice* and the record. Specifically, although we encourage wireless providers to establish a dedicated hotline for customers to report SIM swap and port-out fraud and respond within 24 hours of a customer reporting suspected fraud, we decline to require that wireless providers adopt these approaches. While the former requirement received support from the National Consumer Law Center (NCLC) and the Electronic Privacy Information Center (EPIC), we

conclude that it may not benefit a wireless provider's customers if it is inconsistent with a provider's established customer service methods. The latter may be infeasible for certain incidents and is not necessary given our requirement that investigation and remediation be prompt. We also decline to require that wireless providers give customers an alternative number on a temporary basis after SIM swap or port-out fraud has occurred, as that may promote number resource exhaust in certain areas or for certain wireless providers. However, we encourage wireless providers to offer customers a temporary alternative number when the efforts to remediate SIM swap or port-out fraud may take a significant amount of time or to assist customers who have critical needs to be accessible via phone at the time. We also recognize that adequate remediation may require providing victims with permanent replacement numbers or SIMs, and carriers should effectively assist customers with that transition should that be necessary. We do not find it necessary at this time to require that wireless providers, upon being notified by a customer of fraud, provide ''detailed records of the fraud [to law enforcement]'' or ''offer to the customer to notify financial institutions and creditors, the three national credit reporting agencies, and others of the fraud, to help the customer recover control over their identity, if appropriate.'' While we encourage wireless providers to take these steps upon the request of customers as part of their mitigation efforts, we conclude that our new requirement that providers give customers documentation concerning fraudulent SIM swaps and number ports will be sufficient to allow those customers to alert appropriate entities if needed. We note, however, that we will monitor consumer complaints and may evaluate the remediation programs implemented by wireless providers. If we find that such programs are not adequately resolving SIM swap and port-out fraud in a timely manner, we may take steps to implement more specific requirements in the future.

63. *Working Group.* While we recognize that the harmful effects of SIM swap and port-out fraud may extend beyond the control of wireless providers and that the incentives to engage in such fraud implicate the security practices of other industries, we decline at this time to direct or rely on standard-setting bodies, industry organizations, or consumer groups to evaluate SIM swap and port-out fraud ''to augment our understanding and present possible solutions.'' Instead, we find it most appropriate to focus on solutions within the scope of the Commission's authority that we anticipate will mitigate the harmful consequences of this fraud. Additionally, to the extent that commenters advocated that we direct this issue to a working group before taking action, we disagree with that approach and find that doing so would only delay solutions that we expect will benefit customers now. Although we decline to rely on a working group, we also do not foreclose wireless providers from forming or entering into cross-sector, multi-stakeholder efforts, independent of Commission direction, to seek broader solutions to the harms that may ultimately result from SIM swap and port-out fraud.

64. *Provider Liability and Dispute Resolution.* We decline to adopt proposals in the record that prescribe provider liability and dispute resolution requirements for disputes between wireless providers and customers.

65. NCLC and EPIC argue that the Commission should ''[r]equire carriers to offer a redress program that . . . provides full coverage of losses to customers who have been the victims of a fraudulent SIM swap or port-out fraud,'' which they say would ''[p]rovide strong financial incentives to providers to stop SIM swapping and port-out fraud.'' We agree with CTIA, however, that telecommunications carriers are ''but one link in the chain of consumer and business protection from account takeover fraud,'' and therefore that the responsibility for financial harms that a bad actor may be able to perpetuate following such fraud is borne by several parties, including, significantly, the bad actor. Imposing such liability on wireless providers would be inequitable and would reduce the incentives for email and social media providers, financial institutions, healthcare providers, retail websites, and other entities that rely on cell phone-based identity authentication to improve their security practices, as well as reduce the incentive for customers to act responsibly. We note, however, that compliance with our rules is not a safe harbor for wireless providers; customers will still be able to pursue any existing remedies available by law.

66. Similarly, we decline to specify, as NCLC and EPIC request, that wireless providers are ''fully responsible for any abuse committed by its employees, whether the employees acted either intentionally or negligently,'' although we make clear that this statement does not absolve wireless providers of any liability for employee actions that already exists. We anticipate that the requirements we adopt today—including employee training regarding SIM swap and port-out fraud and restrictions on the ability of employees to access CPNI prior to authentication—will ensure that wireless providers implement adequate procedures to prevent employees from perpetuating SIM swap and port-out fraud.

67. Finally, we decline to adopt NCLC and EPIC's proposal that ''any arbitration clauses in the providers' agreements with consumers explicitly exclude resolutions'' of SIM swap and port-out fraud disputes at this time. They urge this because ''[o]therwise, consumers who have not been made whole, or who have difficulties obtaining relief for frauds that are perpetrated on them because of the provider's insufficiently strict authentication protocols, will have no meaningful way of enforcing the protections mandated by the Commission.'' The Commission has full authority to enforce the protections it has mandated, and we anticipate that the rules we adopt today, coupled with this enforcement authority, will incentivize wireless providers to adopt strong practices to protect customers from SIM swap and port-out fraud. Nonetheless, we seek comment below on whether the Commission should require providers to exclude disputes about SIM swapping or porting fraud from arbitration clauses. We encourage customers and public interest organizations to submit complaints and evidence of wireless providers failing to comply with these new rules in support of our enforcement efforts.

