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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2023–2544; Airspace Docket No. 23–ASW–19]

RIN 2120–AA66

Amendment of Restricted Areas R–3801A, R–3801B, and R–3801C; Camp Claiborne, LA, and R–3803A, R–3803B, R–3803C, R–3803D, R–3803E, R–3803F, R–3804A, R–3804B, and R–3804C; Fort Polk, LA

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

ACTION: Final rule.

SUMMARY: This action updates the controlling agency of restricted areas R–3801A, R–3801B, and R–3801C, and updates the location name and the using agency of restricted areas R–3803A, R–3803B, R–3803C, R–3803D, R–3803E, R–3803F, R–3804A, R–3804B, and R–3804C. Additionally, this action makes minor editorial corrections to the designated altitudes information in the restricted area R–3801A, R–3801B, and R–3801C descriptions. This action partially implements recommendations of the Commission on the Naming of Items (Naming Commission) of the Department of Defense (DoD) as established by section 370 of the Fiscal Year (FY) 2021 National Defense Authorization Act (NDAA). These amendments do not affect the overall restricted area complexes boundaries, operational altitudes, times of designation, or activities conducted within the airspace.

DATES: Effective date 0901 UTC, March 21, 2024.

ADDRESSES: A copy of 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.

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 makes editorial updates the information in the airspace descriptions of restricted areas R–3801A, R–3801B, R–3801C, R–3803A, R–3803B, R–3803C, R–3803D, R–3803E, R–3803F, R–3804A, R–3804B, and R–3804C.

History

The FY 2021 NDAA directed the DoD to establish a commission relating to assigning, modifying, or removing of names, symbols, displays, monuments, and paraphernalia to assets of the DoD that commemorate the Confederate States of America or any person who served voluntarily with the Confederate States of America.[1] In January 2023, the Secretary of Defense directed all DoD organizations to begin full implementation of the Naming Commission's recommendations. As approved by the Secretary of Defense, the name ''Fort Polk, LA'' is changed to ''Fort Johnson, LA''. Additionally, the ''Fort Polk Approach Control'' name is changed to ''Maks Approach Control.'' Consequently, this rulemaking action implements the requisite changes to part 73 by updating the controlling agency of restricted areas R–3801A, R–3801B, and R–3801C, and updating the location name and using agency of restricted areas R–3803A, R–3803B, R–3803C, R–3803D, R–3803E, R–3803F, R–3804A, R–3804B, and R–3804C. This action also makes minor editorial corrections to the designated altitudes information in the restricted area R–3801A, R–3801B, and R–3801C descriptions.

[1] Public Law 116–283, 134 Stat. 3388, Jan. 1, 2021.

The Rule

This action amends 14 CFR part 73 by updating the controlling agency information for restricted areas R–3801A, R–3801B, and R–3801C by removing ''Fort Polk Approach Control'' and replacing it with ''Maks Approach Control''. This action also updates the restricted area location name and the using agency information for restricted areas R–3803A, R–3803B, R–3803C, R–3803D, R–3803E, R–3803F, R–3804A, R–3804B, and R–3804C by removing the name ''Fort Polk, LA'' and replacing it with ''Fort Johnson, LA''.

Additionally, this action makes minor editorial corrections to the designated altitudes information in the restricted area R–3801 A, R–3801B, and R–3801C descriptions.

This action consists of administrative name changes and minor editorial corrections only and does not affect the restricted area complexes boundaries, operational altitudes, times of designation, or activities conducted within the airspace. Therefore, notice and public procedure under 5 U.S.C. 553(b) is unnecessary.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of making administrative name changes to the controlling agency of restricted areas R–3801A, R–3801B, and R–3801C, and administrative name changes to the geographic locations and using agency information of restricted areas R–3803A, R–3803B, R–3803C, R–3803D, R–3803E, R–3803F, R–3804A, R–3804B, and R–3804C, which do not alter the boundaries, altitudes, or time of designation, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of <CFR>airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points); and paragraph 5–6.5d, which categorically excludes from further environmental impact review modification of the technical description of special use airspace (SUA) that does not alter the dimensions, altitudes, or times of designation of the airspace (such as changes in designation of the controlling or using agency, or correction of typographical errors). In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for 14 CFR part 73 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.

§ 73.38 Louisiana (LA) [Amended]

■ 2. Section 73.38 is amended as follows:

R–3801A Camp Claiborne, LA [Amended]

By removing the existing designated altitudes and controlling agency and substituting the following:

Designated altitudes. Surface to but not including 10,000 feet MSL.

Controlling agency. U.S. Army, Maks Approach Control.

R–3801B Camp Claiborne, LA [Amended]

By removing the existing designated altitudes and controlling agency and substituting the following:

Designated altitudes. 10,000 feet MSL to but not including FL 180.

Controlling agency. U.S. Army, Maks Approach Control.

R–3801C Camp Claiborne, LA [Amended]

By removing the existing designated altitudes and controlling agency and substituting the following:

Designated altitudes. FL 180 to FL 230.

Controlling agency. U.S. Army, Maks Approach Control.

R–3803A Fort Polk, LA [Removed]

R–3803B Fort Polk, LA [Removed]

R–3803C Fort Polk, LA [Removed]

R–3803D Fort Polk, LA [Removed]

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R–3804A Fort Polk, LA [Removed]

R–3804B Fort Polk, LA [Removed]

R–3804C Fort Polk, LA [Removed]

R–3803A Fort Johnson, LA [New]

Boundaries. Beginning at lat. 31°23′37″ N, long. 93°09′58″ W; to lat. 31°23′13″ N, long. 93°09′49″ W; to lat. 31°22′01″ N, long. 93°10′06″ W; to lat. 31°19′17″ N, long. 93°11′11″ W; to lat. 31°19′17″ N, long. 93°20′16″ W; to lat. 31°24′31″ N, long. 93°20′16″ W; to lat. 31°24′31″ N, long. 93°16′43″ W; to lat. 31°23′36″ N, long. 93°13′25″ W; to the point of beginning.

Designated altitudes. Surface to but not including FL 180.

Time of designation. By NOTAM issued at least 4 hours in advance.

Controlling agency. FAA, Houston ARTCC.

Using agency. U.S. Army, Joint Readiness Training Center, Fort Johnson, LA.

R–3803B Fort Johnson, LA [New]

Boundaries. Beginning at lat. 31°23′37″ N, long. 93°09′58″ W; to lat. 31°23′13″ N, long. 93°09′49″ W; to lat. 31°22′01″ N, long. 93°10′06″ W; to lat. 31°19′17″ N, long. 93°11′11″ W; to lat. 31°19′17″ N, long. 93°20′16″ W; to lat. 31°24′31″ N, long. 93°20′16″ W; to lat. 31°24′31″ N, long. 93°16′43″ W; to lat. 31°23′36″ N, long. 93°13′25″ W; to the point of beginning.

Designated altitudes. FL 180 to but not including FL 350.

Time of designation. By NOTAM issued at least 24 hours in advance.

Controlling agency. FAA, Houston ARTCC.

Using agency. U.S. Army, Joint Readiness Training Center, Fort Johnson, LA.

R–3803C Fort Johnson, LA [New]

Boundaries. Beginning at lat. 31°19′17″ N, long. 93°10′31″ W; to lat. 31°17′39″ N, long. 93°11′07″ W; to lat. 31°14′25″ N, long. 93°12′17″ W; to lat. 31°14′25″ N, long. 93°14′40″ W; to lat. 31°15′32″ N, long. 93°14′40″ W; to lat. 31°15′32″ N, long. 93°17′00″ W; to lat. 31°19′17″ N, long. 93°17′00″ W; to the point of beginning.

Designated altitudes. Surface to but not including FL 180.

Time of designation. By NOTAM issued at least 4 hours in advance.

Controlling agency. FAA, Houston ARTCC.

Using agency. U.S. Army, Joint Readiness Training Center, Fort Johnson, LA.

R–3803D Fort Johnson, LA [New]

Boundaries. Beginning at lat. 31°19′17″ N, long. 93°03′29″ W; to lat. 31°14′53″ N, long. 93°03′30″ W; to lat. 31°14′52″ N, long. 93°08′52″ W; to lat. 31°14′51″ N, long. 93°10′07″ W; to lat. 31°14′25″ N, long. 93°10′06″ W; to lat. 31°14′25″ N, long. 93°12′17″ W; to lat. 31°17′39″ N, long. 93°11′07″ W; to lat. 31°19′17″ N, long. 93°10′31″ W; to the point of beginning, excluding the airspace area from the surface to and including 1,200 feet AGL beginning at lat. 31°14′52″ N, long. 93°08′52″ W; to lat. 31°14′51″ N, long. 93°10′07″ W; to lat. 31°14′25″ N, long. 93°10′06″ W; to lat. 31°14′25″ N, long. 93°12′17″ W; to lat. 31°17′39″ N, long. 93°11′07″ W; to lat. 31°17′04″ N, long. 93°10′22″ W; to lat. 31°16′11″ N, long. 93°10′22″ W; to the point of beginning of the excluded area.

Designated altitudes. Surface to but not including FL 180.

Time of designation. By NOTAM issued at least 4 hours in advance.

Controlling agency. FAA, Houston ARTCC.

Using agency. U.S. Army, Joint Readiness Training Center, Fort Johnson, LA.

R–3803E Fort Johnson, LA [New]

Boundaries. Beginning at lat. 31°19′17″ N, long. 93°10′31″ W; to lat. 31°17′39″ N, long. 93°11′07″ W; to lat. 31°14′25″ N, long. 93°12′17″ W; to lat. 31°14′25″ N, long. 93°14′40″ W; to lat. 31°15′32″ N, long. 93°14′40″ W; to lat. 31°15′32″ N, long. 93°17′00″ W; to lat. 31°19′17″ N, long. 93°17′00″ W; to the point of beginning.

Designated altitudes. FL 180 to but not including FL 350.

Time of designation. By NOTAM issued at least 24 hours in advance.

Controlling agency. FAA, Houston ARTCC.

Using agency. U.S. Army, Joint Readiness Training Center, Fort Johnson, LA.

R–3803F Fort Johnson, LA [New]

Boundaries. Beginning at lat. 31°19′17″ N, long. 93°03′29″ W; to lat. 31°14′53″ N, long. 93°03′30″ W; to lat. 31°14′52″ N, long. 93°08′52″ W; to lat. 31°14′51″ N, long. 93°10′07″ W; to lat. 31°14′25″ N, long. 93°10′06″ W; to lat. 31°14′25″ N, long. 93°12′17″ W; to lat. 31°17′39″ N, long. 93°11′07″ W; to lat. 31°19′17″ N, long. 93°10′31″ W; to the point of beginning.

Designated altitudes. FL 180 to but not including FL 350.

Time of designation. By NOTAM issued at least 24 hours in advance.

Controlling agency. FAA, Houston ARTCC.

Using agency. U.S. Army, Joint Readiness Training Center, Fort Johnson, LA.

R–3804A Fort Johnson, LA [New]

Boundaries. Beginning at lat. 31°00′53″ N, long. 93°08′12″ W; to lat. 31°00′53″ N, long. 92°56′53″ W; to lat. 31°00′20″ N, long. 92°56′14″ W; to lat. 31°00′20″ N, long. 92°54′23″ W; to lat. 31°03′55″ N, long. 92°51′34″ W; to lat. 31°09′35″ N, long. 92°58′25″ W; to lat. 31°09′35″ N, long. 93°00′56″ W; to lat. 31°08′43″ N, long. 93°01′55″ W; to lat. 31°08′43″ N, long. 93°08′12″ W; to the point of beginning.

Designated altitudes. Surface to FL 180.

Time of designation. By NOTAM.

Controlling agency. FAA, Houston ARTCC.

Using agency. U.S. Army, Commanding General, Fort Johnson, LA.

R–3804B Fort Johnson, LA [New]

Boundaries. Beginning at lat. 31°00′53″ N, long. 93°10′53″ W; to lat. 31°00′53″ N, long. 93°08′12″ W; to lat. 31°08′43″ N, long. 93°08′12″ W; to lat. 31°08′43″ N, long. 93°11′00″ W; to lat. 31°04′56″ N, long. 93°11′00″ W; to lat. 31°04′15″ N, long. 93°12′31″ W; to the point of beginning.

Designated altitudes. Surface to but not including 10,000 feet MSL.

Time of designation. By NOTAM.

Controlling agency. FAA, Houston ARTCC.

Using agency. U.S. Army, Commanding General, Fort Johnson, LA.

R–3804C Fort Johnson, LA [New]

Boundaries. Beginning at lat. 31°00′53″ N, long. 93°08′12″ W; to lat. 31°00′53″ N, long. 92°56′53″ W; to lat. 31°00′20″ N, long. 92°56′14″ W; to lat. 31°00′20″ N, long. 92°54′23″ W; to lat. 31°03′55″ N, long. 92°51′34″ W; to lat. 31°09′35″ N, long. 92°58′25″ W; to lat. 31°09′35″ N, long. 93°00′56″ W; to lat. 31°08′43″ N, long. 93°01′55″ W; to lat. 31°08′43″ N, long. 93°08′12″ W; to the point of beginning.

Designated altitudes. FL 180 to but not including FL 350.

Time of designation. By NOTAM 24 hours in advance.

Controlling agency. FAA, Houston ARTCC.

Using agency. U.S. Army, Commanding General, Fort Johnson, LA.

* * * * *

Issued in Washington, DC, on January 11, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024–00807 Filed 1–16–24; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2023–2555; Airspace Docket No. 23–AEA–18]

RIN 2120–AA66

Renaming of Restricted Areas R–6601A, R–6601B, and R–6601C; Fort AP Hill, VA

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

ACTION: Final rule; technical amendment.

SUMMARY: This action renames restricted areas R–6601A, R–6601B, and R–6601C, Fort AP Hill, VA, and updates the using agency description. Additionally, this action amends the geographic coordinates for multiple boundary points listed in the restricted areas to accurately align the existing boundary with United States (U.S.) Route 301 and U.S. Highway 17 referenced in the descriptions and adjacent Special Use Airspace (SUA). This action partially implements recommendations of the Commission on the Naming of Items (Naming Commission) of the Department of Defense (DoD) as established by section 370 of the Fiscal Year (FY) 2021 National Defense Authorization Act (NDAA).

DATES: Effective date 0901 UTC, March 21, 2024.

ADDRESSES: A copy of 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.

FOR FURTHER INFORMATION CONTACT: Brian Vidis, 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 updates the information in the airspace descriptions of restricted areas R–6601A, R–6601B, and R–6601C.

Background

The FY 2021 NDAA directed the DoD to establish a commission relating to assigning, modifying, or removing of names, symbols, displays, monuments, and paraphernalia to assets of the DoD that commemorate the Confederate States of America or any person who served voluntarily with the Confederate States of America.[1] In January 2023, the Secretary of Defense directed all DoD organizations to begin full implementation of the Naming Commission's recommendations. As approved by the Secretary of Defense, the name ''Fort AP Hill, VA'' is changed to ''Fort Walker, VA''. Consequently, this rulemaking action implements the requisite changes to part 73 by updating the airspace descriptions of restricted areas R–6601A, R–6601B, and R–6601C to reflect the new name.

Upon review of the restricted areas, the FAA identified four boundary points used in the boundary descriptions that must be amended to accurately align with U.S. Route 301 and U.S. Highway 17 used in the description.

Additionally, the FAA identified three boundary points to be included in the description that add additional precision to the alignment of U.S. Route 301 and create coincidence between adjacent SUA. These three additional boundary points must be included to ensure that there are no gaps between R–6601A, R–6601B, and R–6601C and the adjacent military operations area (MOA); and to ensure coincident alignment of the overlying boundaries of R–6601A, R–6601B, and R–6601C.

The Rule

This action amends 14 CFR part 73 by updating the airspace titles and using agency descriptions for restricted areas R–6601A, R–6601B, and R–6601C by removing the name ''Fort AP Hill, VA'' and replacing it with ''Fort Walker, VA''.

The FAA is also amending four geographic coordinates in the description of Restricted Areas R–6601A, R–6601B, and R–6601C. These minor amendments to the geographic coordinates more accurately describe

[1] Public Law 116–283, 134 Stat. 3388, Jan. 1, 2021.

the intersection of each restricted area where it meets U.S. Route 301 and U.S. Highway 17 in Virginia. Updating these coordinates does not change the boundary of the restricted areas, but rather increases the accuracy of the roadway due to digital precision survey. The point ''lat. 38°04′37″ N, long. 77°18′44″ W'' is changed to ''lat. 38°04′37″ N, long. 77°18′46″ W'' in the description of R–6601A, R–6601B, and R–6601C. The point ''lat. 38°09′45″ N, long. 77°11′59″ W'' is changed to ''lat. 38°09′48″ N, long. 77°11′59″ W''; and the point ''lat. 38°07′50″ N, long. 77°08′29″ W'' is changed to ''lat. 38°07′49″ N, long. 77°08′29″ W'' in the description of R–6601A. The point ''lat. 38°09′38″ N, long. 77°12′07″ W'' is changed to ''lat. 38°09′39″ N, long. 77°12′08″ W'' in the description of R–6601B and R–6601C.

Additionally, the FAA is adding three geographic coordinates to the description of Restricted Areas R–6601A, R–6601B, and R–6601C. These additional geographic coordinates add intermediate geographic points to the boundary of R–6601A, R–6601B, and R–6601C that further increases the accuracy of the alignment of U.S Route 301 and creates coincident boundary points between the adjacent MOA. The point ''lat. 38°08′04″ N, long. 77°14′06″ W'' is added to R–6601A, R–6601B, and R–6601C. The point ''lat. 38°09′39″ N, long. 77°12′08″ W''; and the point ''lat. 38°07′09″ N, long. 77°08′40″ W'' are added to R–6601A.

This action consists of administrative name changes and minor technical amendments only and does not affect the boundaries, altitudes, time of designation, or activities conducted in the airspace. Therefore, notice and public procedure under 5 U.S.C. 553(b) is unnecessary.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of making administrative name changes; a technical amendment to four geographic coordinates; and adding 3 geographic coordinates in the description to restricted areas R–6601A, R–6601B, and R–6601C, which do not alter the boundaries, altitudes, or time of designation, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5d—Modification of the technical description of special use airspace (SUA) that does not alter the dimensions, altitudes, or times of designation of the airspace (such as changes in designation of the controlling or using agency, or correction of typographical errors). In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for 14 CFR part 73 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.

§ 73.66 Virginia (VA) [Amended]

■ 2. Section 73.66 is amended as follows:

R–6601A Fort A.P. Hill, VA [Removed]

R–6601B Fort A.P. Hill, VA [Removed]

R–6601C Fort A.P. Hill, VA [Removed]

R–6601A Fort Walker, VA [New]

Boundaries. Beginning at lat. 38°04′37″ N, long. 77°18′46″ W; thence along U.S. Route 301; to lat. 38°08′04″ N, long. 77°14′06″ W; thence along U.S. Route 301; to lat. 38°09′39″ N, long. 77°12′08″ W; thence along U.S. Route 301; to lat. 38°09′48″ N, long. 77°11′59″ W; thence along U.S. Highway 17; to lat. 38°07′49″ N, long. 77°08′29″ W; to lat. 38°07′09″ N, long. 77°08′40″ W; to lat. 38°05′30″ N, long. 77°09′05″ W; to lat. 38°04′40″ N, long. 77°10′19″ W; to lat. 38°03′12″ N, long. 77°09′34″ W; to lat. 38°02′22″ N, long. 77°11′39″ W; to lat. 38°02′30″ N, long. 77°14′39″ W; to lat. 38°01′50″ N, long. 77°16′07″ W; to lat. 38°02′15″ N, long. 77°18′03″ W; to lat. 38°02′40″ N, long. 77°18′59″ W; to the point of beginning.

Designated altitudes. Surface to but not including 4,500 feet MSL.

Time of designation. 0700 to 0200 local time daily. Other times by NOTAM at least 48 hours in advance.

Controlling agency. FAA, Potomac TRACON.

Using agency. U.S. Army, Commander, Fort Walker, VA.

R–6601B Fort Walker, VA [New]

Boundaries. Beginning at lat. 38°04′37″ N, long. 77°18′46″ W; thence along U.S. Route 301; to lat. 38°08′04″ N, long. 77°14′06″ W; thence along U.S. Route 301; to lat. 38°09′39″ N, long. 77°12′08″ W; to lat. 38°07′09″ N, long. 77°08′40″ W; to lat. 38°05′30″ N, long. 77°09′05″ W; to lat. 38°04′40″ N, long. 77°10′19″ W; to lat. 38°03′12″ N, long. 77°09′34″ W; to lat. 38°02′22″ N, long. 77°11′39″ W; to lat. 38°02′30″ N, long. 77°14′39″ W; to lat. 38°01′50″ N, long. 77°16′07″ W; to lat. 38°02′15″ N, long. 77°18′03″ W; to lat. 38°02′40″ N, long. 77°18′59″ W; to the point of beginning.

Designated altitudes. 4,500 feet MSL to but not including 7,500 feet MSL.

Time of designation. Intermittent by NOTAM at least 48 hours in advance.

Controlling agency. FAA, Potomac TRACON.

Using agency. U.S. Army, Commander, Fort Walker, VA.

R–6601C Fort Walker, VA [New]

Boundaries. Beginning at lat. 38°04′37″ N, long. 77°18′46″ W; thence along U.S. Route 301; to lat. 38°08′04″ N, long. 77°14′06″ W; thence along U.S. Route 301; to lat. 38°09′39″ N, long. 77°12′08″ W; to lat. 38°07′09″ N, long. 77°08′40″ W; to lat. 38°05′30″ N, long. 77°09′05″ W; to lat. 38°04′40″ N, long. 77°10′19″ W; to lat. 38°03′12″ N, long. 77°09′34″ W; to lat. 38°02′22″ N, long. 77°11′39″ W; to lat. 38°02′30″ N, long. 77°14′39″ W; to lat. 38°01′50″ N, long. 77°16′07″ W; to lat. 38°02′15″ N, long. 77°18′03″ W; to lat. 38°02′40″ N, long. 77°18′59″ W; to the point of beginning.

Designated altitudes. 7,500 feet MSL to 9,000 feet MSL.

Time of designation. Intermittent by NOTAM at least 48 hours in advance.

Controlling agency. FAA, Potomac TRACON.

Using agency. U.S. Army, Commander, Fort Walker, VA.

* * * * *

Issued in Washington, DC, on January 11, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024–00804 Filed 1–16–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2023–2220; Airspace Docket No. 23–AWP–59]

RIN 2120–AA66

Amendment of Restricted Area R–2512 Holtville, CA; Correction

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

ACTION: Final rule; correction.

SUMMARY: This action corrects a final rule that published in the **Federal Register** on November 16, 2023, that amends restricted area R–2512 in the vicinity of Holtville, CA. This action corrects a typographical error in that rule stating that incorrect section would be amended.

DATES: Effective date 0901 UTC, January 25, 2024.

ADDRESSES: A copy of the notice of proposed rulemaking (NPRM), all comments received, the final rule, this final rule correction, 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.

FOR FURTHER INFORMATION CONTACT: Steven Roff, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** for Docket No. FAA–2023–2220 (88 FR 78636; November 16, 2023), that amended restricted area R–2512 in the vicinity of Holtville, CA. The section of 14 CFR part 73 to be amended by the final rule was incorrectly stated as § 73.22. The correct section of 14 CFR part 73 to be amended is § 73.25. This rule corrects this typographical error.

Correction to Final Rule

In FR Doc. 2023–25347, appearing on page 78636, as published in the **Federal Register** of November 16, 2023, the FAA makes the following correction:

■ 1. On page 78637, in the second column, correct amendatory instruction 2 and the accompanying text to read as follows:

§ 73.25 [Amended]

■ 2. Section 73.25 is amended as follows:

* * * * *

R–2512 Holtville, CA [Amended]

Boundaries. Beginning at lat. 33°05′00″ N, long. 115°17′33″ W; to lat. 33°00′00″ N, long. 115°13′33″ W; to lat. 32°51′00″ N, long. 115°05′33″ W; to lat. 32°51′00″ N, long. 115°17′03″ W; to lat. 32°58′00″ N, long. 115°17′33″ W; to lat. 33°05′00″ N, long. 115°20′03″ W; to the point of beginning.

Designated altitudes. Surface to 23,000 feet MSL.

Time of designation. 0600–2300 local time daily; other times by NOTAM 24 hours in advance.

Controlling agency. FAA, Los Angeles ARTCC.

Using Agency. U.S. Marine Corps, Commanding Officer, Marine Corps Air Station Yuma, Yuma, AZ.

* * * * *

Issued in Washington, DC, on January 11, 2024.

Frank Lias,

Manager, Airspace Rules and Regulations.

[FR Doc. 2024–00805 Filed 1–16–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 575

Annual Adjustment of Civil Monetary Penalty To Reflect Inflation

AGENCY: National Indian Gaming Commission.

ACTION: Final rule.

SUMMARY: In compliance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the Act) and Office of Management and Budget (OMB) guidance, the National Indian Gaming Commission (NIGC or Commission) is amending its civil monetary penalty rule to reflect an annual adjustment for inflation in order to improve the penalty's effectiveness and maintain its deterrent effect. The Act provides that the new penalty level must apply to penalties assessed after the effective date of the increase, including when the penalties whose associated violation predate the increase.

DATES:

Effective date: January 17, 2024.

Applicability date: This rule is applicable beginning on January 15, 2024.

FOR FURTHER INFORMATION CONTACT: Armando J. Acosta, Senior Attorney, Office of General Counsel, National Indian Gaming Commission, at (202) 632–7003; fax (202) 632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74). Beginning in 2017, the Act requires agencies to make annual inflationary adjustments to their civil monetary penalties by January 15th of each year, in accordance with annual OMB guidance.

II. Calculation of Annual Adjustment

In December of every year, OMB issues guidance to agencies to calculate the annual adjustment. According to OMB, the cost-of-living adjustment multiplier for fiscal year 2024 is 1.03241, based on the Consumer Price Index for the month of October 2023, not seasonally adjusted.

Pursuant to this guidance, the Commission has calculated the annual adjustment level of the civil monetary penalty contained in 25 CFR 575.4 (''The Chairman may assess a civil fine, not to exceed $61,983 per violation, against a tribe, management contractor, or individual operating Indian gaming for each notice of violation . . .''). The 2024 adjusted level of the civil monetary penalty is $63,992 ($61,983 × 1.03241).

III. Regulatory Matters

Regulatory Planning and Review

This final rule is not a significant rule under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy or will not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not involve entitlements, grants, user fees, or loan programs or the rights or obligations of recipients.

(4) This regulatory change does not raise novel legal or policy issues.

Regulatory Flexibility Act

The Commission certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the rule makes annual adjustments for inflation.

Small Business Regulatory Enforcement Fairness Act

This final rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. The rule will not result in a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. Nor will this rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

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

Takings

Under the criteria in Executive Order 12630, this final rule does not affect individual property rights protected by the Fifth Amendment nor does it involve a compensable ''taking.'' Thus, a takings implication assessment is not required.

Federalism

Under the criteria in Executive Order 13132, this final rule has no 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.

Civil Justice Reform

This final rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation. It is written in clear language and contains clear legal standards.

Consultation With Indian Tribes

In accordance with the President's memorandum of April 29, 1994, *Government-to-Government Relations with Native American Tribal Governments,* Executive Order 13175 (59 FR 22951, November 6, 2000), the Commission has determined that consultations with Indian gaming tribes is not practicable, as Congress has mandated that annual civil penalty adjustments in the Act be implemented no later than January 15th of each year.

Paperwork Reduction Act

This final rule does not affect any information collections under the Paperwork Reduction Act.

National Environmental Policy Act

This final rule does not constitute a major federal action significantly affecting the quality of the human environment.

Information Quality Act

In developing this final rule, the Commission did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 106–554).

Effects on the Energy Supply

This final rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Clarity of This Regulation

The Commission is required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule that the Commission publishes must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

Required Determinations Under the Administrative Procedure Act

In accordance with the Act, agencies are to annually adjust civil monetary penalties without providing an opportunity for notice and comment, and without a delay in its effective date. Therefore, the Commission is not required to complete a notice and comment process prior to promulgation.

List of Subjects in 25 CFR Part 575

Administrative practice and procedure, Gaming, Indian lands, Penalties.

For the reasons set forth in the preamble, the Commission amends 25 CFR part 575 as follows:

PART 575—CIVIL FINES

■ 1. The authority citation for part 575 continues to read as follows:

Authority: 25 U.S.C. 2705(a), 2706, 2713, 2715; and Sec. 701, Pub. L. 114–74, 129 Stat. 599.

§ 575.4 [Amended]

■ 2. Amend the introductory text of § 575.4 by removing ''$57,527'' and adding in its place ''$63,992''.

E. Sequoyah Simermeyer,

Chair,

Jean C. Hovland,

Vice Chair.

[FR Doc. 2024–00793 Filed 1–16–24; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 587

Publication of Russian Harmful Foreign Activities Sanctions Regulations Web General Licenses 81, 82, 83, 84, and 85

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of Web General Licenses.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing five general licenses (GLs) issued pursuant to the Russian Harmful Foreign Activities Sanctions Regulations: GLs 81, 82, 83, 84, and 85 each of which were previously made available on OFAC's website.

DATES: GLs 81 and 82 were issued on December 20, 2023, and GLs 83, 84, and 85 were issued on December 22, 2023. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

FOR FURTHER INFORMATION CONTACT: *OFAC:* Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Compliance, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *https://ofac.treasury.gov.*

Background

On December 20, 2023, OFAC issued GLs 81 and 82 to authorize certain transactions otherwise prohibited by the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587 (RuHSR). On December 22, 2023, OFAC issued GLs 83, 84, and 85 to authorize certain transactions otherwise prohibited by the RuHSR. GLs 81 and 82 have an expiration date of March 19, 2024. GL 83 has an expiration date of February 21, 2024. GL 85 has an expiration date of March 21, 2024. Each GL was made available on OFAC's website (*https://ofac.treasury.gov*) when it was issued. The text of these GLs is provided below.

OFFICE OF FOREIGN ASSETS CONTROL

Russian Harmful Foreign Activities Sanctions Regulations

31 CFR Part 587

GENERAL LICENSE NO. 81

Authorizing Limited Safety and Environmental Transactions Involving Certain Persons or Vessels Blocked on December 20, 2023

(a) Except as provided in paragraph (c) of this general license, all transactions prohibited by Executive Order (E.O.) 14024 that are ordinarily incident and necessary to one of the following activities involving the blocked persons described in paragraph (b) are authorized through 12:01 a.m. eastern daylight time, March 19, 2024, provided that any payment to a blocked person must be made into a blocked account in accordance with the Russian Harmful Foreign Activities Sanctions Regulations (RuHSR):

(1) The safe docking and anchoring in port of any vessels in which any person or entity listed in paragraph (b) of this general license has a property interest (''blocked vessels'');

(2) The preservation of the health or safety of the crew of any of the blocked vessels; or

(3) Emergency repairs of any of the blocked vessels or environmental mitigation or protection activities relating to any of the blocked vessels.

(b) The authorization in paragraph (a) of this general license applies to the following blocked persons listed on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List and any entity in which any of the following persons own, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest:

(1) SUN Ship Management D Ltd;

(2) Covart Energy Limited;

(3) Voliton DMCC; and

(4) Bellatrix Energy Limited.

(c) This general license does not authorize:

(1) The entry into any new commercial contracts involving the property or interests in property of any blocked persons, including the blocked entities described in paragraph (b) of this general license, except as authorized by paragraph (a);

(2) The offloading of any cargo onboard any of the blocked vessels, including the offloading of crude oil or petroleum products of Russian Federation origin, except for the offloading of cargo that is ordinarily incident and necessary to address vessel emergencies authorized pursuant to paragraph (a) of this general license;

(3) Any transactions related to the sale of crude oil or petroleum products of Russian Federation origin;

(4) Any transactions prohibited by Directive 2 under E.O. 14024, *Prohibitions Related to Correspondent or Payable-Through Accounts and Processing of Transactions Involving Certain Foreign Financial Institutions;*

(5) Any transactions prohibited by Directive 4 under E.O. 14024, *Prohibitions Related to Transactions Involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation;* or

(6) Any transactions otherwise prohibited by the RuHSR, including transactions involving the property or interests in property of any person blocked pursuant to the RuHSR, other than transactions involving the blocked persons in paragraph (b) of this general license, unless separately authorized.

Dated: December 20, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

OFFICE OF FOREIGN ASSETS CONTROL

Russian Harmful Foreign Activities Sanctions Regulations

31 CFR Part 587

GENERAL LICENSE NO. 82

Authorizing the Wind Down of Transactions Involving SUN Ship Management D Ltd

(a) Except as provided in paragraph (b) of this general license, all transactions prohibited by Executive Order (E.O.) 14024 that are ordinarily incident and necessary to the wind down of any transaction involving SUN Ship Management D Ltd (SUN Ship), or any entity in which SUN Ship owns, directly or indirectly, a 50 percent or greater interest, are authorized through 12:01 a.m. eastern daylight time, March 19, 2024, provided that any payment to a blocked person is made into a blocked account in accordance with the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587 (RuHSR).

(b) This general license does not authorize:

(1) Any transactions prohibited by Directive 2 under E.O. 14024, *Prohibitions Related to Correspondent or Payable-Through Accounts and Processing of Transactions Involving Certain Foreign Financial Institutions;*

(2) Any transactions prohibited by Directive 4 under E.O. 14024, *Prohibitions Related to Transactions Involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation,* as amended; or

(3) Any transactions otherwise prohibited by the RuHSR, including transactions involving any person blocked pursuant to the RuHSR other than the blocked persons mentioned in paragraph (a) of this general license, unless separately authorized.

Dated: December 20, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

OFFICE OF FOREIGN ASSETS CONTROL

Russian Harmful Foreign Activities Sanctions Regulations

31 CFR Part 587

GENERAL LICENSE NO. 83

Authorizing Certain Transactions Related to Imports of Certain Categories of Fish, Seafood, and Preparations Thereof Prohibited by Executive Order 14068

(a) Except as provided in paragraph (b) of this general license, all transactions prohibited by the determination of December 22, 2023 made pursuant to section 1(a)(i)(B) of Executive Order (E.O.) 14068, as amended by E.O. of December 22, 2023 (''Prohibitions Related to Imports of Certain Categories of Fish, Seafood, and Preparations Thereof''), that are ordinarily incident and necessary to the importation into the United States of seafood derivative products, pursuant to written contracts or written agreements entered into prior to December 22, 2023 are authorized through 12:01 a.m.

eastern standard time, February 21, 2024.

(b) This general license does not authorize any transactions otherwise prohibited by the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587 (RuHSR), including transactions involving any person blocked pursuant to the RuHSR, unless separately authorized.

Dated: December 22, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

OFFICE OF FOREIGN ASSETS CONTROL

Russian Harmful Foreign Activities Sanctions Regulations

31 CFR Part 587

GENERAL LICENSE NO. 84

Authorizing Transactions Related to Closing a Correspondent or Payable-Through Account

(a) Except as provided in paragraph (b) of this general license, U.S. financial institutions that maintain correspondent accounts or payable-through accounts for any foreign financial institution subject to the correspondent account or payable-through account (CAPTA) prohibition of section 11(b)(i) of Executive Order (E.O.) 14024, as amended, are authorized, during the 10-day period beginning on the effective date of the imposition of the prohibition, to engage in the following transactions:

(1) Processing only those transactions through the account, or permitting the foreign financial institution to execute only those transactions through the account, for the purpose of, and necessary for, closing the account; and

(2) Transferring the funds remaining in the correspondent account or the payable-through account to an account of the foreign financial institution located outside of the United States and closing of the correspondent account or the payable-through account.

(b) This general license does not authorize any transactions otherwise prohibited by the RuHSR, including transactions involving any person blocked pursuant to the RuHSR, unless separately authorized.

Dated: December 22, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

OFFICE OF FOREIGN ASSETS CONTROL

Russian Harmful Foreign Activities Sanctions Regulations

31 CFR Part 587

GENERAL LICENSE NO. 85

Authorizing the Wind Down of Transactions and the Closure of Accounts Involving Expobank Joint Stock Company

(a) Except as provided in paragraph (c) of this general license, all transactions prohibited by Executive Order (E.O.) 14024 that are ordinarily incident and necessary to the wind down of any transaction involving Expobank Joint Stock Company (Expobank), or any entity in which Expobank owns, directly or indirectly, a 50 percent or greater interest, are authorized through 12:01 a.m. eastern daylight time, March 21, 2024, provided that any payment to a blocked person is made into a blocked account in accordance with the Russian Harmful Foreign Activities Sanctions Regulations, 31 CFR part 587 (RuHSR).

(b) Except as provided in paragraph (c) of this general license, all transactions prohibited by E.O. 14024 that are ordinarily incident and necessary to (i) the closing of an account of a person, wherever located, who is not a blocked person (''the account holder''), held at Expobank, or any financial institution in which Expobank owns, directly or indirectly, a 50 percent or greater interest, and (ii) the unblocking and lump sum transfer of all remaining funds and other assets in the account to the account holder, including to an account of the account holder held at a non-blocked financial institution, are authorized through 12:01 a.m. eastern daylight time, March 21, 2024.

(c) This general license does not authorize:

(1) Any transactions prohibited by Directive 2 under E.O. 14024, *Prohibitions Related to Correspondent or Payable-Through Accounts and Processing of Transactions Involving Certain Foreign Financial Institutions;*

(2) Any transactions prohibited by Directive 4 under E.O. 14024, *Prohibitions Related to Transactions Involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation,* as amended; or

(3) Any transactions otherwise prohibited by the RuHSR, including transactions involving any person blocked pursuant to the RuHSR other than the blocked person described in paragraph (a) of this general license, unless separately authorized.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

Dated: December 22, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2024–00734 Filed 1–16–24; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2023–0936]

Special Local Regulations; Recurring Marine Events, Sector St. Petersburg

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a special local regulation for the Gasparilla Invasion and Parade on January 27, 2024, to provide for the safety of life on navigable waterways during this event. Our regulation for recurring marine events within the Captain of the Port St. Petersburg identifies the regulated area for this event in Tampa, FL. During the enforcement periods, no person or vessel may enter, transit through, anchor in, or remain within the regulated area unless authorized by the Coast Guard Patrol Commander or a designated representative.

DATES: The regulations in 33 CFR 100.703 will be enforced from 11 a.m. through 2 p.m., on January 27, 2024, for the regulated are listed in Item 1 in Table 1 to § 100.703.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Marine Science Technician First Class Mara Brown, Sector St. Petersburg Prevention Department, U.S. Coast Guard; telephone 813–228–2191, email: *Mara.J.Brown@uscg.mil.*

SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce the special local regulation in 33 CFR 100.703 for the Gasparilla Invasion and Parade regulated area identified in Table 1 to § 100.703, Item No. 1, from 11 a.m. through 2 p.m. on January 27, 2024. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for recurring marine events, Captain of the

Port Sector St. Petersburg, § 100.703, Table 1 to § 100.703, Item No. 1, specifies the location of the regulated area for the Gasparilla Invasion and Parade, which encompasses portions of Hillsborough Bay, Seddon Channel, Sparkman Channel and Hillsborough River located in Tampa, FL. Under the provisions of 33 CFR 100.703, all persons and vessels are prohibited from entering the regulated area, except those persons and vessels participating in the event, unless they receive permission to do so from the Coast Guard Patrol Commander, or designated representative.

Under the provisions of 33 CFR 100.703, spectator vessels may safely transit outside the regulated area, but may not anchor, block, loiter in, impede the transit of festival participants or official patrol vessels or enter the regulated area without approval from the Coast Guard Patrol Commander or a designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation. In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide notice of the regulated area via Local Notice to Mariners, Marine Safety Information Bulletins, Broadcast Notice to Mariners, and on-scene designated representatives.

Dated: January 9, 2024.

Michael P. Kahle,

Captain, U.S. Coast Guard, Captain of the Port St. Petersburg.

[FR Doc. 2024–00765 Filed 1–16–24; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2022–0673; FRL–10900–02–R5]

Air Plan Approval; Illinois; NAAQS Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Illinois Environmental Protection Agency (IEPA) on July 8, 2022. Illinois revised its air pollution control rules entitled ''Part 243—Ambient Air Quality Standards'' and updated the ''List of Designated Reference and Equivalent Methods'' in response to EPA rulemakings and changes to the National Ambient Air Quality Standards (NAAQS) that EPA adopted in 2021.

DATES: This final rule is effective on February 16, 2024.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2022–0673. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Daphne Onsay at (312) 886–5945 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Daphne Onsay, Life Scientist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–5945, *onsay.daphne@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

I. Background Information

On July 8, 2022, IEPA submitted a request to EPA to incorporate revisions to the Illinois air pollution control rules in Title 35 of the Illinois Administrative Code, Part 243—Air Quality Standards. Part 243 sets forth the NAAQS adopted by EPA under section 109 of the Clean Air Act (CAA). The submission updates Part 243: Sections 243.108 and 243.122, effective May 18, 2022. Illinois revised Part 243 to reflect amendments to EPA's ''List of Designated References and Equivalent Methods'' used to determine compliance with the NAAQS (fine particulate matter and coarse particulate matter, sulfur dioxide (SO_2), carbon monoxide, lead, oxides of nitrogen, and ozone). In addition to these changes, Illinois updated existing rule language to address EPA's revocation of the 1971 primary, 24-hour, and annual average NAAQS for SO_2. An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for this proposed rule ended on August 23, 2023.

During the comment period, EPA received one comment that covered a variety of topics including comments on administrative changes being made that could increase the complexity and burden of regulatory compliance on affected industry. The comment is summarized and addressed below and the comment itself is included in the docket for this action. We do not consider this comment to be germane or relevant to this action and therefore not adverse to this action. The comment lacks the required specificity to the proposed SIP revision and the relevant requirements of CAA section 110. Moreover, the comment does not address a specific regulation or provision in question or recommend a different action on the SIP submission from what EPA proposed. Therefore, we are finalizing our action as proposed.

II. Response to Public Comments

Comment 1: The commenter is concerned that the potential complexity of these administrative changes could increase the complexity of regulatory compliance and reporting. The commenter states that businesses may be required to dedicate more resources for compliance, which could place a financial burden on small and medium businesses. The commenter also states that the changes require consistent monitoring, increasing the possibility of non-compliance due to unawareness or misunderstanding.

Response 1: Illinois is adopting requirements that are already established at the Federal level and making them applicable at the State level. Illinois is incorporating these Federal regulations into the Illinois air pollution control rules entitled ''Part 243—Ambient Air Quality Standards'' and also updating the ''List of Designated Reference and Equivalent Methods'' in response to EPA rulemakings. Illinois is also changing Section 243.122 to be consistent with the Round 4 area designations for the primary 2010 NAAQS for SO_2 that EPA issued in 2021. These administrative changes do not place additional requirements on regulated entities beyond those already established in the NAAQS. The commenter stated that the administrative changes should be consolidated to a degree that decreases the frequency of these changes. These administrative changes have been consolidated to include the Illinois

updates to Part 243, which reflect amendments to EPA's ''List of Designated References and Equivalent Methods'' used to determine compliance with the NAAQS. In addition, Illinois updated existing rule language to address EPA's revocation of the 1971 primary, 24-hour, and annual average NAAQS for SO_2. Regarding the frequency of these administrative changes, EPA is required to update the NAAQS every 5 years, in accordance with section 109 of the CAA. EPA is following statutory requirements.