D. Implementation Timeframe

68. We require wireless providers to comply with the requirements we adopt today six months after the effective date of the *Report and Order* or, for those requirements subject to review by the Office of Management and Budget (OMB), upon completion of that review, whichever is later. We conclude that providing six months to achieve compliance with rules that are not subject to OMB review accounts for the urgency of safeguarding customers from these fraudulent schemes, and will allow wireless providers to coordinate any updates needed to their systems and processes to comply with the Safe Connections Act and the rules we adopt to implement that statute. SIM swap and port-out fraud can result in substantial harm to the customer, including loss of service on their devices. Fraudulent SIM swaps and port-outs allow bad actors to perpetrate greater fraud by giving them the means to complete text and voice

authentications to access the victim's other accounts, and as such, we find that an aggressive implementation timeframe is appropriate to provide these important consumer protections without substantial delay. We agree with some commenters that while many wireless providers can immediately implement the revisions to our CPNI and number porting rules, other providers may require this additional time. Some wireless providers already employ authentication and notification measures to process SIM change and port-out requests, offer account change locks, provide notice to customers about available fraud protection measures, and train employees on how to address SIM swap and port-out fraud, and may simply need to refine those practices to align with our rules. Other providers, particularly smaller providers, may need the additional time to upgrade their systems, implement modifications to their policies and procedures, and conduct new customer service representative training. We conclude that providing six months after the effective date of the *Report and Order* to implement these revisions to our CPNI and number porting rules strikes the right balance between time for wireless providers to implement these changes and accounting for the urgency of safeguarding customers from these fraudulent schemes. We also find that this implementation timeframe is consistent with other proceedings and regulatory frameworks adopted by the Commission where consumer protection and numbering requirements were at issue. While we acknowledge industry's concerns that implementing these new rules will be a multistep process for many providers, providers themselves acknowledge the necessity of implementing today's revisions to our CPNI and LNP rules concurrently with our rules implementing the Safe Connections Act, given how both frameworks address many of the same actions (*e.g.,* account locks, customer notifications, customer authentication). And as we explain in the *Safe Connections Order,* ''permitting a more extended compliance timeframe for implementing the line separation provisions, as advocated for by industry commenters, would be inconsistent with the urgency Congress demonstrated with the underlying statutory obligation as well as with the critical wireless communications needs of survivors well-documented in the record.'' For all of these reasons, we require wireless providers to implement the rules we adopt today six months after the effective date of this *Report and Order,* subject to review by OMB.

E. Legal Authority

69. The rules we adopt today build on the Commission's existing rules to implement Congress's mandates to ensure that telecommunications carriers (which include, for purposes of our CPNI rules, providers of interconnected VoIP service) protect the confidentiality of proprietary information of, and relating to, customers and to provide number portability in accordance with requirements prescribed by the Commission. As such, the rules we adopt are well-grounded in our authority in Sections 222 and 251, as well as other provisions of the Act.

70. *SIM Changes.* Congress, through Section 222 of the Act, requires telecommunications carriers to protect the privacy and security of customers' proprietary information that carriers obtain by virtue of providing a telecommunications service. Under Section 222(a), every telecommunications carrier has a ''duty to protect the confidentiality of proprietary information of, and relating to, . . . customers.'' Section 222(c)(1) provides that a telecommunications carrier may only use, disclose, or permit access to customers' individually identifiable CPNI that it has received or obtained by virtue of its provision of a telecommunications service in limited circumstances: (1) as required by law; (2) with the customer's approval; or (3) in its provision of the telecommunications service from which such information is derived or its provision of services necessary to, or used in, the provision of such telecommunications service.

71. The Commission has previously stated that to comply with these Section 222 requirements, ''telecommunications carriers [must] establish effective safeguards to protect against unauthorized use or disclosure of CPNI.'' The Commission also has established rules pursuant to its Section 222 authority to ensure such safeguards are in place. Among other things, the Commission's rules require carriers to take ''reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI'' and to ''properly authenticate a customer prior to disclosing CPNI based on customer-initiated telephone contact, online account access, or an in-store visit.'' Like these safeguards, our action today ''strengthen[s] our privacy rules by adopting additional safeguards to protect customers' CPNI against unauthorized access and disclosure.''

72. Fraudulent SIM swaps result in unauthorized disclosure of and access to customers' accounts, including individually identifiable CPNI. By successfully obtaining a fraudulent SIM swap, a bad actor can access CPNI such as incoming call information (including the date and time of the call and number from which the call is made), and gain access to a victim's account, potentially giving the bad actor access to other CPNI, like outgoing call history (including numbers called and the location, frequency, duration, and timing of such calls) and the victim's bills and the services purchased by the victim. And as described above, fraudulent SIM swaps allow bad actors to perpetrate greater fraud by giving them the means to complete text and voice authentications to access the victim's other accounts.

73. In light of the foregoing, we find that the rules we adopt today to address SIM swap fraud advance the protections against unauthorized disclosure of, and access to, individually identifiable CPNI and other sensitive personal information about customers, and therefore are squarely grounded in the Commission's authority under Section 222. Our requirement that wireless providers use secure methods of authenticating their customers that are reasonably designed to confirm a customer's identity prior to effectuating a SIM change request will help prevent unauthorized disclosure of and access to such information. This requirement also sustains customer decisions regarding disclosure of their information—if a wireless provider completes a SIM change requested by someone other than the actual customer, then the wireless provider has not obtained the customer's approval to disclose their CPNI in accordance with Section 222(c)(1).

74. The other rules we adopt reinforce the protections afforded by this new rule. For instance, the requirement that wireless providers develop, maintain, and implement procedures to respond to failed authentication attempts will likewise serve to prevent unauthorized disclosure of and access to CPNI. The rule requiring that wireless providers establish safeguards and processes so that employees who receive inbound customer communications are unable to access CPNI until after the customer has been properly authenticated will prevent inadvertent disclosure of CPNI to those making unauthorized requests and inhibit the ability of employees to participate in fraudulent SIM swaps. Employee training requirements will not only improve their ability to recognize and derail fraudulent SIM change requests, such requirements will better

prepare customer service representatives to address customer complaints and remediate fraudulent SIM swaps when they do occur. Requiring wireless providers to maintain a clear process for customers to report fraud, investigate and remediate fraud, and provide customers with documentation of fraud involving their accounts will ensure that the harms of SIM swap and port-out fraud are mitigated when it does occur. And the requirement that wireless providers keep records of data regarding SIM change requests and the authentication measures they have in place will help ensure that wireless providers have information they need to measure the effectiveness of their customer authentication and account protection measures and make informed decisions about how they should be updated over time.

75. Our rules also further the goals of Section 222 by enabling customers to take action to prevent and address fraudulent SIM changes, and therefore help wireless providers protect against unauthorized disclosure and access to CPNI. The requirement that wireless providers immediately notify customers regarding SIM change requests provides added protection by giving customers information they can use to notify their providers that a fraudulent request has occurred at the time of the request or shortly thereafter so that the provider can take timely steps to remediate the situation. Requiring wireless providers to offer customers the option to lock their accounts so that their providers are prohibited from processing SIM changes gives security-minded customers or those who are at high risk of fraud a tool to prevent a fraudulent request from being processed in the first instance. Additionally, our new rule that wireless providers make notice of account protection mechanisms easily accessible via their websites and applications ensures that customers are aware of these tools. We also conclude that the requirements we establish to promptly resolve SIM swap and port-out fraud extend from our Section 222 authority because they will help to mitigate the unauthorized disclosure of and access to CPNI.

76. Finally, the new customer authentication requirements, with which both facilities-based providers and resellers must comply, apply to both pre-paid and postpaid services, which is consistent with Section 222(a)'s mandate that ''[*e*]*very* telecommunications carrier . . . protect the confidentiality of [customer] proprietary information'' and Section 222's instruction that all ''customers'' of those carriers benefit from such protections.

77. While Section 222 provides firm foundation for our rules to address SIM swap fraud, we also find that Section 251(e) of the Act provides additional authority for these rules. In Section 251(e)(1), Congress expressly assigned to the Commission exclusive jurisdiction over that portion of the North American Number Plan (NANP) that pertains to the United States and related telephone numbering issues. The Commission retained its ''authority to set policy with respect to all facets of numbering administration in the United States.'' Because our new SIM change rules prevent and address misuse of NANP numbers assigned to wireless devices, we conclude that those rules are supported by our exclusive numbering authority within Section 251(e).

78. *Number Porting.* We rely on our authority derived from Sections 1, 2, 4(i), 251(e), and 332 of the Act to implement the changes to our number porting rules to address port-out fraud. As the Commission has consistently found since 1996, ''[w]e possess independent authority under Sections 1, 2, 4(i), and 332 of the Communications Act of 1934, as amended, to require CMRS providers to provide number portability as we deem appropriate.'' We rely on this well-established authority to adopt number porting rules applicable to wireless providers that address port-out fraud.

79. We also find that the exclusive numbering authority that Congress granted this Commission under Section 251(e)(1) provides ample authority to extend the LNP requirements as set out in this *Report and Order.* Specifically, in Section 251(e)(1) of the Act, Congress expressly assigned to the Commission exclusive jurisdiction over that portion of the NANP that pertains to the United States and related telephone numbering issues. The Commission retained its ''authority to set policy with respect to all facets of numbering administration in the United States.'' We find that the revisions to our number porting rules designed to protect the customers from port-out fraud fit comfortably within our exclusive numbering authority because the requirements we establish to prevent and promptly resolve port-out fraud are necessary to address improper use of numbering resources and ensure that customers can recover their numbers when fraudulent ports have occurred.

80. *Other Sources of Authority.* While the provisions discussed above provide sufficient authority for the entirety of the rules we adopt in this *Report and Order,* we find additional support under Sections 201 and 303. Sections 201 and 303 of the Act generally give the Commission authority for prescribing rules, but we also rely on these sources of authority as described herein.