III. Final Action

EPA is approving a revision to the Illinois SIP. The submittal updates revisions to the Illinois regulations at Title 35 of the Illinois Administrative Code, Part 243—Air Quality Standards (Part 243). Specifically, the updates made to Part 243: Sections 243.108 and 243.122—are intended to be ''identical in substance'' to, and consistent with the updates to the list of designated Federal equivalent and reference methods and updates to the NAAQS adopted by EPA. IEPA's revisions mirror EPA's reference method for the 2010 1-hour SO_2 standard. IEPA removed the 1971 primary, 24 hour, and annual SO_2 standard reflecting EPA's action at the Federal level.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Illinois Regulations described in section I of this preamble and set forth in the amendments to 40 CFR part 52 below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

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 CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the 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 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

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

IEPA did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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

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 March 18, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

[1] 62 FR 27968 (May 22, 1997).

Dated: January 9, 2024.

Debra Shore,

Regional Administrator, Region 5.

For the reasons stated 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.*

■ 2. In § 52.720, the table in paragraph (c) is amended by:

■ a. Revising the entry for ''243.108'' and the first entry for ''243.122'' (State effective date 8/18/2020); and

■ b. Removing the second entry for ''243.122'' (State effective date 2/19/2019).

The revisions read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES

Illinois citation	Title/subject	State effective date	EPA approval date	Comments
*	*	*	*	*
243.108	Incorporation by Reference	3/4/2022	1/17/2024, [INSERT **FEDERAL REGISTER** CITATION].	
*	*	*	*	*
243.122	Sulfur Oxides (Sulfur Dioxide)	3/4/2022	1/17/2024, [INSERT **FEDERAL REGISTER** CITATION].	
*	*	*	*	*

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[FR Doc. 2024–00658 Filed 1–16–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 10

[PS Docket Nos. 15–94; 15–91; FCC 23–88; FR ID 196695]

Emergency Alert System; Wireless Emergency Alerts; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects the **DATES** section of a final rule that appeared in the **Federal Register** on December 15, 2023, regarding the Wireless Emergency Alert system. This correction adds to the list of rules sections with indefinitely delayed effective dates.

DATES: The correction is effective on January 17, 2024.

FOR FURTHER INFORMATION CONTACT: For further information regarding this final rule correction, please contact Michael Antonino, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, (202) 418–7965, or by email to *michael.antonino@fcc.gov*.

SUPPLEMENTARY INFORMATION: The Commission is correcting the **DATES** section of final rule FR Doc. 2023–27236 by adding rule 47 CFR 10.210(a) to the list of rules sections whose effective dates are delayed indefinitely.

Correction

In FR Rule Doc. 2023–27236, appearing on page 86824 in the **Federal Register** of December 15, 2023, on page 86824, in the first column, the **DATES** section is corrected to read:

DATES: Effective December 15, 2026, except for the amendments to 47 CFR 10.210(a), (b), (c), and (d), 10.350(d), 10.480(a) and (b), and 10.500(e), which are delayed indefinitely. The Federal Communications Commission will announce the effective dates of the delayed amendments by publishing documents in the **Federal Register**.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2024–00708 Filed 1–16–24; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 89, No. 11
Wednesday, January 17, 2024

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

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2017–BT–STD–0003]

RIN 1904–AF56

Energy Conservation Program: Energy Conservation Standards for Refrigerators, Refrigerator-Freezers, and Freezers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Energy Policy and Conservation Act, as amended (''EPCA''), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including refrigerators, refrigerator-freezers, and freezers. In this notice of proposed rulemaking (''NOPR''), DOE proposes new energy conservation standards for refrigerators, refrigerator-freezers, and freezers identical to those set forth in a direct final rule published elsewhere in this issue of the **Federal Register**. If DOE receives adverse comment and determines that such comment may provide a reasonable basis for withdrawal of the direct final rule, DOE will publish a notice of withdrawal and will proceed with this proposed rule.

DATES: DOE will accept comments, data, and information regarding this NOPR no later than May 6, 2024. Comments regarding the likely competitive impact of the proposed standard should be sent to the Department of Justice contact listed in the **ADDRESSES** section on or before February 16, 2024.

ADDRESSES: See section IV, ''Public Participation,'' for details. If DOE withdraws the direct final rule published elsewhere in this issue of the **Federal Register**, DOE will hold a public meeting to allow for additional comment on this proposed rule. DOE will publish notice of any meeting in the **Federal Register**.

Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov* under docket number EERE–2017–BT–STD–0003. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2017–BT–STD–0003, by any of the following methods:

Email: *ApplianceStandardsQuestions@ee.doe.gov.* Include the docket number EERE–2017–BT–STD–0003 in the subject line of the message.

Postal Mail: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.

Hand Delivery/Courier: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, 6th Floor, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section IV of this document.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at *www.regulations.gov/docket/EERE-2017-BT-STD-0003.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section IV of this document for information on how to submit comments through *www.regulations.gov.*

EPCA requires the Attorney General to provide DOE a written determination of whether the proposed standard is likely to lessen competition. The U.S. Department of Justice Antitrust Division invites input from market participants and other interested persons with views on the likely competitive impact of the proposed standard. Interested persons may contact the Antitrust Division at *energy.standards@usdoj.gov* on or before the date specified in the **DATES** section. Please indicate in the ''Subject'' line of your email the title and Docket Number of this proposed rulemaking.

FOR FURTHER INFORMATION CONTACT:

Mr. Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–5904 Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Matthew Schneider, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (240) 597–6265. Email: *matthew.schneider@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by Email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Synopsis of the Proposed Rule

The Energy Policy and Conservation Act, Public Law 94–163, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B of EPCA [2] established the Energy Conservation Program for Consumer Products Other Than Automobiles. (42 U.S.C. 6291–6309) These products include refrigerators, refrigerator-freezers, and freezers, the subject of this proposed rulemaking.

Pursuant to EPCA, any new or amended energy conservation standard must, among other things, be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

In light of the above and under the authority provided by 42 U.S.C. 6295(p)(4), DOE is proposing this rule establishing and amending the energy conservation standards for refrigerators, refrigerator-freezers, and freezers and is concurrently issuing a direct final rule elsewhere in this issue of the **Federal Register**. DOE will proceed with this notice of proposed rulemaking only if it determines it must withdraw the direct final rule pursuant to the criteria provided in 42 U.S.C. 6295(p)(4). The amended standard levels in the proposed rule and the direct final rule were proposed in a letter submitted to DOE jointly by groups representing manufacturers, energy and environmental advocates, consumer groups, and a utility. This letter, titled ''Energy Efficiency Agreement of 2023'' (hereafter, the ''Joint Agreement'' [3]), recommends specific energy conservation standards for residential refrigerators, refrigerator-freezers, and freezers that, in the commenters' view, would satisfy the EPCA requirements in 42 U.S.C. 6295(o). DOE subsequently received letters of support from States including New York, California, and Massachusetts [4] and utilities including San Diego Gas and Electric and Southern California Edison [5] advocating for the adoption of the recommended standards. As discussed in more detail in the accompanying direct final rule and in accordance with the provisions at 42 U.S.C. 6295(p)(4), DOE has determined that the recommendations contained in the Joint Agreement comply with the requirements of 42 U.S.C. 6295(o).

In accordance with these and other statutory provisions discussed in this document, DOE proposes new and amended energy conservation standards for refrigerators, refrigerator-freezers, and freezers. The standards for refrigerators, refrigerator-freezers, and freezers are expressed in terms of integrated annual energy use (''AEU''), measured in kilowatt-hours per year (''kWh/year''), as measured according to DOE's current test procedure codified at title 10 of the Code of Federal Regulations (''CFR'') part 430, subpart B, appendices A (''appendix A'') and B (''appendix B'').

Table I.1 and Table I.2 present the proposed standards for refrigerators, refrigerator-freezers, and freezers. The proposed standards the same as those recommended by the Joint Agreement. These standards apply to all products listed in Table I.1 and manufactured in, or imported into the United States starting on January 31, 2029, and all products listed in Table I.2 and manufactured in, or imported into, the United States starting on January 31, 2030, as recommended in the Joint Agreement.

TABLE I.1—ENERGY CONSERVATION STANDARDS FOR CONSUMER REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS WITH CORRESPONDING DOOR COEFFICIENT TABLE

[Compliance starting January 31, 2029]

Product class (''PC'')	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
3–BI. Built-in refrigerator-freezer—automatic defrost with top-mounted freezer	8.24AV + 238.4 + 28I	0.291av + 238.4 + 28I.
3A–BI. Built-in All-refrigerators—automatic defrost	(7.22AV + 205.7)*K3ABI	(0.255av + 205.7)*K3ABI.
4–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	(8.79AV + 307.4)*K4BI + 28I	(0.310av + 307.4)*K4BI + 28I.
5–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer.	(8.65AV + 309.9)*K5BI + 28I	(0.305av + 309.9)*K5BI + 28I.
5A. Refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(7.76AV + 351.9)*K5A	(0.274av + 351.9)*K5A.
5A–BI. Built-in refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(8.21AV + 370.7)*K5ABI	(0.290av + 370.7)*K5ABI.
7–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	(8.82AV + 384.1)*K7BI	(0.311av + 384.1)*K7BI.
8. Upright freezers with manual defrost	5.57AV + 193.7	0.197av + 193.7.
9–BI. Built-In Upright freezers with automatic defrost	(9.37AV + 247.9)*K9BI + 28I	(0.331av + 247.9)*K9BI + 28I.
9A–BI. Built-In Upright freezers with automatic defrost with through-the-door ice service.	9.86AV + 288.9	0.348av + 288.9.

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[3] This document is available in the docket at: *www.regulations.gov/document/EERE-2017-BT-STD-0003-0103*.

[4] This document is available in the docket at: *www.regulations.gov/document/EERE-2017-BT-STD-0003-0104*.

[5] This document is available in the docket at: *www.regulations.gov/document/EERE-2017-BT-STD-0003-0105*.

TABLE I.1—ENERGY CONSERVATION STANDARDS FOR CONSUMER REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS WITH CORRESPONDING DOOR COEFFICIENT TABLE—Continued

[Compliance starting January 31, 2029]

Product class ("PC")	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
10. Chest freezers and all other freezers except compact freezers	7.29AV + 107.8	0.257av + 107.8.
10A. Chest freezers with automatic defrost	10.24AV + 148.1	0.362av + 148.1.
11. Compact refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	7.68AV + 214.5	0.271av + 214.5.
11A. Compact all-refrigerators—manual defrost	6.66AV + 186.2	0.235av + 186.2.
12. Compact refrigerator-freezers—partial automatic defrost	(5.32AV + 302.2)*K12	(0.188av + 302.2)*K12.
13. Compact refrigerator-freezers—automatic defrost with top-mounted freezer	10.62AV + 305.3 + 28I	0.375av + 305.3 + 28I.
13A. Compact all-refrigerators—automatic defrost	(8.25AV + 233.4)*K13A	(0.291av + 233.4)*K13A.
14. Compact refrigerator-freezers—automatic defrost with side-mounted freezer.	6.14AV + 411.2 + 28I	0.217av + 411.2 + 28I.
15. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer.	10.62AV + 305.3 + 28I	0.375av + 305.3 + 28I.
16. Compact upright freezers with manual defrost	7.35AV + 191.8	0.260av + 191.8.
17. Compact upright freezers with automatic defrost	9.15AV + 316.7	0.323av + 316.7.
18. Compact chest freezers	7.86AV + 107.8	0.278av + 107.8.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of 10 CFR part 430.
av = Total adjusted volume, expressed in Liters.
I = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker. Door Coefficients (*e.g.,* K3ABI) are as defined in the following table.

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K3ABI	1.10	1.0	1.0.
K4BI	1.10	1.06	1 + 0.02 * (N_d − 2).
K5BI	1.10	1.06	1 + 0.02 * (N_d − 2).
K5A	1.10	1.06	1 + 0.02 * (N_d − 3).
K5ABI	1.10	1.06	1 + 0.02 * (N_d − 3).
K7BI	1.10	1.06	1 + 0.02 * (N_d − 2).
K9BI	1.0	1.0	1 + 0.02 * (N_d − 1).
K12	1.0	1.0	1 + 0.02 * (N_d − 1).
K13A	1.10	1.0	1.0.

Notes:
[1] N_d is the number of external doors.
[2] The maximum N_d values are 2 for K12, 3 for K9BI, and 5 for all other K values.

TABLE I.2—ENERGY CONSERVATION STANDARDS FOR CONSUMER REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS WITH CORRESPONDING DOOR COEFFICIENT TABLE

[Compliance starting January 31, 2030]

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
1. Refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	6.79AV + 191.3	0.240av + 191.3.
1A. All-refrigerators—manual defrost	5.77AV + 164.6	0.204av + 164.6.
2. Refrigerator-freezers—partial automatic defrost	(6.79AV + 191.3)*K2	(0.240av + 191.3)*K2.
3. Refrigerator-freezers—automatic defrost with top-mounted freezer	6.86AV + 198.6 + 28I	0.242av + 198.6 + 28I.
3A. All-refrigerators—automatic defrost	(6.01AV + 171.4)*K3A	(0.212av + 171.4)*K3A.
4. Refrigerator-freezers—automatic defrost with side-mounted freezer	(7.28AV + 254.9)*K4 + 28I	(0.257av + 254.9)*K4 + 28I.
5. Refrigerator-freezers—automatic defrost with bottom-mounted freezer	(7.61AV + 272.6)*K5 + 28I	(0.269av + 272.6)*K5 + 28I.
6. Refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service.	7.14AV + 280.0	0.252av + 280.0.
7. Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	(7.31AV + 322.5)*K7	(0.258av + 322.5)*K7.
9. Upright freezers with automatic defrost	(7.33AV + 194.1)*K9 + 28I	(0.259av + 194.1)*K9 + 28I.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of 10 CFR part 430.
Av = Total adjusted volume, expressed in Liters.

I = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker. Door Coefficients (*e.g.,* K3A) are as defined in the following table.

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K2	1.0	1.0	1 + 0.02 * (N_d − 1).
K4	1.10	1.06	1 + 0.02 * (N_d − 2).
K3A	1.10	1.0	1.0.
K5	1.10	1.06	1 + 0.02 * (N_d − 2).
K7	1.10	1.06	1 + 0.02 * (N_d − 2).
K9	1.0	1.0	1 + 0.02 * (N_d − 1).

Notes:
[1] N_d is the number of external doors.
[2] The maximum N_d values are 2 for K2, and 5 for all other K values.

II. Introduction

The following section briefly discusses the statutory authority underlying this proposed rule, as well as some of the relevant historical background related to the establishment of standards for refrigerators, refrigerator-freezers, and freezers.

A. Authority

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part B of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include refrigerators, refrigerator-freezers, and freezers, the subject of this document. (42 U.S.C. 6292(a)(1)) EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(b)(1)), and directs DOE to conduct future rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(b)(3)) EPCA further provides that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1))

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) the establishment of Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (*see* 42 U.S.C. 6297(d))

Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product. (42 U.S.C. 6295(o)(3)(A) and (r)) Manufacturers of covered products must use the prescribed DOE test procedure as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of those products. (42 U.S.C. 6293(c) and 6295(s)) Similarly, DOE must use these test procedures to determine whether the products comply with standards adopted pursuant to EPCA. (42 U.S.C. 6295(s)) The DOE test procedures for refrigerators, refrigerator-freezers, and freezers appear at title 10 of the Code of Federal Regulations (''CFR'') part 430, subpart B, appendices A (''appendix A'') and B (''appendix B'').

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including refrigerators, refrigerator-freezers, and freezer. Any new or amended standard for a covered product must be designed to achieve the maximum improvement in energy efficiency that the Secretary of Energy determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3))

Moreover, DOE may not prescribe a standard: (1) for certain products, including refrigerators, refrigerators-freezers, and freezers, if no test procedure has been established for the product, or (2) if DOE determines by rule that the standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B)) In deciding whether a proposed standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven statutory factors:

(1) The economic impact of the standard on manufacturers and consumers of the products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard;

(3) The total projected amount of energy (or as applicable, water) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy (''Secretary'') considers relevant. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

Further, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii))

EPCA, as codified also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

EPCA specifies requirements when promulgating an energy conservation standard for a covered product that has two or more subcategories. DOE must specify a different standard level for a type or class of product that has the same function or intended use, if DOE determines that products within such group: (A) consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Additionally, pursuant to the amendments contained in the Energy Independence and Security Act of 2007 (''EISA 2007''), Public Law 110–140, any final rule for new or amended energy conservation standards promulgated after July 1, 2010, is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE's current test procedures for refrigerators, refrigerator-freezers, and freezers address standby mode and off mode energy use.

Finally, EISA 2007 amended EPCA, in relevant part, to grant DOE authority to directly issue a final rule (*i.e.,* a ''direct final rule'') establishing an energy conservation standard on receipt of a statement submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates), as determined by the Secretary, that contains recommendations with respect to an energy or water conservation standard (42 U.S.C. 6295(p)(4)) Pursuant to 42 U.S.C. 6295(p)(4), the Secretary must also determine whether a jointly-submitted recommendation for an energy or water conservation standard satisfies 42 U.S.C. 6295(o).

A NOPR that proposes an identical energy efficiency standard must be published simultaneously with the direct final rule, and DOE must provide a public comment period of at least 110 days on this proposal. (42 U.S.C. 6295(p)(4)(A)–(B)) Based on the comments received during this period, the direct final rule will either become effective, or DOE will withdraw it not later than 120 days after its issuance if (1) one or more adverse comments is received, and (2) DOE determines that those comments, when viewed in light of the rulemaking record related to the direct final rule, may provide a reasonable basis for withdrawal of the direct final rule under 42 U.S.C. 6295(o). (42 U.S.C. 6295(p)(4)(C)) Receipt of an alternative joint recommendation may also trigger a DOE withdrawal of the direct final rule in the same manner. *Id.* After withdrawing a direct final rule, DOE must proceed with the notice of proposed rulemaking published simultaneously with the direct final rule and publish in the **Federal Register** the reasons why the direct final rule was withdrawn. *Id.*

DOE has previously explained its interpretation of its direct final rule authority. In a final rule amending the Department's ''Procedures, Interpretations and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products'' at 10 CFR part 430, subpart C, appendix A, DOE noted that it may issue standards recommended by interested persons that are fairly representative of relative points of view as a direct final rule when the recommended standards are in accordance with 42 U.S.C. 6295(o) or 6313(a)(6)(B), as applicable. 86 FR 70892, 70912 (Dec. 13, 2021). But the direct final rule provision in EPCA, under which this proposed rule is issued, does not impose additional requirements applicable to other standards rulemakings, which is consistent with the unique circumstances of rules issued as consensus agreements under DOE's direct final rule authority. *Id.* DOE's discretion remains bounded by its statutory mandate to adopt a standard that results in the maximum improvement in energy efficiency that is technologically feasible and economically justified—a requirement found in 42 U.S.C. 6295(o). *Id.* As such, DOE's review and analysis of the Joint Agreement is limited to whether the recommended standards satisfy the criteria in 42 U.S.C. 6295(o).

B. Background

1. Current Standards

In a final rule published on September 15, 2011, DOE prescribed the current energy conservation standards for refrigerators, refrigerator-freezers, and freezers. 76 FR 57516 (''September 2011 Final Rule''). These standards are set forth in DOE's regulations at 10 CFR 430.32(a) and are shown in Table I.2. These standards are expressed in terms of kilo-watt hours per year (''kWh/yr'').

TABLE II.2—CURRENT FEDERAL ENERGY CONSERVATION STANDARDS FOR CONSUMER REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
1. Refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	7.99AV + 225.0	0.282av + 225.0.
1A. All-refrigerators—manual defrost	6.79AV + 193.6	0.240av + 193.6.
2. Refrigerator-freezers—partial automatic defrost	7.99AV + 225.0	0.282av + 225.0.
3. Refrigerator-freezers—automatic defrost with top-mounted freezer without an automatic icemaker.	8.07AV + 233.7	0.285av + 233.7.
3–BI. Built-in refrigerator-freezer—automatic defrost with top-mounted freezer without an automatic icemaker.	9.15AV + 264.9	0.323av + 264.9.
3I. Refrigerator-freezers—automatic defrost with top-mounted freezer with an automatic icemaker without through-the-door ice service.	8.07AV + 317.7	0.285av + 317.7.
3I–BI. Built-in refrigerator-freezers—automatic defrost with top-mounted freezer with an automatic icemaker without through-the-door ice service.	9.15AV + 348.9	0.323av + 348.9.
3A. All-refrigerators—automatic defrost	7.07AV + 201.6	0.250av + 201.6.
3A–BI. Built-in All-refrigerators—automatic defrost	8.02AV + 228.5	0.283av + 228.5.
4. Refrigerator-freezers—automatic defrost with side-mounted freezer without an automatic icemaker.	8.51AV + 297.8	0.301av + 297.8.
4–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer without an automatic icemaker.	10.22AV + 357.4	0.361av + 357.4.
4I. Refrigerator-freezers—automatic defrost with side-mounted freezer with an automatic icemaker without through-the-door ice service.	8.51AV + 381.8	0.301av + 381.8.
4I–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer with an automatic icemaker without through-the-door ice service.	10.22AV + 441.4	0.361av + 441.4.
5. Refrigerator-freezers—automatic defrost with bottom-mounted freezer without an automatic icemaker.	8.85AV + 317.0	0.312av + 317.0.
5–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer without an automatic icemaker.	9.40AV + 336.9	0.332av + 336.9.
5I. Refrigerator-freezers—automatic defrost with bottom-mounted freezer with an automatic icemaker without through-the-door ice service.	8.85AV + 401.0	0.312av + 401.0.
5I–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer with an automatic icemaker without through-the-door ice service.	9.40AV + 420.9	0.332av + 420.9.
5A. Refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	9.25AV + 475.4	0.327av + 475.4.
5A–BI. Built-in refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	9.83AV + 499.9	0.347av + 499.9.
6. Refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service.	8.40AV + 385.4	0.297av + 385.4.
7. Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	8.54AV + 432.8	0.302av + 432.8.
7–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	10.25AV + 502.6	0.362av + 502.6.
8. Upright freezers with manual defrost	5.57AV + 193.7	0.197av + 193.7.
9. Upright freezers with automatic defrost without an automatic icemaker	8.62AV + 228.3	0.305av + 228.3.
9I. Upright freezers with automatic defrost with an automatic icemaker	8.62AV + 312.3	0.305av + 312.3.
9–BI. Built-In Upright freezers with automatic defrost without an automatic icemaker.	9.86AV + 260.9	0.348av + 260.9.
9I–BI. Built-in upright freezers with automatic defrost with an automatic icemaker.	9.86AV + 344.9	0.348av + 344.9.
10. Chest freezers and all other freezers except compact freezers	7.29AV + 107.8	0.257av + 107.8.
10A. Chest freezers with automatic defrost	10.24AV + 148.1	0.362av + 148.1.
11. Compact refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	9.03AV + 252.3	0.319av + 252.3.
11A.Compact all-refrigerators—manual defrost	7.84AV + 219.1	0.277av + 219.1.
12. Compact refrigerator-freezers—partial automatic defrost	5.91AV + 335.8	0.209av + 335.8.
13. Compact refrigerator-freezers—automatic defrost with top-mounted freezer	11.80AV + 339.2	0.417av + 339.2.
13I. Compact refrigerator-freezers—automatic defrost with top-mounted freezer with an automatic icemaker.	11.80AV + 423.2	0.417av + 423.2.
13A. Compact all-refrigerators—automatic defrost	9.17AV + 259.3	0.324av + 259.3.
14. Compact refrigerator-freezers—automatic defrost with side-mounted freezer.	6.82AV + 456.9	0.241av + 456.9.
14I. Compact refrigerator-freezers—automatic defrost with side-mounted freezer with an automatic icemaker.	6.82AV + 540.9	0.241av + 540.9.
15. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer.	11.80AV + 339.2	0.417av + 339.2.
15I. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer with an automatic icemaker.	11.80AV + 423.2	0.417av + 423.2.
16. Compact upright freezers with manual defrost	8.65AV + 225.7	0.306av + 225.7.
17. Compact upright freezers with automatic defrost	10.17AV + 351.9	0.359av + 351.9.

TABLE II.2—CURRENT FEDERAL ENERGY CONSERVATION STANDARDS FOR CONSUMER REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS—Continued

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
18. Compact chest freezers	9.25AV + 136.8	0.327av + 136.8.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of this part.
av = Total adjusted volume, expressed in Liters.

2. Current Test Procedure

On October 12, 2021, DOE published a test procedure final rule (''October 2021 TP Final Rule'') establishing test procedures for refrigerators, refrigerator-freezers, and freezers, at 10 CFR part 430, subpart B, appendices A (''appendix A'') and B (''appendix B''). 86 FR 56790. The test procedure adopted the latest version of the relevant industry standard published by the Association of Home Appliance Manufacturers (''AHAM''), updated in 2019, AHAM Standard HRF–1, ''Energy and Internal Volume of Refrigerating Appliances'' (''HRF–1–2019''). 10 CFR 430.3(i)(4). The standard levels proposed in this NOPR are based on the AEU metrics as measured according to appendix A and appendix B.

3. History of Standards Rulemaking for Refrigerators, Refrigerator-Freezers, and Freezers

The National Appliance Energy Conservation Act of 1987 (''NAECA''), Public Law 100–12, amended EPCA to establish prescriptive standards for refrigeration products, with requirements that DOE conduct two cycles of rulemakings to determine whether to amend these standards (42 U.S.C. 6295 (b)(1), (2), (3)(A)(i), and (3)(B)–(C)). DOE completed the first of these rulemaking cycles in 1989 and 1990 by adopting amended performance standards for all refrigeration products manufactured on or after January 1, 1993. 54 FR 47916 (November 17, 1989); 55 FR 42845 (October 24, 1990). DOE Completed a second rulemaking cycle to amend the standards for refrigeration products by issuing a final rule in 1997, which adopted the current standards for these products. 62 FR 23102 (April 28, 1997).

In 2005, DOE granted a petition, submitted by a coalition of state governments, utility companies, consumer and low-income advocacy groups, and environmental and energy efficiency organizations, requesting a rulemaking to amend the standards for residential refrigerator-freezers. DOE then conducted limited analyses to examine the technological and economic feasibility of amended standards at the ENERGY STAR levels that were in effect for 2005 for the two most popular product classes of refrigerator-freezers. These analyses not only identified potential energy savings, benefits, and burdens from such standards, but also assessed other issues related to them.

DOE initiated a rulemaking and also published a notice announcing the availability of the framework document and a public meeting to discuss the document in September 2008. It also requested public comment on the published document. 73 FR 54089 (September 18, 2008). The framework document described the procedural and analytical approaches that DOE anticipated using to evaluate energy conservation standards for refrigeration products and identified various issues to resolve during the rulemaking. DOE published a final rule on September 15, 2011, to satisfy the statutory requirement that DOE publish a final rule to determine whether to amend the standards for refrigeration products manufactured in 2014. (42 U.S.C. 6295(b)(4)) The limited 2005 analyses served as background for the more extensive analysis conducted for final rule published on September 15, 2011. 76 FR 57516.

4. The Joint Agreement

On September 25, 2023, DOE received the Joint Agreement for various consumer products, including refrigerators, refrigerator-freezers, and freezers, submitted jointly by groups representing manufacturers, energy and environmental advocates, consumer groups, and a utility.[6] The Joint Agreement recommends amended standard levels for refrigerators, refrigerator-freezers, and freezers as presented in Table II.3. (Joint Agreement, No. 103 at p. 4) Details of the Joint Agreement recommendations for other products are provided in the Joint Agreement posted in the docket.[7]

TABLE II.3—RECOMMENDED AMENDED ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

Product class	Efficiency level	Level (based on AV (ft^3))	Compliance date
1. Refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	EL 3 (DOE Proposed Level)	6.79AV + 191.3	January 31, 2030.
1A. All-refrigerators—manual defrost.		5.77AV + 164.6.	
2. Refrigerator-freezers—partial automatic defrost.		(6.79AV + 191.3)*K2.	

[6] The signatories to the Joint Agreement include AHAM, American Council for an Energy-Efficient Economy, Alliance for Water Efficiency, Appliance Standards Awareness Project, Consumer Federation of America, Consumer Reports, Earthjustice, National Consumer Law Center, Natural Resources Defense Council, Northwest Energy Efficiency Alliance, and Pacific Gas and Electric Company. Members of AHAM's Major Appliance Division that manufacture the affected products include: Alliance Laundry Systems, LLC; Asko Appliances AB; Beko US Inc.; Brown Stove Works, Inc.; BSH; Danby Products, Ltd.; Electrolux Home Products, Inc.; Elicamex S.A. de C.V.; Faber; Fotile America; GEA, a Haier Company; L'Atelier Paris Haute Design LLG; LGEUSA; Liebherr USA, Co.; Midea America Corp.; Miele, Inc.; Panasonic Appliances Refrigeration Systems (PAPRSA) Corporation of America; Perlick Corporation; Samsung; Sharp Electronics Corporation; Smeg S.p.A; Sub-Zero Group, Inc.; The Middleby Corporation; U-Line Corporation; Viking Range, LLC; and Whirlpool.

[7] The Joint Agreement is available in the docket at: *www.regulations.gov/document/EERE-2017-BT-STD-0003-0103*.

TABLE II.3—RECOMMENDED AMENDED ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS—Continued

Product class	Efficiency level	Level (based on AV (ft^3))	Compliance date
3. Refrigerator-freezers—automatic defrost with top-mounted freezer.		6.86AV + 198.6 +28I.	
3A. All-refrigerators—automatic defrost.		(6.01AV + 171.4)*K3A.	
4. Refrigerator-freezers—automatic defrost with side-mounted freezer.	EL 3	7.28AV + 254.9	January 31, 2030.
5. Refrigerator-freezers—automatic defrost with bottom-mounted freezer.	EL 2 (DOE Proposed Level)	(7.61AV + 272.6)*K5 + 28I	January 31, 2030.
5A. Refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	EL 2	(7.76AV + 351.9)*K5A	January 31, 2029.
6. Refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service.	EL 3 (DOE Proposed Level)	7.14AV + 280.0	January 31, 2030.
7. Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	EL 3	(7.31AV + 322.5)*K7	January 31, 2030.
8. Upright freezers with manual defrost	No Change (DOE Proposed Level).	5.57AV + 193.7	January 31, 2029.
9. Upright freezers with automatic defrost	EL 2	7.33AV + 194.1 + 28I	January 31, 2030.
10. Chest freezers and all other freezers except compact freezers.	No Change (DOE Proposed Level).	7.29AV + 107.8	January 31, 2029.
10A. Chest freezers with automatic defrost	No Change (DOE Proposed Level).	10.24AV + 148.1	January 31, 2029.
11. Compact refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	EL 2 (DOE Proposed Level)	7.68AV + 214.5	January 31, 2029.
11A. Compact all-refrigerators—manual defrost.		6.66AV + 186.2.	
12. Compact refrigerator-freezers—partial automatic defrost.	10% Savings	(5.32AV + 302.2)*K12	January 31, 2029.
13. Compact refrigerator-freezers—automatic defrost with top-mounted freezer.	EL 1 (DOE Proposed Level)	10.62AV + 305.3 + 28I	January 31, 2029.
13A. Compact all-refrigerators—automatic defrost		(8.25AV + 233.4)*K13A.	
14. Compact refrigerator-freezers—automatic defrost with side-mounted freezer.		6.14AV + 411.2 + 28I.	
15. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer.		10.62AV + 305.3 + 28I.	
16. Compact upright freezers with manual defrost	EL 2 (DOE Proposed Level)	7.35AV + 191.8	January 31, 2029.
17. Compact upright freezers with automatic defrost	EL 1 (DOE Proposed Level)	9.15AV + 316.7	January 31, 2029.
18. Compact chest freezers	EL 2 (DOE Proposed Level)	7.86AV + 107.8	January 31, 2029.
3–BI. Built-in refrigerator-freezer—automatic defrost with top-mounted freezer.	EL 3 (DOE Proposed Level)	8.24AV + 238.4 + 28I	January 31, 2029.
3A–BI. Built-in All-refrigerators—automatic defrost.		(7.22AV + 205.7)*K3ABI.	
4–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	EL 4 (DOE Proposed Level)	8.79AV + 307.4 + 28I	January 31, 2029.
5–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer.	EL 1 (DOE Proposed Level)	(8.65AV + 309.9)*K5BI + 28I.	January 31, 2029.
5A–BI. Built-in refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	EL 3 (DOE Proposed Level)	(8.21AV + 370.7)*K5ABI	January 31, 2029.
7–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	EL 4 (DOE Proposed Level)	(8.82AV + 384.1)*K7BI	January 31, 2029.
9–BI. Built-In Upright freezers with automatic defrost	EL 1 (DOE Proposed Level)	9.37AV + 247.9 + 28I	January 31, 2029.
9A–BI. NEW PRODUCT CLASS: Upright built-in freezer w/auto defrost and through-door-ice.	N/A	9.86AV + 288.9	January 31, 2029.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of 10 CFR part 430.
Av = Total adjusted volume, expressed in Liters.
I = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker. Door Coefficients (*e.g.,* K3A) are as defined below.

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K2	N/A	N/A	1 + 0.02 * ($N_d - 1$).
K3A	1.10	N/A	N/A.
K3ABI	1.10	N/A	N/A.
K13A	1.10	N/A	N/A.
K4	1.10	1.06	1 + 0.02 * ($N_d - 2$).
K4BI	1.10	1.06	1 + 0.02 * ($N_d - 2$).
K5	1.10	1.06	1 + 0.02 * ($N_d - 2$).
K5BI	1.10	1.06	1 + 0.02 * ($N_d - 2$).
K5A	1.10	1.06	1 + 0.02 * ($N_d - 3$).

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K5ABI	1.10	1.06	1 + 0.02 * ($N_d - 3$).
K7	1.10	1.06	1 + 0.02 * ($N_d - 2$).
K7BI	1.10	1.06	1 + 0.02 * ($N_d - 2$).
K9	N/A	N/A	1 + 0.02 * ($N_d - 1$).
K9BI	N/A	N/A	1 + 0.02 * ($N_d - 1$).
K12	N/A	N/A	1 + 0.02 * ($N_d - 1$).

Note: N_d is the number of external doors.

DOE has evaluated the Joint Agreement and believes that it meets the EPCA requirements for issuance of a direct final rule. As a result, DOE published a direct final rule establishing energy conservation standards for refrigerators, refrigerator-freezers, and freezers elsewhere in this issue of the **Federal Register**. If DOE receives adverse comments that may provide a reasonable basis for withdrawal and withdraws the direct final rule, DOE will consider those comments and any other comments received in determining how to proceed with this proposed rule.

For further background information on these proposed standards and the supporting analyses, please see the direct final rule published elsewhere in this issue of the **Federal Register**. That document and the accompanying technical support document (''TSD'') contain an in-depth discussion of the analyses conducted in evaluating the Joint Agreement, the methodologies DOE used in conducting those analyses, and the analytical results.

DOE also notes that it was conducting a rulemaking to consider amending the standards for refrigerators, refrigerator-freezers, and freezers when the Joint Agreement was submitted. As part of that process, DOE published a NOPR and announced a public webinar to respond to initial comments on February 27, 2023 (''February 2023 NOPR''). 88 FR 12452. DOE also held a public webinar on April 11, 2023, to discuss and receive comments on the February 2023 NOPR and NOPR TSD. The NOPR TSD is available at: *www.regulations.gov/document/EERE-2017-BT-STD-0003-0045*.

III. Proposed Standards

When considering new or amended energy conservation standards, the standards that DOE adopts for any type (or class) of covered product must be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering the seven statutory factors discussed previously. (42 U.S.C. 6295(o)(2)(B)(i)) The new or amended standard must also result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

DOE considered the impacts of amended standards for refrigerators, refrigerator-freezers, and freezers at each trial standard level (''TSL''), beginning with the maximum technologically feasible (''max-tech'') level, to determine whether that level was economically justified. Where the max-tech level was not justified, DOE then considered the next most efficient level and undertook the same evaluation until it reached the highest efficiency level that is both technologically feasible and economically justified and saves a significant amount of energy. DOE refers to this process as the ''walk-down'' analysis.

To aid the reader as DOE discusses the benefits and/or burdens of each TSL, tables in this section present a summary of the results of DOE's quantitative analysis for each TSL. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of consumers who may be disproportionately affected by a national standard and impacts on employment.

DOE also notes that the economics literature provides a wide-ranging discussion of how consumers trade off upfront costs and energy savings in the absence of government intervention. Much of this literature attempts to explain why consumers appear to undervalue energy efficiency improvements. There is evidence that consumers undervalue future energy savings as a result of (1) a lack of information; (2) a lack of sufficient salience of the long-term or aggregate benefits; (3) a lack of sufficient savings to warrant delaying or altering purchases; (4) excessive focus on the short term, in the form of inconsistent weighting of future energy cost savings relative to available returns on other investments; (5) computational or other difficulties associated with the evaluation of relevant tradeoffs; and (6) a divergence in incentives (for example, between renters and owners, or builders and purchasers). Having less than perfect foresight and a high degree of uncertainty about the future, consumers may trade off these types of investments at a higher than expected rate between current consumption and uncertain future energy cost savings.

In DOE's current regulatory analysis, potential changes in the benefits and costs of a regulation due to changes in consumer purchase decisions are included in two ways. First, if consumers forego the purchase of a product in the standards case, this decreases sales for product manufacturers, and the impact on manufacturers attributed to lost revenue is included in the manufacturer impact analysis (''MIA''). Second, DOE accounts for energy savings attributable only to products actually used by consumers in the standards case; if a standard decreases the number of products purchased by consumers, this decreases the potential energy savings from an energy conservation standard. DOE provides estimates of shipments and changes in the volume of product purchases in chapter 9 of the direct final rule TSD[8] available in the docket for this rulemaking. However, DOE's current analysis does not explicitly control for heterogeneity in consumer preferences, preferences across subcategories of products or specific features, or consumer price sensitivity variation according to household income.

While DOE is not prepared at present to provide a fuller quantifiable framework for estimating the benefits

[8] The TSD is available in the docket for this rulemaking at *https://www.regulations.gov/document/EERE-2017-BT-STD-0003-0046/document*.

and costs of changes in consumer purchase decisions due to an energy conservation standard, DOE is committed to developing a framework that can support empirical quantitative tools for improved assessment of the consumer welfare impacts of appliance standards. DOE has posted a paper that discusses the issue of consumer welfare impacts of appliance energy conservation standards, and potential enhancements to the methodology by which these impacts are defined and estimated in the regulatory process. DOE welcomes comments on how to more fully assess the potential impact of energy conservation standards on consumer choice and how to quantify this impact in its regulatory analysis in future rulemakings.

A. Benefits and Burdens of TSLs Considered for Refrigerator, Refrigerator-freezer, and Freezer Standards

Table III.1 and Table III.2 summarize the quantitative impacts estimated for each TSL for refrigerators, refrigerator-freezers, and freezers. The national impacts are measured over the lifetime of refrigerators, refrigerator-freezers, and freezers purchased in the 30-year period that begins in the anticipated year of compliance with amended standards (2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table III.3 and 2030–2059 for the product classes listed in Table IIII.4). The energy savings, emissions reductions, and value of emissions reductions refer to full-fuel-cycle (''FFC'') results. The efficiency levels contained in each TSL are described in section V.A of the direct final rule published elsewhere in this issue of the **Federal Register**.

TABLE III.1—SUMMARY OF ANALYTICAL RESULTS FOR REFRIGERATOR, REFRIGERATOR-FREEZER, AND FREEZER TSLS: NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Cumulative FFC National Energy Savings						
Quads	2.76	3.38	4.72	5.61	6.01	9.57
Cumulative FFC Emissions Reduction						
CO_2 (*million metric tons*)	50.79	62.34	86.98	100.76	110.76	176.19
CH_4 (*thousand tons*)	419.63	514.70	717.90	846.48	914.15	1455.24
N_2O (*thousand tons*)	0.50	0.62	0.87	0.99	1.10	1.75
SO_2 (*thousand tons*)	16.00	19.64	27.40	31.57	34.89	55.49
NO_X (*thousand tons*)	93.17	114.33	159.50	186.11	203.10	323.18
Hg (*tons*)	0.11	0.13	0.19	0.22	0.24	0.38
Present Value of Benefits and Costs (*3% discount rate, billion 2022$*)						
Consumer Operating Cost Savings	19.68	24.06	33.21	36.36	41.23	63.08
Climate Benefits *	2.67	3.29	4.60	5.02	5.87	9.29
Health Benefits **	5.24	6.46	9.03	9.80	11.50	18.24
Total Benefits †	27.60	33.81	46.85	51.18	58.60	90.61
Consumer Incremental Product Costs ‡	3.23	4.64	8.56	9.38	15.43	37.66
Consumer Net Benefits	16.45	19.42	24.65	26.98	25.80	25.42
Total Net Benefits	24.37	29.17	38.29	41.80	43.17	52.96
Present Value of Benefits and Costs (*7% discount rate, billion 2022$*)						
Consumer Operating Cost Savings	8.36	10.25	14.17	14.00	17.60	26.88
Climate Benefits *	2.67	3.29	4.60	5.02	5.87	9.29
Health Benefits **	2.04	2.52	3.53	3.45	4.50	7.12
Total Benefits †	13.07	16.06	22.31	22.47	27.97	43.29
Consumer Incremental Product Costs	1.92	2.75	5.00	4.96	8.96	21.65
Consumer Net Benefits	6.44	7.50	9.17	9.04	8.64	5.23
Total Net Benefits	11.15	13.32	17.31	17.51	19.01	21.64

Note: This table presents the costs and benefits associated with refrigerators, refrigerator-freezers, and freezers shipped during the period 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table III.3 and 2030–2059 for the product classes listed in Table IIII.4. These results include consumer, climate, and health benefits that accrue after 2056 from the products shipped during the period 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table III.3 and 2030–2059 for the product classes listed in Table IIII.4.

* Climate benefits are calculated using four different estimates of the four different estimates of the social cost of carbon (SC–CO_2), methane (SC–CH_4), and nitrous oxide (SC–N_2O) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate). Together, these represent the global SC–GHG. For presentational purposes of this table, the climate benefits associated with the average SC–GHG at a 3 percent discount rate are shown; however, DOE emphasizes the importance and value of considering the benefits calculated using all four sets of SC–GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the Interagency Working Group (''IWG'') on the Social Cost of Greenhouse Gases. *See www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf.*

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for NO_X and SO_2) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. The health benefits are presented at real discount rates of 3 and 7 percent. For more details, see section IV.L of the direct final rule published elsewhere in this issue of the **Federal Register**.

† Total and net benefits include consumer, climate, and health benefits. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC–GHG with 3-percent discount rate.