81. Section 201(b) authorizes the Commission to prescribe rules to implement carriers' statutory duty not to engage in conduct that is ''unjust or unreasonable.'' We conclude that practices that allow for fraudulent SIM swaps and number ports are unjust and unreasonable because they are contrary to the reasonable expectations of customers, are not reasonably avoidable by customers, and can cause substantial customer harm. We also rely on our Section 201(b) authority to find that the inability for customers to effectively seek remedies from their wireless providers when fraudulent SIM swaps and port outs have occurred is ''unjust and unreasonable,'' and therefore warrants these rules. We would also find these practices unjust and unreasonable when a wireless provider says it will implement reasonable measures to prevent fraudulent SIM swaps and number ports but fails to do so. Our findings here are similar to and consistent with how the Federal Trade Commission (FTC) addresses inadequate data security measures under Section 5 of the FTC Act.

82. We also rely on our broad authority under Title III, which allows us to protect the public interest through spectrum licensing. Pursuant to Section 303(b)'s directive that the Commission must, consistent with the public interest, ''[p]rescribe the nature of the service to be rendered by each class of licensed stations and each station within any class,'' these revisions to our CPNI and number porting requirements prescribe the conditions under which licensed wireless providers must provide their services. They specifically require licensed wireless providers to provide their services in a way that protects the interests of their customers, including reasonable measures to prevent fraudulent acts against their customers.

II. Procedural Matters

83. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (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 potential impact of the rule and policy

changes adopted in this *Report and Order* on small entities. The FRFA is set forth in Appendix B.

84. *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 *Report and Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

III. Final Regulatory Flexibility Analysis

85. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Protecting Consumers from SIM Swap and Port-Out Fraud Notice of Proposed Rulemaking* (*SIM Swap and Port-Out Fraud*) published October 15, 2021 at 86 FR 57390. The Commission sought written public comment on the proposals in the *SIM Swap and Port-Out Fraud Notice,* including comment on the IRFA. The comments received are discussed below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Report and Order

86. The *Report and Order* establishes protections to address SIM swap and port-out fraud. With SIM swap fraud, a bad actor impersonates a customer of a wireless provider and convinces the provider to reassign the customer's SIM from the customer's device to a device controlled by the bad actor. Similarly, with port-out fraud, the bad actor impersonates a customer of a wireless provider and convinces the provider to port the customer's telephone number to a new wireless provider and a device that the bad actor controls. Both fraudulent practices transfer the victim's wireless service to the bad actor, allow the bad actor to gain access to information associated with the customer's account, and permit the bad actor to receive the text messages and phone calls intended for the customer.

87. The rules adopted in the *Report and Order* aim to foreclose these fraudulent practices while preserving the relative ease with which customers can obtain legitimate SIM changes and number ports. Specifically, the *Report and Order* revises the Commission's CPNI and LNP rules to require that wireless providers use secure methods of authenticating customers prior to performing SIM changes and number ports. This requirement is reinforced by other rules, including that wireless providers adopt processes for responding to failed authentication attempts, institute employee training for handling SIM swap and port-out fraud, and establish safeguards to prevent employees who receive inbound customer communications are unable to access CPNI in the course of that customer interaction until after customers have been authenticated. The *Report and Order* also adopts rules that will enable customers to act to prevent and address fraudulent SIM changes and number ports, including requiring that wireless providers notify customers regarding SIM change and port-out requests, offer customers the option to lock their accounts to block processing of SIM changes and number ports, and give advanced notice of available account protection mechanisms. Additionally, the *Report and Order* establishes requirements to minimize the harms of SIM swap and port-out fraud when it occurs, including requiring wireless providers to maintain a clear process for customers to report fraud, promptly investigate and remediate fraud, and promptly provide customers with documentation of fraud involving their accounts. Finally, to ensure wireless providers track the effectiveness of authentication measures used for SIM change requests, the *Report and Order* requires that providers keep records of SIM change requests and the authentication measures they use.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

88. There were no comments that directly addressed the proposed rules and policies presented in the *SIM Swap and Port-Out Fraud Notice* IRFA. However two commenters discussed the potential impact of rules on small carriers. The Competitive Carriers Association (CCA) advocated that the Commission adopt security measures that give providers flexibility to account for the constraints with which many small providers operate. The Rural Wireless Association (RWA) called for uniform standards for port-out authentication to prevent potential anticompetitive activities and increased costs for small providers in the event that larger providers hold small providers to standards that are difficult or costly to implement. The approach taken by the *Report and Order* addresses these comments by setting baseline requirements that build on existing mechanisms that many wireless providers already use to establish a uniform framework across the mobile wireless industry, while giving wireless providers the flexibility to deliver the most advanced, appropriate, and cost-effective fraud protection measures available.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

89. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

90. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

91. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

92. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its

field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

93. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

1. Providers of Telecommunications and Other Services

94. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.

95. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were engaged in the provision of fixed local services. Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

96. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include both incumbent and competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were fixed local exchange service providers. Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

97. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 1,212 providers that reported they were incumbent local exchange service providers. Of these providers, the Commission estimates that 916 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

98. *Competitive Local Exchange Carriers (Competitive LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 3,378 providers that reported they were competitive local exchange service providers. Of these providers, the Commission estimates that 3,230 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

99. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers is the closest industry with an SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 127 providers that reported they were engaged in the provision of interexchange services. Of these

providers, the Commission estimates that 109 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

100. *Local Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Local Resellers. Telecommunications Resellers is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 207 providers that reported they were engaged in the provision of local resale services. Of these providers, the Commission estimates that 202 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

101. *Toll Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year. Of that number, 1,375 firms operated with fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 457 providers that reported they were engaged in the provision of toll services. Of these providers, the Commission estimates that 438 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

102. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

103. *Satellite Telecommunications.* This industry comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with $38.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than $25 million. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 65 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, a little more than half of these providers can be considered small entities.

104. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services (*e.g.,* dial-up ISPs) or Voice over Internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of $35 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than $25 million. Based on this data, the Commission estimates that the majority of ''All Other Telecommunications'' firms can be considered small.

2. Internet Service Providers

105. *Wired Broadband Internet Access Service Providers (Wired ISPs).* Providers of wired broadband internet access service include various types of providers except dial-up internet access providers. Wireline service that terminates at an end user location or mobile device and enables the end user to receive information from and/or send information to the internet at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction is classified as a broadband connection under the Commission's rules. Wired broadband internet services fall in the Wired Telecommunications Carriers industry. The SBA small business size standard for this industry classifies firms having 1,500 or fewer employees as small. U.S. Census Bureau

data for 2017 show that there were 3,054 firms that operated in this industry for the entire year. Of this number, 2,964 firms operated with fewer than 250 employees.

106. Additionally, according to Commission data on internet access services as of December 31, 2018, nationwide there were approximately 2,700 providers of connections over 200 kbps in at least one direction using various wireline technologies. The Commission does not collect data on the number of employees for providers of these services, therefore, at this time we are not able to estimate the number of providers that would qualify as small under the SBA's small business size standard. However, in light of the general data on fixed technology service providers in the Commission's *2022 Communications Marketplace Report,* we believe that the majority of wireline internet access service providers can be considered small entities.

107. *Wireless Broadband Internet Access Service Providers (Wireless ISPs or WISPs).* Providers of wireless broadband internet access service include fixed and mobile wireless providers. The Commission defines a WISP as ''[a] company that provides end-users with wireless access to the internet[.]'' Wireless service that terminates at an end user location or mobile device and enables the end user to receive information from and/or send information to the internet at information transfer rates exceeding 200 kilobits per second (kbps) in at least one direction is classified as a broadband connection under the Commission's rules. Neither the SBA nor the Commission have developed a size standard specifically applicable to Wireless Broadband Internet Access Service Providers. The closest applicable industry with an SBA small business size standard is Wireless Telecommunications Carriers (except Satellite). The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees.

108. Additionally, according to Commission data on internet access services as of December 31, 2018, nationwide there were approximately 1,209 fixed wireless and 71 mobile wireless providers of connections over 200 kbps in at least one direction. The Commission does not collect data on the number of employees for providers of these services, therefore, at this time we are not able to estimate the number of providers that would qualify as small under the SBA's small business size standard. However, based on data in the Commission's *2022 Communications Marketplace Report* on the small number of large mobile wireless nationwide and regional facilities-based providers, the dozens of small regional facilities-based providers and the number of wireless mobile virtual network providers in general, as well as on terrestrial fixed wireless broadband providers in general, we believe that the majority of wireless internet access service providers can be considered small entities.

109. *Internet Service Providers (Non-Broadband).* Internet access service providers using client-supplied telecommunications connections (*e.g.,* dial-up ISPs) as well as VoIP service providers using client-supplied telecommunications connections fall in the industry classification of All Other Telecommunications. The SBA small business size standard for this industry classifies firms with annual receipts of $35 million or less as small. For this industry, U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than $25 million. Consequently, under the SBA size standard a majority of firms in this industry can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

110. This *Report and Order* adopts rules that could result in increased, reduced, or otherwise modified recordkeeping, reporting, or other compliance requirements for affected providers of service, including small wireless providers. Specifically, it requires that wireless providers use secure methods of authenticating customers prior to performing SIM changes and number ports, and to review and update these authentication methods as needed, but at least annually. It requires wireless providers to adopt processes for customer notification and response to failed authentication attempts, institute employee training for handling SIM swap and port-out fraud, and establish safeguards to prevent employees who receive inbound customer communications from accessing CPNI in the course of that customer interaction until after customers have been authenticated. The *Report and Order* also adopts rules requiring that wireless providers notify customers regarding SIM change and port-out requests, offer customers the option to lock their accounts to block processing of SIM changes and number ports, and give advanced notice of available account protection mechanisms. Additionally, the *Report and Order* requires wireless providers to maintain a clear process for customers to report fraud, promptly investigate and remediate fraud, and promptly provide customers with documentation of fraud involving their accounts. Finally, the *Report and Order* requires that providers keep records of SIM change requests and the authentication measures they use.

111. We are cognizant that, in some instances, strict prescriptive requirements to prevent SIM swap and port-out fraud could be technically and economically infeasible for wireless providers to implement, particularly for smaller providers. The Commission does not have sufficient information on the record to determine whether small entities will be required to hire professionals to comply with its decisions or to quantify the cost of compliance for small entities. However, the record reflects that many wireless providers have already developed and implemented some form of the customer authentication requirements in the *Report and Order,* minimizing cost implications for small entities. We also permit wireless providers to use existing methods of notification that are reasonably designed to reach the affected customer. Several of our rules build on existing mechanisms that many wireless providers already use, and therefore, we expect that our new rules will further minimize the costs and burdens for those providers, and should significantly reduce compliance requirements for small entities that may have smaller staff and fewer resources.

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

112. The RFA requires an agency to provide ''a description of the steps the agency has taken to minimize the significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.''

113. The requirements established in this *Report and Order* are designed to minimize the economic impact on wireless providers, including small providers. The baseline, flexible rules adopted reflect a recognition that, in some cases, strict prescriptive

requirements to prevent SIM swap and port-out fraud could be technically and economically infeasible for wireless providers to implement, particularly for smaller providers. We therefore decline to adopt certain specific authentication methods mentioned in the *SIM Swap and Port-Out Fraud Notice* because they may discourage carriers from adopting new methods to address evolving techniques used by bad actors. The record shows that many wireless providers already have in place some of the policies and procedures this *Report and Order* adopts and that the rules may therefore only require them to adapt, refine, or consistently apply those existing practices. Additionally, by setting baseline requirements and giving wireless providers flexibility on how to meet them, this *Report and Order* allows providers to adopt the most cost-effective and least burdensome solutions to achieve the level of security needed to protect customers against SIM swap and port-out fraud in a given circumstance. The *Report and Order* further minimizes any potential burdens of customer notifications by declining to prescribe particular content and wording and giving wireless providers flexibility on how to deliver such notifications. Similarly, for customer notices, the *Report and Order* declines to require a specific format and content and declines to require such notices be delivered to customers annually. With respect to employee training, we decline to adopt overly prescriptive safeguards, such as two-employee sign off. Instead, the requirement this *Report and Order* adopts minimizes potential burdens because it builds on the Commission's existing CPNI training rule and gives wireless providers flexibility on how to develop their training programs. Further, the *Report and Order* mitigates the potential burdens of the recordkeeping requirement by declining to require that wireless providers include historic data in their recordkeeping, which the *Report and Order* acknowledged would be particularly burdensome for small providers, and declining to require that providers report this data to the Commission regularly.

G. Report to Congress

114. The Commission will send a copy of the *SIM Swap and Port-Out Fraud Report and Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *SIM Swap and Port-Out Fraud Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *SIM Swap and Port-Out Fraud Report and Order* (or summaries thereof) will also be published in the **Federal Register**.

IV. Ordering Clauses

115. Accordingly, *it is ordered* that, pursuant to the authority contained in Sections 1, 2, 4, 201, 222, 251, 303, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201, 222, 251, 303, and 332, this *Report and Order* in WC Docket No. 21–341 *is adopted* and that Parts 52 and 64 of the Commission's Rules, 47 CFR parts 52, 64, are *amended* as set forth in Appendix A.

116. *It is further ordered* that this *Report and Order shall be effective* 30 days after publication in the **Federal Register**, and that compliance with the rules adopted herein shall be required six months after the effective date of the *Report and Order,* except that the amendments to Sections 52.37(c), 52.37(d), 52.37(e), 52.37(g), 64.2010(h)(2), 64.2010(h)(3), 64.2010(h)(4), 64.2010(h)(5), 64.2010(h)(6), and 64.2010(h)(8) of the Commission's rules, 47 CFR 52.37(c), 52.37(d), 52.37(e), 52.37(g), 64.2010(h)(2), 64.2010(h)(3), 64.2010(h)(4), 64.2010(h)(5), 64.2010(h)(6), and 64.2010(h)(8), which may contain new or modified information collection requirements, will not become effective until the later of (i) six months after the effective date of this *Report and Order;* or (ii) after the Office of Management and Budget completes review of any information collection requirements associated with this *Report and Order* that the Wireline Competition Bureau determines is required under the Paperwork Reduction Act. The Commission directs the Wireline Competition Bureau to announce the compliance date for §§ 52.37(c), 52.37(d), 52.37(e), 52.37(g), 64.2010(h)(2), 64.2010(h)(3), 64.2010(h)(4), 64.2010(h)(5), 64.2010(h)(6), and 64.2010(h)(8) and to amend 47 CFR 52.37 and 64.2010 accordingly.

117. *It is further ordered* that the Commission's Office of the Secretary, Reference Information Center, *shall send* a copy of this *Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

118. *It is further ordered* that the Office of the Managing Director, Performance and Program Management, *shall send* a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects

Communications, Communications common carriers, Privacy, Telecommunications, Telephone, Reporting and Recordkeeping Requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 52 and 64 as follows:

PART 52—NUMBERING

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

Authority: 47 U.S.C. 151, 152, 153, 154, 155, 201–205, 207–209, 218, 225–227, 251–252, 271, 303, 332, unless otherwise noted.

■ 2. Add § 52.37 to subpart C to read as follows:

§ 52.37 Number Portability Requirements for Wireless Providers.

(a) *Applicability.* This section applies to all providers of commercial mobile radio service (CMRS), as defined in 47 CFR 20.3, including resellers of wireless service.

(b) *Authentication of port-out requests.* A CMRS provider shall use secure methods to authenticate a customer that are reasonably designed to confirm the customer's identity before effectuating a port-out request, except to the extent otherwise required by 47 U.S.C. 345 (Safe Connections Act of 2022) or Part 64 Subpart II of this chapter. A CMRS provider shall regularly, but not less than annually, review and, as necessary, update its customer authentication methods to ensure that its authentication methods continue to be secure.