TABLE III.2—SUMMARY OF ANALYTICAL RESULTS FOR REFRIGERATOR, REFRIGERATOR-FREEZER, AND FREEZER TSLS: MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Manufacturer Impacts						
Industry NPV (*million 2022$*) (No-new-standards case INPV = 4,905.8)	4,841.5 to 4,891.4	4,798.5 to 4,870.1	4,387.6 to 4,514.7	4,401.3 to 4,522.3	3,839.9 to 4,061.6	3,080.1 to 3,604.0
Industry NPV (% change)	(1.3) to (0.3)	(2.2) to (0.7)	(10.6) to (8.0)	(10.3) to (7.8)	(21.7) to (17.2)	(37.2) to (26.5)
Consumer Average LCC Savings (*2022$*)						
PC 3	30.50	40.14	40.14	50.91	43.46	0.03
PC 5	46.90	46.90	45.47	55.23	45.47	20.22
PC 5BI	86.19	86.19	86.19	91.13	86.19	(30.73)
PC 5A	127.59	127.59	124.76	133.27	122.18	122.18
PC 7	52.10	70.96	134.10	142.56	73.96	69.71
PC 9	62.02	62.02	62.02	56.17	62.02	26.33
PC 10	5.94	N/A	N/A	N/A	N/A	(8.65)
PC 11A (residential)	0.00	0.00	8.11	8.35	8.11	(4.66)
PC 11A (commercial)	0.00	0.00	3.06	3.16	3.06	(29.11)
PC 17	32.29	32.29	32.29	36.86	32.29	0.26
PC 18	23.82	23.82	22.49	23.55	22.49	(5.34)
Shipment-Weighted Average *	47.08	55.22	63.46	70.88	55.93	27.51
Consumer Simple PBP (*years*)						
PC 3	1.4	4.2	4.2	4.8	5.3	9.3
PC 5	4.3	4.3	6.1	5.6	6.1	8.6
PC 5BI	2.4	2.4	2.4	2.1	2.4	8.2
PC 5A	1.9	1.9	4.4	4.1	6.0	6.0
PC 7	0.7	2.9	1.9	1.6	6.2	6.8
PC 9	4.1	4.1	4.1	6.6	4.1	10.7
PC 10	11.2	N/A	N/A	N/A	N/A	13.4
PC 11A (residential)	2.1	2.1	2.1	2.1	2.1	6.0
PC 11A (commercial)	3.3	3.3	3.3	3.2	3.3	9.3
PC 17	4.6	4.6	4.6	4.1	4.6	7.2
PC 18	1.4	1.4	4.2	4.1	4.2	9.4
Shipment-Weighted Average *	3.0	3.6	4.3	4.5	5.4	8.7
Percent of Consumers that Experience a Net Cost						
PC 3	3.9	17.3	17.3	28.3	34.2	67.1
PC 5	18.2	18.2	39.4	33.6	39.4	60.3
PC 5BI	1.0	1.0	1.0	0.5	1.0	61.0
PC 5A	1.2	1.2	23.0	19.8	39.4	39.4
PC 7	0.0	9.6	1.2	0.5	42.6	48.3
PC 9	12.2	12.2	12.2	39.1	12.2	61.0
PC 10	57.5	N/A	N/A	N/A	N/A	70.0
PC 11A (residential)	0.0	0.0	8.4	8.0	8.4	61.7
PC 11A (commercial)	0.0	0.0	16.1	15.7	16.1	92.7
PC 17	5.6	5.6	5.6	4.5	5.6	61.5
PC 18	0.8	0.8	18.9	17.6	18.9	68.5
Shipment-Weighted Average *	10.2	12.7	20.5	24.4	33.2	60.0

Parentheses indicate negative (−) values. The entry "N/A" means not applicable because there is no change in the standard at certain TSLs.
* Weighted by shares of each product class in total projected shipments in 2027 for all TSLs except TSL 4; for TSL 4, 2029 for PCs 5BI, 5A, 10, 11A, 17, and 18, and 2030 for PCs 3, 5, 7, and 9.

DOE first considered TSL 6, which represents the max-tech efficiency levels. At this level, DOE expects that all product classes would require vacuum-insulated panels (''VIPs'') and most would require variable-speed compressor (''VSCs''). For most product classes, this represents the use of VIPs for roughly half the cabinet surface (typically side walls and doors for an upright cabinet), the best-available-efficiency variable-speed compressor, forced-convection heat exchangers with multi-speed brush-less direct current (''BLDC'') fans, variable defrost, and increase in cabinet wall thickness for some classes (*e.g.,* compact refrigerators and both standard-size and compact chest freezers). DOE estimates that less than 1 percent of annual shipments across all refrigerator, refrigerator-freezer, and freezer product classes currently meet the max-tech efficiencies required. TSL 6 would save an estimated 9.57 quads of energy, an amount DOE considers significant. Under TSL 6, the net present value (''NPV'') of consumer benefit would be $5.23 billion using a discount rate of 7 percent, and $25.42 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 6 are 176 Mt of CO_2, 55.5 thousand tons of SO_2, 323 thousand tons of NO_X, 0.38 tons of Hg, 1,455 thousand tons of CH_4, and 1.75 thousand tons of N_2O. The estimated monetary value of the climate benefits from reduced GHG emissions (associated with the average SC–GHG at a 3-percent discount rate) at TSL 6 is $9.29 billion. The estimated monetary value of the health benefits from reduced SO_2 and NO_X emissions at TSL 6 is $7.12 billion using a 7-percent discount rate and $18.24 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO_2 and NO_X emissions, and the 3-percent discount

rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 6 is $21.64 billion. Using a 3-percent discount rate for all benefits and costs, the estimated total NPV at TSL 6 is $52.96 billion. The estimated total NPV is provided for additional information, however DOE primarily relies upon the NPV of consumer benefits when determining whether a standard level is economically justified.

At TSL 6, for the largest product classes, which are 3, 5, 5A, and 7 and together account for approximately 76 percent of annual shipments, there is a life-cycle cost (''LLC'') savings of $0.03, $20.22, $122.18, and $69.71 and a payback period of 9.3 years, 8.6 years, 6.0 years and 6.8 years, respectively. However, for these product classes, the fraction of customers experiencing a net LCC cost is 67.1 percent, 60.3 percent, 39.4 percent and 48.3 percent with increases in first cost of $169.37, $151.75, $161.65, and $153.01, respectively. Overall, a majority of refrigerators, refrigerator-freezers, and freezers consumers (60 percent) would experience a net cost and the average LCC savings would be negative for PC 5BI, PC 10, PC 11A, and PC 18. Additionally, 35 percent of low-income households with a side-by-side refrigerator-freezer (represented by PC 7 and used by 19 percent of low-income households) would experience a net cost.

At TSL 6, the projected change in industry net present value (''INPV'') ranges from a decrease of $1.83 billion to a decrease of $1.30 billion, which corresponds to decreases of 37.2 percent and 26.5 percent, respectively. Industry conversion costs could reach $2.39 billion as manufacturers work to redesign their portfolio of model offerings and re-tool entire factories to comply with amended standards at TSL 6.

DOE estimates that less than 1 percent of refrigerator, refrigerator-freezer, and freezer current annual shipments meet the max-tech levels. At TSL 6, only a few manufacturers offer any standard-size products that meet the efficiencies required. For PC 3, which accounts for approximately 25 percent of annual shipments, no original equipment manufacturers (''OEMs'') currently offer products that meet the efficiency level required. For PC 5, which accounts for approximately 21 percent of annual shipments, DOE estimates that seven out of 22 OEMs currently offer products that meet the efficiency level required. For PC 7, which accounts for approximately 11 percent of annual shipments, only one out of 11 OEMs currently offers products that meet the efficiency level required.

At max-tech, manufacturers would likely need to implement all the most efficient design options in the engineering analysis. In interviews, manufacturer indicated they would redesign all product platforms and dramatically update manufacturing facilities to meet max-tech for all approximately 17.0 million annual shipments of refrigerators, refrigerator-freezers, and freezers.[9]

In particular, increased incorporation of VIPs could increase the expense of adapting manufacturing plants. As discussed in section IV.J.2.c of the direct final rule published elsewhere in this issue of the **Federal Register**, DOE expects manufacturers would likely adopt VIP technology to improve thermal insulation while minimizing loss to the interior volume for their products. Extensive incorporation of VIPs requires significant capital expenditures due to the need for more careful product handling and conveyor, increased warehousing requirements, investments in tooling necessary for the VIP installation process, and adding production line capacity to compensate for more time-intensive manufacturing associated with VIPs. Manufacturers with facilities that have limited space and few options to expand may consider greenfield projects. In interviews, several manufacturers expressed concerns about their ability to produce sufficient quantities of refrigerators, refrigerator-freezers, and freezers at max-tech given the required scale of investment, redesign effort, and 3-year compliance timeline.

The Secretary tentatively concludes that at TSL 6 for refrigerators, refrigerator-freezers, and freezers, the benefits of energy savings, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the economic burden on many consumers, and the impacts on manufacturers, including the large potential reduction in INPV and the lack of manufacturers currently offering products meeting the efficiency levels required at this TSL. At TSL 6, a majority of refrigerator, refrigerator-freezer, and freezers consumers (60 percent) would experience a net cost and the average LCC savings would be negative for PC 5BI, PC 10, PC 11A, and PC 18. Additionally, manufacturers would need to make significant upfront investments to update product lines and manufacturing facilities. Manufacturers expressed concern that they would not be able to complete product and production line updates within the 3-year conversion period. Consequently, the Secretary has tentatively concluded that TSL 6 is not economically justified.

DOE then considered TSL 5 for refrigerators, refrigerator-freezers, and freezers. For classes other than refrigerator-freezers with bottom-mounted freezers and through-the-door ice service (PC 5A), this TSL represents efficiency levels less than max-tech. TSL 5 represents similar design options as max-tech, but generally incorporates the use of high-efficiency compressors (single speed compressors or VSCs) rather than maximum efficiency VSCs, incorporates VIPs in fewer product classes, and incorporates less VIP surface area for the product classes requiring the use of VIPs as compared to TSL 6. TSL 5 would save an estimated 6.01 quads of energy, an amount DOE considers significant. Under TSL 5, the NPV of consumer benefit would be $8.64 billion using a discount rate of 7 percent, and $25.80 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 5 are 111 Mt of CO_2, 34.9 thousand tons of SO_2, 203 thousand tons of NO_X, 0.24 tons of Hg, 914 thousand tons of CH_4, and 1.10 thousand tons of N_2O. The estimated monetary value of the climate benefits from reduced GHG emissions (associated with the average SC–GHG at a 3-percent discount rate) at TSL 5 is $5.87 billion. The estimated monetary value of the health benefits from reduced SO_2 and NO_X emissions at TSL 5 is $4.50 billion using a 7-percent discount rate and $11.50 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO_2 and NO_X emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 5 is $19.01 billion. Using a 3-percent discount rate for all benefits and costs, the estimated total NPV at TSL 5 is $43.17 billion. The estimated total NPV is provided for additional information, however DOE primarily relies upon the NPV of consumer benefits when determining whether a standard level is economically justified.

At TSL 5, for the largest product classes, which are 3, 5, 5A, and 7, there is a life-cycle cost savings of $43.46, $45.47, $122.18, and $73.96 and a payback period of 5.3 years, 6.1 years, 6.0 years and 6.2 years, respectively. For these product classes, the fraction of

[9] Current shipments calculations relied on shipments in the year 2023.

customers experiencing a net LCC cost is 34.2 percent, 39.4 percent, 39.4 percent and 42.6 percent with increases in first cost of $52.69, $69.25, $161.65, and $121.58, respectively. Overall, 33 percent of refrigerators, refrigerator-freezers, and freezers consumers would experience a net cost and the average LCC savings are positive for all product classes.

At TSL 5, an estimated 16 percent of all low-income households experience a net cost, including 11 percent of low-income households with a top-mount or single-door refrigerator-freezer (represented by PC 3 and used by 72 percent of low-income households) and 32 percent of low-income households with a side-by-side refrigerator-freezer (represented by PC 7 and used by 19 percent of low-income households). More than half of low-income PC 7 consumers with a net cost experience a net cost of at least $40 and while low-income PC 7 consumers experience an average LCC savings of $132.77 at TSL 5, there are larger average LCC savings at TSL 4 ($161.87) and substantially fewer low-income PC 7 consumers would experience a net cost (0.6 percent) at that TSL. Further, the incremental increase in purchase price at TSL 5 for PC 7 is $121.58, which may be difficult for low-income homeowners to afford.

At TSL 5, the projected change in INPV ranges from a decrease of $1.07 billion to a decrease of $844.2 million, which corresponds to decreases of 21.7 percent and 17.2 percent, respectively. DOE estimates that industry must invest $1.40 billion to comply with standards set at TSL 5.

DOE estimates that approximately 14 percent of refrigerator, refrigerator-freezer, and freezer annual shipments meet the TSL 5 efficiencies. For standard-size refrigerator-freezers, which account for approximately 70 percent of total annual shipments, approximately 1 percent of shipments meet the efficiencies required at TSL 5. Compared to max-tech, more manufacturers offer standard-size refrigerator-freezer products that meet the required efficiencies, however, many manufacturers do not offer products that meet this level. Of the 22 OEMs offering PC 3 products, three OEMs offer models that meet the efficiency level required. Of the 22 OEMs offering PC 5 products, 14 OEMs offer models that meet the efficiency level required. Of the 11 OEMs offering PC 7 products, only one OEM offers models that meet the efficiency level required.

The manufacturers that do not currently offer models that meet TSL 5 efficiencies would need to develop new product platforms. Updates could include incorporating variable defrost, BLDC evaporator fan motors, and high-efficiency VSCs. Additionally, some product classes could require the use of VIPs. DOE expects manufacturers would likely need to incorporate some VIPs into PC 5 and PC 7 designs, but not to the extent required at max-tech. However, DOE expects manufacturers would need to incorporate the max-tech design options for PC 5A, which includes the use of VIPs for roughly half the cabinet surface (side walls and doors) to meet TSL 5 efficiencies. As discussed in section IV.J.2.c of the direct final rule published elsewhere in this issue of the **Federal Register**, the inclusion of VIPs in product design necessitates large investments in tooling and significant changes to production plants. Furthermore, given that only 1 percent of current standard-size refrigerator-freezer shipments meet TSL 5 efficiency levels, the manufacturers that are currently able to meet TSL 5 would need to scale up manufacturing capacity of compliant models. DOE anticipates conversion costs as high as $1.40 billion because the majority of product platforms in the industry would require redesign and investment.

The Secretary tentatively concludes that at TSL 5 for refrigerators, refrigerator-freezers, and freezers, the benefits of energy savings, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the economic burden on consumers, particularly low-income consumers of side-by-side refrigerator-freezers, and the impacts on manufacturers, including the large potential reduction in INPV and the lack of manufacturers currently offering standard-size refrigerator-freezer products meeting the efficiency levels required at this TSL. Specifically, only one OEM currently offers any PC 7 models that meet the TSL 5 efficiencies. At TSL 5, 32 percent of low-income PC 7 consumers would experience a net cost and the incremental increase in purchase price of $121.58 may be difficult for low-income homeowners to afford. Consequently, the Secretary has tentatively concluded that TSL 5 is not economically justified.

DOE then considered the TSL 4 which corresponds to the TSL recommended in the Joint Agreement (the ''Recommended TSL''). For representative product classes other than PC 5A, PC 7, and PC 9, this TSL represents the same efficiency levels as TSL 5.[10] Thus, the Recommended TSL represents similar design options as TSL 5, except for PC 5A, PC 7, and PC 9. For PC 7, DOE expects manufacturers would not require the use of VIPs to meet the required efficiency level. For PC 5A, DOE expects manufacturers would require less VIP surface area to meet the required efficiency level. For PC 9, DOE expects manufacturers to implement variable speed compressor systems to meet required standards. DOE estimates that approximately 14 percent of annual shipments across all refrigerator, refrigerator-freezer, and freezer product classes currently meet the efficiencies required. For the Recommended TSL, DOE's analysis utilized the January 31, 2029 (or January 31, 2030, for some product classes) compliance dates specified in the Joint Agreement. The Recommended TSL would save an estimated 5.61 quads of energy, an amount DOE considers significant. Under the Recommended TSL, the NPV of consumer benefit would be $9.04 billion using a discount rate of 7 percent, and $26.98 billion using a discount rate of 3 percent.

The cumulative emissions reductions at the Recommended TSL are 101 Mt of CO_2, 31.6 thousand tons of SO_2, 186 thousand tons of NO_X, 0.22 tons of Hg, 846.5 thousand tons of CH_4, and 0.99 thousand tons of N_2O. The estimated monetary value of the climate benefits from reduced GHG emissions (associated with the average SC–GHG at a 3-percent discount rate) at the Recommended TSL is $5.02 billion. The estimated monetary value of the health benefits from reduced SO_2 and NO_X emissions at the Recommended TSL is $3.45 billion using a 7-percent discount rate and $9.80 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO_2 and NO_X emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at the Recommended TSL is $17.51 billion. Using a 3-percent discount rate for all benefits and costs, the estimated total NPV at the

[10] For all TSLs except the Recommended TSL, the efficiency levels required for non-representative product classes are the same as the efficiency levels required for the associated directly analyzed product classes. However, as noted in section V.A of this document, the Recommended TSL from the Joint Agreement includes standard levels for some non-representative product classes that differ from their associated representative product class. Thus, in addition to the representative PC 5A, PC 7, and PC 9, the efficiency levels required for non-representative PC 9A–BI and PC 12 at the Recommended TSL also differ from the efficiency levels required at TSL 5.

Recommended TSL is $41.80 billion. The estimated total NPV is provided for additional information, however DOE primarily relies upon the NPV of consumer benefits when determining whether a standard level is economically justified.

At the Recommended TSL, for the largest product classes, which are 3, 5, 5A, and 7, there is a life-cycle cost savings of $50.91, $55.23, $133.27, and $142.56 and a payback period of 4.8 years, 5.6 years, 4.1 years and 1.6 years, respectively. For these product classes, the fraction of customers experiencing a net LCC cost is 28.3 percent, 33.6 percent, 19.8 percent and 0.5 percent with increases in first cost of $47.67, $62.72, $81.32, and $24.39, respectively. Overall, 24.4 percent of refrigerators, refrigerator-freezers, and freezers consumers would experience a net cost and the average LCC savings are positive for all product classes.

At the Recommended TSL, 9 percent of low-income households with a top-mount or single-door refrigerator-freezer (represented by PC 3 and used by 72 percent of low-income households) and 0.6 percent of low-income households with a side-by-side refrigerator-freezer (represented by PC 7 and used by 19 percent of low-income households) experience a net cost. Additionally, the incremental increase in purchase price is $24.39 for low-income PC 7 homeowners at the Recommended TSL, substantially lower than the incremental increase in purchase price of $121.58 at TSL 5.

At the Recommended TSL, the projected change in INPV ranges from a decrease of $504.4 million to a decrease of $383.5 million, which correspond to decreases of 10.3 percent and 7.8 percent, respectively. DOE estimates that industry must invest $830.3 million comply with standards set at the Recommended TSL. DOE estimates that approximately 14 percent of refrigerator, refrigerator-freezer, and freezer annual shipments meet the Recommended TSL efficiencies.

Compared to TSL 5, more manufacturers offer standard-size refrigerator freezer products that meet the required efficiencies since PC 7 has a lower required efficiency level at the Recommended TSL. For PC 7, which accounts for 11 percent of shipments, three OEMs offer products that meet the efficiency level required. Furthermore, DOE does not expect manufacturers would need to incorporate VIPs into PC 7 designs to meet the efficiencies required at the Recommended TSL. For PC 5 and PC 5A, DOE understands the two product classes often share the same production lines, with shared cabinet architecture and tooling. DOE expects manufacturers would likely need to incorporate some VIPs into PC 5A designs, but not to the extent required at TSL 5 and TSL 6. Thus, for the 10 OEMs that manufacture both PC 5 and PC 5A, DOE expects manufacturers could implement similar cabinet upgrades (*i.e.,* partial VIP) for PC 5 and PC 5A designs to achieve the efficiencies required at this level.

For all TSLs considered in this proposed rule—except for the Recommended TSL—DOE is bound by the 3-year lead time requirements in EPCA when determining compliance dates (*i.e.,* compliance with amended standards required in 2027). For the Recommended TSL, DOE's analysis utilized the January 31, 2029 (or January 31, 2030, for some product classes) compliance dates specified in the Joint Agreement as they were an integral part of the multi-product joint recommendation. These compliance dates provide manufacturers the flexibility to spread capital requirements, engineering resources, and other conversion activities over a longer period of time depending on the individual needs of each manufacturer. Furthermore, these delayed compliance dates provide additional lead time and certainty for suppliers of components that improve efficiency. DOE believes the Recommended TSL mitigates risks raised by AHAM and multiple manufacturers in response to the February 2023 NOPR regarding the ability for VSC and VIP component suppliers to increase supply of these key components in the 3-year lead time required by EPCA.

After considering the analysis and weighing the benefits and burdens, the Secretary has tentatively concluded that a standard set at the Recommended TSL for refrigerators, refrigerator-freezers, and freezers is economically justified. At this TSL, the average LCC savings are positive for all product classes for which an amended standard is considered. An estimated 24.4 percent of all refrigerator, refrigerator-freezer, and freezer consumers experience a net cost. An estimated 9 percent of low-income households with a top-mount or single-door refrigerator-freezer (represented by PC 3 and used by 72 percent of low-income households) and 0.6 percent of low-income households with a side-by-side refrigerator-freezer (represented by PC 7 and used by 19 percent of low-income households), experience a net cost, which is a significantly lower percentage than under TSL 5. DOE notes that for low-income PC 7 consumers, as well as across all PC 7 consumers, the Recommended TSL represents the largest average LCC savings of any TSL. The FFC national energy savings are significant and the NPV of consumer benefits is positive at the Recommended TSL using both a 3-percent and 7-percent discount rate. Notably, the benefits to consumers vastly outweigh the cost to manufacturers. At the Recommended TSL, the NPV of consumer benefits, even measured at the more conservative discount rate of 7 percent is over 17 times higher than the maximum estimated manufacturers' loss in INPV. The standard levels at the Recommended TSL are economically justified even without weighing the estimated monetary value of emissions reductions. When those emissions reductions are included—representing $5.02 billion in climate benefits (associated with the average SC–GHG at a 3-percent discount rate), and $9.80 billion (using a 3-percent discount rate) or $3.45 billion (using a 7-percent discount rate) in health benefits—the rationale becomes stronger still.

As stated, DOE conducts the walk-down analysis to determine the TSL that represents the maximum improvement in energy efficiency that is technologically feasible and economically justified as required under EPCA. DOE notes 72 percent of low-income households have a top-mount refrigerator-freezer (represented by PC 3) and that an estimated 9 percent of low-income PC 3 households experience a net cost at the Recommended TSL, whereas an estimated 6 percent of low-income households with a top-mount refrigerator-freezer experience a net cost at TSL 3. However, the average LCC savings for low-income PC 3 consumers are $22.05 higher at the Recommended TSL than at TSL 3. Further, compared to TSL 3, it is estimated that the Recommended TSL would result in additional FFC national energy savings of 0.9 quads. These additional savings and benefits at the Recommended TSL are significant. DOE considers the impacts to be, as a whole, economically justified at the Recommended TSL.

Although DOE considered amended standard levels for refrigerators, refrigerator-freezers, and freezers by grouping the efficiency levels for each product class into TSLs, DOE evaluates all analyzed efficiency levels in its analysis. In general, the standard level represents the maximum energy savings that does not result in a large percentage of consumers experiencing a net LCC cost. For example, for PC 5, more than half of consumers experience a net cost at EL 3. In the case of PC 7, for which DOE found that a relatively higher percentage of low-income consumers

may experience net costs at higher efficiency levels, at the standard level chosen, 0.6 percent of low-income households with side-by-side refrigerator-freezers will experience a potential burden. The ELs at the standard level result in positive LCC savings for all product classes, significantly reduce the number of consumers experiencing a net cost, and reduce the decrease in INPV and conversion costs to the point where DOE has tentatively concluded they are economically justified, as discussed for the Recommended TSL in the preceding paragraphs.

Therefore, based on the previous considerations, DOE proposes to adopt the energy conservation standards for refrigerators, refrigerator-freezers, and freezers at the Recommended TSL.

The Recommended TSL for refrigerators, refrigerator-freezers, and freezers proposed in this NOPR is part of a multi-product Joint Agreement covering six rulemakings (refrigerators, refrigerator-freezers, and freezers; miscellaneous refrigeration products; conventional cooking products; residential clothes washers; consumer clothes dryers; and dishwashers). The signatories indicate that the Joint Agreement for the six rulemakings should be considered as a joint statement of recommended standards, to be adopted in its entirety. As discussed in section V.B.2.e of the direct final rule published elsewhere in this issue of the **Federal Register**, many refrigerator, refrigerator-freezer, and freezer OEMs also manufacture miscellaneous refrigeration products, conventional cooking products, residential clothes washers, consumer clothes dryers, and dishwashers. Rather than requiring compliance with five amended standards in a single year (2027),[11] the negotiated multi-product Joint Agreement staggers the compliance dates for the five amended standards over a 4-year period (2027–2030). In response to the February 2023 NOPR, AHAM and individual manufacturers expressed concerns about the timing of ongoing home appliance rulemakings. Specifically, AHAM commented that the combination of the stringency of DOE's proposals, the short lead-in time required under EPCA to comply with standards, and the overlapping timeframe of multiple standards affecting the same manufacturers represents significant cumulative regulatory burden for the home appliance industry. (AHAM, No. 69 at pp. 20–21) AHAM has submitted similar comments to other ongoing consumer product rulemakings.[12] As AHAM is a key signatory of the Joint Agreement, DOE understands that the compliance dates recommended in the Joint Agreement would help reduce cumulative regulatory burden. These compliance dates help relieve concern on the part of some manufacturers about their ability to allocate sufficient resources to comply with multiple concurrent amended standards, about the need to align compliance dates for products that are typically designed or sold as matched pairs, and about the ability of their suppliers to ramp up production of key components. The Joint Agreement also provides additional years of regulatory certainty for manufacturers and their suppliers while still achieving the maximum improvement in energy efficiency that is technologically feasible and economically justified.

The proposed energy conservation standards for refrigerators, refrigerator-freezers, and freezers, which are expressed in kWh/yr, are shown in Table III.3 and Table IIII.4.

TABLE III.3—PROPOSED AMENDED ENERGY CONSERVATION STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

[Compliance starting January 31, 2029]

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
3–BI. Built-in refrigerator-freezer—automatic defrost with top-mounted freezer	8.24AV + 238.4 + 28I	0.291av + 238.4 + 28I.
3A–BI. Built-in All-refrigerators—automatic defrost	(7.22AV + 205.7)*K3ABI	(0.255av + 205.7)*K3ABI.
4–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer	(8.79AV + 307.4)*K4BI + 28I	(0.310av + 307.4)*K4BI + 28I.
5–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer.	(8.65AV + 309.9)*K5BI + 28I	(0.305av + 309.9)*K5BI + 28I.
5A. Refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(7.76AV + 351.9)*K5A	(0.274av + 351.9)*K5A.
5A–BI. Built-in refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(8.21AV + 370.7)*K5ABI	(0.290av + 370.7)*K5ABI.
7–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer	(8.82AV + 384.1)*K7BI	(0.311av + 384.1)*K7BI.
8. Upright freezers with manual defrost	5.57AV + 193.7	0.197av + 193.7.
9–BI. Built-In Upright freezers with automatic defrost	(9.37AV + 247.9)*K9BI + 28I	(0.331av + 247.9)*K9BI + 28I.
9A–BI. Built-In Upright freezers with automatic defrost with through-the-door ice service.	9.86AV + 288.9	0.348av + 288.9.
10. Chest freezers and all other freezers except compact freezers	7.29AV + 107.8	0.257av + 107.8.
10A. Chest freezers with automatic defrost	10.24AV + 148.1	0.362av + 148.1.
11. Compact refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	7.68AV + 214.5	0.271av + 214.5.
11A. Compact all-refrigerators—manual defrost	6.66AV + 186.2	0.235av + 186.2.
12. Compact refrigerator-freezers—partial automatic defrost	(5.32AV + 302.2)*K12	(0.188av + 302.2)*K12.

[11] The refrigerators, refrigerator-freezers, and freezers (88 FR 12452); consumer conventional cooking products (88 FR 6818); residential clothes washers (88 FR 13520); consumer clothes dryers (87 FR 51734); and dishwashers (88 FR 32514) utilized a 2027 compliance year for analysis at the proposed rule stage. Miscellaneous refrigeration products (88 FR 12452) utilized a 2029 compliance year for the NOPR analysis.

[12] AHAM has submitted written comments regarding cumulative regulatory burden for the other five rulemakings included in the multi-product Joint Agreement. AHAM's written comments on cumulative regulatory burden are available at: *www.regulations.gov/comment/EERE-2020-BT-STD-0039-0031* (pp. 12–15) for miscellaneous refrigeration products; *www.regulations.gov/comment/EERE-2014-BT-STD-0005-2285* (pp. 44–27) for consumer conventional cooking products; *www.regulations.gov/comment/EERE-2017-BT-STD-0014-0464* (pp. 40–44) for residential clothes washers; *www.regulations.gov/comment/EERE-2014-BT-STD-0058-0046* (pp. 12–13) for consumer clothes dryers; and *www.regulations.gov/comment/EERE-2019-BT-STD-0039-0051* (pp. 21–24) for dishwashers.

TABLE III.3—PROPOSED AMENDED ENERGY CONSERVATION STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS—Continued

[Compliance starting January 31, 2029]

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
13. Compact refrigerator-freezers—automatic defrost with top-mounted freezer ..	10.62AV + 305.3 + 28I	0.375av + 305.3 + 28I.
13A. Compact all-refrigerators—automatic defrost	(8.25AV + 233.4)*K13A	(0.291av + 233.4)*K13A.
14. Compact refrigerator-freezers—automatic defrost with side-mounted freezer	6.14AV + 411.2 + 28I	0.217av + 411.2 + 28I.
15. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer.	10.62AV + 305.3 + 28I	0.375av + 305.3 + 28I.
16. Compact upright freezers with manual defrost	7.35AV + 191.8	0.260av + 191.8.
17. Compact upright freezers with automatic defrost	9.15AV + 316.7	0.323av + 316.7.
18. Compact chest freezers	7.86AV + 107.8	0.278av + 107.8.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of 10 CFR part 430.

av = Total adjusted volume, expressed in Liters.

I = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker. Door Coefficients (*e.g.,* K3ABI) are as defined in the following table.

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K3ABI	1.10	1.0	1.0.
K4BI	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K5BI	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K5A	1.10	1.06	$1 + 0.02 * (N_d - 3)$.
K5ABI	1.10	1.06	$1 + 0.02 * (N_d - 3)$.
K7BI	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K9BI	1.0	1.0	$1 + 0.02 * (N_d - 1)$.
K12	1.0	1.0	$1 + 0.02 * (N_d - 1)$.
K13A	1.10	1.0	1.0.

Notes:

[1] N_d is the number of external doors.

[2] The maximum N_d values are 3 for K9BI, and 5 for all other K values.

TABLE IIII.4—PROPOSED AMENDED ENERGY CONSERVATION STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

[Compliance starting January 31, 2030]

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
1. Refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	6.79AV + 191.3	0.240av + 191.3.
1A. All-refrigerators—manual defrost	5.77AV + 164.6	0.204av + 164.6.
2. Refrigerator-freezers—partial automatic defrost	(6.79AV + 191.3)*K2	(0.240av + 191.3)*K2.
3. Refrigerator-freezers—automatic defrost with top-mounted freezer	6.86AV + 198.6 + 28I	0.242av + 198.6 + 28I.
3A. All-refrigerators—automatic defrost	(6.01AV + 171.4)*K3A	(0.212av + 171.4)*K3A.
4. Refrigerator-freezers—automatic defrost with side-mounted freezer	(7.28AV + 254.9)*K4 + 28I ...	(0.257av + 254.9)*K4 + 28I.
5. Refrigerator-freezers—automatic defrost with bottom-mounted freezer	(7.61AV + 272.6)*K5 + 28I ...	(0.269av + 272.6)*K5 + 28I.
6. Refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service.	7.14AV + 280.0	0.252av + 280.0.
7. Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	(7.31AV + 322.5)*K7	(0.258av + 322.5)*K7.
9. Upright freezers with automatic defrost	(7.33AV + 194.1)*K9 + 28I ...	(0.259av + 194.1)*K9 + 28I.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of 10 CFR part 430.

av = Total adjusted volume, expressed in Liters.

I = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker. Door Coefficients (*e.g.,* K3A) are as defined in the following table.

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K2	1.0	1.0	1 + 0.02 * (N_d − 1).
K3A	1.10	1.0	1.0.
K4	1.10	1.06	1 + 0.02 * (N_d − 2).
K5	1.10	1.06	1 + 0.02 * (N_d − 2).
K7	1.10	1.06	1 + 0.02 * (N_d − 2).
K9	1.0	1.0	1 + 0.02 * (N_d − 1).

Notes:
[1] N_d is the number of external doors.
[2] The maximum N_d values are 2 for K2, and 5 for all other K values.

B. Annualized Benefits and Costs of the Proposed Standards

The benefits and costs of the proposed standards can also be expressed in terms of annualized values. The annualized net benefit is (1) the annualized national economic value (expressed in 2022$) of the benefits from operating products that meet the proposed standards (consisting primarily of operating cost savings from using less energy), minus increases in product purchase costs, and (2) the annualized monetary value of the climate and health benefits from emission reductions.

Table III.5 shows the annualized values for refrigerators, refrigerator-freezers, and freezers under the Recommended TSL, expressed in 2022$. The results under the primary estimate are as follows.

Using a 7-percent discount rate for consumer benefits and costs and health benefits from reduced NO_X and SO_2 emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the proposed standards is $590.5 million per year in increased equipment costs, while the estimated annual monetized benefits are $1.7 billion in reduced equipment operating costs, $303.8 million in climate benefits, and $410.6 million in health benefits. In this case, the net benefit would amount to $1.8 billion per year.

Using a 3-percent discount rate for all benefits and costs, the estimated cost of the proposed standards is $567.5 million per year in increased equipment costs, while the estimated annual monetized benefits are $2.2 billion in reduced operating costs, $303.8 million in climate benefits, and $592.9 million in health benefits. In this case, the net benefit would amount to $2.5 billion per year.

TABLE III.5—ANNUALIZED BENEFITS AND COSTS OF PROPOSED STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

	Million 2022$/year		
	Primary estimate	Low-net-benefits estimate	High-net-benefits estimate
3% discount rate			
Consumer Operating Cost Savings	2,200.5	2,023.9	2,326.6
Climate Benefits *	303.8	291.8	307.9
Health Benefits **	592.9	569.7	600.7
Total Benefits †	3,097.2	2,885.4	3,235.2
Consumer Incremental Product Costs ‡	567.5	666.6	547.8
Net Benefits	2,529.6	2,218.8	2,687.4
Change in Producer Cashflow (INPV ‡‡)	(49) to (37)	(49) to (37)	(49) to (37)
7% discount rate			
Consumer Operating Cost Savings	1,667.0	1,541.9	1,758.5
Climate Benefits * (3% discount rate)	303.8	291.8	307.9
Health Benefits **	410.6	395.8	415.7
Total Benefits †	2,381.4	2,229.5	2,482.0
Consumer Incremental Product Costs	590.5	677.9	569.6
Net Benefits	1,790.9	1,551.6	1,912.5
Change in Producer Cashflow (INPV ‡‡)	(49) to (37)	(49) to (37)	(49) to (37)

Note: This table presents the costs and benefits associated with refrigerators, refrigerator-freezers, and freezers shipped during the period 2029–2058 for the product classes listed in Table III.3 and shipped in 2030–2059 for the product classes listed in Table IIII.4. These results include benefits which accrue after 2058/9 from the products shipped in 2029–2058 for the product classes listed in Table III.3 and shipped in 2030–2059 for the product classes listed in Table IIII.4. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a medium decline rate in the Primary Estimate, a low decline rate in the Low Net Benefits Estimate, and a high decline rate in the High Net Benefits Estimate. The methods used to derive projected price trends are explained in sections V.H.3 of the direct final rule published elsewhere in this issue of the **Federal Register**. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using four different estimates of the SC–CO_2, SC–CH_4 and SC–N_2O. For presentational purposes of this table, the climate benefits associated with the average SC–GHG at a 3 percent discount rate are shown, but DOE does not have a single central SC–GHG point estimate, and it emphasizes the importance and value of considering the benefits calculated using all four sets of SC–GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for SO_2 and NO_X) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. See section IV.L of the direct final rule published elsewhere in this issue of the **Federal Register** for more details.

† Total benefits for both the 3-percent and 7-percent cases are presented using the average SC–GHG with 3-percent discount rate, but DOE does not have a single central SC–GHG point estimate.

‡‡ Operating Cost Savings are calculated based on the life cycle costs analysis and national impact analysis as discussed in detail below. *See* sections IV.F and IV.H of the direct final rule published elsewhere in this issue of the **Federal Register**. DOE's national impacts analysis includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the product and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (*i.e.,* manufacturer impact analysis, or ''MIA''). *See* section IV.J of the direct final rule published elsewhere in this issue of the **Federal Register**. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 9.1 percent that is estimated in the manufacturer impact analysis (*see* chapter 12 of the direct final rule TSD for a complete description of the industry weighted average cost of capital). For refrigerators, refrigerator-freezers, and freezers, the annualized change in INPV ranges from −$48.7 million to −$37.0 million. DOE accounts for that range of likely impacts in analyzing whether a trial standard level is economically justified. *See* section V.C of the direct final rule published elsewhere in this issue of the **Federal Register**. DOE is presenting the range of impacts to the INPV under two manufacturer markup scenarios: the Preservation of Gross Margin scenario, which is the manufacturer markup scenario used in the calculation of Consumer Operating Cost Savings in this table; and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annual change in INPV in the above table, drawing on the MIA explained further in section IV.J of the direct final rule published elsewhere in this issue of the **Federal Register** to provide additional context for assessing the estimated impacts of this proposal to society, including potential changes in production and consumption, which is consistent with OMB's Circular A–4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation for this proposed rule, the annualized net benefits would range from $2,480.9 million to $2,492.6 million at 3-percent discount rate and would range from $1,742.2 million to $1,753.9 million at 7-percent discount rate.

IV. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule until the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document. Comments relating to the direct final rule published elsewhere in this issue of the **Federal Register**, should be submitted as instructed therein.

Submitting comments via *www.regulations.gov.* The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

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DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (''faxes'') will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This

reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: one copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

B. Public Meeting

As stated previously, if DOE withdraws the direct final rule published elsewhere in this issue of the **Federal Register** pursuant to 42 U.S.C. 6295(p)(4)(C), DOE will hold a public meeting to allow for additional comment on this proposed rule. DOE will publish notice of any meeting in the **Federal Register**.

V. Procedural Issues and Regulatory Review

The regulatory reviews conducted for this proposed rule are identical to those conducted for the direct final rule published elsewhere in this issue of the **Federal Register**. Please see the direct final rule for further details.

A. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IRFA'') and a final regulatory flexibility analysis (''FRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (*www.energy.gov/gc/office-general-counsel*). DOE has prepared the following IRFA for the products that are the subject of this proposed rulemaking.

For manufacturers of refrigerators, refrigerator-freezers, and freezers, the Small Business Administration (''SBA'') has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. (*See* 13 CFR part 121.) The size standards are listed by North American Industry Classification System (''NAICS'') code and industry description and are available at *www.sba.gov/document/support--table-size-standards.* Manufacturing of refrigerators, refrigerator-freezers, and freezers is classified under NAICS 335220, ''Major Household Appliance Manufacturing.'' The SBA sets a threshold of 1,500 employees or fewer for an entity to be considered as a small business for this category.

1. Description of Reasons Why Action Is Being Considered

DOE is proposing amended energy conservation standards for refrigerators, refrigerator-freezers, and freezers. EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(b)(1)–(2)), and directed DOE to conduct three cycles of future rulemakings to whether to amend these standards. (42 U.S.C. 6295(b)(3)(A)(i), (b)(3)(B), and (b)(4)). DOE has completed these rulemakings. EPCA further provides that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1))

Pursuant to EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

In light of the above and the requirements under 42 U.S.C. 6295(p)(4)(A)–(B), DOE is issuing this NOPR proposing energy conservation standards for refrigerators, refrigerator-freezers, and freezers. These standard levels were submitted jointly to DOE on September 25, 2023, by groups representing manufacturers, energy and environmental advocates, consumer groups, and a utility.[13] This letter, titled ''Energy Efficiency Agreement of 2023'' (hereafter, the ''Joint Agreement'' [14]), recommends specific energy conservation standards for refrigerators, refrigerator-freezers, and freezers that, in the commenters' view, would satisfy the EPCA requirements in 42 U.S.C. 6295(o).

2. Objectives of, and Legal Basis for, Rule

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part B of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include refrigerators, refrigerator-freezers, and freezers, the subject of this document. (42 U.S.C. 6292(a)(1)) EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(b)(1)–(2)), and directed. DOE to conduct three cycles of future rulemakings to whether to amend these standards. (42 U.S.C. 6295(b)(3)(A)(i), (b)(3)(B), and (b)(4)). DOE has completed these rulemakings. EPCA further provides that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1))

[13] The signatories to the Joint Agreement include AHAM, American Council for an Energy-Efficient Economy, Alliance for Water Efficiency, Appliance Standards Awareness Project, Consumer Federation of America, Consumer Reports, Earthjustice, National Consumer Law Center, Natural Resources Defense Council, Northwest Energy Efficiency Alliance, and Pacific Gas and Electric Company. Members of AHAM's Major Appliance Division that manufacture the affected products include: Alliance Laundry Systems, LLC; Asko Appliances AB; Beko US Inc.; Brown Stove Works, Inc.; BSH; Danby Products, Ltd.; Electrolux Home Products, Inc.; Elicamex S.A. de C.V.; Faber; Fotile America; GEA, a Haier Company; L'Atelier Paris Haute Design LLG; LGEUSA; Liebherr USA, Co.; Midea America Corp.; Miele, Inc.; Panasonic Appliances Refrigeration Systems (PAPRSA) Corporation of America; Perlick Corporation; Samsung; Sharp Electronics Corporation; Smeg S.p.A; Sub-Zero Group, Inc.; The Middleby Corporation; U-Line Corporation; Viking Range, LLC; and Whirlpool.

[14] This document is available in the docket at: *www.regulations.gov/document/EERE-2017-BT-STD-0003-0103.*

3. Description and Estimated Number of Small Entities Regulated

DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. 68 FR 7990. DOE conducted a market survey to identify potential small manufacturers of refrigerators, refrigerator-freezers, and freezers. DOE conducted a market survey to identify potential small manufacturers of refrigerators, refrigerator-freezers, and freezers. DOE began its assessment by reviewing DOE's Compliance Certification Database,[15] California Energy Commission's Modernized Appliance Efficiency Database System,[16] individual company websites, and prior refrigerator, refrigerator-freezer, and freezer rulemakings to identify manufacturers of the covered product. DOE then consulted publicly available data, such as manufacturer websites, manufacturer specifications and product literature, import/export logs (*e.g.,* bills of lading from Panjiva [17]), and basic model numbers, to identify OEMs of covered refrigerators, refrigerator-freezers, and freezers. DOE further relied on public data and subscription-based market research tools (*e.g.,* Dun & Bradstreet reports [18]) to determine company, location, headcount, and annual revenue. DOE also asked industry representatives if they were aware of any small manufacturers during manufacturer interviews in support of the February 2023 NOPR. 88 FR 12452. DOE screened out companies that do not offer products covered by this rulemaking, do not meet the SBA's definition of a ''small business,'' or are foreign-owned and operated.