(c)–(e) [Reserved]

(f) *Employee Training.* A CMRS provider shall develop and implement training for employees to specifically address fraudulent port-out attempts, complaints, and remediation. Training shall include, at a minimum, how to identify fraudulent requests, how to recognize when a customer may be the victim of fraud, and how to direct potential victims and individuals making potentially fraudulent requests to employees specifically trained to handle such incidents.

(g) [Reserved]

(h) This section contains information-collection and/or recordkeeping requirements. Compliance with this section will not be required until this paragraph is removed or contains a compliance date.

■ 3. Delayed indefinitely, amend § 52.37 by adding paragraphs (c), (d), (e), and (g) to read as follows:

§ 52.37 Number Portability Requirements for Wireless Providers.

(c) *Customer notification of port-out requests.* Upon receiving a port-out request, and before effectuating the request, a CMRS provider shall provide immediate notification to the customer that a port-out request associated with the customer's account was made, sent in accordance with customer preferences, if indicated, and using means reasonably designed to reach the customer associated with the account and clear and concise language that provides sufficient information to effectively inform a customer that a port-out request involving the customer's number was made, except if the port-out request was made in connection with a legitimate line separation request pursuant to 47 U.S.C. 345 and subpart II of this part, regardless of whether the line separation is technically or operationally feasible.

(d) *Account locks.* A CMRS provider shall offer customers, at no cost, the option to lock their accounts to prohibit the CMRS provider from processing requests to port the customer's number. A CMRS provider shall not fulfill a port-out request until the customer deactivates the lock on the account, except if the port-out request was made in connection with a legitimate line separation request pursuant to 47 U.S.C. 345 and subpart II of this part, regardless of whether the line separation is technically or operationally feasible. The process to activate and deactivate an account lock must not be unduly burdensome for customers such that it effectively inhibits customers from implementing their choice. A CMRS provider may activate a port-out lock on a customer's account when the CMRS provider has a reasonable belief that the customer is at high risk of fraud, but must provide the customer with clear notification that the account lock has been activated with instructions on how the customer can deactivate the account lock, and promptly comply with the customer's legitimate request to deactivate the account lock.

(e) *Notice of Account Protection Measures.* A CMRS provider must provide customers with notice, using clear and concise language, of any account protection measures the CMRS provider offers, including those to prevent port-out fraud. A CMRS provider shall make this notice easily accessible through the CMRS provider's website and application.

* * * * *

(g) *Procedures to resolve fraudulent ports.* A CMRS provider shall, at no cost to customers:

(1) Maintain a clearly disclosed, transparent, and easy-to-use process for customers to report fraudulent number ports;

(2) Promptly investigate and take reasonable steps within its control to remediate fraudulent number ports; and

(3) Promptly provide customers, upon request, with documentation of fraudulent number ports involving their accounts.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 4. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 262, 276, 303, 332, 403(b)(2)(B), (c), 616, 620, 1004, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

■ 5. Amend § 64.2010 by adding paragraph (h) to read as follows:

§ 64.2010 Safeguards on the disclosure of customer proprietary network information.

* * * * *

(h) *Subscriber Identity Module (SIM) changes.* A provider of commercial mobile radio service (CMRS), as defined in 47 CFR 20.3, including resellers of wireless service, shall only effectuate SIM change requests in accordance with this section. For purposes of this section, SIM means a physical or virtual card associated with a device that stores unique information that can be identified to a specific mobile network.

(1) *Customer authentication.* A CMRS provider shall use secure methods to authenticate a customer that are reasonably designed to confirm the customer's identity before executing a SIM change request, except to the extent otherwise required by 47 U.S.C. 345 (Safe Connections Act of 2022) or subpart II of this part. Authentication methods shall not rely on readily available biographical information, account information, recent payment information, or call detail information unless otherwise permitted under 47 U.S.C. 345 or subpart II of this part. A CMRS provider shall regularly, but not less than annually, review and, as necessary, update its customer authentication methods to ensure that its authentication methods continue to be secure. A CMRS provider shall establish safeguards and processes so that employees who receive inbound customer communications are unable to access CPNI in the course of that customer interaction until after the customer has been properly authenticated.

(2)–(6) [Reserved]

(7) *Employee training.* A CMRS provider shall develop and implement training for employees to specifically address fraudulent SIM change attempts, complaints, and remediation. Training shall include, at a minimum, how to identify potentially fraudulent SIM change requests, how to identify when a customer may be the victim of SIM swap fraud, and how to direct potential victims and individuals making potentially fraudulent requests to employees specifically trained to handle such incidents.

(8) [Reserved]

(9) *Compliance.* This paragraph (h) contains information-collection and/or recordkeeping requirements. Compliance with this paragraph (h) will not be required until this paragraph is removed or contains a compliance date.

■ 6. Delayed indefinitely, amend § 64.2010 by adding paragraphs (h)(2) through (6) and (h)(8) to read as follows:

§ 64.2010 Safeguards on the disclosure of customer proprietary network information.