DOE identified 63 OEMs that sell refrigerators, refrigerator-freezers, or freezers in the United States. Of the 63 OEMs identified, DOE tentatively determined that one company qualifies as a small business and is not foreign-owned and operated.

In support of the February 2023 NOPR, DOE reached out to the small business and invited them to participate in a voluntary interview. The small business did not consent to participate in a formal MIA interview. DOE also requested information about small businesses and potential impacts on small businesses while interviewing larger manufacturers.

4. Description and Estimate of Compliance Requirements Including Differences in Cost, if Any, for Different Groups of Small Entities

The one small business identified has 45 refrigerator, refrigerator-freezer, and freezer models certified in DOE's Compliance Certification Database (''CCD''). Of those 45 models, 43 models are compact-size refrigerators, refrigerator-freezers, or freezers (34 PC 13A models, three PC 15 models, and six PC 17 models). The remaining two models are standard-size built-in refrigerator-freezer models (PC 3A–BI). Of the 34 PC 13A models, 22 models meet the efficiency required (EL 1) at TSL. For PC 15, PC 17, and PC 3A–BI, this small manufacturer only offers models at the current DOE baseline efficiency and, therefore, does not offer any products that meet the proposed TSL efficiencies (*i.e.,* 10-percent reduction in energy use from the current DOE baseline). To meet the required efficiencies, DOE expects this small manufacturer would likely need to implement variable defrost and higher efficiency compressors across their product platforms. For some PC 3A–BI, PC 13A, PC 15, and PC 17 models, variable-speed compressors may be necessary to meet the required efficiencies. Some capital conversion costs may be necessary for additional tooling and new stations to test more variable-speed compressors. Product conversion costs may be necessary for developing, qualifying, sourcing, and testing new components. DOE estimated conversion costs for this small manufacturer by using model counts to scale down the industry conversion costs. DOE estimates that the small manufacturer may incur $367,000 in capital conversion costs and $530,000 in product conversion costs related to redesigning their products to meet amended standards. Based on subscription-based market research reports, the small business has an annual revenue of approximately $85.3 million. The total conversion costs of $897,000 are approximately 0.2 percent of company revenue over the 5-year conversion period.

5. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with the proposed rule.

6. Significant Alternatives to the Rule

The discussion in the previous section analyzes impacts on small businesses that would result from DOE's proposed rule, represented by TSL 4 (*i.e.,* the Recommended TSL). In reviewing alternatives to the proposed rule, DOE examined energy conservation standards set at lower efficiency levels. While TSLs 3, 2, and 1 would reduce the impacts on small business manufacturers, it would come at the expense of a reduction in energy savings. TSL 1 achieves 51 percent lower energy savings compared to the energy savings at TSL 4. TSL 2 achieves 40 percent lower energy savings compared to the energy savings at TSL 4. TSL 3 achieves 16 percent lower energy savings compared to the energy savings at TSL 4.

Based on the presented discussion, establishing standards at TSL 4 balances the benefits of the energy savings at TSL 4 with the potential burdens placed on refrigerators, refrigerator-freezers, and freezers manufacturers, including small business manufacturers. Accordingly, DOE does not propose one of the other TSLs considered in the analysis, or the other policy alternatives examined as part of the regulatory impact analysis and included in chapter 17 of the direct final rule TSD.

Additional compliance flexibilities may be available through other means. EPCA provides that a manufacturer whose annual gross revenue from all of its operations does not exceed $8 million may apply for an exemption from all or part of an energy conservation standard for a period not longer than 24 months after the effective date of a final rule establishing the standard. (42 U.S.C. 6295(t)) Additionally, manufacturers subject to DOE's energy efficiency standards may apply to DOE's Office of Hearings and Appeals for exception relief under certain circumstances. Manufacturers should refer to 10 CFR part 430, subpart E, and 10 CFR part 1003 for additional details.

B. Materials Incorporated by Reference

The following standards appear in the amendatory text of this document and were previously approved for the locations in which they appear: AS/NZS 4474.1:2007; HRF–1–2019. No changes are proposed to the IBR material.

[15] U.S. Department of Energy's Compliance Certification Database. (last accessed May 5, 2023.) *www.regulations.doe.gov/certification-data/#q=Product_Group_s%3A*.*

[16] California Energy Commission's Modernized Appliance Efficiency Database System. (last accessed May 5, 2023.) *cacertappliances.energy.ca.gov/Pages/ApplianceSearch.aspx*.

[17] S&P Global. Panjiva Market Intelligence. (last accessed July 18, 2023.) *panjiva.com/import-export/United-States*.

[18] D&B Hoover. Company Profiles. Various companies. (last accessed July 14, 2023.) *app.dnbhoovers.com*.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on December 28, 2023, by Jeffrey Marootian, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 29, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set forth in the preamble, DOE proposes to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Amend appendix A to subpart B of part 430 by:
■ a. In section 1:
■ i. In paragraph (b)(i), removing the text ''5.3(e)'' and adding in its place the text ''5.5''; and
■ ii. Removing the undesignated paragraph immediately following paragraph (b)(ii);
■ b. In section 3, adding, in alphabetical order, definitions for ''Door-in-door'' and ''Transparent door'';
■ c. In section 5.3:
■ i. Removing paragraphs (a) and (f); and
■ ii. Redesignating paragraphs (b) through (e) as paragraphs (a) through (d); and
■ d. Adding new sections 5.4 and 5.5.
The additions read as follows:

Appendix A to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Refrigerators, Refrigerator-Freezers, and Miscellaneous Refrigeration Products

* * * * *

3. * * *

Door-in-door means a set of doors or an outer door and inner drawer for which—

(a) Both doors (or both the door and the drawer) must be opened to provide access to the interior through a single opening;

(b) Gaskets for both doors (or both the door and the drawer) are exposed to external ambient conditions on the outside around the full perimeter of the respective openings; and

(c) The space between the two doors (or between the door and the drawer) achieves temperature levels consistent with the temperature requirements of the interior compartment to which the door-in-door provides access.

* * * * *

Transparent door means an external fresh food compartment door which meets the following criteria:

(a) The area of the transparent portion of the door is at least 40 percent of the area of the door.

(b) The area of the door is at least 50 percent of the sum of the areas of all the external doors providing access to the fresh food compartments and cooler compartments.

(c) For the purposes of this evaluation, the area of a door is determined as the product of the maximum height and maximum width dimensions of the door, not considering potential extension of flaps used to provide a seal to adjacent doors.

* * * * *

5. * * *

5.4. Icemaker Energy Use

(a) For refrigerators and refrigerator-freezers: To demonstrate compliance with the energy conservation standards at § 430.32(a) applicable to products manufactured on or after September 15, 2014, but before the compliance date of any amended standards published after January 1, 2022, IET, expressed in kilowatt-hours per cycle, equals 0.23 for a product with one or more automatic icemakers and otherwise equals 0 (zero). To demonstrate compliance with any amended standards published after January 1, 2022, IET, expressed in kilowatt-hours per cycle, is as defined in section 5.9.2.1 of HRF–1–2019.

(b) For miscellaneous refrigeration products: To demonstrate compliance with the energy conservation standards at § 430.32(aa) applicable to products manufactured on or after October 28, 2019, IET, expressed in kilowatt-hours per cycle, equals 0.23 for a product with one or more automatic icemakers and otherwise equals 0 (zero).

5.5. Triangulation Method

If the three-point interpolation method of section 5.2(b) of this appendix is used for setting temperature controls, the average per-cycle energy consumption shall be defined as follows:

$E = E_X + IET$

Where:

E is defined in section 5.9.1.1 of HRF–1–2019;

IET is defined in section 5.4 of this appendix; and

E_X is defined and calculated as described in appendix M, section M4(a) of AS/NZS 4474.1:2007. The target temperatures t_{xA} and t_{xB} defined in section M4(a)(i) of AS/NZS 4474.1:2007 shall be the standardized temperatures defined in section 5.6 of HRF–1–2019.

* * * * *

■ 3. Amend appendix B to subpart B of part 430 by:
■ a. In section 5.3:
■ i. Removing paragraph (a);
■ ii. Redesignating paragraphs (b) and (c) as paragraphs (a) and (b); and
■ b. Adding section 5.4.
The addition reads as follows:

Appendix B to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Freezers

* * * * *

5. * * *

5.4. Icemaker Energy Use

For freezers: To demonstrate compliance with the energy conservation standards at § 430.32(a) applicable to products manufactured on or after September 15, 2014, but before the compliance date of any amended standards published after January 1, 2022, IET, expressed in kilowatt-hours per cycle, equals 0.23 for a product with one or more automatic icemakers and otherwise equals 0 (zero). To demonstrate compliance with any amended standards published after January 1, 2022, IET, expressed in kilowatt-hours per cycle, is as defined in section 5.9.2.1 of HRF–1–2019.

■ 4. Amend § 430.32 by:
■ a. Redesignating table 3 to paragraph (b) and table 4 to paragraph (b)(2) as table 6 to paragraph (b)(1) and table 7 to paragraph (b)(2); and
■ b. Revising paragraph (a).
The revision reads as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(a) *Refrigerators/refrigerator-freezers/freezers.* The standards in this paragraph (a) do not apply to refrigerators and refrigerator-freezers with total refrigerated volume exceeding 39 cubic feet (1104 liters) or freezers with total refrigerated volume exceeding

30 cubic feet (850 liters). The energy standards as determined by the equations of the following table(s) shall be rounded off to the nearest kWh per year. If the equation calculation is halfway between the nearest two kWh per year values, the standard shall be rounded up to the higher of these values.

(1) The following standards apply to products manufactured on or before September 15, 2014, and before the 2029/2030 compliance dates depending on product class (see paragraphs (a)(2) and (3) of this section).

TABLE 1 TO PARAGRAPH (a)(1)

Product class	Equations for maximum energy use (kWh/yr)	
	based on AV (ft^3)	based on av (L)
1. Refrigerators and refrigerator-freezers with manual defrost	7.99AV + 225.0	0.282av + 225.0.
1A. All-refrigerators—manual defrost	6.79AV + 193.6	0.240av + 193.6.
2. Refrigerator-freezers—partial automatic defrost	7.99AV + 225.0	0.282av + 225.0.
3. Refrigerator-freezers—automatic defrost with top-mounted freezer without an automatic icemaker.	8.07AV + 233.7	0.285av + 233.7.
3–BI. Built-in refrigerator-freezer—automatic defrost with top-mounted freezer without an automatic icemaker.	9.15AV + 264.9	0.323av + 264.9.
3I. Refrigerator-freezers—automatic defrost with top-mounted freezer with an automatic icemaker without through-the-door ice service.	8.07AV + 317.7	0.285av + 317.7.
3I–BI. Built-in refrigerator-freezers—automatic defrost with top-mounted freezer with an automatic icemaker without through-the-door ice service.	9.15AV + 348.9	0.323av + 348.9.
3A. All-refrigerators—automatic defrost	7.07AV + 201.6	0.250av + 201.6.
3A–BI. Built-in All-refrigerators—automatic defrost	8.02AV + 228.5	0.283av + 228.5.
4. Refrigerator-freezers—automatic defrost with side-mounted freezer without an automatic icemaker.	8.51AV + 297.8	0.301av + 297.8.
4–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer without an automatic icemaker.	10.22AV + 357.4	0.361av + 357.4.
4I. Refrigerator-freezers—automatic defrost with side-mounted freezer with an automatic icemaker without through-the-door ice service.	8.51AV + 381.8	0.301av + 381.8.
4I–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer with an automatic icemaker without through-the-door ice service.	10.22AV + 441.4.2	0.361av + 441.4.
5. Refrigerator-freezers—automatic defrost with bottom-mounted freezer without an automatic icemaker.	8.85AV + 317.0	0.312av + 317.0.
5–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer without an automatic icemaker.	9.40AV + 336.9	0.332av + 336.9.
5I. Refrigerator-freezers—automatic defrost with bottom-mounted freezer with an automatic icemaker without through-the-door ice service.	8.85AV + 401.0	0.312av + 401.0.
5I–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer with an automatic icemaker without through-the-door ice service.	9.40AV + 420.9	0.332av + 420.9.
5A. Refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	9.25AV + 475.4	0.327av + 475.4.
5A–BI. Built-in refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	9.83AV + 499.9	0.347av + 499.9.
6. Refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service.	8.40AV + 385.4	0.297av + 385.4.
7. Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	8.54AV + 432.8	0.302av + 431.1.
7–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	10.25AV + 502.6	0.362av + 502.6.
8. Upright freezers with manual defrost	5.57AV + 193.7	0.197av + 193.7.
9. Upright freezers with automatic defrost without an automatic icemaker	8.62AV + 228.3	0.305av + 228.3.
9I. Upright freezers with automatic defrost with an automatic icemaker	8.62AV + 312.3	0.305av + 312.3.
9–BI. Built-In Upright freezers with automatic defrost without an automatic icemaker	9.86AV + 260.9	0.348av + 260.6.
9I–BI. Built-In Upright freezers with automatic defrost with an automatic icemaker	9.86AV + 344.9	0.348av + 344.9.
10. Chest freezers and all other freezers except compact freezers	7.29AV + 107.8	0.257av + 107.8.
10A. Chest freezers with automatic defrost	10.24AV + 148.1	0.362av + 148.1.
11. Compact refrigerators and refrigerator-freezers with manual defrost	9.03AV + 252.3	0.319av + 252.3.
11A.Compact refrigerators and refrigerator-freezers with manual defrost	7.84AV + 219.1	0.277av + 219.1.
12. Compact refrigerator-freezers—partial automatic defrost	5.91AV + 335.8	0.209av + 335.8.
13. Compact refrigerator-freezers—automatic defrost with top-mounted freezer.	11.80AV + 339.2	0.417av + 339.2.
13I. Compact refrigerator-freezers—automatic defrost with top-mounted freezer with an automatic icemaker.	11.80AV + 423.2	0.417av + 423.2.
13A. Compact all-refrigerator—automatic defrost	9.17AV + 259.3	0.324av + 259.3.
14. Compact refrigerator-freezers—automatic defrost with side-mounted freezer	6.82AV + 456.9	0.241av + 456.9.
14I. Compact refrigerator-freezers—automatic defrost with side-mounted freezer with an automatic icemaker.	6.82AV + 540.9	0.241av + 540.9.
15. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer	11.80AV + 339.2	0.417av + 339.2.
15I. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer with an automatic icemaker.	11.80AV + 423.2	0.417av + 423.2.
16. Compact upright freezers with manual defrost	8.65AV + 225.7	0.306av + 225.7.
17. Compact upright freezers with automatic defrost	10.17AV + 351.9	0.359av + 351.9.

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Product class	Equations for maximum energy use (kWh/yr)	
	based on AV (ft^3)	based on av (L)
18. Compact chest freezers	9.25AV + 136.8	0.327av + 136.8.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of this part.
av = Total adjusted volume, expressed in Liters.

(2) The following standards apply to products manufactured on or after January 31, 2029.

TABLE 2 TO PARAGRAPH (a)(2)

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
3–BI. Built-in refrigerator-freezer—automatic defrost with top-mounted freezer	8.24AV + 238.4 + 28I	0.291av + 238.4 + 28I.
3A–BI. Built-in All-refrigerators—automatic defrost	(7.22AV + 205.7)*K3ABI	(0.255av + 205.7)*K3ABI.
4–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	(8.79AV + 307.4)*K4BI + 28I	(0.310av + 307.4)*K4BI + 28I.
5–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer.	(8.65AV + 309.9)*K5BI + 28I	(0.305av + 309.9)*K5BI + 28I.
5A. Refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(7.76AV + 351.9)*K5A	(0.274av + 351.9)*K5A.
5A–BI. Built-in refrigerator–freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(8.21AV + 370.7)*K5ABI	(0.290av + 370.7)*K5ABI.
7–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	(8.82AV + 384.1)*K7BI	(0.311av + 384.1)*K7BI.
8. Upright freezers with manual defrost	5.57AV + 193.7	0.197av + 193.7.
9–BI. Built-In Upright freezers with automatic defrost	(9.37AV + 247.9)*K9BI + 28I	(0.331av + 247.9)*K9BI + 28I.
9A–BI. Built-In Upright freezers with automatic defrost with through-the-door ice service.	9.86AV + 288.9	0.348av + 288.9.
10. Chest freezers and all other freezers except compact freezers	7.29AV + 107.8	0.257av + 107.8.
10A. Chest freezers with automatic defrost	10.24AV + 148.1	0.362av + 148.1.
11. Compact refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	7.68AV + 214.5	0.271av + 214.5.
11A. Compact all-refrigerators—manual defrost	6.66AV + 186.2	0.235av + 186.2.
12. Compact refrigerator-freezers—partial automatic defrost	(5.32AV + 302.2)*K12	(0.188av + 302.2)*K12.
13. Compact refrigerator-freezers—automatic defrost with top-mounted freezer	10.62AV + 305.3 + 28I	0.375av + 305.3 + 28I.
13A. Compact all-refrigerators—automatic defrost	(8.25AV + 233.4)*K13A	(0.291av + 233.4)*K13A.
14. Compact refrigerator-freezers—automatic defrost with side-mounted freezer.	6.14AV + 411.2 + 28I	0.217av + 411.2 + 28I.
15. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer.	10.62AV + 305.3 + 28I	0.375av + 305.3 + 28I.
16. Compact upright freezers with manual defrost	7.35AV + 191.8	0.260av + 191.8.
17. Compact upright freezers with automatic defrost	9.15AV + 316.7	0.323av + 316.7.
18. Compact chest freezers	7.86AV + 107.8	0.278av + 107.8.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of 10 CFR part 430.
av = Total adjusted volume, expressed in Liters.
I = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker. Door Coefficients (*e.g.,* K3ABI) are as defined in the following table.

TABLE 3 TO PARAGRAPH (a)(2)

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K3ABI	1.10	1.0	1.0
K4BI	1.10	1.06	$1 + 0.02 * (N_d - 2)$
K5BI	1.10	1.06	$1 + 0.02 * (N_d - 2)$
K5A	1.10	1.06	$1 + 0.02 * (N_d - 3)$
K5ABI	1.10	1.06	$1 + 0.02 * (N_d - 3)$
K7BI	1.10	1.06	$1 + 0.02 * (N_d - 2)$
K9BI	1.0	1.0	$1 + 0.02 * (N_d - 1)$

TABLE 3 TO PARAGRAPH (a)(2)—Continued

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K12	1.0	1.0	1 + 0.02 * (N_d − 1)
K13A	1.10	1.0	1.0

Notes:
[1] N_d is the number of external doors.
[2] The maximum N_d values are 2 for K12, 3 for K9BI, and 5 for all other K values.

(3) The following standards apply to products manufactured on or after January 31, 2030.

TABLE 4 TO PARAGRAPH (a)(3)

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
1. Refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	6.79AV + 191.3	0.240av + 191.3.
1A. All-refrigerators—manual defrost	5.77AV + 164.6	0.204av + 164.6.
2. Refrigerator-freezers—partial automatic defrost	(6.79AV + 191.3)*K2	(0.240av + 191.3)*K2.
3. Refrigerator-freezers—automatic defrost with top-mounted freezer	6.86AV + 198.6 + 28I	0.242av + 198.6 + 28I.
3A. All-refrigerators—automatic defrost	(6.01AV + 171.4)*K3A	(0.212av + 171.4)*K3A.
4. Refrigerator-freezers—automatic defrost with side-mounted freezer	(7.28AV + 254.9)*K4 + 28I	(0.257av + 254.9)*K4 + 28I.
5. Refrigerator-freezers—automatic defrost with bottom-mounted freezer	(7.61AV + 272.6)*K5 + 28I	(0.269av + 272.6)*K5 + 28I.
6. Refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service.	7.14AV + 280.0	0.252av + 280.0.
7. Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	(7.31AV + 322.5)*K7	(0.258av + 322.5)*K7.
9. Upright freezers with automatic defrost	(7.33AV + 194.1)*K9 + 28I	(0.259av + 194.1)*K9 + 28I.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of 10 CFR part 430.
av = Total adjusted volume, expressed in Liters.
I = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker. Door Coefficients (*e.g.,* K3A) are as defined in the following table.

TABLE 5 TO PARAGRAPH (a)(3)

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K2	1.0	1.0	1 + 0.02 * (N_d − 1)
K3A	1.10	1.0	1.0
K4	1.10	1.06	1 + 0.02 * (N_d − 2)
K5	1.10	1.06	1 + 0.02 * (N_d − 2)
K7	1.10	1.06	1 + 0.02 * (N_d − 2)
K9	1.0	1.0	1 + 0.02 * (N_d − 1)

Notes:
[1] N_d is the number of external doors.
[2] The maximum N_d values are 2 for K2, and 5 for all other K values.

* * * * *

[FR Doc. 2023–28977 Filed 1–16–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 19 and 52

[FAR Case 2021–020; Docket No. FAR–2021–0020; Sequence No. 1]

RIN 9000–AO36

Federal Acquisition Regulation: Limitations on Subcontracting Revisions

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration to update and clarify requirements associated with the limitations on subcontracting and the nonmanufacturer rule.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before March 18, 2024 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2021–020 to the Federal eRulemaking portal at *https://www.regulations.gov* by searching for ''FAR Case 2021–020''. Select the link ''Comment Now'' that corresponds with ''FAR Case 2021–020''. Follow the instructions provided on the ''Comment Now'' screen. Please include your name, company name (if any), and ''FAR Case 2021–020'' 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 ''FAR Case 2021–020'' in all correspondence related to this case. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. Public comments may be submitted as an individual, as an organization, or anonymously (see frequently asked questions at *https://www.regulations.gov/faq*). To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, Procurement Analyst, at 571–300–5917 or by email at *carrie.moore@gsa.gov,* for clarification of content. For information pertaining to status, publication schedules, or alternate instructions for submitting comments if *https://www.regulations.gov* cannot be used, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAR Case 2021–020.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to amend the FAR to implement regulatory changes made by the Small Business Administration (SBA) in its final rules published on May 31, 2016, at 81 FR 34243; on November 29, 2019, at 84 FR 65647; and on October 16, 2020, at 85 FR 66146.

SBA's final rule published on May 31, 2016, which implements section 1651 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239) as codified at 15 U.S.C. 657s, standardized the limitations on subcontracting and nonmanufacturer rule across the small business socioeconomic programs, and modified its regulations to specify that a similarly situated entity subcontractor must perform the work with its own employees. SBA's final rule was implemented via the final rule for FAR case 2016–011 published on August 11, 2021, at 86 FR 44233. However, the FAR final rule did not modify FAR 19.8, Contracting with the Small Business Administration (The 8(a) Program), to align it with the changes made to the socioeconomic programs at FAR subparts 19.13, 19.14, and 19.15.

In addition, this proposed rule implements regulatory changes made by SBA in its final rules published on November 29, 2019, and on October 16, 2020, to clarify requirements on the application of the limitations on subcontracting, provide exclusions of certain costs from the limitations on subcontracting calculation for services, and remove specific rules related to kit assemblers from the nonmanufacturer rule. The explanation for these changes is in the preamble of SBA's final rules.

II. Discussion and Analysis

The proposed changes to the FAR and the rationale are summarized as follows:

—Modify FAR 19.505(b)(1) introductory text to implement SBA's regulations at 13 CFR 125.6(b) to make clear that only one of the limitations of subcontracting apply to a contract;

—Modify FAR 19.505(b)(1)(i) and paragraph (e)(1) of FAR clause 52.219–14 to implement SBA's regulations at 13 CFR 125.6(a)(1) to permit the exclusion of other direct costs that are not the principal purpose of the contract, and are not performed by small businesses, from the limitations on subcontracting requirements for a service contract, and to exclude work performed outside the United States on a contract approved or financed under the Foreign Assistance Act of 1961 (Pub. L. 87–195, 22 U.S.C. 2151 *et seq.*), and work required to be performed by a foreign contractor, from the limitations on subcontracting requirements for service contracts;

—Modify FAR 19.505(b)(1)(iii) and (iv) and paragraphs (e)(3) and (e)(4) of FAR clause 52.219–14 to implement SBA's regulations at 13 CFR 125.6(b) to clarify that the limitation on subcontracting applies to contracts for general construction or for construction by special trade contractors when the contract also includes supplies and/or services;

—Modify FAR 19.505(b)(1)(i) through (iv) and paragraphs (e)(1) through (4) of FAR clause 52.219–14, Limitations on Subcontracting, to clarify that any work that a similarly situated entity further subcontracts out will count towards the prime contract's limitation on subcontracting;

—Modify FAR 19.505(c) to remove paragraph (c)(2), renumber the remaining paragraphs, and remove the text and references to the unique standard for kit assemblers when applying the nonmanufacturer rule to implement SBA's regulations at 13 CFR 121.406(c) and 13 CFR 121.406(e). Upon removal of the standard for kit assemblers, agencies should apply the policy now at FAR 19.505(c)(4) to multiple item acquisitions;

—Remove and reserve FAR 19.809–2, Limitations on subcontracting and nonmanufacturer rule, to implement SBA's regulations at 13 CFR 124.510 to eliminate the unique requirements of the limitations on subcontracting and nonmanufacturer rule for 8(a) contractors; and

—Modify paragraph (c)(1)(i), remove paragraph (c)(2), and renumber the paragraphs of FAR clause 52.219–33, Nonmanufacturer Rule, to implement SBA's regulations at 13 CFR 121.406(c) and 13 CFR 121.406(e)) to remove text and references to the unique standard for kit assemblers

when applying the nonmanufacturer rule.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT), for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), or for Commercial Services

This rule amends the clauses at FAR 52.212–5, 52.219–14, and 52.219–33. The clauses continue to apply to acquisitions at or below the SAT and to acquisitions for commercial products, including COTS items, and commercial services, as they did prior to this rule.

IV. Expected Impact of the Rule

This proposed rule simplifies and clarifies the limitations on subcontracting requirements and the nonmanufacturer rule; therefore, this rule is expected to make it easier for offerors, contractors, and contracting officers to implement the regulations. This proposed rule is expected to benefit small businesses and the Government by allowing concerns to exclude certain costs from the calculation of the limitations on subcontracting and excluding certain costs for the calculation of the limitations on subcontracting, which may increase small business participation and ensure that the benefits of set-aside contracts flow to the intended beneficiaries.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 (as amended by E.O. 14094) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612, because this rule merely standardizes, clarifies, and simplifies the requirements for compliance with the limitations on subcontracting and the nonmanufacturer rule. However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration (SBA) in its final rule published on May 31, 2016, at 81 FR 34243, to implement section 1651 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239) which amended 15 U.S.C. 657s to standardize the limitations on subcontracting and nonmanufacturer rule across the small business programs. This proposed rule also implements SBA's final rules published on November 29, 2019, at 84 FR 65647, and on October 16, 2020, at 85 FR 66146. This rule proposes to standardize the limitations on subcontracting and nonmanufacturer rule among the small business programs and update and clarify requirements associated with the limitations on subcontracting and nonmanufacturer rule.

The objective of this rule is to implement SBA's regulatory changes that provide exclusions of certain costs from the limitations on subcontracting calculation for services, and remove specific rules related to kit assemblers from the nonmanufacturer rule. The proposed rule clarifies that a similarly situated entity, first-tier subcontractor must perform the work with its own employees or the work will be counted towards the prime contractor's limitation on subcontracting; permits the exclusion of other direct costs that are not the principal purpose of the acquisition and not performed by small businesses from the limitations on subcontracting calculation; for service contracts, excludes from the limitations on subcontracting calculation work performed outside the United States on contracts or orders approved or financed under the Foreign Assistance Act of 1961 (Pub. L. 87–195, 22 U.S.C. 2151 *et seq.*) and work required to be performed by a foreign contractor; removes specific nonmanufacturer regulations applicable to kit assemblers; clarifies which limitation on subcontracting applies for contracts for general construction and construction by special trade contractors when the contract includes construction and supplies and/or services; and removes the separate limitations on subcontracting regulations for 8(a) contractors. The legal basis for this rule is as stated in the preceding paragraph. Promulgation of the FAR is authorized by 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

This proposed rule will impact small businesses that enter into contracts with the Government that are set-aside for any of the small business concerns identified at FAR 19.000(a)(3). This proposed rule may have a positive economic impact on small businesses because it will make the application of the limitations on subcontracting and nonmanufacturer rule consistent across all of the small business socioeconomic programs, will exclude certain costs from the limitations on subcontracting calculation, and will simplify the nonmanufacturer rule. The ability to exclude certain costs from the limitations on subcontracting calculation will make it possible for small businesses to compete for higher dollar value service contracts.

According to the System for Award Management (SAM), there are 355,208 active registrants that are considered small for at least one North American Industry Classification System code. Small business entities seeking to be prime contractors for Government contracts are required to register in SAM; however, those seeking to be subcontractors are not required to register in SAM. Therefore, the number of small business entities impacted by this rule may be greater than the number of entities registered in SAM.

The proposed rule does not impose any new reporting, recordkeeping, or other compliance requirements for small entities.

The proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches to the proposed rule.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2021–020) in correspondence.

VII. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

List of Subjects in 48 CFR Parts 19 and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 19 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 19 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

PART 19—SMALL BUSINESS PROGRAMS

■ 2. Amend section 19.505 by—
■ a. Revising paragraph (b)(1);
■ b. Revising the introductory text of paragraph (c);
■ c. Removing from paragraph (c)(1)(i) ''paragraph (c)(3)'' and adding ''paragraph (c)(2)'' in its place;
■ d. Removing paragraph (c)(2);
■ e. Redesignating paragraphs (c)(3) through (c)(5) as paragraphs (c)(2) through (c)(4); and
■ f. Removing from paragraphs (c)(3)(i)(A) and (B) ''or (c)(2)(ii)''.

The revisions read as follows:

19.505 Limitations on subcontracting and nonmanufacturer rule.

* * * * *

(b)(1) *Limitations on subcontracting.* A small business concern subject to the limitations on subcontracting is required to comply with one of the following:

(i) For a contract or order assigned a North American Industry Classification System (NAICS) code for services (except construction), the concern will not pay more than 50 percent of the amount paid by the Government for contract performance to subcontractors that are not similarly situated entities. Any work that a similarly situated entity does not perform with its own employees or further subcontracts will count towards the concern's 50 percent subcontract amount that cannot be exceeded. Other direct costs may be excluded from the 50 percent limitation when they are not the principal purpose of the contract or order, and small business concerns do not provide the service (*e.g.,* airline travel, work performed by a transportation or disposal entity under a contract assigned the environmental remediation NAICS code 562910, cloud computing services, or mass media purchases). Work performed outside the United States on a contract or order approved or financed under the Foreign Assistance Act of 1961 (Pub. L. 87–195, 22 U.S.C. 2151 *et seq.*) and work required to be performed by a foreign contractor are excluded from the 50 percent limitation. When a contract includes both services and supplies, the 50 percent limitation shall apply only to the service portion of the contract.

(ii) For a contract or order assigned a NAICS code for supplies or products (other than a procurement from a nonmanufacturer of such supplies or products), the concern will not pay more than 50 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity does not perform with its own employees or further subcontracts will count towards the concern's 50 percent subcontract amount that cannot be exceeded. When a contract includes both supplies and services, the 50 percent limitation shall apply only to the supply portion of the contract.

(iii) For a contract or order assigned a NAICS code for general construction, the concern will not pay more than 85 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity does not perform with its own employees or further subcontracts will count towards the concern's 85 percent subcontract amount that cannot be exceeded. When a contract includes general construction and supplies and/or services, the 85 percent limitation shall apply only to the general-construction portion of the contract.

(iv) For a contract or order assigned a NAICS code for construction by special trade contractors, the concern will not pay more than 75 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity does not perform with its own employees or further subcontracts will count towards the concern's 75 percent subcontract amount that cannot be exceeded. When a contract includes construction by special trade contractors and supplies and/or services, the 75 percent limitation shall apply only to the construction-by-special-trade-contractors portion of the contract.

* * * * *

(c) *Nonmanufacturer rule.* The nonmanufacturer rule applies to nonmanufacturers in accordance with paragraph (c)(1) of this section.

* * * * *

19.809–2 Removed and Reserved.

■ 3. Amend section 19.809–2 by removing and reserving it.
■ 4. Amend section 19.811–3 by—
■ a. Revising paragraph (e); and
■ b. Adding paragraph (f).

The revision and addition reads as follows:

19.811–3 Contract clauses.

* * * * *

(e) For use of clause 52.219–14, Limitations on Subcontracting, see the prescription at 19.507(e).

(f) For use of clause 52.219–33, Nonmanufacturer Rule, see the prescription at 19.507(h).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Amend section 52.212–5 by—
■ a. Revising the date of the clause; and
■ b. Revising the date of paragraphs (b)(23) and (30).

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services (Date)

* * * * *

(b) * * *

____(23) 52.219–14, Limitations on Subcontracting (DATE) (15 U.S.C. 657s).

* * * * *

____(30) 52.219–33, Nonmanufacturer Rule (DATE) (15 U.S.C. 657s).

* * * * *

■ 6. Amend section 52.219–14 by—
■ a. Revising the date of the clause; and
■ b. Revising the paragraphs (e)(1) through (4).

The revisions read as follows:

52.219–14 Limitations on Subcontracting.

* * * * *

Limitations on Subcontracting (Date)

* * * * *

(e) * * *

(1) Services (except construction), it will not pay more than 50 percent of the amount paid by the Government for contract performance to subcontractors that are not similarly situated entities. Any work that a similarly situated entity does not perform with its own employees or further subcontracts will count towards the prime contractor's 50 percent subcontract amount that cannot be exceeded. Other direct costs may be excluded from the 50 percent limitation when they are not the principal purpose of the contract or order, and small business concerns do not provide the service (*e.g.,* airline travel, work performed by a transportation or disposal entity under a contract assigned the environmental remediation NAICS code 562910, cloud computing services, or mass media purchases). Work performed outside the United States on a contract or order approved or financed under the Foreign Assistance Act of 1961 (Pub. L. 87–195, 22 U.S.C. 2151 *et seq.*) and work required to be performed by a foreign contractor are excluded from the 50 percent limitation. When a contract includes both services and supplies, the 50 percent

limitation shall apply only to the service portion of the contract;

(2) Supplies (other than procurement from a nonmanufacturer of such supplies), it will not pay more than 50 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity does not perform with its own employees or further subcontracts will count towards the prime contractor's 50 percent subcontract amount that cannot be exceeded. When a contract includes both supplies and services, the 50 percent limitation shall apply only to the supply portion of the contract;

(3) General construction, it will not pay more than 85 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity does not perform with its own employees or further subcontracts will count towards the prime contractor's 85 percent subcontract amount that cannot be exceeded. When a contract includes general construction and supplies and/or services, the 85 percent limitation shall apply only to the general-construction portion of the contract; or

(4) Construction by special trade contractors, it will not pay more than 75 percent of the amount paid by the Government for contract performance, excluding the cost of materials, to subcontractors that are not similarly situated entities. Any work that a similarly situated entity does not perform with its own employees or further subcontracts will count towards the prime contractor's 75 percent subcontract amount that cannot be exceeded. When a contract includes construction by special trade contractors and supplies and/or services, the 75 percent limitation shall apply only to the construction-by-special-trade-contractors portion of the contract.

* * * * *

■ 7. Amend section 52.219–33 by—

■ a. Revising the date of clause; and

■ b. Revising paragraph (c).

The revisions read as follows:

52.219–33 Nonmanufacturer Rule.

* * * * *

Nonmanufacturer Rule (Date)

* * * * *

(c) *Requirements.* The Contractor shall—

(1) Provide an end item that a small business has manufactured, processed, or produced in the United States or its outlying areas;

(2) Be primarily engaged in the retail or wholesale trade and normally sell the type of item being supplied; and

(3) Take ownership or possession of the item(s) with its personnel, equipment, or facilities in a manner consistent with industry practice; for example, providing storage, transportation, or delivery.

* * * * *

[FR Doc. 2024–00728 Filed 1–16–24; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 240110–0003]

RIN 0648–BM56

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Data Calibrations and Gray Snapper Harvest Levels

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in a framework action under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico (Gulf) Fishery Management Council (Council). If implemented, this proposed rule would modify the ratios used to set the state-specific red snapper private angling component annual catch limits (ACLs) for Alabama, Florida, and Mississippi and would modify each of these state's private angling component ACLs based on the new ratios. In addition, this proposed rule would modify the stock ACL for gray snapper in the Gulf exclusive economic zone (EEZ). The purposes of this proposed rule are to update state specific private angling component calibration ratios and ACLs to provide a more accurate estimate of state landings for red snapper management and to revise gray snapper catch limits with updated scientific information to continue to achieve optimum yield (OY) for the stock.

DATES: Written comments must be received on or before February 16, 2024.

ADDRESSES: You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2023–0120'' by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter ''NOAA–NMFS–2023–0120'', in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Dan Luers, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the framework action, which include an environmental assessment, regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/red-snapper-data-calibrations-and-catch-limit-modifications.*

FOR FURTHER INFORMATION CONTACT: Dan Luers, Southeast Regional Office, NMFS, telephone: 727–824–5305, email: *daniel.luers@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes both red snapper and gray snapper, is managed under the FMP. The FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and to achieve, on a continuing basis, the OY from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities and protecting marine ecosystems.

Unless otherwise noted, all weights in this proposed rule are in round weight.

Red Snapper

Red snapper in the Gulf EEZ is harvested by both the commercial and recreational sectors. Each sector has its own ACL and associated management measures. The stock ACL is allocated 51 percent to the commercial sector and 49 percent to the recreational sector. The recreational ACL (quota) is further allocated between the Federal charter vessel/headboat (for-hire) component (42.3 percent), and the private angling component (57.7 percent).

In February 2020, NMFS implemented state management of red snapper for the private angling component through Amendments 50 A–F to the FMP (85 FR 6819, February 6, 2020). Through these amendments, each state was allocated a portion of the red snapper private angling component ACL and was delegated the authority to set the private angling fishing season, bag limit, and size limit. These amendments also established an accountability measure that required any overage of a state's ACL to be deducted in the following year (*i.e.,* a payback provision).

In 2023, NMFS implemented a framework action under the FMP to calibrate the red snapper ACLs for Alabama, Florida, Louisiana, and Mississippi so they could be directly compared to the landings estimates produced by each of those state's data collection program (Calibration Framework)(87 FR 74014, December 2, 2022). As explained in the Calibration Framework final rule, each of these states have relatively new programs for monitoring red snapper landed by the private-angling component (2014 for Alabama and Louisiana; 2015 for Florida and Mississippi), and these programs do not produce results that are comparable to each other or to Federal estimates generated by the Marine Recreational Information Program (MRIP). Prior to the development of these state programs, NMFS provided the only estimates of private angler red snapper landings, except for those in Texas (Texas anglers have never participated in the NMFS recreational data collection survey). The state specific red snapper ACLs were established using the results of a stock assessment that included recreational landings estimates produced by MRIP. The Calibration Framework final rule applied state-specific ratios to these MRIP-based ACLs (Federal equivalent ACLs) to adjust each state's private-angling ACL to account for the monitoring programs used by each Gulf state and allow a direct comparison between the ACL and state landings estimate. The ratios implemented by the Calibration Framework final rule were: Alabama (0.4875), Florida (1.0602), Louisiana (1.06), Mississippi (0.3840), and Texas (1.00). The ratios for Alabama, Florida, Louisiana, and Mississippi were developed using available state landings data. More information on the data used to calculate the current ratios can be found in the Calibration Framework.

In June 2022, the Council asked its Scientific and Statistical Committee (SSC) to review more recent state data and provide recommendations on any appropriate changes to the calibration ratios. Alabama, Florida, and Mississippi submitted updated data for review and in January 2023, the SSC concluded that was appropriate to modify the ratios for Alabama, Florida, and Mississippi to 0.548, 1.34, and 0.503, respectively.

This proposed rule would modify the calibration ratios for Alabama, Florida, and Mississippi as recommended by the SSC and apply these ratios to the MRIP-based ACLs to update the state-survey-based ACLs. The framework action and this proposed rule would not change the MRIP-based (Federal equivalent) state ACLs or the total private-angling ACL. However, because the understanding of the relationship between the states' landings estimates and the Federal landings estimates have changed, NMFS expects each of the three states to increase the number of days that private anglers are permitted to harvest red snapper.

Gray Snapper

Gray snapper in the Gulf EEZ is managed as a single stock with a stock ACL and a stock annual catch target (ACT), although the ACT is not codified in the regulations or used for management. There is no allocation of the stock ACL between the commercial and recreational sectors. Gray snapper occur in estuaries and shelf waters of the Gulf and are particularly abundant off south and southwest Florida. The fishing season is open year-round, January 1 through December 31. Accountability measures (AMs) for gray snapper specify that if the combined commercial and recreational landings exceed the stock ACL in a fishing year, then during the following fishing year if the stock ACL is reached or is projected to be reached, the commercial and recreational sectors will be closed for the remainder of the fishing year. However, since the implementation of catch limits in 2012, total landings have not exceeded the ACL.

Prior to 2018, the status of the gray snapper stock had not been evaluated in a stock assessment. In 2018, a gray snapper Southeast Data, Assessment, and Review (SEDAR) benchmark stock assessment was completed (SEDAR 51) and indicated that the stock was undergoing overfishing. SEDAR 51 included recreational landings estimates calibrated to the MRIP coastal household telephone survey (CHTS). In response to this assessment, the Council developed and NMFS implemented Amendment 51 to the FMP, which established biological reference points, overfished status determination criteria, the current catch limits for the gray snapper stock. (85 FR 73238, November 17, 2020). These catch limits are an OFL of 2.57 million lb (1.17 million kg), ABC of 2.51 million lb (1.14 million kg), and stock ACL of 2.23 million lb (1.02 million kg).

In December 2022, the Southeast Fisheries Science Center finalized a new stock assessment report for gray snapper (SEDAR 75). SEDAR 75 resolved several concerns from SEDAR 51, and incorporated updated recreational landings data calibrated to the MRIP-Fishing Effort Survey (FES). MRIP–FES replaced MRIP–CHTS in 2018, and total recreational fishing effort estimates generated from MRIP–FES are generally higher than MRIP–CHTS estimates.

The Council's SSC reviewed the results of SEDAR 75 during its January 2023 meeting and determined that the assessment was consistent with the best scientific information available. Based on the results of SEDAR 75, the Council's SSC concluded the stock is not overfished or undergoing overfishing as of 2020 and also determined that the stock was not likely to be experiencing overfishing in 2015, as was concluded in SEDAR 51.

The SSC provided both a declining yield stream and constant catch recommendation for the gray snapper OFL and ABC. The Council is recommending a constant catch OFL and ABC of 7.547 million lb (3.423 million kg) and 6.226 million lb (2.824 million kg), respectively. The Council is also recommending an eight percent buffer between the ABC and stock ACL, which is based on the Council's ACL/ACT control rule. This would result in an ACL of 5.728 million lb (2.598 million kg). Because of the different recreational landings estimates used to determine the current and proposed catch limits (MRIP–CHTS versus MRIP–FES), these catch limits are not directly comparable. However, the proposed catch limits do represent an increase from the current catch limits.

Management Measures Contained in This Proposed Rule

Red Snapper

This proposed rule would modify the calibration ratios used by Alabama, Florida, and Mississippi to convert MRIP-based red snapper private angling component ACLs to state-survey-based red snapper private angling component ACLs and apply those ratios to update each state's ACL.

As described above, the current state private recreational date calibration ratios for Alabama, Florida, and Mississippi are 0.4875, 1.0602, and

0.3840, respectively. The framework action and proposed rule would revise the state private recreational calibration ratios for Alabama, Florida, and Mississippi to be 0.548, 1.34, and 0.503, respectively. NMFS notes that the calibration ratios are not codified in the regulations. Applying the new ratios to the MRIP-based, Federal equivalent ACLs (which remain the same) would result in revised state-survey-based private angling component ACLs as follows: the Alabama private angling component ACL would be 664,552 lb (301,436 kg) with a Federal equivalent of 1,212,687 lb (550,066 kg); the Florida private angling component ACL would be 2,769,631 lb (1,256,283 kg) with a Federal equivalent of 2,066,889 lb (937,525 kg); and the Mississippi private angling component ACL would be 82,342 lb (37,350 kg) with a Federal equivalent of 163,702 lb (74,254 kg).

Gray Snapper

As a result of SEDAR 75 and using data through 2020, this proposed rule would revise the gray snapper stock ACL from 2.23 million lb (1.01 million kg) to 5.728 million lb (2.598 million kg). As explained previously, the current and proposed ACLs are not directly comparable. However, total harvest has never exceeded the current ACL, and the proposed ACL represents an increase in the allowable harvest.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the framework action, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

Pursuant to section 605(b) of the RFA, the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. A description of the factual basis for this determination follows.

A description of this proposed rule, why it is being considered, and the purposes of this proposed rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this proposed rule. The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified.

The objective of this proposed rule is to improve the management of red snapper and gray snapper based on the best scientific information available. All monetary estimates in the following analysis are in 2021 dollars.

This proposed rule has two actions. The first action concerns recreational fishing for red snapper in Federal waters of the Gulf and would apply to or regulate the states of Alabama, Florida and Mississippi. Specifically, this proposed action would update state private recreational data calibrations of red snapper for Alabama, Florida and Mississippi. As such, this action would authorize those three states to allow for increased recreational landings of red snapper by anglers fishing from private vessels and for-hire fishing vessels that do not have a valid Federal for-hire reef fish permit any time during the fishing year. States are not small governmental jurisdictions or other entities as defined by the RFA and thus are not germane to this analysis. Therefore, it is concluded that this action would not regulate or have direct economic impacts on any small entities.

The second action would revise the catch limits for Gulf gray snapper. Specifically, the OFL, ABC, and stock ACL would be changed from 2.57 million lb (1.17 million kg), 2.51 million lb (1.14 million kg), and 2.23 million lb (1.02 million kg) respectively, using an 11 percent buffer between the ABC and stock ACL, to 7.547 million lb (3.423 million kg), 6.226 million lb (2.824 million kg), and 5.728 million lb (2.598 million kg) respectively, using an 8 percent buffer between the ABC and stock ACL. The current catch limits were derived, in part, using recreational landings estimates calibrated to MRIP–CHTS while the proposed catch limits were derived, in part, using recreational landings estimates calibrated to MRIP–FES. This action would apply to commercial fishing businesses, for-hire fishing businesses, and recreational anglers. Although the proposed changes would apply to recreational anglers, the RFA does not consider recreational anglers to be small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. Recreational anglers are not businesses, organizations, or governmental jurisdictions and so they are outside the scope of this analysis.

Any commercial fishing business that operates a fishing vessel that harvests gray snapper in the Gulf EEZ must have a valid commercial Gulf reef fish permit for to that vessel. From 2017 through 2021, an annual average of 359 vessels with a valid commercial permit reported landings of gray snapper.

For RFA purposes, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (50 CFR 200.2). A business primarily involved in the commercial fishing industry (North American Industrial Classification Code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates) and its combined annual receipts are no more than $11 million for all of its affiliated operations worldwide. The average commercial vessel that landed gray snapper from 2017 through 2021 had annual revenue from all landings of about $133,300 and less than one percent of that revenue came from reported gray snapper landings. Maximum annual revenue for any of the commercial vessels that harvested gray snapper was less than $3.1 million. Assuming each of the 359 vessels represents a unique commercial fishing business, then the action to revise the catch limits for gray snapper would regulate 359 small commercial fishing businesses.

Charter fishing is contained with the broader industry of scenic and sightseeing transportation, water (NAICS code 487210) and the small business size standard for this industry is $14.0 million. From 2017 through 2021, an annual average of 27,358 angler trips that targeted gray snapper were taken by charter fishing boats. It is unknown how many vessels made these trips. However, available data shows Gulf gray snapper is almost entirely targeted in waters off the west coast of Florida. In 2020, there were 1,289 vessels with valid charter-headboat Gulf reef fish vessel permits. Of these 1,289 vessels, 803 were homeported in Florida. Of these 803 vessels, 62 are primarily used for commercial fishing rather than for-hire fishing purposes and thus are not considered for-hire fishing businesses (*i.e.,* 1,227 permitted vessels are for-hire fishing businesses). In addition, 46 of the permitted vessels homeported in Florida are considered headboats, which are also considered for-hire fishing businesses. However, headboats take a relatively large, diverse set of anglers to harvest a diverse range of species on a trip and do not typically target a particular species. Therefore, no headboats would be directly affected by the proposed action, which regulates gray snapper alone among the many species caught on headboat trips.

However, charter vessels often target gray snapper. From 2017 through 2021,

an annual average of 27,358 charter trips targeted gray snapper. Thus, of the 803 vessels with valid charter-headboat Gulf reef fish vessel permits that are homeported in Florida, 62 are primarily commercial and 46 are headboats, while the remaining 695 vessels are charter vessels.

A recent study reported that 76 percent of charter vessels with valid charter-headboat permits in the Gulf were active in 2017 (*i.e.,* 24 percent were not fishing). A charter vessel would only be regulated or directly affected by this proposed action if it is fishing. Given this information, NMFS estimates that 528 charter vessels (76 percent of the 695 total) are likely to target Gulf gray snapper in a given year. NMFS assumes that each charter fishing vessel that makes trips targeting gray snapper represents a unique small business. Thus, NMFS estimates that the proposed action to revise the gray snapper catch limits would regulate 528 for-hire fishing businesses.

The same study estimated that maximum annual gross revenue for a single headboat in the Gulf was about $1.45 million in 2017. The study also found that on average, annual gross revenue for headboats in the Gulf is about three times greater than annual gross revenue for charter vessels, reflecting the fact that businesses that own charter vessels are typically smaller than businesses that own headboats. Based on this information, all for-hire fishing businesses regulated by this proposed action are determined to be small businesses for the purpose of this analysis.

As described above, the action to update red snapper private recreational catch limits for Mississippi, Alabama, and Florida based on calibration adjustments would not directly affect any small entities. The action to revise the Gulf gray snapper catch limits is expected to directly affect 359 small commercial fishing businesses. Those 359 businesses represent 69.4 percent of active commercial fishing businesses with Federal permits that harvest reef fish. Those 359 small businesses also represent about 42 percent of all commercial fishing businesses with a valid Federal permit to harvest reef fish. This action is also expected to directly affect 528 of the 1,227 for-hire fishing businesses with valid charter/headboat permits in the Gulf reef fish fishery, or approximately 43 percent of those for-hire fishing businesses. All regulated commercial and for-hire fishing businesses have been determined, for the purpose of this analysis, to be small entities. Based on this information, the proposed action to revise the Gulf gray snapper catch limits is expected to directly affect a substantial number of small businesses.

With respect to the action to revise the catch limits for gray snapper, in order to determine the impacts on commercial and charter fishing businesses, NMFS estimated how the proposed stock ACL would most likely be distributed between the commercial and recreational sectors based on the distribution of landings between the sectors from 2017–2021. Commercial gray snapper landings averaged 111,563 lb (50,604 kg) between 2017 and 2021 and accounted for 2.4 percent of the total gray snapper landings. That percentage of the proposed stock ACL is estimated to be 137,472 lb (62,356 kg). The average ex-vessel price of gray snapper was $3.64 per lb during this time. Therefore, the change in the stock ACL may result in annual increases of commercial gray snapper landings, revenues, and economic profit of 25,909 lb (11,752 kg), $94,309, and $30,179, respectively. Economic profit is estimated to be approximately 32 percent of revenues. Given that annual average revenue is about $133,300 per commercial fishing business, economic profit per commercial fishing business is estimated to be about $42,700. Thus, economic profit per commercial fishing business could increase by around $84, or by about 0.2 percent. These estimates assume that the totality of the stock ACL increase estimated to accrue to the commercial sector is harvested. However, only about 77 percent of the stock ACL was harvested on average per year from 2017–2021. Should the commercial sector harvest less than its estimated allotted portion, the increase in commercial landings, revenues, and economic profit would be less.

The proposed change to the stock ACL for Gulf gray snapper may also increase economic profits to charter fishing businesses if they increase the number of trips targeting gray snapper. Based on the most recent information available, average annual economic profit is approximately $27,000 per charter vessel. Between 2017 and 2021, charter trips targeting gray snapper averaged 27,358 trips per year. The potential change in the number of charter trips targeting gray snapper was computed by applying the estimated percentage increase in recreational landings to the average annual number of gray snapper charter trips. This approach yielded a potential increase of 5,034 charter trips targeting gray snapper per year. Economic profit per angler trip is estimated at $176. Therefore, economic profit for charter fishing businesses could increase by as much as $886,000 per year, which would represent an increase of almost $1,700, or about 6.3 percent, per charter fishing business. These estimates assume that the totality of the stock ACL increase estimated to accrue to the recreational sector is harvested. However, as previously noted, only about 77 percent of the stock ACL was harvested on average per year from 2017–2021. Should the recreational sector harvest less than its estimated allotted portion, the increase in target trips by charter vessels and their economic profit would be less.

Based on the information above, although a substantial number of small entities would be directly affected by this proposed rule, it would have a slight positive economic impact and thus would not have a significant economic impact on those entities. Because this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Annual catch limits, Fisheries, Fishing, Gulf, Recreational, Red snapper, Reef fish.

Dated: January 10, 2024.

Samuel D. Rauch, III,

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

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

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

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

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

■ 2. In § 622.23, revise paragraphs (a)(1)(ii)(A), (B), and (D) to read as follows:

§ 622.23 State management of the red snapper recreational sector private angling component in the Gulf EEZ.

(a) * * *

(1) * * *

(ii) * * *

(A) *Alabama regional management area*—664,552 lb (301,436 kg); Federal equivalent—1,212,687 lb (550,066 kg).

(B) *Florida regional management area*—2,769,631 lb (1,256,283 kg);

Federal equivalent—2,066,889 lb (937,525 kg).

* * * * *

(D) *Mississippi regional management area*—82,342 lb (37,350 kg); Federal equivalent—163,702 lb (74,254 kg).

* * * * *

■ 3. In § 622.41, revise paragraph (l) to read as follows:

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

* * * * *

(l) *Gray snapper.* If the sum of the commercial and recreational landings, as estimated by the SRD, exceeds the stock ACL, then during the following fishing year, if the sum of commercial and recreational landings reaches or is projected to reach the stock ACL, the AA will file a notification with the Office of the Federal Register to close the commercial and recreational sectors for the remainder of that fishing year. The stock ACL for gray snapper is 5.728 million lb (2.598 million kg), round weight.

* * * * *

[FR Doc. 2024–00762 Filed 1–16–24; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 89, No. 11
Wednesday, January 17, 2024

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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2023–0010]

Notice of Availability of Pest Risk Analyses for the Importation of Fresh Thyme, Marjoram, and Oregano From Kenya Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared pest risk analyses that evaluate the risks associated with the importation of fresh thyme, marjoram, and oregano from Kenya into the United States. Based on the analyses, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh thyme, marjoram, and oregano from Kenya into the United States. We are making the pest risk analyses available to the public for review and comment.

DATES: We will consider all comments that we receive on or before March 18, 2024.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2023–0010 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2023–0010, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *www.regulations.gov* or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Gina Stiltner, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (518) 760–2468; *Gina.L.Stiltner@USDA.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart L—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 contains a performance-based process for approving the importation of fruits and vegetables that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the five designated phytosanitary measures listed in paragraph (b) of that section.

APHIS received a request from the national plant protection organization of Kenya to allow the importation of fresh thyme (*Thymus vulgaris*), marjoram (*Origanum majorana*), and oregano (*Origanum vulgare*) for consumption from Kenya into the United States. As part of our evaluation of Kenya's request, we have prepared pest risk assessments to identify the pests of quarantine significance that could follow the pathway of the importation of fresh thyme, marjoram, and oregano from Kenya into the United States. Based on the pest risk assessments, risk management documents (RMDs) were prepared to identify phytosanitary measures that could be applied to fresh thyme, marjoram, and oregano to mitigate the pest risk.

Therefore, in accordance with § 319.56–4(c), we are announcing the availability of our pest risk assessments and RMDs for public review and comment. Those documents, as well as a description of the economic considerations associated with the importation of fresh thyme, marjoram, and oregano from Kenya into the United States, may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of the pest risk assessments and RMDs by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the import status of fresh thyme, marjoram, and oregano from Kenya into the United States in a subsequent notice. If the overall conclusions of our analyses and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will authorize the importation of fresh thyme, marjoram, and oregano from Kenya into the United States subject to the requirements specified in the RMDs. Depending on the comments received, we may authorize the importation of all, some, or none of the commodities from Kenya specified in this notice.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 9th day of January 2024.

Michael Watson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2024–00744 Filed 1–16–24; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Pacific Northwest National Scenic Trail Advisory Council

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Pacific Northwest National Scenic Trail (PNT) Advisory Council will hold public meetings according to the details shown below.

The Council is authorized under the National Trails System Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the Council is to advise and make recommendations to the Secretary of Agriculture, through the Chief of the Forest Service, on matters relating to the Pacific Northwest National Scenic Trail as described in the Act.

DATES: One virtual half-day meeting will be held on February 13, 2024, 10 a.m.–2 p.m., Pacific standard time (PST).

Written and Oral Comments: Anyone wishing to provide virtual oral comments must pre-register by 11:59 p.m. PST on February 6, 2024. Written public comments will be accepted up to 11:59 p.m. PST on February 6, 2024. Comments submitted after this date will be provided to the Forest Service, but the Council may not have adequate time to consider those comments prior to the meeting.

All council meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: This meeting will be held virtually via Zoom or the internet and the public may join using the link posted on the PNT Advisory Council meetings web page: *https://www.fs.usda.gov/detail/pnt/working-together/advisory-committees/?cid=fseprd505622.* Council information and meeting details can be found at the following website: *https://www.fs.usda.gov/detail/pnt/working-together/advisory-committees/?cid=fseprd505622* or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written Comments: Written comments must be sent by email to *jeffrey.kitchens@usda.gov* or via mail (*i.e.,* postmarked) to Jeff Kitchens, 63095 Deschutes Market Road, Bend, OR 97701. The Forest Service strongly prefers comments be submitted electronically.

Oral Comments: Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. PST, February 6, 2024, and speakers can only register for one speaking slot. Oral comments must be sent by email to *jeffrey.kitchens@usda.gov* or via mail (*i.e.,* postmarked) to Jeff Kitchens, 63095 Deschutes Market Road, Bend, OR 97701.

FOR FURTHER INFORMATION CONTACT: Jeff Kitchens, Designated Federal Officer (DFO), by email at *jeffrey.kitchens@usda.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Approve meeting minutes;
2. Discuss implementation of the comprehensive plan for the PNT; and
3. Discuss and identify future PNT Advisory Council activity.

The agenda will include time for individuals to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Written comments may be submitted to the Forest Service up to 14 days after the meeting date listed under **DATES**.

Please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, by or before the deadline, for all questions related to the meeting. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

Meeting Accommodations: The meeting location is compliant with the Americans with Disabilities Act, and the USDA provides reasonable accommodation to individuals with disabilities where appropriate. If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpretation, assistive listening devices, or other reasonable accommodation to the person listed under the **FOR FURTHER INFORMATION CONTACT** section, or contact USDA's TARGET Center at (202) 720–2600 (voice and TTY) or USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

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

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Council. To ensure that the recommendations of the Council have taken into account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: January 10, 2024.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2024–00785 Filed 1–16–24; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket No. RBS–23–BUSINESS–0026]

Notice of Funding Opportunity for the Value-Added Producer Grants for Fiscal Year 2024

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of funding opportunity.

SUMMARY: The Rural Business-Cooperative Service (RBCS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), announces acceptance of applications under the Value-Added Producer Grant (VAPG) program for Fiscal Year (FY)2024, subject to the availability of funding. This Notice is being issued prior to the FY 2024 appropriations act to allow Applicants sufficient time to leverage financing, prepare and submit their applications, and give the Agency time to process applications within FY 2024. Based on FY 2023 appropriated funding, the Agency estimates that approximately $30 million will be made available for FY 2024. Successful applications will be selected by the Agency for funding and subsequently awarded to the extent that funding may ultimately be made available through appropriations. Applicants are responsible for any expenses incurred in developing their applications.

DATES: Electronic applications e-filed through *https://www.grants.gov* must be filed by 11:59 p.m. Eastern Time (ET) on April 11, 2024.

Complete paper applications must be submitted by close of business on April 16, 2024 in the USDA RD State Office of the State where the project is located. Paper applications must be postmarked and mailed, shipped or sent overnight, hand carried or emailed by this date. Late applications are not eligible for grant funding under this Notice.

ADDRESSES: This funding announcement will also be announced on *www.grants.gov.* Electronic applications are to be submitted through *www.grants.gov.*

To submit a paper application, send it to the USDA RD State Office located in

the state where the project is located. Applicants can find USDA RD State Office contact information at *http://www.rd.usda.gov/contact-us/state-offices.*

To submit an application through email, contact the respective USDA RD State Office to obtain the Agency email address where the application will be submitted.

Application materials are also available at *http://www.rd.usda.gov/programs-services/value-added-producer-grants.*

FOR FURTHER INFORMATION CONTACT: Greg York at 202–281–5259, *gregory.york@usda.gov* or Mike Daniels at 715–345–7637, *mike.daniels@usda.gov,* Program Management Division, RBCS, USDA, 1400 Independence Avenue SW, Mail Stop 3226, Room 5801–S, Washington, DC 20250–3226.

SUPPLEMENTARY INFORMATION:

Overview

Federal Awarding Agency Name: Rural Business-Cooperative Service.

Funding Opportunity Title: Value-Added Producer Grant.

Announcement Type: Notice of Funding Opportunity (NOFO).

Funding Opportunity Number: RDBCP–VAPG–2024.

Assistance Listing: 10.352.

Dates: Electronic applications filed through *https://www.grants.gov* must be submitted by 11:59 p.m. ET on April 11, 2024.

A complete paper application must be submitted by close of business on April 16, 2024 to the USDA RD State Office of the State where the project is located, or it will not be considered for funding. Paper applications must be postmarked and mailed, shipped or sent overnight, hand carried or emailed by this date.

Late applications are not eligible for grant funding under this Notice.

Rural Development Key Priorities: The Agency encourages Applicants to consider projects that will advance the following key priorities (more details available at *https://www.rd.usda.gov/priority-points*):

- *Creating More and Better Markets:* Assist rural communities to recover economically through more and better market opportunities and through improved infrastructure;
- *Advancing Racial Justice, Place-Based Equity, and Opportunity:* Ensure all rural residents have equitable access to RD programs and benefits from RD funded projects; and
- *Addressing Climate Change and Environmental Justice:* Reduce climate pollution and increase resilience to the impacts of climate change through economic support to rural communities.

A. Program Description

1. *Purpose of the Program.* The objective of this grant program is to assist viable Independent Producers, Agricultural Producer Groups, Farmer and Rancher Cooperatives, and Majority-Controlled Producer-Based Businesses in starting or expanding value-added activities related to the processing and/or marketing of Value-Added Agricultural Products. Grants will be awarded competitively for either planning or working capital projects directly related to the processing and/or marketing of value-added products. Generating new products, creating and expanding marketing opportunities, and increasing producer income are the end goals of the program. All proposals must demonstrate economic viability and sustainability to compete for funding.

2. *Statutory and Regulatory Authority:* The VAPG program is authorized under section 231 of the Agriculture Risk Protection Act of 2000 (Pub. L. 106–224), as amended by section 10102 of the Agriculture Improvement Act of 2018 (Pub. L. 115–334) (see 7 U.S.C. 1627c) and implemented by 7 CFR part 4284, subpart J.

3. *Definitions.* The definitions applicable to this Notice are published at 7 CFR 4284.902. In addition, the following definitions apply to this Notice:

(a) *Majority-Controlled Producer-Based Business Venture,* incorporated from Section 10102 of the Agriculture Improvement Act of 2018, means a venture greater than 50 percent of the ownership and control of which is held by—

(1) One (1) or more producers; or

(2) One (1) or more entities, 100 percent of the ownership and control of which is held by one (1) or more producers. The term 'entity' means—

(i) a partnership;

(ii) a limited liability corporation;

(iii) a limited liability partnership; or

(iv) a corporation.

(b) *Market Expansion Project* means a project in which the Independent Producer Applicant seeks to expand the market for an existing value-added product (produced and marketed by the Applicant for at least 2 years at the time of application) through sales to demonstrably new markets or to new customers in existing markets.

4. *Application of Awards.* The Agency will review, evaluate and score applications received in response to this Notice based on the provisions found in 7 CFR 4284.940, 7 CFR 4284.942 and as indicated in this Notice. Awards under the VAPG program will be made on a competitive basis using specific selection criteria contained in 7 CFR 4284.942. The Agency advises all interested parties that the Applicant bears the full burden for preparing and submitting an application in response to this Notice.

B. Federal Award Information

Type of Awards: Grant.

Fiscal Year Funds: FY 2024.

Available Funds: The Agency currently estimates that approximately $30 million will be available for FY 2024. RBCS may, at its discretion, increase the total amount of funding available in this funding round from any authorized source provided the awards meet the requirements of the statute which made the funding available to the Agency.

Ten percent of available funds for applications will be reserved for Applicants qualifying as Beginning, Veteran, and Socially-Disadvantaged Farmers or Ranchers. An additional 10 percent of available funds will be reserved for applications from farmers or ranchers proposing development of Mid-Tier Value Chains. Beginning, Veteran, and Socially-Disadvantaged Farmers or Ranchers and Applicants proposing Mid-Tier Value Chains not awarded for reserved funds will compete with other eligible VAPG applications. In addition, any funds that become available for persistent poverty counties through enactment of FY 2024 appropriations will be allocated for assistance in persistent poverty counties. Funds not obligated from these reserves by September 30, 2024, will be used for the VAPG general competition and made available in a subsequent application cycle.

Award Amounts: Maximum Planning $75,000; Maximum Working Capital $250,000.

Anticipated Award Date: September 30, 2024.

Performance Period: Up to 36 months depending on the complexity of the project.

Renewal or Supplemental Awards: None.

Type of Assistance Instrument: Financial Assistance Agreement.

C. Eligibility Information

1. *Eligible Applicants.* Eligible Applicants must meet the eligibility requirements of 7 CFR part 4284 Subpart J and this Notice. Applications that fail to meet any of these requirements by the application deadline will be deemed ineligible and will not be evaluated further.

The application narrative must demonstrate that the Applicant is eligible for the program in accordance

with the requirements of 7 CFR 4284.920 and 4284.921. Application narratives should also take note of the definition requirements at 7 CFR 4284.902, such as demonstrating that the Applicant satisfies the definition for an ''Agricultural Producer''; how the Applicant qualifies for one of the following Applicant types: Independent Producer, Agricultural Producer Group, Farmer or Rancher Cooperative, or Majority-Controlled Producer-Based Business Venture; and that the Applicant meets the Emerging Market, Citizenship, Legal Authority and Responsibility, Multiple Grants and Active Grants requirements of the section. Required documentation to support eligibility is specified at 7 CFR 4284.931 and in this Notice.

The Agency encourages applications from Federally-recognized Tribes and Tribal entities. Federally-recognized Tribes and Tribal entities must demonstrate that they meet the definition requirements for one of the four eligible Applicant types. RD State Offices and posted application toolkits will provide additional information on Tribal eligibility. Tribal Applicants are encouraged to contact Agency staff early in the process to discuss Applicant and project eligibility. In addition to contacting program staff, Tribal Applicants can contact USDA Rural Development's Tribal Relations Team with Tribal specific questions and concerns at *aian@usda.gov.*

Factors rendering an Applicant ineligible are provided at 7 CFR 4284.921. The Agency will check the Do Not Pay (DNP) system to determine if the Applicant or its principals has been debarred or suspended. Per the Consolidated Appropriations Act, 2023 (Pub. L. 117–328), Division E, Title VII, Sections 744, and 745, any corporation (i) that has been convicted of a felony criminal violation under any Federal law within the past 24 months or (ii) that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible for financial assistance provided with funds appropriated by this or any other act, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

2. *Cost-Sharing or Matching.* There is a matching fund (cost-sharing) requirement of at least $1 for every $1 in grant funds provided by the Agency (matching funds plus grant funds must equal proposed Total Project Cost). Matching funds may be in the form of cash or eligible in-kind contributions. As provided in 7 CFR 4284.925 and 4284.926, matching contributions and grant funds may be used only for eligible project purposes, including any contributions exceeding the minimum amount required.

Applicant matching contributions in the form of a raw commodity, time contributed to the project, or goods or services for which no out-of-pocket expenditure is made during the grant period, must be characterized as in-kind contributions, subject to the requirements and limitations specified in 7 CFR 4284.925(a)–(b). Donations of goods and services from third parties must be characterized as in-kind contributions. Tribal Applicants may utilize grants made available under Section 103(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638), as amended, as their matching contribution, and should check with appropriate Tribal authorities regarding the availability of such funding. As indicated in 7 CFR 4284.931(b)(4)(iv), a non-Tribal Applicant cannot provide matching funds paid by the Federal Government under another Federal award.

Matching funds must be available at the time of application and must be certified and verified as described in 7 CFR 4284.931(b)(3) and (4). Do not include *projected* income as a matching contribution because it cannot be verified as available. Note that matching funds must also be discussed as part of the scoring criterion Commitments and Support as described below in section E.1.(c).

3. Other.

(a) *Project eligibility.* Applicants must demonstrate within the application narrative that the project meets all of the project eligibility requirements of 7 CFR 4284.922.

(1) *Product eligibility.* Applicants for both planning and working capital grants must meet all requirements at 7 CFR 4284.922(a), including that the value-added product must result from one of the five methodologies identified in the definition of Value-Added Agricultural Product at 7 CFR 4284.902. Applicants must also demonstrate that, as a result of the project, the customer base for the agricultural commodity or value-added product will be expanded, by including a baseline of current customers for the commodity, and an estimated target number of customers that will result from the project. In addition, Applicants must demonstrate that a greater portion of the revenue derived from the marketing or processing of the value-added product is available to the Applicant producer(s) of the agricultural commodity, by including a baseline of current revenues from the sale of the agricultural commodity and an estimate of increased revenues that will result from the project. Note that working capital grants for market expansion projects per 7 CFR 4284.922(b) must demonstrate expanded customer base and increased revenue resulting only from sales of existing products to new customers. The Agency recognizes that VAPG market expansion projects may involve marketing and promotion activities such as trade shows, farmers markets, and various media advertising which also result in increased sales to existing customers. However, market expansion award recipients must use grant and matching funds only on activities that demonstrably focus on marketing products they have produced and sold for at least two years, to new markets and/or to new customers in existing markets, such that the producer's customer base (number of customers) is expanded, per program requirements. Grant and matching funds cannot be expended on sales of existing products to existing customers.

Finally, in accordance with Section 210A(d)(3) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*), working capital applications must include a statement describing the direct or indirect producer benefits intended to result from the proposed project within a reasonable time period after the receipt of a grant.

(2) *Purpose eligibility.* Applicants must meet applicable planning and working capital requirements at 7 CFR 4284.922 as well as maximum grant amounts, verification of matching funds, eligible and ineligible uses of grant and matching funds, and a substantive, detailed work plan and budget.

(i) *Planning grants.* A planning grant is used to fund development of a defined program of economic planning activities to determine the viability of a potential value-added venture, specifically for paying a qualified consultant to conduct and develop a feasibility study, business plan, and/or marketing plan associated with the processing and/or marketing of a value-added agricultural product.

(ii) *Working Capital Grants.* This type of grant provides funds to operate a value-added project, specifically to pay the eligible project expenses directly related to the processing and/or marketing of the value-added products

that are eligible uses of grant funds. Working capital funds may not be used for planning purposes.

(3) *Reserved funds eligibility.* To qualify for reserved funds as a Beginning, Veteran, or Socially-Disadvantaged Farmer or Rancher or for proposed development of a Mid-Tier Value Chain, the requirements found at 7 CFR 4284.923 must be met. Documentation must also be provided indicating that the Applicant meets all the requirements for the applicable definition specified in 7 CFR 4284.902 and provide all the required documentation specified in 7 CFR 4284.931. If the application is eligible, but is not awarded under the reserved funds, it will automatically be considered for general funds in that same fiscal year, as funding levels permit.

(b) *Eligible Uses of Grant and Matching Funds.* Eligible uses of grant and matching funds are discussed, along with examples, in 7 CFR 4284.925. In general, grant and cost-share matching funds have the same use restrictions and must be used to fund only the costs for eligible purposes as defined at 7 CFR 4284.925(a) and (b).

(c) *Ineligible Uses of Grant and Matching Funds.* Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a personal, professional, financial or other interest in the outcome of the project, including organizational conflicts, and conflicts that restrict open and free competition for unrestrained trade. A list (not all-inclusive) of ineligible uses of grant and matching funds is found in 7 CFR 4284.926.

(d) *Application limit.* An Applicant, per 7 CFR 4284.920(e), may submit only one application in response to a solicitation and must explicitly direct that it competes in either the general funds competition or in one of the named reserved funds competitions. Multiple applications from separate entities with identical or greater than 75 percent common ownership, or from a parent, subsidiary or affiliated organization (with ''affiliation'' defined by Small Business Administration regulation 13 CFR 121.103, or successor regulation) are not permitted. Further, Applicants who have already received a Planning Grant for the proposed project cannot receive another Planning Grant for the same project. Applicants who have already received a Working Capital Grant for the proposed project cannot receive any additional grants for that project. Proposals from previous award recipients should be substantially different in terms of products and/or markets and should not merely be extensions of previously funded projects. Applicant entities regardless of ownership percentage that are comprised of the same individuals of a previously awarded VAPG project (recipient) can only submit proposals documenting how the new project is substantially different in terms of products and/or markets from the previously funded project.

(e) *Alcohol Projects.* Applicants who are proposing working capital grants to produce and market value-added products in the industries of wine, beer, distilled spirits or other alcoholic merchandise must comply with Alcohol and Tobacco Tax and Trade Bureau (TTB) regulations published at 27 CFR Chapter 1, including but not limited to permitting, filing of taxes and operational reports. Please visit TTB's website at *https://www.ttb.gov/* for more information. Applicants that are not in compliance with TTB's requirements may be deemed ineligible by the Agency. If, at any time after a VAPG award has been received, an Applicant is found to be non-compliant with TTB's operational reporting or tax requirements, the Agency may determine that the Applicant is not in compliance with the grant terms and conditions.

(f) *Hemp Projects.* In determining eligibility of the Applicant project or use of funds, any project applying for funding under the VAPG program and proposing to produce, procure, supply or market any component of the hemp plant or hemp related by-products, must have a valid license from an approved State, Tribal or Federal plan pursuant to the Agricultural Marketing Act and amended in section 10113 of the Agriculture Improvement Act of 2018 (the ''2018 Farm Bill), be in compliance with regulations published by the Agricultural Marketing Service at 7 CFR part 990, and meet any applicable U.S. Food and Drug Administration and U.S. Drug Enforcement Administration regulatory requirements. Verification of valid hemp licenses will occur prior to award.

D. Application and Submission Information

1. *Address to Request Application Toolkit.* The application toolkit, regulation, and official program notification for this funding opportunity can be obtained online at *http://www.rd.usda.gov/programs-services/value-added-producer-grants.* You may also contact your USDA RD State Office by visiting *http://www.rd.usda.gov/contact-us/state-offices.* The toolkit contains an application checklist, templates, required grant forms, and suggestions. Based upon successful grant awards of previous Applicants, the Agency highly recommends the use of the templates in the application toolkit. However, it is not mandatory to use the application toolkit, but this Notice and applicable regulations must be relied on when preparing the application as the Agency will follow those procedures and requirements to evaluate and award grants.

2. *Content and Form of Application Submission.* Applications must contain all the required forms and proposal elements described in 7 CFR 4284.931, unless otherwise clarified in this Notice. Basic application contents are outlined below:

(a) Standard Form (SF)–424, ''Application for Federal Assistance,'' is required, 7 CFR 4248.931(a)(1). The form requires Applicants to include their Unique Entity Identifier (UEI) and expiration date (or evidence that the System for Award Management (SAM) registration process has begun). If the SAM registration confirmation and expiration date has not been received, the applicant must provide evidence from SAM of having begun the registration process to be considered in the funding competition.

(b) SF–424A, ''Budget Information—Non-Construction Programs'' is required, 7 CFR 4284.931(a)(2).

(c) *Permit.* Applicants must provide a valid permit or evidence of having begun the permitting process if proposing a working capital grant to produce and market value-added products in the industries of wine, beer, distilled spirits or other alcoholic merchandise; or tobacco or tobacco products, as specified in 27 CFR Chapter 1.

(d) *Producer license.* Applicants must provide a valid producer license issued by a State, Tribe, or USDA, as applicable, in accordance with 7 CFR part 990 if proposing to market value-added hemp products.

(e) *Executive Summary and Abstract.* A one-page Executive Summary containing the following information: legal name of Applicant entity, application type (planning or working capital), Applicant type, amount of grant request, summary of the project, whether it is a simplified application, and whether reserved funds are being requested.

(f) Eligibility discussion, 7 CFR 4284.931(b)(1).

(g) Work plan and budget, 7 CFR 4284.922(b)(5).

(h) Performance evaluation criteria, 7 CFR 4284.931(b)(2)(i).

(i) Proposal evaluation criteria, 7 CFR 4284.931(b)(2)(ii).

(j) Certification and verification of matching funds, 7 CFR 4284.931(b)(3)–(4).

(k) Optionally, reserved Funds and Priority Point documentation, 7 CFR 4284.923 and 7 CFR 4284.924.

(l) Feasibility studies, business plans, and/or marketing plans, as applicable, 7 CFR 4284.922(b)(6)(i).

(m) Appendices containing required supporting documentation.

(n) Applicants requesting less than $50,000 may submit a simplified application, and the contents of which are specified in this Notice. Applicants requesting Working Capital Grants of less than $50,000 are not required to provide Feasibility Studies or Business Plans.

3. *System for Award Management and Unique Entity Identifier.*

(a) At the time of application, each Applicant must have an active registration in the System for Award Management (SAM) before submitting its application in accordance with 2 CFR part 25. To register in SAM, entities will be required to obtain a Unique Entity Identifier (UEI). Instructions for obtaining the UEI are available at *https://sam.gov/content/entity-registration.*

(b) Each Applicant must maintain an active SAM registration, with current, accurate and complete information, at all times during which it has an active Federal award or an application under consideration by a Federal awarding agency.

(c) Applicants must ensure they complete the Financial Assistance General Certifications and Representations in SAM.

(d) Applicants must provide a valid UEI in the application, unless determined exempt under 2 CFR 25.110.

(e) The Agency will not make an award until Applicants have complied with all SAM requirements including providing the UEI. If an Applicant has not fully complied with the requirements by the time the Agency is ready to make an award, the Agency may determine that an Applicant is not qualified to receive a federal award and use that determination as a basis for making a Federal award to another Applicant.

4. Submission Dates and Times. Electronic applications filed through *https://www.grants.gov* must be filed by 11:59 p.m. ET on April 11, 2024. *Grants.gov* will not accept applications submitted after the deadline.

Paper applications must be postmarked and mailed, shipped, sent overnight, hand carried, or emailed by close of business on April 16, 2024 to the USDA RD State Office where the project is located. USDA RD State Office contact information is located at *http://www.rd.usda.gov/contact-us/state-offices.* The Agency will determine if the application is late based on the date shown on the postmark or shipping invoice.

If the due date falls on a Saturday, Sunday, or Federal holiday, the application is due the next business day. The Agency will not solicit or consider new scoring or eligibility information that is submitted after the application deadline. The Agency also reserves the right to ask Applicants for clarifying information and additional verification of assertions in the application. Late applications will automatically be considered ineligible and will not be evaluated further.

5. *Intergovernmental Review.* Executive Order (E.O.) 12372, ''Intergovernmental Review of Federal Programs,'' does not apply to this program.

6. *Funding Restrictions.* Funding limitations found in the program regulation at 7 CFR 4284.927 will apply, including:

(a) *Use of Funds.* Grant and matching funds may only be used for eligible purposes. Eligible and ineligible uses are provided in 7 CFR 4284.925 and 4284.926, respectively. Grant funds may not be used to pay any costs of the project incurred prior to the date of grant approval.

(b) *Period of Performance (grant period).* The project timeframe or grant period can be a maximum of 36 months in length from the date of award, depending on the complexity of the project as stated in 7 CFR 4284.922(b)(5)(iv) and 4284.927(c). The proposed grant period should begin no earlier than the anticipated award announcement date in this Notice and should end no later than 36 months following that date. If an Applicant receives an award, the grant period will be revised to begin on the actual date of award—the date the Financial Assistance Agreement (grant agreement) is executed by the Agency—and the grant period end date will be adjusted accordingly. The project activities should begin within 90 days of the date of award in accordance with 7 CFR 4284.927(c). The length of the grant period should be based on the project's complexity, as indicated in the application work plan. For example, it is expected that most planning grants can be completed within 12 months.

(c) *Program Income.* If Program Income is earned during the grant period as a result of the project activities, it is subject to the requirements in 2 CFR 200.307 and must be managed and reported accordingly.

(d) *Majority Controlled Producer-Based Business.* The aggregate amount of funds awarded to Majority Controlled Producer-Based Businesses in response to this announcement shall not exceed 10 percent of the total funds obligated for the program during the fiscal year in accordance with 7 CFR 4284.927(d).

(e) *Local Agriculture Marketing Program (LAMP) Food Safety Implementation.* Until farm bill implementation is finalized via the Agency rulemaking process, there will not be food safety reserve funding. Post-harvest food safety training, certifications, and supplies that are eligible under the current program regulation may continue to be included in the work plan and budget.

(f) *Reserved Funds.* Ten percent of all funds available will be reserved to fund projects that benefit Beginning Farmers or Ranchers, Veteran Farmers or Ranchers, or Socially-Disadvantaged Farmers or Ranchers. In addition, 10 percent of total funding available will be used to fund projects that propose development of Mid-Tier Value Chains as part of a Local or Regional Supply Network. See related definitions in 7 CFR 4284.902. In addition, any funds that become available for persistent poverty counties through enactment of FY 2024 appropriations will be allocated for assistance in persistent poverty counties.

(g) *Disposition of Reserved Funds Not Obligated.* For this Notice, any reserved funds that have not been obligated by September 30, 2024, will be available to the Secretary to make VAPG grants in the next FY in accordance with section 210A(i)(3)(D)(ii) of the Agricultural Marketing Act of 1946, as amended.

7. *Other Submission Requirements.*

(a) *Electronic submission.* To apply electronically, Applicants must follow the instructions for this funding announcement at *http://www.grants.gov.* Use the search features along with a keyword, program name, or the Assistance Listing Number to find the Grant Opportunity for this Notice. After applying through *Grants.gov*, Applicants will receive an automatic acknowledgement from *Grants.gov* which will contain a tracking number.

(b) *Paper submission.* Paper or email submittals should be sent to the USDA RD State Office located in the state where the project is located. USDA RD State Offices contact information is at

http://www.rd.usda.gov/contact-us/state-offices. Fax submittals will not be accepted. USDA RD State Offices should be contacted if there are any questions about eligibility or submission requirements. Applicants should contact USDA RD State Offices well in advance of the application deadline to discuss the project and to ask any questions about the application process.

E. Application Review Information

1. *Criteria.* The Agency will only score applications in which the Applicant and project are eligible, which are complete and sufficiently responsive to program requirements, and in which the Agency agrees on the likelihood of financial feasibility for working capital requests. Applications will be scored in accordance with the procedures and criteria specified in 7 CFR 4284.942, and with tiered scoring thresholds as specified below. For each criterion, Applicants must show how the project has merit and why it is likely to be successful. The justification for each criterion must be included in the body of the application, including summarizations of any feasibility studies, and business and marketing plans. Scoring information must be readily identifiable in the application or it will not be considered as stated in 7 CFR 4284.942(a). If Applicants do not address all parts of the criterion, or do not sufficiently communicate relevant project information, the application will score lower. The VAPG is a competitive program and, therefore, scoring will be based on the quality of the Applicant's responses. Simply addressing the criteria will not guarantee higher scores. The total maximum number of points that can be awarded for an application is 100. For this Notice, the total minimum score requirement for consideration for funding is 50 points.

The Agency application toolkit provides additional instructions to help you to respond to the criteria below.

(a) *Nature of the proposed venture (graduated score 0–30 points).* For both planning and working capital grants, Applicants must discuss the technological feasibility of the project, as well as operational efficiency, profitability, and overall economic sustainability resulting from the project. Applicants must also demonstrate the potential for expansion of the customer base for the agricultural commodity or value-added product, and the expected increase in revenue returns to the producer-owners providing the majority of the raw agricultural commodity to the project. Working capital Applicants must also provide the potential number of jobs that will result from the project, along with a justifiable basis for these projections. See the application template for more information. All Applicants must reference and summarize third-party data and other information that specifically supports value-added projects; discuss the value-added process being proposed; identify the potential markets and distribution channels; address the value to be added to the raw commodity through the value-added process; provide the cost and availability of inputs, indicate the Applicant's experience in marketing the proposed or similar product; provide business financial statements; and, supply any other relevant information that supports the viability of the project. Working capital Applicants should demonstrate that these outcomes will result from the project and include supportable projections of increase in customer base, for revenue returned to producers, and of jobs resulting from the project in order to receive up to the maximum number of points. Planning grant Applicants should describe the expected results, and the reasons supporting those expectations. Points will be awarded as follows:

(1) *0 points* will be awarded if the application does not address the criterion.

(2) *1 to 5 points* will be awarded if the application does not address each of the following: technological feasibility, operational efficiency, profitability, and overall economic sustainability.

(3) *6 to 13 points* will be awarded if the application addresses technological feasibility, operational efficiency, profitability, and overall economic sustainability, but does not reference third-party information that supports the success of the project.

(4) *14 to 22 points* will be awarded if the application addresses technological feasibility, operational efficiency, profitability, and overall economic sustainability, which is supported by third-party information demonstrating a reasonable likelihood of success.

(5) *23 to 30 points* will be awarded if all criterion components are well addressed, supported by third-party information demonstrating a high likelihood of success.