* * * * *

(h) * * *

(2) *Response to failed authentication attempts.* A CMRS provider shall develop, maintain, and implement procedures for addressing failed authentication attempts in connection with a SIM change request that are reasonably designed to prevent unauthorized access to a customer's account, which, among other things, take into consideration the needs of survivors pursuant to 47 U.S.C. 345 and subpart II of this part.

(3) *Customer notification of SIM change requests.* Upon receiving a SIM change request, and before effectuating the request, a CMRS provider shall provide immediate notification to the customer that a SIM change request associated with the customer's account was made, sent in accordance with customer preferences, if indicated, and using means reasonably designed to reach the customer associated with the account and clear and concise language that provides sufficient information to effectively inform a customer that a SIM change request involving the customer's SIM was made, except if the SIM change request was made in connection with a legitimate line separation request pursuant to 47 U.S.C. 345 and subpart II of this part, regardless of whether the line separation is technically or operationally feasible.

(4) *Account locks.* A CMRS provider shall offer customers, at no cost, the option to lock their accounts to prohibit

the CMRS provider from processing requests to change the customer's SIM. A CMRS provider shall not fulfill a SIM change request until the customer deactivates the lock on the account, except if the SIM change request was made in connection with a legitimate line separation request pursuant to 47 U.S.C. 345 and subpart II of this part, regardless of whether the line separation is technically or operationally feasible. The process to activate and deactivate an account lock must not be unduly burdensome for customers such that it effectively inhibits customers from implementing their choice. A CMRS provider may activate a SIM change lock on a customer's account when the CMRS provider has a reasonable belief that the customer is at high risk of fraud, but must provide the customer with clear notification that the account lock has been activated with instructions on how the customer can deactivate the account lock, and promptly comply with the customer's legitimate request to deactivate the account lock.

(5) *Notice of account protection measures.* A CMRS provider must provide customers with notice, using clear and concise language, of any account protection measures the CMRS provider offers, including those to prevent SIM swap fraud. A CMRS provider shall make this notice easily-accessible through the CMRS provider's website and application.

(6) *Procedures to resolve fraudulent SIM changes.* A CMRS provider shall, at no cost to customers:

(i) Maintain a clearly disclosed, transparent, and easy-to-use process for customers to report fraudulent SIM changes;

(ii) Promptly investigate and take reasonable steps within its control to remediate fraudulent SIM changes; and

(iii) Promptly provide customers, upon request, with documentation of fraudulent SIM changes involving their accounts.

* * * * *

(8) *SIM change recordkeeping.* A CMRS provider shall establish processes to reasonably track, and maintain for a minimum of three years, the total number of SIM change requests it received, the number of successful SIM change requests, the number of failed SIM change requests, the number of successful fraudulent SIM change requests, the average time to remediate a fraudulent SIM change, the total number of complaints received regarding fraudulent SIM change requests, the authentication measures the CMRS provider has implemented, and when those authentication measures change. A CMRS provider shall provide such data and information to the Commission upon request.

[FR Doc. 2023–26338 Filed 12–7–23; 8:45 am]

BILLING CODE 6712–01–P

Reader Aids

Federal Register

Vol. 88, No. 235

Friday, December 8, 2023

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

83809–84066	1
84067–84232	4
84233–84682	5
84683–85090	6
85091–85466	7
85467–85816	8

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
10679 84679
10680 84681
10681 84683
10682 85091

Executive Orders:
12977 (Superseded and revoked by EO 14111) 83809
14111 83809

5 CFR

Ch. CIII 85467
531 85467
315 84685
335 84685
2412 84067

7 CFR

301 85469
3550 85470

Proposed Rules:
923 85519
926 85130
927 83870
929 85130
930 84075
1005 84038
1006 84038
1007 84038

10 CFR

429 84188
431 84188

Proposed Rules:
Ch. III 84082

12 CFR

Proposed Rules:
364 84089

14 CFR

Ch. I 85474
39 ..... 83813, 83817, 83820, 83822, 84690, 84693, 85093
71 ..... 84071, 85094, 85472, 85473
73 84695
97 ..... 84233, 84234

Proposed Rules:
39 ..... 84759, 84761, 84764, 84767
71 ..... 83873, 83874, 83875, 85133, 85135, 85519, 85523
91 84090
120 85137
121 84090
125 84090
135 84090

15 CFR

738 85479
740 ..... 85479, 85487
742 85479
744 ..... 85095, 85487
774 85479

Proposed Rules:
740 85734
744 85734

16 CFR

423 85495

Proposed Rules:
425 85525
1110 85760

17 CFR

230 85396
240 84454

20 CFR

404 85104

20 CFR

Proposed Rules:
416 83877

21 CFR

510 84696
516 84696
520 84696
522 84696
524 84696
558 84696
1308 85104

22 CFR

42 85109
121 84072

23 CFR

490 85364

24 CFR

Proposed Rules:
115 85529
125 85529
247 83877
880 83877
884 83877
886 83877
891 83877
966 83877

26 CFR

Proposed Rules:
1 ..... 84098, 84770
5 84770
301 84770
602 84770

32 CFR

286 84236

33 CFR

100 ..... 84238, 85110, 85496

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List November 24, 2023

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly enacted public laws. To subscribe, go to *https://portalguard.gsa.gov/__*layouts/PG/register.aspx.

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.