(b) *Qualifications of project personnel (graduated score 0 to 20 points).* Applications must identify all key individuals who will be responsible for managing and completing the proposed tasks in the work plan, including the roles and activities that owners, staff, contractors, consultants or new hires may perform; and show that these individuals have the necessary qualifications and expertise, including those hired to do market or feasibility analyses, and/or to develop a business operations plan for the value-added venture. Applications must include the qualifications of those individuals responsible for leading or managing the total project (Applicant owners or project managers), as well as those individuals responsible for conducting the various individual tasks in the work plan (such as consultants, contractors, staff or new hires). Applicants must discuss the commitment and the availability of any consultants or other professionals to be hired for the project; especially those who may be consulting on multiple VAPG projects. If staff or consultants have not been selected at the time of application, specific descriptions of the qualifications required for the positions to be filled must be provided. Applications that demonstrate the strong credentials, education, capabilities, experience, and availability of project personnel that will contribute to a high likelihood of project success will receive more points than those that demonstrate less potential for success in these areas. Points will be awarded as follows:

(1) *0 points* will be awarded if you do not address the criterion.

(2) *1 to 4 points* will be awarded if qualifications and experience of all staff is not addressed and/or if necessary, qualifications of unfilled positions are not provided.

(3) *5 to 9 points* will be awarded if all project personnel are identified but do not demonstrate qualifications or experience relevant to the project.

(4) *10 to 14 points* will be awarded if all key personnel demonstrate strong credentials and/or experience, and availability indicating a reasonable likelihood of success.

(5) *15 to 20 points* will be awarded if all key personnel demonstrate strong, relevant credentials or experience, and availability indicating a high likelihood of project success.

(c) *Commitments and support (cumulative score 0 to 10 points).* Producer, end-user, and third-party commitments will be evaluated under this criterion. Sole proprietors can receive a maximum of 9 points. Multiple producer applications can receive a maximum of 10 points.

(1) *Independent Producer Commitments* to the project will be evaluated based on the number of named and documented independent producers currently involved in the project. Points will be awarded as follows:

(i) *Sole Proprietor Applicant (one owner/producer Applicant):* 1 point.

(ii) *Multiple Independent Producer Applicant* (Note that in cases where

family members, such as husband and wife, are eligible Independent Producers, each family member will count as one Independent Producer.): 2 points.

(2) *End-User Commitments* will be evaluated based on potential or identified markets and the potential amount of output to be purchased, as indicated by letters of intent or contracts (purchase orders) from potential buyers referenced within the application. Applications that demonstrate documented intent to purchase the value-added product will receive more points. Note that for planning grants, this criterion can be addressed by evidence of interest or support from identified or potential customers. Points will be awarded as follows:

(i) *No, or insufficiently documented, commitment from end-users:* 0 points.

(ii) *Well-documented commitment from one end-user:* 1 point.

(iii) *Well-documented commitment from more than one end-user:* 2 points.

(3) *Third-party Commitments* to the project will be evaluated based on the critical and tangible nature of their contribution to the project, such as technical assistance, storage, processing, marketing, or distribution arrangements that are necessary for the project to proceed, and the level and quality of these contributions. Applications that demonstrate strong technical and logistical support to successfully complete the project will receive more points. Points will be awarded as follows:

(i) *No, or insufficiently documented, commitment from third parties:* 0 points.

(ii) *Well-documented commitment from one third party:* 1 point.

(iii) *Well-documented commitment from more than one third party:* 2 points.

Letters of Commitment by end-users, and third parties should be summarized as part of the response to this criterion, and the letters must be included in Appendix B. Please note that VAPG does not require Congressional letters of support, nor do they carry any extra weight during the evaluation process.

(4) *Level of Commitment* will have points awarded as follows:

(i) *No cash match:* 0 points.

(ii) *Cash match equals less than 50 percent of the matching contribution:* 1 point.

(iii) *Cash match equals 50 percent or more, but less than 100 percent, of the matching contribution:* 2 points.

(iv) *Cash match equals 100 percent of the matching contribution:* 4 points.

Note that because applications with cash matching contributions are awarded more points than those pledging only in-kind contributions, Applicants will not be able to substitute an in-kind match for cash after awards are made.

(d) *Work plan and budget (graduated score 0 to 20 points).* A comprehensive work plan and budget must be submitted in accordance with 7 CFR 4284.922(b)(5). The work plan must provide specific and detailed descriptions of the tasks and the key project personnel that will accomplish the project's goals. The budget must present a detailed breakdown and description of all estimated costs of project activities (including source and basis for their valuation) and allocate those costs among the listed tasks. Applicants must show the source and use of both grant and matching funds for all tasks. Matching funds must be spent at a rate equal to, or in advance of, grant funds. An eligible start and end date for the entire project, as well as for each individual project task must be clearly shown. The project timeframe must not exceed 36 months and should be scaled to the complexity of the project. Working capital applications must include an estimate of program income expected to be earned during the grant period. Points will be awarded as follows:

(1) *0 points* will be awarded if the application does not address the criterion.

(2) *1 to 7 points* will be awarded if the work plan and budget do not account for all project goals, tasks, costs, timelines, and responsible personnel.

(3) *8 to 14 points* will be awarded if the application provides a clear, comprehensive work plan detailing all project goals, tasks, timelines, costs, and responsible personnel in a logical and realistic manner that demonstrates a reasonable likelihood of success.

(4) *15 to 20 points* will be awarded if the application provides a clear, comprehensive work plan detailing all project goals, tasks, timelines, costs, and responsible personnel in a logical and realistic manner that demonstrates a high likelihood of success.

(e) *Priority points up to 10 points (lump sum 0 or 5 points plus, cumulative score 0 to 5 points).* Priority points may be awarded in both the general funds and reserved funds competitions.

(1) *5 priority points* will be awarded if the Applicant meets the requirements for one of the following categories and provides the documentation described in 7 CFR 4284.923 and 4284.924, as applicable: Beginning Farmer or Rancher, Socially-Disadvantaged Farmer or Rancher, Veteran Farmer or Rancher, or Operator of a Small or Medium-sized Farm or Ranch that is structured as a Family Farm, Farmer or Rancher Cooperative, or are proposing a Mid-Tier Value Chain project.

(2) *Up to 5 priority points* will be awarded if the Applicant is an Agricultural Producer Group, Farmer or Rancher Cooperative, or Majority-Controlled Producer-Based Business Venture (referred to below as ''Applicant group'') to the extent the project ''best contributes to creating or increasing marketing opportunities'' for Operators of Small and Medium-sized Farms and Ranches that are structured as Family Farms, Beginning Farmers and Ranchers, Socially-Disadvantaged Farmers and Ranchers, and Veteran Farmers and Ranchers (referred to below as ''priority groups''). For each of the priority point levels below, applications must demonstrate how the proposed project will contribute to new or increased marketing opportunities for respective priority groups. Applicants will not be awarded more than five (5) points even if they qualify for more than one of the priority categories.

(i) Two (2) *priority points* will be awarded if the existing membership of the Applicant group is comprised of either more than 50 percent of any one of the four priority groups or more than 50 percent of any combination of the four priority groups.

(ii) One (1) *additional priority point* will be awarded if the existing membership of the Applicant group is comprised of two or more of the priority groups. One point is awarded regardless of whether a group's membership is comprised of two, three, or all four of the priority groups.

(iii) *Two (2) additional priority points* will be awarded if the Applicant's proposed project will increase the number of priority groups that comprise Applicant membership by one or more priority groups. However, if an Applicant group's membership is already comprised of all four priority groups, such an Applicant would not be eligible for points under this criterion because there is no opportunity to increase the number of priority groups. Note also that this criterion does not consider either the percentage of the existing membership that is comprised of the four priority groups or the number of priority groups currently comprising the Applicant group's membership.

(f) *Administrator priority categories (cumulative score 0 to 10 points).* The Administrator of the Agency may choose to award priority points to improve the geographic diversity of awardees and to applications for

projects that will advance RD Key Priorities (*https://www.rd.usda.gov/priority-points*) as defined and measured on the RD Key Priorities website. Points will not automatically be applied if the VAPG project is located in a RD Key Priority area or if written narrative is provided to address climate change and environmental justice as further discussed below.

(1) Applications may also be awarded points for the following three priorities:

(i*) Creating More and Better Markets:* Assisting rural communities recover economically through more and better market opportunities and through improved infrastructure. Applicants can receive priority points if the project is located in or serving a rural community whose economic well-being ranks in the most distressed tier (distress score of 80 or higher) of the Distressed Communities Index using the Distressed Communities Look-Up Map available at *https://www.rd.usda.gov/priority-points.*

(ii) *Advancing Racial Justice, Place-Based Equity, and Opportunity:* Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects. Using the Social Vulnerability Index (SVI) Look-Up Map (available at *https://www.rd.usda.gov/priority-points*), an applicant can receive priority points if the project is:

- Located in or serving a community with a score of 0.75 or above on the SVI;
- A Federally recognized Tribe, including Tribal instrumentalities and entities that are wholly owned by Tribes; or
- A project where at least 50 percent of the project beneficiaries are members of Federally Recognized Tribes and non-Tribal applicants include a Tribal Resolution of Consent from the Tribe or Tribes that the applicant is proposing to serve.

(iii) *Addressing Climate Change and Environmental Justice:* Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities. Using the Disadvantaged Community and Energy Community Look-up Map (available at *https://www.rd.usda.gov/priority-points*), applicants can receive priority in three ways:

- If the project is located in or serves a *Disadvantaged Community* as defined by the Climate and Economic Justice Screening Tool (CEJST), from the White House Council on Environmental Quality (CEQ), or
- If the project is located in or serves an *Energy Community* as defined by the Inflation Reduction Act.
- Applicants demonstrate through written narrative how proposed climate-impact projects improve the livelihoods of community residents and meet pollution mitigation or clean energy goals.

(2) The Agency will confirm if the project is located in an area qualifying for these priorities.

(3) *Review and Selection Process.* Applications will be reviewed and processed as described at 7 CFR 4284.940. The Agency will review applications to determine if they are complete and eligible. If at any time, the Agency determines that the application is ineligible, the Applicant will be notified in writing as to the reasons it was determined ineligible and will be informed of review and appeal rights. Funding of successfully scored applications, after an appeal, will be limited to available funds.

The Agency will select applications for award under this Notice in accordance with the provisions specified in 7 CFR 4284.950(a).

If an application is eligible and complete, it will be qualitatively scored by three reviewers based on criteria specified in section E.1. of this Notice. One of these reviewers will be an experienced RD employee from the applicable servicing State Office and two reviewers will be non-Federal, independent reviewers. Independent reviewers must have at least a bachelor's degree in one or more of the following fields: agri-business, agricultural economics, agriculture, animal science, business, marketing, economics, or finance; *or* a minimum of 8 years of experience in an agriculture-related field (*e.g.,* farming, marketing, consulting, or research; or as university faculty, trade association official, or non-Federal government official in an agriculturally related field). To become a non-Federal independent reviewer, please contact Grant Solutions at *vapgreview@grantreview.org.* Each reviewer will score evaluation criteria (a) through (d) and the totals for each reviewer will be added together and averaged. Reviewers are not eligible to apply for the program as it would result in a conflict of interest. The RD State Office reviewer will also assign priority points based on criterion (e) in section E.1. of this Notice. These points will be added to the average score. The sum of these scores will be ranked highest to lowest to comprise an initial ranking.

The Administrator of the Agency may choose to award up to 10 Administrator priority points based on criteria (f) in section E.1. of this Notice. These points will be added to the cumulative score from the initial ranking and re-ranked from highest to lowest for a final ranking. The total maximum number of points that can be awarded for an application is 100.

Applications for reserved funds will be funded in rank order until funds are depleted. Unfunded reserve applications will be returned to the general funds where applications will be funded in rank order until the funds are expended. Funding for Majority Controlled Producer-Based Business Ventures is limited to 10 percent of total grant funds expected to be obligated as a result of this Notice. These applications will be funded in rank order until the funding limitation has been reached. Grants to these Applicants from reserved funds will count against this funding limitation. In the event of tied scores, the Administrator shall have discretion in breaking ties. The Agency reserves the right to offer the Applicant less than the grant funding requested.

If the application is ranked, but not funded, it will not be carried forward into the next application funding cycle.

F. Federal Award Administration Information

1. *Federal Award Notices.* If you are selected for funding, you will receive a signed Notice of Federal award containing instructions on requirements necessary to proceed with execution and performance of the award.

If you are not selected for funding, you will be notified in writing and informed of any review and appeal rights. Funding of successfully scored applications, after an appeal, will be limited to available funding.

2. *Administrative and National Policy Requirements.* Additional requirements that apply to Applicants selected for a program award can be found in 7 CFR part 4284, subpart J; the Grants and Agreements regulations of the Department of Agriculture codified in 2 CFR parts 180, 200, 400, 415, 417, 418, 421; 2 CFR parts25 and 170; and 48 CFR 31.2, and successor regulations to these parts.

The following additional requirements apply to Applicants selected for a program award:

(a) Agency approved Financial Assistance Agreement.

(b) Letter of Conditions.

(c) Form RD 1940–1, ''Request for Obligation of Funds.''

(d) Form RD 1942–46, ''Letter of Intent to Meet Conditions.''

(e) Form RD–400–4, ''Assurance Agreement.''

(f) SF LLL, ''Disclosure of Lobbying Activities,'' if applicable.

(g) Form SF 270, ''Request for Advance or Reimbursement.''

3. *Reporting.* You will be required to provide the following, as indicated in the Financial Assistance Agreement, and specified at 7 CFR 4284.960:

(a) An SF–425, ''Federal Financial Report,'' and a project performance report will be required on a semiannual basis (due 30 working days after end of the semiannual period). For the purposes of this grant, semiannual periods end on March 31st and September 30th. The project performance reports shall include the elements prescribed in the Financial Assistance Agreement.

(b) A final project and financial status report within 120 days after the expiration or termination of the grant.

(c) Outcome project performance reports and final deliverables.

G. Federal Awarding Agency Contacts

If you have questions about this Notice, please contact the USDA RD State Office as identified in the **ADDRESSES** section of this Notice. You may also contact National Office staff at *CPGrants@wdc.usda.gov* or call the main line at (202) 720–1400.

H. Other Information

1. Applicants must comply with other Federal laws per 7 CFR 4284.905(a).

2. *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection requirements associated with the programs, as covered in this Notice, have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0064.

3. *National Environmental Policy Act.* All recipients under this Notice are subject to the requirements of 7 CFR part 1970. However, awards for planning and working capital grants under this Notice are classified as a Categorical Exclusion in accordance with 7 CFR 1970.53(a)(3) and (b)(2), and usually do not require any additional documentation. The Agency will review each grant application to determine its compliance with 7 CFR part 1970. The Applicant may be asked to provide additional information or documentation to assist the Agency with this determination.

4. *Federal Funding Accountability and Transparency Act.* All Applicants, in accordance with 2 CFR part 25, must be registered in SAM and have a UEI as stated in Section D.3. of this Notice. All recipients of Federal financial assistance are required to report information about first-tier subawards and executive total compensation in accordance with 2 CFR part 170.

5. *Civil Rights Act.* All grants made under this Notice are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA (7 CFR part 15, subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964) and Section 504 of the Rehabilitation Act of 1973, Title VIII of the Civil Rights Act of 1968, Title IX, Executive Order 13166 (Limited English Proficiency), Executive Order 11246, and the Equal Credit Opportunity Act of 1974.

6. *Nondiscrimination 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, or staff office; or the 711 Relay Service.

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/oascr/how-to-file-a-program-discrimination-complaint* 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.*

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Karama Neal,

Administrator, Rural Business—Cooperative Service, USDA Rural Development.

[FR Doc. 2024–00713 Filed 1–16–24; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD646]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Surfclam and Ocean Quahog Committee and Advisory Panel will jointly hold a public webinar meeting. See **SUPPLEMENTARY INFORMATION** for agenda details.

DATES: The meeting will be held on Monday, February 5, 2024, from 9:30 a.m. until 12 p.m.

ADDRESSES: The meeting will be held via webinar. Connection information will be posted to the calendar prior to the meeting at *www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Surfclam and Ocean Quahog Committee and Advisory Panel to review the Species Separation Requirements Amendment Public Hearing Document and provide input on the public hearing document. The Committee will make recommendations about the Public Hearing Document to the Council in February at the Council meeting.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to

Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: January 11, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–00798 Filed 1–16–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel Meeting, March 5th–7th, 2024

AGENCY: Office of Coast Survey, National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of public meeting; request for comment.

SUMMARY: This serves as the notice of a public meeting for the NOAA Hydrographic Services Review Panel (HSRP) Federal Advisory Committee from March 5th, through March 7th, 2024, in San Pedro, CA. The agenda for the HSRP public meeting will be posted in advance of the meeting on the HSRP website. Individuals or groups who would like to comment on NOAA navigation, observation, and positioning services topics are encouraged to submit public comments in advance of the HSRP public meeting via email, during the public meeting in person, or via the ''Questions'' function in the meeting webinar if joining the public meeting virtually.

DATES: Members of the public may attend the NOAA HSRP public meeting in person or virtually on the following dates and at the following times:

1. March 5th, 2024, 9 a.m.–5:30 p.m. Pacific Standard Time (PST).
2. March 6th, 2024, 8:30 a.m.–12 p.m. PST.
3. March 7th, 2024, 8:30 a.m.–4:30 p.m. PST.

ADDRESSES: Instructions for how to register to attend the HSRP public meeting in person and virtually can be found at the following website: *https://attendee.gotowebinar.com/register/3649212457556459094.* The HSRP public meeting agenda, draft meeting documents, presentations, and background materials are posted and updated online and can be found at the following HSRP websites: *https://www.nauticalcharts.noaa.gov/hsrp/hsrp.html* and *https://www.nauticalcharts.noaa.gov/hsrp/meetings.html.* The agenda is subject to change. Past HSRP recommendation letters, issue papers, and position papers may be found online at: *https://www.nauticalcharts.noaa.gov/hsrp/recommendations.html*

Comments for the HSRP public meeting record may be submitted by one of the following methods:

- *Email:* Send written comments in advance of the HSRP public meeting to *hydroservices.panel@noaa.gov,* with ''March 2024 HSRP meeting public comments'' in the subject line of the email message.
- *Webinar:* Submit written comments during the HSRP public meeting through the HSRP webinar's ''Questions'' function. As time allows, commenters may be invited to orally expand on written comments they submitted during the public meeting's public comment periods.

FOR FURTHER INFORMATION CONTACT: Ashley Chappell, NOAA HSRP Program Manager, email: *hydroservices.panel@noaa.gov,* phone: 240–429–0293.

SUPPLEMENTARY INFORMATION: The Hydrographic Services Improvement Act of 1998, as amended (HSIA; 33 U.S.C. 892 *et seq.*), established the HSRP as a Federal Advisory Committee (*see* 33 U.S.C. 892c) to advise the NOAA Administrator ''on matters related to the responsibilities and authorities set forth in [33 U.S.C. 892a]'' of the HSIA, ''and such other appropriate matters as the Administrator refers to the [HSRP] for review and advice.''

The HSRP invites NOAA stakeholder feedback and welcomes public comments in advance of and during the upcoming HSRP public meeting on the use of NOAA's navigation, observations, and positioning data, science, products, and services for the National Ocean Service's Center for Operational Oceanographic Products and Services, National Geodetic Survey, and Office of Coast Survey, and the NOAA/University of New Hampshire Joint Hydrographic Center. Relevant public comments sent in advance of the HSRP public meeting will be shared with the HSRP members, posted on the meeting website, and included in the public record for the meeting. Individuals and groups may also submit public comments at the scheduled daily public comment periods during the meeting or through the webinar's ''Questions'' function. These public comments will be read into the record during public comment periods. As time allows, commenters may be invited to orally expand on their written comments during the meeting's public comment periods. Due to time constraints, all public comments may not be addressed orally during the meeting.

Matters To Be Considered

The HSRP members will focus on the mission and issues relevant to NOAA's navigation, observations, and positioning services, and the value these services bring the nation, and invite suggestions from stakeholders and partners for improvements to these services. This suite of NOAA services supports safe and efficient navigation, the blue economy, resilient coasts and communities, and the nationwide positioning information infrastructure to support America's climate needs and commerce. Specifically, the HSRP will consider:

- National Ocean Service programs' recent activities such as the update to the National Spatial Reference System, datums, national ocean and coastal mapping goals and the Standard Ocean Mapping Protocol, hydrographic surveying, nautical charting, uncrewed systems, coastal remote sensing and bathymetric lidar, photogrammetry, positioning, sea level rise and water levels in support of ''seamless data.''
- The status of NOAA's navigation services in the context of recent legislation (*e.g.,* the National Defense Authorization Act, Bipartisan Infrastructure Law, and Inflation Reduction Act).
- Measuring, monitoring, and mitigating flooding and sea level change and the contribution of NOAA's critical foundational geospatial data to projects.
- NOAA navigation data, products, and services that enable further economic growth and impact safe navigation.
- Other topics related to NOAA programs and activities may be discussed, such as bathymetric and coastal/ocean modeling, tide and current observations, contributions to resilience and coastal data and information systems to support planning for climate change in ports and coastal communities, flooding, inundation, contributions to the Blue Economy, Physical Oceanographic Real-Time System (PORTS®) sensor enhancements and expansion, Precision Marine Navigation, the transition from raster paper charts to Electronic Navigational Charts, geodetic observations, gravity modeling, data stewardship, education and training to sustain the workforce necessary for NOAA navigation services missions, and the scientific mapping and technology research projects tied to the cooperative agreements between NOAA and other partners.

Special Accommodations

This public meeting is accessible to people with disabilities and there will be sign language interpretation and captioning services. Please direct requests for other auxiliary aids to Melanie Colantuno at *hydroservices.panel@noaa.gov* at least 10 business days in advance of the meeting.

Authority: 33 U.S.C. 892 et seq.

Benjamin K. Evans,

RDML, Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2024–00737 Filed 1–16–24; 8:45 am]

BILLING CODE 3510–G1–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 9:30 a.m. EST, Monday, January 22, 2024.

PLACE: CFTC Headquarters Conference Center, Three Lafayette Centre, 1155 21st Street NW, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') will hold this meeting to consider the following matters:

- Notice of Proposed Order and Request for Comment on an Application for a Capital Comparability Determination Submitted on behalf of Nonbank Swap Dealers subject to Capital and Financial Reporting Requirements of the United Kingdom and Regulated by the United Kingdom Prudential Regulation Authority;
- LCH SA Request for Exemption from Regulation 1.49(d)(3) to Hold Customer Funds at the Banque de France; and
- *Proposed Rule:* Requirements for Designated Contract Markets and Swap Execution Facilities Regarding Governance and the Mitigation of Conflicts of Interest Impacting Market Regulation Functions.

The agenda for this meeting will be available to the public and posted on the Commission's website at *https://www.cftc.gov.* Members of the public are free to attend the meeting in person, or have the option to listen by phone or view a live stream. Instructions for listening to the meeting by phone and connecting to the live video stream will be posted on the Commission's website.

In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting, will be posted on the Commission's website.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, Secretary of the Commission, 202–418–5964.

(Authority: 5 U.S.C. 552b.)

Dated: January 12, 2024.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2024–00943 Filed 1–12–24; 4:15 pm]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket Number CPSC–2024–0002]

Privacy Act of 1974; System of Records

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, the Consumer Product Safety Commission (CPSC) is proposing changes to a system of records notice (SORN). CPSC is proposing to amend CPSC–33, International Trade Data System Risk Assessment Methodology System (ITDS/RAM). The amendment will expand the categories of individuals covered by, and the records contained in the system.

DATES: Comments must be received no later than February 16, 2024. The modified system of records described here will become effective February 16, 2024 unless CPSC receives comments contrary to the proposed amendments.

ADDRESSES: Comments, identified by Docket No. CPSC–2024–0002, can be submitted electronically or in writing:

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

Written Submissions: Submit written submissions by Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions) to the Office of the General Counsel, Division of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 800–638–2772.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to: *http://www.regulations.gov,* including any personal information provided. Do not submit electronically any 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 provide such information, please submit it in writing.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, CPSC–2024–0002, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Abioye Mosheim Oyewole, Assistant General Counsel, Office of the General Counsel, Division of Information Access, Consumer Product Safety Commission, 4330 East West Highway, Bethesda MD 20814; 301–504–7454.

SUPPLEMENTARY INFORMATION: CPSC is proposing to amend the categories of individuals and records, as well as the retention period and contact information for maintenance of the system.

For the public's convenience, CPSC's amended system of records is published in full below. The proposed changes to CPSC–33 are italicized.

Authority: Sec. 222 Pub. L. 110–314, 15 U.S.C. 2066(a), the Consumer Product Safety Act.

SYSTEM NAME AND NUMBER:

CPSC–33, International Trade Data System Risk Assessment Methodology System (ITDS/RAM).

SECURITY CLASSIFICATION:

Not classified.

SYSTEM LOCATION:

Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

SYSTEM MANAGER(S):

Director, Office of Import Surveillance, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

PURPOSE(S) OF THE SYSTEM:

The CPSC uses the ITDS/RAM to monitor and request examination for import shipments that are potentially in violation of safety standards enforced by the Commission or potentially defective as a part of a product group that has been designated by the Commission as having properties that are hazardous. Personally identifiable information (PII)

could be used for monitoring and requesting exams, but only between government agencies (CPSC and U.S. Customs and Border Protection (CBP)).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and businesses that import materials in the United States. Information on individuals is stored only when they register as the entity in the transaction; usually, this is a business entity with an associated importer identification number and business address.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. The system contains names, Social Security numbers, and addresses associated with individuals and businesses importing materials into the United States. For individuals and small businesses where an individual provides personal information, their name and address are maintained.

2. Importation transactions as reported by U.S. Customs and Border Protection (CBP) for all product areas under jurisdiction at entry summary filing and for product areas of specific concern for hazard monitoring and enforcement programs at entry filing (Cargo).

RECORD SOURCE CATEGORIES:

Personally identifiable information (PII) is provided and updated on a periodic basis by CBP.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside CPSC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the U.S. Department of Justice when related to litigation or anticipated litigation. To the appropriate Federal enforcement agency/agencies when there is an indication of a potential violation of a statute or regulation or a predetermined hazard in connection with an importation.

2. Disclosure may be made to appropriate agencies, entities, and persons when (1) the CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the CPSC has determined that as a result of suspected or confirmed compromise, there is a risk of harm to the security or integrity of this system, or other systems or programs (whether maintained by the CPSC or another agency or entity), that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CPSC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The information in the ITDS/RAM includes electronic records, files, and data that are stored in the Commission's computer network databases.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Computer records are indexed by, and retrievable by, importer identification number (which may include Social Security number), names, and addresses, and may permit retrieval by names elsewhere in documents.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are currently retained indefinitely pending schedule approval by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to electronic files, which are housed in the Commission's computer network databases, is restricted to authorized supervisors and staff and to designated Information Technology (IT) staff who maintain the Commission's computer network. CPSC project contractors may be granted access with appropriate clearance and only in support of the performance of the system. The CPSC computer network databases are protected by security protocols, which include controlled access, passwords, and other security features. Information resident on the database servers is backed-up routinely onto a hard disk array and computer-based media. Back-up data is stored on-site and at a secured, off-site location. Hard-copy records are maintained in secured file cabinets.

RECORD ACCESS PROCEDURES:

Assistant General Counsel, Office of the General Counsel, Division of Information Access, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

CONTESTING RECORD PROCEDURES:

Assistant General Counsel, Office of the General Counsel, Division of Information Access, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

NOTIFICATION PROCEDURES:

Assistant General Counsel, Office of the General Counsel, Division of Information Access, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

CPSC–33, International Trade Data System Risk Assessment Methodology System (ITDS/RAM) (last published at 77 FR 29596, FR Doc. 2012–12060 (May 18, 2012).

Alberta Mills,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2024–00644 Filed 1–16–24; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2024–0001]

Privacy Act of 1974; System of Records

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, the Consumer Product Safety Commission (CPSC) is proposing changes to one system of records notice (SORN). CPSC is proposing to amend CPSC–25—FOIAXpress System of Records (FOIAXpress). The amendment will, in addition to *de minimis* changes, expand the routine uses to allow the National Archives and Records Administration, Office of Government Information Services (OGIS), access to records contained in the system to the extent necessary to fulfill its responsibilities, to review administrative agency policies and procedures relating to the Freedom of Information Act (FOIA) 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.

DATES: Comments must be received no later than February 16, 2024. The modified system of records described here will become effective February 16, 2024 unless CPSC receives comments contrary to the proposed amendments.

ADDRESSES: Comments, identified by Docket No. CPSC–2024–0001, can be submitted electronically or in writing:

Electronic Submissions: Submit electronic comments to the Federal

eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. CPSC does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, described above.

Written Submissions: Submit written submissions by Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions) to the Office of the General Counsel, Division of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 800–638–2772.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to: *http://www.regulations.gov,* including any personal information provided. Do not submit electronically any 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 provide such information, please submit it in writing.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, CPSC–2024–0001, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Abioye Mosheim Oyewole, Assistant General Counsel, Office of the General Counsel, Division of Information Access, Consumer Product Safety Commission, 4330 East West Highway, Bethesda MD 20814, (301) 504–7454.

SUPPLEMENTARY INFORMATION: CPSC is proposing to amend the routine uses of CPSC–25, FOIAXpress, to: routinely share FOIA records with the Office of Government Information Services (OGIS); include medical and police reports as well as photographs as categories of records; add manufacturers, medical examiners, hospitals, and police and other law enforcement entities as records sources; and make conforming amendments (including updating contact information) and revise subheadings to follow the current SORN format.

CPSC sent a report to Congress and the Office of Management and Budget for their evaluation. For the public's convenience, CPSC's amended system of records is published in full below. The proposed changes to CPSC–25 are italicized.

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

SYSTEM NAME AND NUMBER:

CPSC–25, *FOIAXpress* System of Records (FOIAXpress).

SECURITY CLASSIFICATION:

Not classified.

SYSTEM LOCATION:

Office of the General Counsel, Division of Information Access, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

SYSTEM MANAGER(S):

Chief FOIA Officer, Office of the General Counsel, Division of Information Access, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

PURPOSE(S) OF THE SYSTEM:

The CPSC uses this system to store, track, and manage requests for records under the Freedom of Information Act and the Privacy Act, and responses to those requests.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, classes of individuals, or representatives designated to act on behalf of individuals who request records from CPSC pursuant to the FOIA and the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and supporting documentation submitted to and created by the Commission to request records under the FOIA and the Privacy Act. Complaints submitted by consumers gathered in response to FOIA and Privacy Act requests. In-depth Investigation Reports created by the Commission during investigations regarding the safety of consumer products. Records contain individuals' personally identifiable information, including names, addresses, cities, states, telephone numbers, fax numbers, email addresses, medical examiner reports, and police reports, photographs of consumers and, where applicable, their residences or other personal items relevant to the consumers' complaints or investigations into their complaints.

RECORD SOURCE CATEGORIES:

Information in these records is furnished by: (1) the individual to whom the record pertains; (2) CPSC staff; (3) manufacturers responding to notices of proposed disclosure; (4) medical examiners and hospitals; and (5) police and other law enforcement officials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. These records are used to record the requesting individual's address so a response can be forwarded.

2. These records are used to record the specific information that the individual is seeking so that the information we provide is responsive to the request.

3. Staff will search the records to determine which requests have been filled and which are still pending.

4. CPSC will use these records to prepare an annual report of FOIA activities at the end of each fiscal year and submit the report to the Attorney General, through the Department of Justice, Office of Information *Policy.*

5. Disclosure may be made to appropriate agencies, entities, and persons when: (1) CPSC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) CPSC has determined that as a result of the suspected or confirmed compromise, there is a risk of harm to the security or integrity of this system or other systems or programs (whether maintained by CPSC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with CPSC's efforts to respond to the suspected or confirmed compromise, and to prevent, minimize, or remedy such harm.

6. To the National Archives and Records Administration, 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' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are created or ingested into the FOIAXpress software application and stored accordingly. Records received in paper format are ingested into FOIAXpress, then paper copies are destroyed.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved using a requester's first and/or last name, or a randomly generated FOIA request number associated with each request.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

FOIA and Privacy Act request records are maintained electronically in FOIAXpress according to the National Archives and Records Administration's General Records Schedule 4.2. Records are destroyed at the end of their retention period.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

FOIAXpress is protected by security protocols, which include controlled access, passwords, and other security features. Paper documents are secured in a locked office. The Commission limits access to FOIAXpress by putting users into predefined user roles with specific permissions for each role that dictate what abilities each user has on the system. Once a user is logged into the system, the software records when each visit occurred and logs every page and action performed. Only authorized staff have permission to access the system. Once a user has been assigned a role that allows access, then the individual can access the system, as needed.

RECORD ACCESS PROCEDURES:

Chief FOIA Officer, Office of the General Counsel, Division of Information Access, 4330 East West Highway, Bethesda, MD 20814, *cpscfoiarequests@cpsc.gov.*

CONTESTING RECORD PROCEDURES:

Chief FOIA Officer, Office of the General Counsel, Division of Information Access, 4330 East West Highway, Bethesda, MD 20814, *cpscfoiarequests@cpsc.gov.*

NOTIFICATION PROCEDURES:

Chief FOIA Officer, Office of the General Counsel, Division of Information Access, 4330 East West Highway, Bethesda, MD 20814, *cpscfoiarequests@cpsc.gov.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

CPSC 25—FOIAXpress (last published at 77 FR 29596, FR Doc. 2012–12060 (May 18, 2012).

Alberta Mills,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2024–00643 Filed 1–16–24; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0185]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Regional Educational Laboratory (REL) Southwest Write To Succeed Evaluation

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a new information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before February 16, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Christopher Boccanfuso, 202–219–0373.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Regional Educational Laboratory (REL) Southwest Write to Succeed Evaluation.

OMB Control Number: 1850–NEW.

Type of Review: A new ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 2,453.

Total Estimated Number of Annual Burden Hours: 366.

Abstract: The current authorization for the Regional Educational Laboratories (REL) program is under the Education Sciences Reform Act of 2002, Part D, Section 174, (20 U.S.C. 9564), administered by the Department of Education, Institute of Education Sciences (IES), National Center for Education Evaluation and Regional Assistance (NCEE). The central mission and primary function of the RELs is to support applied research and provide technical assistance to state and local education agencies within their region (ESRA, Part D, section 174[f]). The REL program's goal is to partner with educators and policymakers to conduct work that is change-oriented and supports meaningful local, regional, or state decisions about education policies, programs, and practices to improve outcomes for students.

Supporting equitable educational opportunities and achievement for English learner students in New Mexico is a high priority for the New Mexico Public Education Department (NMPED, n.d., 2021). In light of analysis showing English learner students in the state have lower rates of English language arts (ELA) proficiency (Arellano et al., 2018), plus legal rulings in the state that English learner students' rights to a sufficient public education have been violated (NMPED, 2022a), NMPED created a strategic plan that includes supporting the whole child through literacy instruction that is culturally and linguistically responsive (NMPED, 2022b). Improving English learner students' English proficiency and the literacy skills of all students is a top priority of NMPED and the district and regional partners of REL Southwest. To address this problem, REL Southwest is implementing, refining, and building evidence for the Write to Succeed professional learning program. The core focus of the Write to Succeed program is scaffolded writing instruction that can support all students but with embedded opportunities to meet the language needs to English learner students. Prior to this study, the program will be further enhanced with supports for teacher collaboration and culturally and linguistically relevant instructional routines, as prior work with New

Mexico partners has indicated these are two elements in need of further support.

This study is designed to measure the efficacy and implementation of the Write to Succeed. The evaluation team plans to conduct an independent evaluation using a school-level, cluster randomized control trial design to assess the program's impact on teachers' practices and beliefs and students' language and literacy outcomes. The evaluation will also assess the implementation of the program and how it may be effectively scaled. The evaluation will take place in 40 schools across an estimated 10 districts in New Mexico and will focus on teachers and students in Grade 4–8. The evaluation will produce a report and presentations to study participants, practitioners, policymakers, and researchers, and infographics and blog posts for a wider audience of educators and policymakers. These will be designed to inform district and school leaders and teachers about scaffolded writing practices that could be beneficial for English learner students and all students.

Dated: January 10, 2024.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division Office of Chief Data Officer Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024–00726 Filed 1–16–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice for Request for Information on Progression to Net-Zero Emission Propulsion Technologies for the Rail Sector; Reopening of Public Comment Period

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information; reopening of public comment period.

SUMMARY: The U.S. Department of Energy (DOE) Office of Energy Efficiency and Renewable Energy (EERE) published a request for information (RFI) on November 27, 2023, inviting interested parties to provide input regarding the state of technology on the progression to net-zero emission propulsion technologies for the rail industry. DOE requested public comments by January 12, 2023. DOE received requests for an extension of the public comment period. DOE reviewed the requests and has determined it is necessary and appropriate to reopen the comment period to allow comments to be submitted until February 12, 2024.

DATES: The comment period for the RFI published on November 27, 2023 (88 FR 82870), which closed on January 12, 2024, is reopened. Responses to this RFI must be received no later than February 12, 2024.

ADDRESSES: Interested parties are to submit comments electronically to *GreenRail@ee.doe.gov.* Include ''State of the Rail Industry'' in the subject line of the email. Only electronic responses will be accepted. The complete RFI document is located at *https://eere-exchange.energy.gov/Default.aspx#FoaIdf0ca0a9f-6e0e-4175-b20a-1bdbb682d705.*

FOR FURTHER INFORMATION CONTACT: Questions may be addressed to Ben Simon at *GreenRail@ee.doe.gov* or 240–562–1591. Further instruction can be found in the RFI document posted on EERE Exchange.

SUPPLEMENTARY INFORMATION: The U.S. National Blueprint for Transportation Decarbonization set the goal to achieve net-zero carbon emissions in the transportation sector—including rail by 2050. This transformation to net-zero emission technologies requires coordination among all aspects of the rail supply chain, including feedstock supply, alternative fuel production, locomotive engine manufacturers, safety implementation, customer demand, and government regulation. To develop a national strategy to decarbonize the rail sector, two critical questions must be addressed:

1—Which alternative rail propulsion technologies are most promising?

2—What is the timeline for the rail sector to transition to net-zero emission technologies?

The purpose of this RFI is to understand what is driving the rail sector towards adopting alternative propulsion technologies, which technologies seem most promising, and what are the key barriers to achieving the transition to net-zero emissions by 2050.

Confidential Business Information: Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: one copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Signing Authority: This document of the Department of Energy was signed on January 11, 2024, by Jeffery Marootian, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on January 11, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2024–00800 Filed 1–16–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP23–518–000; CP21–496–000]

NFEnergía LLC; Notice Seeking Public Comment and Establishing Intervention Deadline

On September 15, 2021, NFEnergía LLC (NFEnergía), 111 W 19th Street, New York, New York 10011, filed in Docket No. CP21–496–000 an application under section 3(a) of the Natural Gas Act (NGA), Parts 153 and 380 of the Commission's regulations, and the Order issued by the Commission on March 19, 2021, in Docket No. CP20–466–000 (Order on Show Cause),[1] requesting authorization to operate the San Juan Micro-Fuel Handling Facility (MFH Facility), a liquefied natural gas (LNG) import and regasification facility located at the Port of San Juan in Puerto Rico.

On July 18, 2023, NFEnergía filed in Docket No. CP23–518–000 a request to construct and operate a 220-foot, 10-inch-diameter pipeline at the MFH

[1] *New Fortress Energy LLC,* 174 FERC ¶ 61,207 (2021) (Order on Show Cause), *order on reh'g,* 176 FERC ¶ 61,031 (2021) (Rehearing Order).

Facility.[2] On July 31, 2023, the Commission issued an order stating that it will not take action to prevent the immediate construction and operation of the proposed pipeline and would conduct a complete examination of the continued operation of the proposed pipeline, including an examination of potential ongoing environmental and safety impacts, as part of the pending proceeding related to the operation of the MFH Facility.[3] On September 21, 2023, Commission staff issued an engineering and environmental information request (Information Request) to NFEnergía for the proposed pipeline and required a response from NFEnergía within 30 days.[4] On October 23, 2023, NFEnergía provided its response to the Information Request, which it supplemented on November 30, 2023.

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 (*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. Public access to records formerly available in the Commission's physical Public Reference Room, which was located at the Commission's headquarters, 888 First Street NE, Washington, DC 20426, are now available via the Commission's website. For assistance, contact the Federal Energy Regulatory Commission at *FercOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY (202) 502–8659.

Any questions regarding these filings may be directed to Cameron MacDougall, General Counsel, NFEnergía LLC, 111 W 19th Street, New York, New York, 10011, by phone at (202) 479–1522, or by email at *cmacdougall@fortress.com*.

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,[5] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file comments on the project, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on February 8, 2024. How to file protests, motions to intervene, and comments is explained below.

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*.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections, to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be.

Protests

Pursuant to sections 157.10(a)(4)[6] and 385.211[7] of the Commission's regulations under the NGA, any person[8] may file a protest to the application. Protests must comply with the requirements specified in section 385.2001[9] of the Commission's regulations. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before February 8, 2024.

There are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket numbers CP23–518–000 and CP21–496–000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket numbers (CP23–518–000 and CP21–496–000).

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff

[2] NFEnergía July 18, 2023, Request for Amendment to Temporary Authorization Operate (Amendment Request). The Order to Show Cause found that NFEnergía's LNG facility is subject to the Commission's jurisdiction under NGA section 3 and granted NFEnergía temporary authorization, under which NFEnergía currently operates the facility, while the Commission reviews the company's application for authorization under NGA section 3.

[3] *NFEnergía LLC,* 184 FERC ¶ 61,061 (2023) (July 2023 Order).

[4] The 30th day after the date of the Information Request is Saturday, October 21, 2023. Pursuant to the Commission's regulations, NFEnergía's response was due by Monday, October 23, 2023. *See* 18 CFR 385.2007(a)(2).

[5] 18 CFR 157.9.

[6] 18 CFR 157.10(a)(4).

[7] 18 CFR 385.211.

[8] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[9] 18 CFR 385.2001.

available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

The Commission considers all comments received about the project in determining the appropriate action to be taken. *However, the filing of a comment alone will not serve to make the filer a party to the proceeding.* To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,[10] has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

All intervenors in the ongoing proceeding for the project (CP21–496–000) will be considered intervenors in this amendment proceeding (CP21–518–000) and do not need to file a new motion to intervene.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [11] and the regulations under the NGA [12] by the intervention deadline for the project, which is February 8, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket numbers CP23–518–000 and CP21–496–000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Intervention.'' The eFiling feature includes a document-less intervention option; for more information, visit *https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf.;* or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket numbers CP23–518–000 and CP21–496–000.

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.* The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on February 8, 2024.

Protests and motions to intervene must be served on the applicant either by mail or email at: Cameron MacDougall, General Counsel, NFEnergía LLC, 111 W 19th Street, New York, New York, 10011 or at *cmacdougall@fortress.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed [13] motions to intervene are automatically granted by operation of Rule 214(c)(1).[14] Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to interSecretary ofw good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.[15] A person obtaining party status will be placed on the service list maintained by the Acting Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Intervention Deadline: 5:00 p.m. Eastern Time on Date, February 8, 2024.

Dated: January 9, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00724 Filed 1–16–24; 8:45 am]

BILLING CODE 6717–01–P

[10] 18 CFR 385.102(d).

[11] 18 CFR 385.214.

[12] 18 CFR 157.10.

[13] The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

[14] 18 CFR 385.214(c)(1).

[15] 18 CFR 385.214(b)(3) and (d).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–818–000]

Yellow Pine Solar II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Yellow Pine Solar II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard

to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 29, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

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: January 9, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00720 Filed 1–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–827–000]

Grace Orchard Energy Center, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Grace Orchard Energy Center, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 29, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

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Dated: January 9, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00719 Filed 1–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Institution of Section 206 Proceedings and Refund Effective Date

	Docket Nos.
NRG Business Marketing LLC	EL24–47–000
Midwest Generation, LLC	EL24–48–000
NRG Business Marketing LLC	EL24–49–000

On January 8, 2024, the Commission issued an order in Docket Nos. EL24–47–000, EL24–48–000, and EL24–49–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether the revenue requirements set forth in Midwest

Generation, LLC's (Midwest Generation) and NRG Business Marketing LLC's (NBM) Rate Schedules are unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful in Docket Nos. EL24–47–000 (for the NBM Chalk Point Rate Schedule), EL24–48–000 (for the Midwest Generation Rate Schedule), and EL24–49–000 (for the NBM Indian River/Vienna Rate Schedule). *Midwest Generation, LLC,* 186 FERC ¶ 61,020 (2024).

The refund effective date in Docket Nos. EL24–47–000, EL24–48–000, and EL24–49–000, 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 Nos. EL24–47–000, EL24–48–000, or EL24–49–000 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. From FERC's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

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: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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Dated: January 9, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00723 Filed 1–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2660–028]

Woodland Pulp LLC; Notice of Effectiveness of Withdrawal of Surrender Application

On December 26, 2016, Woodland Pulp LLC filed an application to surrender the license for the Forest City Project No. 2660, located on the East Branch of the St. Croix River in Washington and Aroostook Counties, Maine. On December 15, 2023, Woodland Pulp LLC filed a notice withdrawing that application.

No motion in opposition to the notice of withdrawal has been filed, and the Commission has taken no action to disallow it. Accordingly, pursuant to Rule 216(b) of the Commission's Rules of Practice and Procedure,[1] Woodland Pulp's withdraw of its application became effective on January 2, 2024.

Dated: January 9, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00718 Filed 1–16–24; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.216(b) (2023).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14787–004]

Black Canyon Hydro, LLC; Notice of Revised Schedule for the Seminoe Pumped Storage Project

This notice revises the Federal Energy Regulatory Commission's (Commission) schedule for processing Black Canyon Hydro, LLC's license application for the Seminoe Pumped Storage Project. A prior notice issued on July 10, 2023, identified an anticipated schedule for issuance of draft and final National Environmental Policy Act (NEPA) documents and a final order for the project. After the issuance of that notice, Black Canyon Hydro, LLC requested an extension of time to complete additional studies with a final study report to be filed by September 30, 2024. Commission staff issued a letter approving the extension of time on October 31, 2023. To account for the additional time needed for Black Canyon Hydro, LLC to complete the studies and file the study reports, the application will be processed according to the following revised schedule.

Notice of Ready for Environmental Analysis: December 2024

Draft NEPA Document: August 2025

Final NEPA Document: March 13, 2026

In addition, in accordance with title 41 of the Fixing America's Surface Transportation Act, enacted on December 4, 2015, agencies are to publish completion dates for all federal environmental reviews and authorizations. This notice identifies the Commission's anticipated schedule for issuance of the final order for the project, which is based on the revised issuance date for the final NEPA document. Accordingly, we currently anticipate issuing a final order for the project no later than:

Issuance of Final Order: June 18, 2026

If a schedule change becomes necessary, an additional notice will be provided so that interested parties and government agencies are kept informed of the project's progress.

Dated: January 10, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00767 Filed 1–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG24–74–000.
Applicants: Brazos Bend BESS LLC.
Description: Brazos Bend BESS LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 1/10/24.
Accession Number: 20240110–5063.
Comment Date: 5 p.m. ET 1/31/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–760–001.
Applicants: Consolidated Edison Company of New York, Inc.
Description: Tariff Amendment: Amended Filing 1–9–2024 of 12–26–2023 WDS Filing to be effective 1/1/2024.
Filed Date: 1/10/24.
Accession Number: 20240110–5001.
Comment Date: 5 p.m. ET 1/31/24.
Docket Numbers: ER24–838–000.
Applicants: Grandview Solar Project LLC.
Description: Petition for Limited, Prospective Waiver of Grandview Solar Project LLC.
Filed Date: 1/9/24.
Accession Number: 20240109–5152.
Comment Date: 5 p.m. ET 1/30/24.
Docket Numbers: ER24–839–000.
Applicants: EF Oxnard LLC.
Description: Compliance filing: Notice of Non-Material CIS, MBR Tariff Revisions re Change in Seller Category to be effective 3/11/2024.
Filed Date: 1/10/24.
Accession Number: 20240110–5041.
Comment Date: 5 p.m. ET 1/31/24.
Docket Numbers: ER24–840–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 205(d) Rate Filing: 2024–01–10_SA 1772 ITC Midwest-Hardin Hilltop 1st Rev GIA (G530) to be effective 12/27/2023.
Filed Date: 1/10/24.
Accession Number: 20240110–5077.
Comment Date: 5 p.m. ET 1/31/24.
Docket Numbers: ER24–841–000.
Applicants: Pacific Gas and Electric Company.
Description: 205(d) Rate Filing: Amendment to LS Power Grid California (Gates) (TO SA 447) to be effective 3/11/2024.
Filed Date: 1/10/24.
Accession Number: 20240110–5094.
Comment Date: 5 p.m. ET 1/31/24.
Docket Numbers: ER24–842–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Yellowhammer Renewable Energy (Yellowhammer Solar) LGIA Filing to be effective 12/27/2023.
Filed Date: 1/10/24.
Accession Number: 20240110–5096.
Comment Date: 5 p.m. ET 1/31/24.
Docket Numbers: ER24–843–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Revisions to Sch. 12-Appx A and C: December 2023 RTEP, 30-Day Comment Period to be effective 4/9/2024.
Filed Date: 1/10/24.
Accession Number: 20240110–5117.
Comment Date: 5 p.m. ET 1/31/24.
Docket Numbers: ER24–844–000.
Applicants: Public Service Company of Oklahoma.
Description: 205(d) Rate Filing: PSO–OMPA–PPWA Pawhuska Delivery Point Agreement to be effective 12/15/2023.
Filed Date: 1/10/24.
Accession Number: 20240110–5123.
Comment Date: 5 p.m. ET 1/31/24.
Docket Numbers: ER24–845–000.
Applicants: Arizona Public Service Company.
Description: 205(d) Rate Filing: Rate Schedule No. 315, Amendment No. 1 to be effective 3/11/2024.
Filed Date: 1/10/24.
Accession Number: 20240110–5136.
Comment Date: 5 p.m. ET 1/31/24.
Docket Numbers: ER24–846–000.
Applicants: Cheyenne Light, Fuel and Power Company.
Description: 205(d) Rate Filing: CLFP-Tri-State NITSA/NOA to be effective 12/15/2023.
Filed Date: 1/10/24.
Accession Number: 20240110–5147.
Comment Date: 5 p.m. ET 1/31/24.

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.

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Dated: January 10, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00771 Filed 1–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–817–000]

Babbitt Ranch Energy Center, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Babbitt Ranch Energy Center, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 29, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

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: January 9, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00722 Filed 1–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD06–6–000]

Notice of Joint Meeting of the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission

The Federal Energy Regulatory Commission (FERC) and the Nuclear Regulatory Commission (NRC) will hold a joint open meeting on Thursday, January 25, 2024, beginning at 10:00 a.m. Eastern Standard Time. The meeting will be held in-person at the Commission's headquarters, 888 First Street NE, Washington, DC 20426 in the Commission Meeting Room. Commissioners from both agencies are expected to participate.

The format for the joint meeting will consist of discussions between the two sets of Commissioners following presentations by their respective staffs. In addition, a representative of the North American Electric Reliability Corporation (NERC) will attend and participate in this meeting.

The meeting will be open for the public to attend. Pre-registration is not required and there is no fee for attendance. Information on this meeting will also be posted on the Calendar of Events on the Commission's website, *www.ferc.gov,* prior to the event. The meeting will also be transcribed. Transcripts will be available for a fee from Ace Reporting, (202) 347–3700.

Commission meetings are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov,* call toll-free (866) 208–3372 (voice) or (202) 208–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

All interested persons are invited to the meeting. Questions about the meeting should be directed to Lodie White at *Lodie.White@ferc.gov* or by phone at (202) 502–8453.

Dated: January 10, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

Agenda

Title: Joint Meeting of the (FERC) and the Nuclear Regulatory Commission (NRC), (Public Meeting).

Scheduled: January 25, 2024.

Location: 888 First Street NE, Washington, DC 20426.

Participants:

FERC Chairman and Commissioners:
Chairman Willie L. Phillips
Commissioner Allison Clements
Commissioner Mark C. Christie

NRC Chairman and Commissioners:
Chairman Christopher T. Hanson
Commissioner David A. Wright
Commissioner Annie Caputo
Commissioner Bradley R. Crowell

FERC Directors and Staff

- *David Ortiz,* Director of the Office of Electric Reliability (OER)
- *Joseph McClelland,* Director, Office of Energy Infrastructure Security (OEIS)
- *Barry Kuehnle,* Energy Infrastructure and Cyber Security Advisor, Division of Cyber Security, OER
- *David Huff,* Electrical Engineer, Division of Operations and Planning Standards, OER
- *Heather Polzin,* Reliability Enforcement Counsel & Attorney Advisor, Office of Enforcement

North American Electric Reliability Corporation (NERC) Staff

- *Mark Lauby,* Senior Vice President and Chief Engineer, NERC

NRC Staff

- *Andrea Kock,* Deputy Office Director for Engineering, Office of Nuclear Reactor Regulation (NRR)
- *Jason Paige,* Chief, Long Term Operations and Modernization Branch, Division of Engineering and External Hazards, NRR
- *John Wise,* Senior Technical Advisor for License Renewal Aging Management, Division of New and Renewed Licenses, NRR
- *Peyton Doub,* Acting Chief, Environmental Project Management Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards (NMSS)
- *Brian Yip,* Chief, Cyber Security Branch, Division of Physical and Cyber Security Policy, Office of Nuclear Security and Incident Response (NSIR)

Agenda

10:00 a.m. Introductions and Opening Statements 15 mins.

10:15 a.m. Grid Reliability, Nuclear Power Plants & Other Topics

NERC

Mark Lauby, Senior Vice President and Chief Engineer, NERC 20 mins.

- Long Term Reliability Assessment Q&A 15 mins.

FERC 20 mins.

David Ortiz, Director of the Office of Electric Reliability

- Grid reliability overview and updates

David Huff, Electrical Engineer, Office

of Electric Reliability
Heather Polzin, Reliability Enforcement Counsel & Attorney Advisor, Office of Enforcement
○ Status of standards and implementation for cold weather preparedness and applicability to nuclear plants
○ Gas-electric coordination since Winter Storm Uri
Q&A 15 mins.
NRC 20 mins.
Andrea Kock, Deputy Office Director for Engineering, NRR
○ Overview of Power Reactor Activities
■ Current Fleet of Operating Reactors
• Decommissioning
• Power Uprates
○ Advanced and New Reactors Update
Jason Paige, Chief, Long-Term Operations and Modernization Branch, Division of Engineering and External Hazards, NRR
○ Grid Reliability Updates
○ Update on the Implementation of the Executive Order on Coordinating National Resilience to Electromagnetic Pulses
○ Update on Interagency Agreements
John Wise, Senior Technical Advisor for License Renewal Aging Management, Division of New and Renewed Licenses, NRR
○ Update on Subsequent License Renewal
Peyton Doub, Acting Chief, Environmental Project Management Branch, Division of Rulemaking, Environmental, and Financial Support, NMSS
○ The NRC's Permitting Process for the National Environmental Policy Act and Related Laws, Regulations, and Processes
Q&A 15 mins.
12:00 p.m. Cyber Security Updates
FERC 10 mins.
Barry Kuehnle, Energy Infrastructure and Cyber Security Advisor, Division of Cyber Security, OER
○ Cybersecurity updates
○ Critical Infrastructure Protection (CIP) Audits Lesson Learned Report
NRC 10 mins.
Brian Yip, Chief, Cyber Security Branch Division of Physical and Cyber Security Policy, NSIR
○ Update on cybersecurity program guidance and research activities
○ Research activities related to emerging cyber issues
○ Trends observed in cybersecurity inspection and oversight
Q&A 15 mins.

[FR Doc. 2024–00772 Filed 1–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2445–000]

Green Mountain Power Corporation; Notice of Authorization for Continued Project Operation

The license for the Center Rutland Hydroelectric Project No. 2445 was issued for a period ending December 31, 2023.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2445 is issued to Green Mountain Power Corporation for a period effective January 1, 2024, through December 31, 2024, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before December 31, 2024, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Green Mountain Power Corporation is authorized to continue operation of the Center Rutland Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: January 10, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00769 Filed 1–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meetings

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: January 18, 2024, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE, Washington, DC 20426.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Agenda.

* *Note*—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Debbie-Anne A. Reese, Acting Secretary, Telephone (202) 502–8400.

For a recorded message listing items stricken from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed online at the Commission's website at *https://elibrary.ferc.gov/eLibrary/search* using the eLibrary link.

1108TH—MEETING

[Open meeting—January 18, 2024, 10:00 a.m.]

Item No.	Docket No.	Company
	ADMINISTRATIVE	
A–1	AD24–1–000	Agency Administrative Matters.
A–2	AD24–2–000	Customer Matters, Reliability, Security and Market Operations.
	ELECTRIC	
E–1	ER22–24–003, ER22–24–000	System Energy Resources, Inc.
E–2	EL23–83–002	*Gregory and Beverly Swecker* v. *Midland Power Cooperative.*
	QF11–424–012	Gregory and Beverly Swecker.
E–3	ER23–977–001, ER23–977–000	Manitowoc Public Utilities.
E–4	ER24–327–000	Long Lake Solar, LLC.
E–5	ER22–2643–000	Three Corners Solar, LLC.
E–6	ER21–2722–001	E. BarreCo Corp LLC.
E–7	ER20–2004–003, ER20–2004–004	Public Service Electric and Gas Company and PJM Interconnection, L.L.C.
E–8	ER17–405–000	Appalachian Power Company.
	ER17–406–000	AEP Appalachian Transmission Company Inc.
	EL23–51–000	*American Municipal Power, Inc., et al.* v. *Appalachian Power Company, et al.,* and *AEP Appalachian Transmission Company Inc., et al.*
E–9	ER18–194–005	AEP Oklahoma Transmission Company, Inc.
	ER18–195–005	Public Service Company of Oklahoma.
	EL23–71–000	*Arkansas Electric Cooperative Corporation, et al.* v. *Public Service Company of Oklahoma, et al.*
E–10	EL23–43–000	arGo Partners GP LLC.
E–11	EL23–41–000	arGo Partners GP LLC.
	HYDRO	
H–1	P–7656–019	Village of Highland Falls High-Point Utility, LDC.
H–2	P–943–142	Public Utility District No. 1 of Chelan County, Washington.
H–3	P–1494–455	Grand River Dam Authority.
	CERTIFICATES	
C–1	CP22–493–000	Tennessee Gas Pipeline Company, L.L.C.
C–2	CP22–495–000	Transcontinental Gas Pipe Line Company, LLC.
C–3	CP23–511–000	Golden Triangle Storage, LLC.
C–4	CP23–82–000	Columbia Gas Transmission, LLC.
C–5	CP17–101–005	Transcontinental Gas Pipe Line Company, LLC.

A free webcast of this event is available through the Commission's website. Anyone with internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The Federal Energy Regulatory Commission provides technical support for the free webcasts. Please call (202) 502–8680 or email *customer@ferc.gov* if you have any questions.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters but will not be telecast.

Issued: January 11, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00877 Filed 1–12–24; 11:15 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: PR24–33–000.

Applicants: Columbia Gas of Maryland, Inc.

Description: § 284.123 Rate Filing: CMD SOC Rates eff 12–8–2023 to be effective 12/8/2023.

Filed Date: 1/8/24.

Accession Number: 20240108–5165.

Comment Date: 5 p.m. ET 1/29/24.

Docket Numbers: PR24–34–000.

Applicants: Kinder Morgan Texas Pipeline LLC.

Description: § 284.123 Rate Filing: 2024.01.08 KMTP MBR Info Filing NextEra Acquisition to be effective N/A.

Filed Date: 1/8/24.

Accession Number: 20240108–5177.

Comment Date: 5 p.m. ET 1/29/24.

Docket Numbers: PR24–35–000.

Applicants: Kinder Morgan Keystone Gas Storage LLC.

Description: § 284.123 Rate Filing: 2024.01.08 Keystone MBR Info Filing NextEra Acquisition to be effective N/A.

Filed Date: 1/8/24.

Accession Number: 20240108–5179.

Comment Date: 5 p.m. ET 1/29/24.

Docket Numbers: PR24–36–000.

Applicants: Kinder Morgan Keystone Gas Storage LLC.

Description: § 284.123 Rate Filing: 2024.01.08 Keystone MBR Info Filing

NextEra Acquisition (2) to be effective N/A.

Filed Date: 1/9/24.

Accession Number: 20240109–5000.

Comment Date: 5 p.m. ET 1/30/24.

Docket Numbers: PR24–37–000.

Applicants: Banquete Hub LLC.

Description: § 284.123 Rate Filing: 2024.01.08 Banquete MBR Info Filing NextEra Acquisition to be effective N/A.

Filed Date: 1/9/24.

Accession Number: 20240109–5001.

Comment Date: 5 p.m. ET 1/30/24.

Docket Numbers: RP24–305–000.

Applicants: Gas Transmission Northwest LLC.

Description: Compliance filing: Report of Refunds–Coyote Springs Lateral IT Revenue (Nov. 2022–Oct. 2023) to be effective N/A.

Filed Date: 1/8/24.

Accession Number: 20240108–5138.

Comment Date: 5 p.m. ET 1/22/24.

Docket Numbers: RP24–306–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: Compliance filing: 2024.01.08 TGP MBR Info Filing NextEra Acquisition to be effective N/A.

Filed Date: 1/8/24.

Accession Number: 20240108–5187.

Comment Date: 5 p.m. ET 1/22/24.

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.

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: January 9, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00721 Filed 1–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2997–031]

South Sutter Water District; Notice of Material Amendment of License Application, Soliciting Comments and Associated Study Requests

On July 1, 2019, South Sutter Water District (SSWD) filed, pursuant to sections 4(e) and 15 of the Federal Power Act, an application for a new major license to continue operating the Camp Far West Hydroelectric Project No. 2997 (Camp Far West Project) located on the Bear River in Yuba, Nevada, and Placer Counties, California. On July 8, 2019, Commission staff issued a Notice of Application Tendered for Filing with the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments. On March 16, 2021, Commission staff issued a Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions. On December 28, 2023, SSWD filed an amendment to the license application.

The Camp Far West Project currently occupies about 2,864 acres. No federal or tribal lands occur within or adjacent to the project boundary or along the Bear River downstream of the project. The project operates to primarily provide water during the irrigation season, generate power, and meet streamflow requirements for the Bear River.

Existing project facilities include: (1) a 185-foot-high, 40-foot-wide, 2,070-foot-long, zoned, earth-filled main dam; (2) a 45-foot-high, 20-foot-wide, 1,060-foot-long, earth-filled south wing dam; (3) a 25-foot-high, 20-foot-wide, 1,460-foot-long earth-filled north wing dam; (4) a 15-foot-high, 20-foot-wide, 1,450-foot-long earth-filled dike; (5) a 1,886-acre reservoir with a gross storage capacity of about 93,737 acre-feet at the normal maximum water surface elevation (maximum water elevation) of 300 feet (NGVD 29); (6) an overflow spillway with a 15-foot-wide concrete approach apron, 300-foot-long ungated, ogee-type concrete structure, and a 77-foot-long downstream concrete chute with concrete sidewalls; (7) a 1,200-foot-long unlined rock channel that carries spill downstream to the Bear River; (8) a 22-foot-high concrete power intake tower with openings on three sides protected by steel trashracks; (9) a 760-foot-long, 8-foot-diameter concrete tunnel through the left abutment of the main dam that conveys water from the power intake to the powerhouse; (10) a steel-reinforced concrete powerhouse with a 6.8-megawatt vertical-shaft Francis-type turbine that discharges into the Bear River at the base of the main dam; (11) a 25.3-foot-high concrete vertical intake tower with openings on three sides protected by steel trashracks that receives water for the outlet works; (12) a 350-foot-long, 48-inch-diameter steel pipe that conveys water from the intake structure to a valve chamber for the outlet works; (13) a 400-foot-long, 7.5-foot-diameter concrete-lined horseshoe tunnel that connects to the valve chamber; (14) a 48-inch-diameter outlet valve with a 500-cubic-feet-per-second release capacity at maximum water elevation on the downstream face of the main dam that discharges directly into the Bear River; (15) a switchyard adjacent to the powerhouse; (16) two recreation areas with campgrounds, day-use areas, boat ramps, restrooms, and sewage holding ponds; and (17) a recreational water system that includes two pumps in the reservoir that deliver water to a treatment facility that is piped to a 60,000-gallon storage tank to supply water to recreation facilities. The estimated average annual generation (2010 to 2017) is 22,637 megawatt-hours.

In its amended license application, SSWD proposes to: (1) raise the maximum water elevation of the project reservoir from 300 feet to 304.8 feet; (2) replace and restore several recreation facilities; (3) add an existing 0.25-mile road as a primary project road to access the project powerhouse and switchyard; and (4) modify the project boundary to account for (a) the removal of the 1.9-mile-long transmission line from the license in 1991, (b) corrections based on current project operation and maintenance, and (c) changes to project facilities.

Additionally, to accommodate passage of the revised probable maximum flood (recalculated in 2005) and avoid overtopping the project dam, SSWD proposes to: (1) raise the crest of the existing spillway from an elevation of 300 feet to 304.8 feet; (2) construct a new reinforced-concrete secondary spillway consisting of an approximately

305-foot-long ungated ogee-type concrete structure and an unlined 300-foot-wide (at minimum) spillway inlet channel within the reservoir; (3) construct an 805-foot-long unlined rock channel that carries spill downstream to the existing overflow spillway channel; (4) construct a new 300-foot-long, paved bridge constructed of concrete girders with side concrete barriers and guardrails for vehicles to drive over the dam and along Blackford Road; (5) grade and raise the existing Blackford Road to accommodate the approach to the new bridge; and (6) relocate an existing powerline segment (non-project) to accommodate the new secondary spillway in coordination with Pacific Gas and Electric Company.

Pursuant to 18 CFR 4.35(f)(1)(ii)(A), the license application as amended constitutes a material amendment. Due to the material amendment, the application is no longer ready for environmental analysis at this time. With this notice, we are soliciting comments on SSWD's amended application as well as study requests. The deadline for filing comments and study requests is 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments and study requests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the Comment system at *https://ferconline.ferc.gov/Quick.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). 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: Debbie-Anne Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2997–031.

Copies of the application may be viewed on the Commission's website at *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. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY). You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

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Applicant Contact: Hayden Cornwell, General Manager, South Sutter Water District, 2464 Pacific Avenue, Trowbridge, California 95659; Phone: (530) 656–2242; Email: *hcornwell@southsutterwd.com.*

FERC Contact: Quinn Emmering, the Commission's project coordinator for relicensing the Camp Far West Project, at (202) 502–6382 or *Quinn.Emmering@ferc.gov.*

The amended application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
FERC Issues Acceptance or Deficiency Letter (if necessary)	March 2024.
FERC Requests Additional Information (if necessary)	March 2024.
FERC Issues Notice that Application is Ready for Environmental Analysis	June 2024.

Dated: January 10, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00768 Filed 1–16–24; 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: RP24–307–000.

Applicants: Mitsui & Co. Energy Marketing and Services (USA), Inc, EQT Energy, LLC.

Description: Joint Petition for Limited Waivers of Capacity Release Regulations, et. al. of Mitsui & Co. Energy Marketing and Services (USA), Inc. et. al.

Filed Date: 1/9/24.

Accession Number: 20240109–5093.

Comment Date: 5 p.m. ET 1/22/24.

Docket Numbers: RP24–308–000.

Applicants: Tallgrass Interstate Gas Transmission, LLC.

Description: 4(d) Rate Filing: TIGT 2024–01–09 Negotiated Rate Agreement to be effective 1/10/2024.

Filed Date: 1/9/24.

Accession Number: 20240109–5115.

Comment Date: 5 p.m. ET 1/22/24.

Docket Numbers: RP24–309–000.

Applicants: Guardian Pipeline, L.L.C.

Description: 4(d) Rate Filing: Negotiated Rate Parking and Lending Agreements to be effective 1/10/2024.

Filed Date: 1/10/24.

Accession Number: 20240110–5039.

Comment Date: 5 p.m. ET 1/22/24.

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.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

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Dated: January 10, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00770 Filed 1–16–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER23–1784–001.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Order No. 676–J Compliance Revisions to Tariff, Section 4.2 to be effective 2/1/2024.

Filed Date: 1/9/24.

Accession Number: 20240109–5101.

Comment Date: 5 p.m. ET 1/30/24.

Docket Numbers: ER23–2635–002.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Supplement to Filing, Original ISA, SA No. 6571 to be effective 7/20/2023.

Filed Date: 1/9/24.

Accession Number: 20240109–5067.

Comment Date: 5 p.m. ET 1/30/24.

Docket Numbers: ER24–833–000.

Applicants: Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company, LLC.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2024–01–09_SA 4222 METC-Consumers Energy E&P (J2814) to be effective 1/2/2024.

Filed Date: 1/9/24.

Accession Number: 20240109–5033.

Comment Date: 5 p.m. ET 1/30/24.

Docket Numbers: ER24–834–000.

Applicants: Southern California Edison Company.

Description: Tariff Amendment: Termination of GIA & DSA, SERC (WDT1189–1293/SA999–1000) to be effective 3/10/2024.

Filed Date: 1/9/24.

Accession Number: 20240109–5050.

Comment Date: 5 p.m. ET 1/30/24.

Docket Numbers: ER24–835–000.

Applicants: Black Walnut Energy Storage, LLC.

Description: § 205(d) Rate Filing: Black Walnut Energy Storage, LLC MBR Tariff to be effective 3/10/2024.

Filed Date: 1/9/24.

Accession Number: 20240109–5071.

Comment Date: 5 p.m. ET 1/30/24.

Docket Numbers: ER24–836–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Constellation FKA Exelon NITSA (ORDA) SA 943 Rev 6 to be effective 1/1/2024.

Filed Date: 1/9/24.

Accession Number: 20240109–5081.

Comment Date: 5 p.m. ET 1/30/24.

Docket Numbers: ER24–837–000.

Applicants: Union Electric Company.

Description: § 205(d) Rate Filing: Amendment to Market-Based Rate Tariff to be effective 1/10/2024.

Filed Date: 1/9/24.

Accession Number: 20240109–5119.

Comment Date: 5 p.m. ET 1/30/24.

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.

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Dated: January 9, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–00725 Filed 1–16–24; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–100]

Notice of Adoption of Electric Vehicle Charging Stations Categorical Exclusion Under the National Environmental Policy Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of adoption of categorical exclusion.

SUMMARY: The Environmental Protection Agency (EPA) is adopting the Department of Energy's (DOE) Electric Vehicle Charging Stations Categorical Exclusion (CE) under the National Environmental Policy Act (NEPA) to use in EPA's program and funding opportunities administered by EPA. This notice describes the categories of proposed actions for which EPA intends to use DOE's CE and describes the consultation between the agencies.

DATES: This action is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Michele Richoux, EPA Clean School Bus Program, by phone at 202–250–8852 or by email at *cleanschoolbus@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

NEPA and CEs

The National Environmental Policy Act, as amended at, 42 U.S.C. 4321–4347 (NEPA), requires all Federal agencies to assess the environmental impact of their actions. Congress enacted NEPA in order to encourage productive and enjoyable harmony between humans and the environment, recognizing the profound impact of human activity and the critical importance of restoring and maintaining environmental quality to the overall welfare of humankind. 42 U.S.C. 4321, 4331. NEPA's twin aims are to ensure agencies consider the environmental effects of their proposed actions in their decision-making processes and inform and involve the public in that process. 42 U.S.C. 4331. NEPA created the Council on Environmental Quality (CEQ), which promulgated NEPA implementing regulations, 40 CFR parts 1500 through 1508 (CEQ regulations).

To comply with NEPA, agencies determine the appropriate level of review—an environmental impact statement (EIS), environmental assessment (EA), or CE. 42 U.S.C. 4336. If a proposed action is likely to have significant environmental effects, the agency must prepare an EIS and document its decision in a record of decision. 42 U.S.C. 4336. If the proposed action is not likely to have significant environmental effects or the effects are unknown, the agency may instead prepare an EA, which involves a more concise analysis and process than an EIS. 42 U.S.C. 4336. Following the EA, the agency may conclude the process with a finding of no significant impact if the analysis shows that the action will have no significant effects. If the analysis in the EA finds that the action is likely to have significant effects, however, then an EIS is required.

Under NEPA and the CEQ regulations, a Federal agency also can establish CEs—categories of actions that the agency has determined normally do not significantly affect the quality of the human environment—in their agency NEPA procedures. 42 U.S.C. 4336(e)(1); 40 CFR 1501.4, 1507.3(e)(2)(ii), 1508.1(d). If an agency determines that a CE covers a proposed action, it then evaluates the proposed action for extraordinary circumstances in which a normally excluded action may have a significant effect. 40 CFR 1501.4(b). If no extraordinary circumstances are present or if further analysis determines that the extraordinary circumstances do not involve the potential for significant environmental impacts, the agency may apply the CE to the proposed action without preparing an EA or EIS. 42 U.S.C. 4336(a)(2), 40 CFR 1501.4. If the extraordinary circumstances have the potential to result in significant effects, the agency is required to prepare an EA or EIS.

Section 109 of NEPA, enacted as part of the Fiscal Responsibility Act of 2023, allows a Federal agency to ''adopt'' or use another agency's CEs for a category of proposed agency actions. 42 U.S.C. 4336(c). To use another agency's CEs under section 109, an agency must identify the relevant CEs listed in another agency's (''establishing agency'') NEPA procedures that cover its category of proposed actions or related actions; consult with the establishing agency to ensure that the proposed adoption of the CE to a category of actions is appropriate; identify to the public the CE that the agency plans to use for its proposed actions; and document adoption of the CE. *Id.* This notice documents EPA's adoption of DOE's Electric Vehicle Charging Stations CE under section 109 of NEPA to use in EPA's program and funding opportunities, including those administered by the EPA Clean School Bus Program.

EPA's Program

The Clean School Bus Program provides funding to eligible entities to incentivize and accelerate the replacement of existing school buses with clean and zero emissions school buses. Eligible activities include the replacement of existing internal-combustion engine school buses with electric, propane, or compressed natural gas school buses, as well as the purchase of electric vehicle supply equipment (EVSE) (also referred to as Electric Vehicle Charging Stations) and EVSE installations. Eligible entities include state and local governmental entities that provide bus service, including public school districts; eligible contractors; nonprofit school transportation associations; Indian Tribes, Tribal organizations, or Tribally-controlled schools responsible for the purchase, lease, license, or contract for service of school buses or for providing school bus service for a Bureau of Indian Affairs funded school.

II. Identification of the Categorical Exclusion

DOE's Electric Vehicle Charging Stations CE

DOE's electric vehicle charging stations CE is codified in DOE's NEPA procedures as CE B5.23 of 10 CFR part 1021, subpart D, appendix B, as follows:

B5.23 Electric Vehicle Charging Stations

The installation, modification, operation, and removal of electric vehicle charging stations, using commercially available technology, within a previously disturbed or developed area. Covered actions are limited to areas where access and parking are in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

''Previously disturbed or developed'' refers to land that has been changed such that its functioning ecological processes have been and remain altered by human activity. The phrase encompasses areas that have been transformed from natural cover to nonnative species or a managed state, including, but not limited to, utility and electric power transmission corridors and rights-of-way, and other areas where active utilities and currently used roads are readily available. 10 CFR 1021.410(g)(1).

The DOE CE also includes additional conditions referred to as integral elements (10 CFR part 1021 subpt. D, app. B). In order to apply this CE, the proposal must be one that would not:

(1) Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of EPA [1] or Executive Orders;

(2) Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities;

(3) Disturb hazardous substances, pollutants, contaminants, or CERCLA excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases;

(4) Have the potential to cause significant impacts on environmentally sensitive resources. An environmentally sensitive resource is typically a resource that has been identified as needing protection through Executive Order, statute, or regulation by Federal, state, or local government, or a federally recognized Indian tribe. An action may be categorically excluded if, although sensitive resources are present, the action would not have the potential to cause significant impacts on those resources (such as construction of a building with its foundation well above a sole-source aquifer or upland surface soil removal on a site that has wetlands). Environmentally sensitive resources include, but are not limited to:

(i) Property (such as sites, buildings, structures, and objects) of historic, archeological, or architectural significance designated by a Federal, state, or local government, federally recognized Indian tribe, or Native Hawaiian organization, or property determined to be eligible for listing on the National Register of Historic Places;

(ii) Federally listed threatened or endangered species or their habitat (including critical habitat) or Federally proposed or candidate species or their habitat (Endangered Species Act); state listed or state-proposed endangered or threatened species or their habitat; Federally-protected marine mammals and Essential Fish Habitat (Marine Mammal Protection Act; Magnuson-

[1] Modified from 10 CFR part 1021 subpart D, app. B to reflect EPA as the adopting agency.

Stevens Fishery Conservation and Management Act); and otherwise Federally-protected species (such as the Bald and Golden Eagle Protection Act or the Migratory Bird Treaty Act);

(iii) Floodplains and wetlands;

(iv) Areas having a special designation such as Federally- and state designated wilderness areas, national parks, national monuments, national natural landmarks, wild and scenic rivers, state and Federal wildlife refuges, scenic areas (such as National Scenic and Historic Trails or National Scenic Areas), and marine sanctuaries;

(v) Prime or unique farmland, or other farmland of statewide or local importance, as defined at 7 CFR 658.2(a), ''Farmland Protection Policy Act: Definitions,'' or its successor;

(vi) Special sources of water (such as sole-source aquifers, wellhead protection areas, and other water sources that are vital in a region); and

(vii) Tundra, coral reefs, or rain forests; or

(5) Involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those of the Department of Agriculture, EPA, and the National Institutes of Health.

Proposed EPA Category of Actions

EPA intends to apply this categorical exclusion to electric vehicle charging station projects undertaken directly by EPA or that are financed in whole or in part through Federal funding opportunities, including those administered by the EPA Clean School Bus Program. The CE allows for the installation, modification, operation, and removal of electric vehicle charging stations. EPA will consider each proposal for the installation, modification, operation, or removal of electric vehicle charging stations to ensure that the proposal is within the scope of the CE. EPA intends to apply this CE in a manner consistent with DOE's application—to the same types of proposals (which have included a wide variety of locations on and off Federal property, differences in local conditions, various numbers of electric vehicle charging stations per proposal, and different types of equipment and technologies including Level 1, Level 2, and DC Fast Charging stations).

III. Consideration of Extraordinary Circumstances

When applying this CE, EPA will evaluate the proposed action to ensure evaluation of the integral elements listed above. In addition, in considering extraordinary circumstances, EPA will consider whether the proposed action has the potential to result in significant effects as described in DOE's extraordinary circumstances listed at 10 CFR 1021.410(b)(2). DOE defines extraordinary circumstances as unique situations presented by specific proposals, including, but not limited to, scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; and unresolved conflicts concerning alternative uses of available resources.

IV. Consultation With DOE and Determination of Appropriateness

EPA and DOE consulted on the appropriateness of EPA's adoption of the CE in October 2023. EPA and DOE's consultation included a review of DOE's experience developing and applying the CE, as well as the types of actions for which EPA plans to utilize the CE. These EPA actions are very similar to the type of projects for which DOE has applied the CE and therefore the impacts of EPA projects will be very similar to the impacts of DOE projects, which are not significant, absent the existence of extraordinary circumstances. Therefore, EPA has determined that its proposed use of the CE as described in this notice is appropriate.

V. Notice to the Public and Documentation of Adoption

This notice serves to identify to the public and document EPA's adoption of DOE's CE for electric vehicle charging stations. The notice identifies the types of actions to which EPA will apply the CE, as well as the considerations that EPA will use in determining whether an action is within the scope of the CE.

Dated: January 11, 2024.

Christine Koester,

Director, Legacy Fleets Incentives and Assessment Branch, Office of Transportation and Air Quality.

[FR Doc. 2024–00784 Filed 1–16–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2019–0456; FRL–10821–01–OCSPP]

Agency Information Collection Activities; Proposed Renewal of an Existing ICR Collection and Request for Comment; Formaldehyde Standards for Composite Wood Products Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces the availability of and solicits public comment on the following Information Collection Request (ICR) that EPA is planning to submit to the Office of Management and Budget (OMB): ''Formaldehyde Standards for Composite Wood Products Act,'' identified by EPA ICR No. 2446.04 and OMB Control No. 2070–0185. This ICR represents a renewal of an existing ICR that is currently approved through September 30, 2024. Before submitting the ICR to OMB for review and approval under the PRA, EPA is soliciting comments on specific aspects of the information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before March 18, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2019–0456, through *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Katherine Sleasman, Mission Support Division (7602M), Office of Program Support, Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001; telephone number: (202) 556–1204; email address: *sleasman.katherine@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What ICR does this action apply to?

Title: Formaldehyde Standards for Composite Wood Products Act.

EPA ICR No.: 2446.04.

OMB Control No.: 2070–0185.

ICR status: This ICR is currently approved through September 30, 2024. Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR renewal covers the recordkeeping and reporting requirements for all aspects of the TSCA Title VI implementing regulations and regulations relating to accreditation bodies (ABs) and third-party certifiers (TPCs) that wish to participate in this third-party certification program.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 456,296 hours per response. Burden is defined in 5 CFR 1320.3(b). The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/affected entities: Entities potentially affected by the ICR include respondents who are producers, fabricators, distributors, importers, retailers of regulated composite wood products and finished goods containing regulated composite wood products, as well as accreditation bodies and third-party certifiers. The Agency identifies these entities by North American Industrial Classification System (NAICS) codes that have been provided in the ICR to assist entities in determining whether the ICR might apply to them.

Respondent's obligation to respond: Mandatory, per 40 CFR 770.

Forms: 9600–049.

Frequency of response: Occasional.

Total estimated number of potential respondents: 881,597.

Total estimated average number of responses for each respondent: 1.4.

Total estimated annual burden hours: 456,296 hours.

Total estimated annual costs: $121.806,311. This includes an estimated burden cost of $9,461,560 and an estimated cost of $112,389,751 for capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There is an overall increase of 371,503 hours for the total estimated combined respondent burden from that which is currently approved by OMB. This difference is due to adjustments in EPA's estimates of the costs and burden. Several adjustments to the estimates were made, including revisions to the estimates for producers, TPC and AB; and revisions to labor and cost estimates to reflect 2022 and 2023; and inclusion of 2,241 laminators still using resins that are expected to incur costs and burden starting in 2024.

In addition, OMB has requested that EPA move towards using the 18-question format for ICR Supporting Statements used by other federal agencies and departments and is based on the submission instructions established by OMB in 1995, replacing the alternate format developed by EPA and OMB prior to 1995. Accordingly, EPA updated the Supporting Statement for this ICR to reflect the 18-question format. In doing so, the Agency does not expect the change in format has resulted in substantive changes to the information collection activities or related estimated burden and costs. Comments are specifically sought on the format and presentation of the estimates.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: January 10, 2024.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2024–00740 Filed 1–16–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2022–0430; FRL–8838–03–OAR]

Notice of Data Availability Relevant to Data Reported Under the American Innovation and Manufacturing Act of 2020

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: This Notice of Data Availability is to alert stakeholders that the U.S. Environmental Protection Agency (EPA) has released data on production, consumption, and other activity related to hydrofluorocarbons regulated under the American Innovation and Manufacturing Act of 2020. The Agency has published these data in the *Protecting Our Climate by Reducing Use of HFCs* web area.

DATES: January 17, 2024.

FOR FURTHER INFORMATION CONTACT: Rob Landolfi, U.S. Environmental Protection Agency, Stratospheric Protection Division, telephone number: 202–343–9161; or email address: *Landolfi.Robert@epa.gov.* You may also

visit EPA's website at *https://www.epa.gov/climate-hfcs-reduction* for further information.

SUPPLEMENTARY INFORMATION:

I. Background

EPA has published information collected under mandatory reporting requirements in 40 CFR part 84 that support the hydrofluorocarbon (HFC) phasedown specified in the American Innovation and Manufacturing Act of 2020 (AIM Act or Act) and codified at 42 U.S.C. 7675. Information regarding entities' HFC allowance usage has also been made available.

II. What information is available?

EPA is providing notice that the Agency has published the following data in the *Protecting Our Climate by Reducing Use of HFCs* web area for calendar year 2022.

Per entity:

- Unused consumption allowances
- Unused production allowances
- Administrative consequences applied
- Number of allowances transferred due to acquisitions
- Additional consumption allowances granted
- Number of allowances transferred between entities
- Number of consumption allowances expended
- Number of production allowances expended
- End of year inventories of regulated HFCs

By regulated HFC:

- Amount destroyed
- Amount exported
- Amount imported for feedstock use
- Total amount produced (gross)
- Amount produced for feedstock use
- Calculated consumption consistent with the AIM Act
- Calculated consumption consistent with reporting requirements under the Montreal Protocol
- Calculated production

Cynthia A. Newberg,

Director, Stratospheric Protection Division.

[FR Doc. 2024–00787 Filed 1–16–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0562; FR ID 196411]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before March 18, 2024. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0562.

Title: Section 76.916, Petition for Recertification.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, local or tribal government.

Number of Respondents and Responses: 2 respondents; 3 responses.

Estimated Time per Response: 10 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 4(i) and 623 of the Communications Act of 1934, as amended.

Total Annual Burden: 30 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collection requirements contained in 47 CFR 76.916 provide that a franchising authority wishing to assume jurisdiction to regulate basic cable service and associated rates after its request for certification has been denied or revoked, may file a petition for recertification with the Commission. The petition must be served on the cable operator and on any interested party that participated in the proceeding denying or revoking the original certification. Oppositions to petitions may be filed within 15 days after the petition is filed. Replies may be filed within seven days of filing of oppositions.

Federal Communications Commission.

Marlene Dortch,

Secretary,Office of the Secretary.

[FR Doc. 2024–00714 Filed 1–16–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FR ID 196425]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize

the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before March 18, 2024. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

OMB Control Number: 3060–XXXX.

Title: Safe Connections Act—Supporting Survivors of Domestic and Sexual Violence, WC.

Docket No.: 22–238, et al.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities and individuals or households.

Number of Respondents and Responses: 1,650,000 respondents; 1,650,000 responses.

Estimated Time per Response: 1 hour–240 hours.

Frequency of Response: On occasion reporting requirement; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections is contained in 47 U.S.C. 345 of the Communications Act of 1934.

Total Annual Burden: 3,527,500 hours.

Total Annual Cost: No Cost.

Needs and Uses: The Safe Connections Act of 2022 (SCA) obligates the Commission to implement rules pursuant to Section 4 of the SCA, which sets forth the requirement that covered providers separate the mobile phone telephone lines of domestic violence survivors (and of those persons in their care) from a shared mobile service contract with an abuser within two business days of a request. To implement the line separation process, the Commission establishes this collection, which requires covered providers to notify consumers about the availability of the line separation process and requires survivors to submit certain information to covered providers to request a line separation.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–00709 Filed 1–16–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

[OMB No. 3064–0006; –0114; –0197]

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collections described below (OMB Control No. 3064–0006; –0114 and –0197).

DATES: Comments must be submitted on or before March 18, 2024.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Regulatory Counsel, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street NW building (located on F Street NW), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza, Regulatory Counsel, 202–898–3767, *mcabeza@fdic.gov,* MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collection of information:

1. *Title:* Interagency Biographical and Financial Report.

OMB Number: 3064–0006.

Forms: 6200/06.

Affected Public: Individuals or households; business or other for profit; Insured state nonmember banks and state savings associations.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–0006]

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Form 6200/06—Interagency Biographical and Financial Report, 12 U.S.C. 1815(a), 1817(j), and 1831i (Mandatory).	Reporting (On Occasion).	136	2.86	04:30	1,751
Total Annual Burden (Hours)					1,751

Source: FDIC.

General Description of Collection: The Interagency Bank Merger Act Application form is used by the FDIC, the Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency for applications under section 18(c) of the Federal Deposit Insurance Act (FDIA), as amended (12 U.S.C. 1828(c)). The application is used for a merger, consolidation, or other combining transaction between nonaffiliated parties as well as to effect a corporate reorganization between affiliated parties (affiliate transaction). An affiliate transaction refers to a merger transaction or other business combination (including a purchase and assumption) between institutions that are commonly controlled (for example, between a depository institution and an affiliated interim institution). There are different levels of burden for nonaffiliate and affiliate transactions. Applicants proposing affiliate transactions are required to provide less information than applicants involved in the merger of two unaffiliated entities. If depository institutions are not controlled by the same holding company, the merger transaction is considered a non-affiliate transaction. There is no change in the methodology or substance of this information collection. The reduction in estimated annual burden (from 2,313 hours in 2021 to 1,751 hours currently) is due to the decline in the historical number of Reports received by the FDIC, which is the basis for the estimated number of annual responses.

2. *Title:* Foreign Banks.

OMB Number: 3064–0114.

Affected Public: Insured branches of foreign banks.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–1114]

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Approval to Conduct Activities, 12 CFR 303.187 (Mandatory).	Reporting (Annual)	1	1	08:00	8
2. Consent to Operate, 12 CFR 303.186 (Mandatory).	Reporting (Annual)	1	1	08:00	8
3. Moving a Branch, 12 CFR 303.184 (Mandatory).	Reporting (Annual)	1	1	08:00	8
4. Pledge of Assets Documents, 12 CFR 347.209(e)(4) (Mandatory).	Disclosure (Quarterly) ..	10	4	00:15	10
5. Pledge of Assets Reports, 12 CFR 347.209(e)(6) (Mandatory).	Reporting (Quarterly)	10	4	2:00	80
6. Recordkeeping, 12 CFR 347.205 (Mandatory)	Recordkeeping (Annual)	10	1	120:00	1,200
Total Annual Burden (Hours)	.....	.....	.....	.....	1,314

Source: FDIC.

General Description of Collection: Applications to move an insured state licensed branch of a foreign bank; applications to operate as such noninsured state-licensed branch of a foreign bank; applications from an insured state-licensed branch of a foreign bank to conduct activities that are not permissible for a federally licensed branch; internal recordkeeping by such branches; and reporting and recordkeeping requirements relating to such a branch's pledge of assets to the FDIC. There is no change in the methodology or substance of this information collection. The estimated burden remains unchanged from 2021.

3. *Title:* Liquidity Coverage Ratio: Liquidity Risk Measurement, Standards, and Monitoring (LCR).

OMB Number: 3064–0197.

Affected Public: State savings associations and State nonmember banks.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–0197]

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. 329.40(a) Notification that liquidity coverage ratio is less than minimum in 329.10; 329.110(a) NSFR shortfall notification. (Mandatory).	Reporting (On Occasion).	1	1	00:30	1
2. 329.40(b) and 329.110(b). LCR and NSFR Shortfall Reporting Requirements. (Mandatory).	Reporting (On Occasion).	1	1	44:30	45
3. 329.40(b)(3)(iv) and 329.110(b)(3) Report of progress toward achieving compliance. (Mandatory).	Reporting (On Occasion).	1	1	00:30	1
4. 329.22(a) and 329.109(b) Policies and Procedures. (Mandatory).	Recordkeeping (Annual)	3	1	25:00	75
5. 329.4(a) Qualified Master Netting Agreements. (Mandatory).	Recordkeeping (Annual)	3	1	00:30	2

SUMMARY OF ESTIMATED ANNUAL BURDEN—Continued

[OMB No. 3064–0197]

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
Total Annual Burden (Hours)					124

Source: FDIC.

General Description of Collection: The LCR rule implements a quantitative liquidity requirement and contains requirements subject to the PRA. The requirement is designed to promote the short-term resilience of the liquidity risk profile of large and internationally active banking organizations, thereby improving the banking sector's ability to absorb shocks arising from financial and economic stress, and to further improve the measurement and management of liquidity risk. The LCR rule establishes a quantitative minimum liquidity coverage ratio that requires a company subject to the rule to maintain an amount of high-quality liquid assets (the numerator of the ratio) that is no less than 100 percent of its total net cash outflows over a prospective 30 calendar day period (the denominator of the ratio). There is no change in the methodology or substance of this information collection. This reduction in estimated annual burden (from 994 hours in 2021 to 124 hours currently) is due the reduction in both the estimated number of annual respondents and the estimated time per response.

Request for Comment

Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, January 10, 2024.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2024–00706 Filed 1–16–24; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

[Notice 2024–01]

Filing Dates for the Ohio Special Election in the 6th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Ohio has scheduled special elections on March 19, 2024, and June 11, 2024, to fill the U.S. House of Representatives seat in the 6th Congressional District being vacated by Representative Bill Johnson. Committees required to file reports in connection with the Special Primary Election on March 19, 2024, shall file a 12-day Pre-Primary Report. Committees required to file reports in connection with both the Special Primary and Special General Election on June 11, 2024, shall file a 12-day Pre-Primary, a 12-day Pre-General, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Ohio Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on March 7, 2024; a 12-day Pre-General Report on May 30, 2024; and a 30-day Post-General Report on July 11, 2024. (See charts below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See charts below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Ohio Special Primary or Special General Election by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Ohio Special Primary or Special General Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information for the Ohio special elections may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of the lobbyist bundling threshold during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

The lobbyist bundling disclosure threshold for calendar year 2023 was $21,800. This threshold amount may change in 2024 based upon the annual cost of living adjustment (COLA). As soon as the adjusted threshold amount is available, the Commission will publish it in the **Federal Register** and post it on its website. 11 CFR 104.22(g) and 110.17(e)(2).

CALENDAR OF REPORTING DATES FOR OHIO SPECIAL ELECTIONS

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
Political Committees Involved in Only the Special Primary (03/19/2024) Must File			
Pre-Primary	02/28/2024	03/04/2024	03/07/2024
April Quarterly	03/31/2024	04/15/2024	04/15/2024
Political Committees Involved in Both the Special Primary (03/19/2024) and the Special General (06/11/2024) Must File			
Pre-Primary	02/28/2024	03/04/2024	03/07/2024
April Quarterly	03/31/2024	04/15/2024	04/15/2024
Pre-General	05/22/2024	[2] 05/27/2024	05/30/2024
Post-General	07/01/2024	07/11/2024	07/11/2024
July Quarterly	.....	WAIVED	.....
October Quarterly	09/30/2024	10/15/2024	10/15/2024
Political Committees Involved in Only the Special General (06/11/2024) Must File			
Pre-General	05/22/2024	[2] 05/27/2024	05/30/2024
Post-General	07/01/2024	07/11/2024	07/11/2024
July Quarterly	.....	WAIVED	.....
October Quarterly	09/30/2024	10/15/2024	10/15/2024

Dated: January 11, 2024.

On behalf of the Commission,

Sean J. Cooksey,

Chairman, Federal Election Commission.

[FR Doc. 2024–00780 Filed 1–16–24; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0018; Docket No. 2024–0053; Sequence No. 2]

Information Collection; Federal Acquisition Regulation Part 3: Improper Business Practices and Personal Conflicts of Interest

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on an extension concerning Federal Acquisition Regulation (FAR) part 3, Improper Business Practices and Personal Conflicts of Interest. DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through April 30, 2024. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by March 18, 2024.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through *https://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

Instructions: All items submitted must cite OMB Control No. 9000–0018, Federal Acquisition Regulation Part 3: Improper Business Practices and Personal Conflicts of Interest. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Zenaida Delgado, Procurement Analyst, at telephone 202–969–7207, or *zenaida.delgado@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0018, Federal Acquisition Regulation Part 3: Improper Business Practices and Personal Conflicts of Interest.

B. Need and Uses

This clearance covers the information that offerors and contractors must submit to comply with the following FAR part 3 requirements:

- FAR 52.203–2, Certificate of Independent Price Determination. This provision requires offerors to include with their offer a certification that their prices have been arrived at independently, have not been or will not be knowingly disclosed, and have not been submitted for the purpose of restricting competition. Prior to making an award, a contracting officer will ensure the offeror has provided the

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

[2] Notice that the registered/certified & overnight mailing deadline falls on a weekend or federal holiday. The report should be postmarked before that date.

certification. An offer will not be considered for award where the certificate has been deleted or modified. Federal agencies will report to the Attorney General for investigation any deletions or modifications of the certificate and suspected false certificates.

• FAR 52.203–7, Anti-Kickback Procedures. This clause requires contractors to report in writing to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Attorney General possible violations of 41 U.S.C. chapter 87, Kickbacks. The clause also requires the contractor to notify the contracting officer when monies are withheld from sums owed a subcontractor under the prime contract, when the contracting officer has directed the prime contractor to do so to offset the amount of a kickback. The Federal agency will use the information reported by contractors to investigate suspected violations. The notification to the contracting officer of a withholding of payment to a subcontractor is used to help the contracting officer ensure the amount of a kickback is appropriately offset.

• FAR 52.203–13, Contractor Code of Business Ethics and Conduct. This clause requires contractors and subcontractors to report to the agency Office of the Inspector General when the contractor has credible evidence that a principal, employee, agent, or subcontractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in title 18 U.S.C., or a violation of the Civil False Claims Act (31 U.S.C. 3729–3733). The Federal agency will use the information reported by contractors to investigate suspected violations.

• FAR 52.203–16, Preventing Personal Conflicts of Interest. This clause requires contractors and subcontractors to obtain and maintain from each employee a disclosure of interests that might be affected by the task to which the employee has been assigned under the contract. Contractors and subcontractors must report to the contracting officer any personal conflict of interest violation by an employee and the proposed corrective/follow-up actions to be taken. In exceptional circumstances, the contractor may request the head of the contracting activity approve a plan to mitigate a personal conflict of interest or waive the requirement to prevent personal conflicts of interest. The information is used by the contractor and the contracting officer to identify and mitigate personal conflicts of interest.

C. Annual Burden

Respondents: 9,642.
Recordkeepers: 9,147.
Total Annual Responses: 352,296.
Total Burden Hours: 677,460. (128,640 reporting hours + 548,820 recordkeeping hours).

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 9000–0018, Federal Acquisition Regulation Part 3: Improper Business Practices and Personal Conflicts of Interest.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2024–00761 Filed 1–16–24; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0250; Docket No. 2023–0001; Sequence No. 6]

Submission for OMB Review; General Services Administration Acquisition Regulation; Federal Supply Schedule Contract Administration Information

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension to an existing OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget a request to review and approve an extension of a previously approved information collection regarding Federal Supply Schedule contract administration information.

DATES: Submit comments on or before: February 16, 2024.

ADDRESSES: Written comments and recommendations for this 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 Review—Open for Public Comments''; or by using the search function.

FOR FURTHER INFORMATION CONTACT: Ms. Vernita Misidor, Procurement Analyst, at *GSARpolicy@gsa.gov* or 202–357–9681.

SUPPLEMENTARY INFORMATION:

A. Purpose

GSA requires information from Federal Supply Schedule contractors that will be used to conduct award oversight or generate mandatory reports during contract administration. For these contractors, providing commercial supplies and services, much of this information is readily available to the public at large, or is routinely exchanged by firms during the normal course of business. This general information collection covers these contract administration requirements, as outlined in GSAR Subpart 538.2—Establishing and Administering Federal Supply Schedules.

B. Annual Reporting Burden

This information collection requires no expenditure of resources to gather the information for submission, as the information is often exchanged by commercial business firms in their catalogs or other public documents during the normal course of business. The nominal amount of burden imposed on the public is simply to relay the requested information.

Respondents: 14,000.

Responses per Respondent: 1.

Total Annual Responses: 14,000.

Hours per Response: 0.5 (30 minutes).

Total Burden Hours: 7,000.

C. Public Comments

A 60-day notice was published in the **Federal Register** at 88 FR 76217 on November 6, 2023. No comments were received.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the Regulatory Secretariat Division, at *GSARegSec@gsa.gov.* Please cite OMB Control No. 3090–0250, FSS Contract Administration Information, in all correspondence.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2024–00701 Filed 1–16–24; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–24–1316]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Aerosols from cyanobacterial blooms: Exposures and Health Effects in a Highly Exposed Population'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on October 16, 2023 to obtain comments from the public and affected agencies. CDC received one comment related to this 30-day notice.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Aerosols from Cyanobacterial Blooms: Exposures and Health Effects in a Highly Exposed Population (OMB Control No. 0920–1316, Exp. 1/31/2024)—Extension—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC), requests a three-year Paperwork Reduction Act (PRA) clearance for a renewal of the information collection request titled Aerosols from Cyanobacterial Blooms: Exposures and Health Effects in a Highly Exposed Population. NCEH is authorized to conduct research under the Public Health Service Act, Section 301, ''Research and investigation,'' (42 U.S.C. 241).

Toxins produced by blooms of algae, cyanobacteria, and seaweed (herein called harmful algal blooms or HABS) are among the most potent natural chemicals. Exposure to these toxins can induce a wide variety of reported and documented effects in people and animals. Published studies demonstrate that people and animals are at risk for health effects from exposure to HABS, whether through eating contaminated food, drinking contaminated water, or inhaling contaminated aerosols. Although there is substantial published work describing the public health impacts from these blooms, unanswered questions remain, including quantitative assessments of exposure and characterization of the clinical presentations of illnesses associated with HAB exposures.

HAB events and associated environmental impacts (*e.g.,* geographic and temporal extent, composition, toxin production) are difficult, if not impossible to predict and track. Specifically, for the previously approved project, we were not able to align the physical occurrence of a specific type of a HAB of significant magnitude with government approvals and resource commitments. Therefore, we request a three-year Extension of the original Information Collection Request (ICR).

CDC requests OMB approval for an estimated 1,273 annual burden hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Interested community members	Screening/baseline Survey	84	1	15/60
Eligible study respondents	Symptom Survey	67	10	15/60
Eligible study respondents	Record of Time Spent Outdoors	67	5	10/60
Eligible study respondents	Provide blood specimen	67	3	15/60
Eligible study respondents	Provide specimens (urine, nasal swabs, lung function test).	67	10	1
Eligible study respondents	Be outfitted with personal air sampler	67	5	45/60
Eligble study respondents	Provide fish (if respondent went fishing and caught fish).	67	5	10/60

Jeffrey M. Zirger,
Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–00716 Filed 1–16–24; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-24–1319]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''National Surveillance of Community Water Systems and Corresponding Populations with the Recommended Fluoridation Level'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on August 21, 2023 to obtain comments from the public and affected agencies. CDC received three comments related to the previous notice. All comments were determined to be outside the scope of this project. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

National Surveillance of Community Water Systems and Corresponding Populations with the Recommended Fluoridation Level (OMB Control No. 0920–1319, Exp. 2/29/2024)—Extension—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Community water fluoridation is the process of adjusting the fluoride concentration of a community water system (CWS) to the level beneficial for prevention of dental caries as recommended by the US Public Health Service (PHS). CWS fluoridation is a major factor contributing to the large decline in caries in the U.S. in the past 75 years and is recognized as one of 10 great public health achievements of the twentieth century. Community water fluoridation reduces dental caries by 25% and is a safe and the most cost-effective way to deliver fluoride to people of all ages, regardless of education and income level. It is especially important for populations with limited access to preventive dental measures.

CDC is authorized to collect the information under the Public Health Service Act. This data collection aligns with CDC's strategy to use public health surveillance to inform programs and policies to improve the oral health of the nation by reducing disparities and expanding access to effective prevention programs. CDC uses the Water Fluoridation Reporting System (WFRS) to collect water fluoridation coverage and quality throughout the US. Respondents to the information collection are state fluoridation managers or other state government officials designated by the state dental director or drinking water administrator. State participation in the data collection is voluntary. This data allows CDC and states to monitor the performance and efficiency of their water fluoridation programs, which will improve and extend program delivery.

CDC requests OMB approval for an estimated 2,783 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
State Official	Fluoridation status and population	50	1	37.5
State Official	Fluoride testing data	33	1	27.5

Jeffrey M. Zirger,
Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–00717 Filed 1–16–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–24–0006]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Statement in Support of Application for Waiver of Inadmissibility Under Immigration and Nationality Act'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on November 3, 2023 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Statement in Support of Application for Waiver of Inadmissibility Under Immigration and Nationality Act (OMB Control No. 0920–0006)—Reinstatement with Change—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 212(a)(1) of the Immigration and Nationality Act states that aliens with specific health related conditions are ineligible for admission into the United States. The Attorney General may waive application of this inadmissibility on health-related grounds if an application for waiver is filed and approved by the consular office considering the application for visa. CDC uses this application primarily to collect information to establish and maintain records of waiver applicants in order to notify the U.S. Citizenship and Immigration Services when terms, conditions and controls imposed by waiver are not met.

CDC is updating the name, signature, title and address of US public health service reviewing official field on the information collection form 4.422–1 because the previously listed individual has retired and no longer completes this action. The name, signature, title and address will be updated to reflect the current Branch Chief of the Immigrant Refugee and Migrant Health Branch in DGMH. CDC requests OMB approval for an estimated 33 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Physician	CDC 4.422–1	200	1	10/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–00715 Filed 1–16–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for Office of Management and Budget (OMB) Review; State Plan for Grants to States for Refugee Resettlement (OMB #0970–0351)

AGENCY: Office of Refugee Resettlement, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR) is requesting a 3-year extension of the State Plan for Grants to States for Refugee Resettlement (Office of Management and Budget #0970–0351, expiration 6/30/2024). ORR is proposing changes to the form.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment

is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: A State Plan is a required comprehensive narrative description of the nature and scope of a State's or Replacement Designee's (RD) Refugee Resettlement Program and provides assurances that the program will be administered in conformity with the specific requirements stipulated in 45 CFR 400.4–400.9. The State Plan must include all applicable State or RD procedures, designations, and certifications for each requirement as well as supporting documentation. The plan assures ORR that the State or RD is capable of administering refugee assistance and coordinating employment and other social services for eligible caseloads in conformity with specific requirements.

ORR proposes the following changes to the previously approved State Plan for Grants to States for Refugee Resettlement:

- streamlining/formatting multiple sections of the form, including technical corrections
- enhancing requirements for collaboration and engagement and expanding the non-discrimination aspects
- standardizing sections of the template related to health to reduce burden by clarifying text and removing duplicative parts
- streamlining sections related to the unaccompanied children to reduce burden by providing better options for responses and selections and by removing unnecessary and confusing text to ensure consistency regarding assurances

Respondents: State agencies and RDs under 45 CFR 400.301(c) administering or supervising the administration of programs.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
State Plan for Grants to States for Refugee Resettlement	59	1	18	1,062

Authority: 8 U.S.C. 1522 of the Immigration and Nationality Act (the Act) [title IV, sec. 412 of the Act] for each State agency requesting Federal funding for refugee resettlement under 8 U.S.C. 524 [title IV, sec. 414 of the Act]

Mary Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2024–00704 Filed 1–16–24; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–2780]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Premarket Notification for a New Dietary Ingredient

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) 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 February 16, 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 0910–0330. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *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.

Premarket Notification for a New Dietary Ingredient—21 CFR 190.6

OMB Control Number 0910–0330—Revision

This information collection supports Agency regulation, guidance, and associated Form FDA 3880. Under section 413(a)(2) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 350b(a)(2)), the manufacturer or distributor of a new dietary ingredient (NDI) or a dietary supplement that contains the NDI, must submit an NDI notification (NDIN) to FDA (as delegate for the Secretary of Health and Human Services) at least 75 days before introducing the product into interstate commerce, unless the NDI and any other dietary ingredients in the dietary supplement ''have been present in the food supply as an article used for food in a form in which the food has not been chemically altered'' (21 U.S.C. 350b(a)(1)).

The notification must contain the information, including any citation to published articles, which provides the basis on which the manufacturer or distributor of the NDI or dietary supplement (the notifier) has concluded that the dietary supplement containing the NDI will reasonably be expected to be safe (21 U.S.C. 350b(a)(2)). If the required premarket notification is not submitted to FDA, section 413(a) of the

FD&C Act provides that the dietary supplement containing the NDI is deemed to be adulterated under section 402(f) of the FD&C Act (21 U.S.C. 342(f)). Even if the notification is submitted as required, the dietary supplement containing the NDI is adulterated under section 402(f) of the FD&C Act unless there is a history of use or other evidence of safety establishing that the NDI, when used under the conditions recommended or suggested in the labeling of the dietary supplement, will reasonably be expected to be safe.

Section 190.6 (21 CFR 190.6) specifies the information a notifier must include in its NDIN and establishes the administrative procedures for these notifications. Section 190.6(a) requires each manufacturer or distributor of an NDI, or of a dietary supplement containing an NDI, to submit to the Center for Food Safety and Applied Nutrition's (CFSAN's) Office of Dietary Supplement Programs (ODSP) notification of the basis for their conclusion that said supplement or ingredient will reasonably be expected to be safe. Section 190.6(b) requires that the notification include the following: (1) the complete name and address of the manufacturer or distributor, (2) the name of the NDI, (3) a description of the dietary supplement(s) that contain the NDI, including the level of the new dietary ingredient in the dietary supplement and the dietary supplement's conditions of use, (4) the history of use or other evidence of safety establishing that the dietary ingredient will reasonably be expected to be safe when used under the conditions recommended or suggested in the labeling of the dietary supplement, and (5) the signature of a responsible person designated by the manufacturer or distributor.

These NDIN requirements are designed to enable us to monitor the introduction into the marketplace of NDIs and dietary supplements that contain NDIs in order to protect consumers from ingredients and products whose safety is unknown. We use the information collected in the NDINs to evaluate more efficiently the safety of NDIs in dietary supplements and to support regulatory action against ingredients and products that are potentially unsafe.

FDA developed guidance to further assist industry with NDINs. In the **Federal Register** of July 5, 2011 (76 FR 39111), we announced the availability of a draft guidance for industry entitled ''Dietary Supplements: New Dietary Ingredient Notifications and Related Issues'' (the 2011 draft guidance). We gave interested parties an opportunity to submit comments on the substance of the guidance by October 3, 2011. In the **Federal Register** of September 9, 2011 (76 FR 55927), we extended the comment period to December 2, 2011. We received numerous comments on the 2011 draft guidance. Based on those comments and our meetings with industry and other stakeholders, we revised the 2011 draft guidance. In the **Federal Register** of August 12, 2016 (81 FR 53486), we announced the availability of a revised draft guidance for industry with the same title (the 2016 revised draft guidance) that supersedes the 2011 draft guidance (available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/draft-guidance-industry-new-dietary-ingredient-notifications-and-related-issues*). We gave interested parties another opportunity to submit comments on the substance of the guidance by October 11, 2016. In the **Federal Register** of October 4, 2016 (81 FR 68434), we extended the comment period to December 12, 2016. It is with this notice that we solicit comments on the information collection in the guidance.

The 2016 revised draft guidance, when finalized, is intended to provide instruction and further assist industry in deciding when a premarket safety notification for a dietary supplement containing an NDI is necessary and in preparing an NDIN. The draft guidance discusses in question-and-answer format FDA's views on what qualifies as an NDI, when an NDIN is required, the types of data and information that manufacturers and distributors should consider when they evaluate the safety of a dietary supplement containing an NDI, and what should be included in an NDIN as well as other topics. We intend to divide the 2016 revised draft guidance into discrete sections for ease of use, consistent with stakeholder requests (including from industry) submitted in the form of comments to the docket for the draft guidance, and issue a series of several guidances. These guidances will reflect, among other things, public comments submitted to the docket in response to the 2011 draft guidance and the 2016 revised draft guidance. Sections of the 2016 revised draft guidance that FDA is prioritizing to issue at this time address administrative procedures, identity, safety, and master files. Per our standard process, FDA will announce guidance documents we plan to issue within a calendar year via our FDA Foods Program Guidance Agenda, available at *https://www.fda.gov/food/guidance-documents-regulatory-information-topic-food-and-dietary-supplements/foods-program-guidance-under-development.* The following sections discuss the various topics related to NDINs, all of which were previously referenced or discussed in the 2016 revised draft guidance.

1. Administrative Procedures

The recommendations found in section V, NDI Notification Procedures and Timeframes, of the 2016 revised draft guidance and certain recommendations in section IV.C., Other Questions About When an NDI Notification Is Necessary, provide instruction for certain ways manufacturers and distributors can reduce the number of NDINs they must file and provide some clarification with regard to when data and information from a previous NDIN may be used in a notification. We recommend that certain information should be provided in list form for ease of reference and to help ensure completeness.

Certain recommendations found in the 2016 revised draft guidance, section IV.C., Determining Whether a New Dietary Ingredient (NDI) Notification Is Required; Other Questions About When an NDI Notification Is Necessary, discusses information that should be included if referring to non-public information from a previous notification. Such information to include with a notification could involve written authorization to reference information from another firm. The option to reference certain information from a previous notification should reduce notifiers' burden for preparing and submitting identity, manufacturing, and safety information.

We encourage manufacturers or distributors of NDIs to submit their NDINs electronically via the CFSAN Online Submission Module (COSM). Although we encourage electronic submission, notifiers also have the option of submitting a paper NDIN for us to review. The recommendations found in the 2016 revised draft guidance, section V, Recommended Template for Organizing an NDI Notification, recommend that information in a paper NDIN should be organized in a specific manner, and that some information should be provided in list form, for ease of reference and to ensure completeness. Doing so will help notifiers provide a complete, well-organized NDIN, which should facilitate an efficient and timely FDA review.

These sections of the 2016 revised draft guidance provide instruction and help dietary supplement manufacturers and distributors understand what to

expect when submitting an NDIN and enhance industry's ability to submit a complete notification that FDA can efficiently review.

2. Identity Information About the NDI and the Dietary Supplement

Certain recommendations found in the 2016 revised draft guidance, section VI.A., What to Include in an NDI Notification; Identity Information About the NDI and the Dietary Supplement, provide instruction and discuss information that is important in describing the identity of an NDI and the dietary supplement containing the NDI. We will recommend that certain information should be provided in table form for ease of reference and to help ensure completeness.

3. History of Use or Other Evidence of Safety

Certain recommendations in the 2016 revised draft guidance, sections VI.B., History of Use or Other Evidence of Safety, and VI.C., Summary of the Basis for Your Conclusion of Safety, as well as table 3, the Safety Testing Recommendations Matrix, provide instruction and discuss information that is important in describing the basis for which a dietary supplement containing the NDI will reasonably be expected to be safe. While the FD&C Act does not specify the type or amount of information that must be included in an NDIN, the notification should include a dietary supplement safety narrative containing the objective evaluation of the history of use or other evidence of safety cited in the notification, along with an explanation of how the evidence of safety provides a basis to conclude that the dietary supplement containing the NDI, when used under the conditions described in the NDIN, will reasonably be expected to be safe. Once finalized, the recommendations will instruct and help dietary supplement manufacturers and distributors understand what to consider when evaluating the safety of a dietary supplement containing an NDI and what should be included in an NDIN in this regard.

4. Electronic Submission

We developed an electronic portal that respondents may use to electronically submit their notifications to ODSP via COSM. COSM assists respondents filing regulatory submissions and is specifically designed to aid users wishing to file submissions with CFSAN. COSM allows safety and other information to be uploaded and submitted online via Form FDA 3880. This form provides a standard format to describe the history of use or other evidence of safety on which the manufacturer or distributor bases its conclusion that the NDI is reasonably expected to be safe under the conditions of use recommended or suggested in the labeling of the dietary supplement, as well as a description of the ingredient and other information. Firms that prefer to submit a paper notification in a format of their own choosing have the option to do so; however, Form FDA 3880 prompts a notifier to input the elements of an NDIN in a standard format that we will be able to review efficiently. Form FDA 3880 may be accessed at *https://www.fda.gov/food/new-dietary-ingredients-ndi-notification-process/how-submit-notifications-new-dietary-ingredient.*

In the **Federal Register** of August 2, 2023 (88 FR 50876), FDA published a 60-day notice requesting public comment on the proposed collection of information. We received one comment, which was not PRA-related, so we will not address it in this document.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity; type of respondent; citation	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
NDIN submission; § 190.6	55	1	55	20	1,100
List Form and Template; Administrative Procedures; Section V	1	1	1	1	1
Written Authority; Master Files; Section IV.C.1 and 4	10	1	10	0.4 (24 minutes)	4
Table Form; Identity Specifications; Section VI.A	55	1	55	1	55
Manufacturing Process Information; Identity Information; Section VI.B. and C	55	1	55	5	275
Total					1,435

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimate is based on our experience with information collections related to past NDIN submissions. The estimated burden also reflects an industry average, although the burden associated with individual submissions may vary depending on the complexity of the notification. Due to a program change, we are revising this information collection request to include recommendations found in the 2016 revised draft guidance. Therefore, we have increased our total burden hour estimate by 335. However, the number of respondents remains the same.

We estimate that 55 respondents each submits 1 NDIN annually. We estimate that extracting and summarizing the relevant information from what exists in the company's files and presenting it in a format that meets the requirements of § 190.6 will take approximately 20 hours of work per notification. We believe that the burden of the premarket notification requirement is reasonable because we are requesting only safety and identity information that the manufacturer or distributor should already have developed to satisfy itself that a dietary supplement containing the NDI is in compliance with the FD&C Act. If the required premarket notification is not submitted to FDA, section 413(a) of the FD&C Act provides that the dietary supplement containing the NDI is deemed to be adulterated under section 402(f) of the FD&C Act. Even if the notification is submitted as required, the dietary supplement containing the NDI is adulterated under section 402(f) of the FD&C Act unless there is a history of use or other evidence of safety establishing that the NDI, when used under the conditions recommended or suggested in the labeling of the dietary supplement, will reasonably be expected to be safe. This requirement is separate from and additional to the requirement to submit a premarket notification for the NDI.

FDA's regulation on NDINs, § 190.6(a), requires the manufacturer or distributor of the NDI or dietary supplement containing the NDI to submit to FDA the information that forms the basis for its conclusion that the NDI, or dietary supplement containing the NDI, will reasonably be expected to be safe. Thus, § 190.6 only requires the manufacturer or distributor to extract and summarize information that should have already been developed to meet the safety

requirement in section 413(a)(2) of the FD&C Act.

We estimate that 95 percent of respondents submit electronically, leaving about 3 who submit their NDIN in paper format (5% × 55 = 2.75, rounded up to 3). However, we have seen a trend of decreased paper submissions over the past 2 years and expect usage to remain low. Thus, we estimate only one NDIN will be submitted in paper format. We estimate that information in this NDIN regarding the table of contents, names of contacts, and reference lists will be provided in list form. Because the underlying information should be already readily available, we estimate that it will take about 60 minutes to prepare the information in list form, which would create a burden of 1 hour (1 × 1 hour).

We estimate that 10 notifiers will each reference information once from a previous notification and will provide written authorization to do so. We estimate that it will take about 24 minutes to prepare a written authorization. We calculate that the burden for this activity will be 4 hours annually (10 notifiers × 1 authorization × 0.4 hour).

We estimate that 55 notifiers each will provide identity specifications in table form with their NDIN submissions. Because the underlining information should be already readily available, we estimate that it will take about 1 hour to prepare the information in table form, which would create a burden of 55 hours (55 tables × 1 hour).

We estimate that 55 notifiers each will provide information about the manufacturing process with their NDIN submissions. We estimate that it will take about 5 hours to prepare this information, which would create a burden of 275 hours (55 manufacturing process × 5 hours).

Dated: January 10, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–00732 Filed 1–16–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Committee on Heritable Disorders in Newborns and Children; Correction

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice; correction.

SUMMARY: HRSA published a document in the **Federal Register** of January 9, 2024, concerning a meeting of the Advisory Committee on Heritable Disorders in Newborns and Children. The document contained incorrect HRSA contact information for further information and an incorrect date for requests to provide a written or oral statement. The notice originally stated that for further information, contact Kim Morrison at 301–822–4978. The correct contact information should be: Kim Morrison at 240–485–8419. The notice originally stated that requests for public comment were due on Tuesday, January 17, 2024. The correct date for requests for public comment is Thursday, January 18, 2024.

FOR FURTHER INFORMATION CONTACT: Kim Morrison, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Rockville, Maryland, 20857; 240–485–8419; or *ACHDNC@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of January 9, 2024, FR Doc. 2024–00264, page 1105, column 2, **FOR FURTHER INFORMATION CONTACT** section, paragraph 1, correct the ''Kim Morrison, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room, Rockville, Maryland 20857; 301–822–4978; or *ACHDNC@hrsa.gov*'' caption to read: ''Kim Morrison, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857; 240–485–8419; or *ACHDNC@hrsa.gov*.''

In the **Federal Register** of January 9, 2024, FR Doc. 2024–00264, page 1106, column 1, **SUPPLEMENTARY INFORMATION** section, paragraph 1, correct the ''Requests to provide a written statement or make oral comments to ACHDNC must be submitted via the registration website by 12 p.m. ET on Tuesday, January 17, 2024'' caption to read: ''Requests to provide a written statement or make oral comments to ACHDNC must be submitted via the registration website by 12 p.m. ET on Thursday, January 18, 2024.''

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2024–00739 Filed 1–16–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Rural Health Care Coordination Program Performance Improvement Measures, OMB No. 0906–0024—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than March 18, 2024.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N39, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Joella Roland, the HRSA Information Collection Clearance Officer, at (301) 443–3983.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Rural Health Care Coordination Program Performance Improvement Measures, OMB No. 0906–0024—Revision

Abstract: The Rural Health Care Coordination (Care Coordination) Program is authorized under 42 U.S.C. 254c(e) (Section 330A(e) of the Public Health Service Act) to promote rural health care services outreach by improving and expanding delivery of health care services through comprehensive care coordination strategies addressing a primary focus area: (1) heart disease, (2) cancer, (3) chronic lower respiratory disease, (4) stroke, or (5) maternal health. This authority permits the Federal Office of Rural Health Policy to award grants to

eligible entities to promote rural health care services outreach by improving and expanding the delivery of health care services to include new and enhanced services in rural areas, through community engagement and evidence-based or innovative, evidence-informed models. HRSA currently collects information about Care Coordination Program grants using an OMB-approved set of performance measures and seeks to revise that approved collection. The proposed changes to the information collection are a result of award recipient feedback and information gathered from the previously approved Care Coordination Program measures.

Need and Proposed Use of the Information: This program needs measures that will enable HRSA to provide aggregate program data required by Congress under the Government Performance and Results Act of 1993. These measures cover the principal topic areas of interest to HRSA, including: (1) access to care, (2) population demographics and social determinants of health, (3) care coordination and network infrastructure, (4) sustainability, (5) leadership and workforce, (6) electronic health record, (7) telehealth, (8) utilization, and (9) clinical measures/improved outcomes. All measures will evaluate HRSA's progress toward achieving its goals.

The proposed changes include additional components under ''Access to Care'' and ''Population Demographic'' sections that seek information about target population, counties served, direct services, and social determinants of health such as transportation barriers, housing, and food insecurity. Questions about Health Information Technology and Telehealth have been modified to reflect an updated telehealth definition and to improve understanding of how these important technologies are affecting HRSA award recipients. Sections previously titled ''Care Coordination'' and ''Quality Improvement'' were consolidated into one section titled ''Care Coordination and Network Infrastructure'' to improve clarity and ease of reporting for respondents. Part of the previous ''Care Coordination'' section was revised to include a section titled ''Utilization'' to improve clarity of instructions for related measures. Previously titled ''Staffing'' section was revised to ''Leadership and Workforce Composition'' to improve measure clarity and reduce overall burden for respondents by consolidating measures from previously separate ''Staffing,'' ''Quality Improvement,'' and ''Care Coordination'' sections. Revised National Quality Forum and Centers for Medicare & Medicaid Services measures were also included to allow uniform collection efforts throughout the Federal Office of Rural Health Policy.

The total number of measures has increased from 40 to 48 measures since the previous information collection request. Of the 48 measures, 11 measures are designated as ''optional'' or ''complete as applicable.'' The measures within Section 6: ''Electronic Health Record'' are noted as optional to grantees. In Section 9: ''Clinical Measures/Improved Health Outcomes,'' grantees are only required to respond to Clinical Measure 1: Care Coordination. Grantees can choose to provide data for Clinical Measures 2–10 if applicable to their projects. The total number of responses has remained at 10 since the previous information collection request. The new Care Coordination Program grant cycle maintained the same number of award recipients and number of respondents.

Likely Respondents: The respondents would be recipients of the Rural Health Care Coordination Program grants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Rural Health Care Coordination Program Performance Improvement Measures	10	1	10	3.5	35
Total	10	1	10	3.5	35

HRSA specifically requests comments on: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2024–00818 Filed 1–16–24; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Annual Update of the HHS Poverty Guidelines

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice provides an update of the Department of Health and Human Services (HHS) poverty guidelines to account for last calendar

year's increase in prices as measured by the Consumer Price Index.

DATES: *Applicable Date:* January 11, 2024 unless an office administering a program using the guidelines specifies a different applicable date for that particular program.

ADDRESSES: Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: For information about how the guidelines are used or how income is defined in a particular program, contact the Federal, State, or local office that is responsible for that program. For information about poverty figures for immigration forms, the Hill-Burton Uncompensated Services Program, and the number of people in poverty, use the specific telephone numbers and addresses given below.

For general questions about the poverty guidelines themselves, contact Kendall Swenson, Office of the Assistant Secretary for Planning and Evaluation, Room 404E.3, Humphrey Building, Department of Health and Human Services, Washington, DC 20201—telephone: (202) 695–2107—or visit *http://aspe.hhs.gov/poverty/.*

For general questions about the poverty guidelines themselves, visit *http://aspe.hhs.gov/poverty/.*

For information about the percentage multiple of the poverty guidelines to be used on immigration forms such as USCIS Form I–864, Affidavit of Support, contact U.S. Citizenship and Immigration Services at 1–800–375–5283. You also may visit *https://www.uscis.gov/i-864.*

For information about the Hill-Burton Uncompensated Services Program (free or reduced-fee health care services at certain hospitals and other facilities for persons meeting eligibility criteria involving the poverty guidelines), visit *https://www.hrsa.gov/get-health-care/affordable/hill-burton/index.html.*

For information about the number of people in poverty, visit the Poverty section of the Census Bureau's website at *https://www.census.gov/topics/income-poverty/poverty.html* or contact the Census Bureau's Customer Service Center at 1–800–923–8282 (toll-free) or visit *https://ask.census.gov* for further information.

SUPPLEMENTARY INFORMATION:

Background

Section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (42 U.S.C. 9902(2)) requires the Secretary of the Department of Health and Human Services to update the poverty guidelines at least annually, adjusting them on the basis of the Consumer Price Index for All Urban Consumers (CPI–U). The poverty guidelines are used as an eligibility criterion by Medicaid and a number of other Federal programs. The *poverty guidelines* issued here are a simplified version of the *poverty thresholds* that the Census Bureau uses to prepare its estimates of the number of individuals and families in poverty.

As required by law, this update is accomplished by increasing the latest published Census Bureau poverty thresholds by the relevant percentage change in the Consumer Price Index for All Urban Consumers (CPI–U). The guidelines in this 2024 notice reflect the 4.1 percent price increase between calendar years 2022 and 2023. After this inflation adjustment, the guidelines are rounded and adjusted to standardize the differences between family sizes. In rare circumstances, the rounding and standardizing adjustments in the formula result in small decreases in the poverty guidelines for some household sizes even when the inflation factor is not negative. In cases where the year-to-year change in inflation is not negative and the rounding and standardizing adjustments in the formula result in reductions to the guidelines from the previous year for some household sizes, the guidelines for the affected household sizes are fixed at the prior year's guidelines. As in prior years, these 2024 guidelines are roughly equal to the poverty thresholds for calendar year 2023 which the Census Bureau expects to publish in final form in September 2024.

The poverty guidelines continue to be derived from the Census Bureau's current official poverty thresholds; they are not derived from the Census Bureau's Supplemental Poverty Measure (SPM).

The following guideline figures represent annual income.

2024 Poverty Guidelines for the 48 Contiguous States and the District of Columbia

Persons in family/household	Poverty guideline
1	$15,060
2	20,440
3	25,820
4	31,200
5	36,580
6	41,960
7	47,340
8	52,720

For families/households with more than 8 persons, add $5,380 for each additional person.

2024 Poverty Guidelines for Alaska

Persons in family/household	Poverty guideline
1	$18,810
2	25,540
3	32,270
4	39,000
5	45,730
6	52,460
7	59,190
8	65,920

For families/households with more than 8 persons, add $6,730 for each additional person.

2024 Poverty Guidelines for Hawaii

Persons in family/household	Poverty guideline
1	$17,310
2	23,500
3	29,690
4	35,880
5	42,070
6	48,260
7	54,450
8	60,640

For families/households with more than 8 persons, add $6,190 for each additional person.

Separate poverty guideline figures for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966–1970 period. (Note that the Census Bureau poverty thresholds—the version of the poverty measure used for statistical purposes—have never had separate figures for Alaska and Hawaii.) The poverty guidelines are not defined for Puerto Rico or other outlying jurisdictions. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office that administers the program is generally responsible for deciding whether to use the contiguous-states-and-DC guidelines for those jurisdictions or to follow some other procedure.

Due to confusing legislative language dating back to 1972, the poverty guidelines sometimes have been mistakenly referred to as the ''OMB'' (Office of Management and Budget) poverty guidelines or poverty line. In fact, OMB has never issued the guidelines; the guidelines are issued each year by the Department of Health and Human Services. The poverty

guidelines may be formally referenced as ''the poverty guidelines updated periodically in the **Federal Register** by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).''

Some federal programs use a percentage multiple of the guidelines (for example, 125 percent or 185 percent of the guidelines), as noted in relevant authorizing legislation or program regulations. Non-Federal organizations that use the poverty guidelines under their own authority in non-federally-funded activities also may choose to use a percentage multiple of the guidelines.

The poverty guidelines do not make a distinction between farm and non-farm families, or between aged and non-aged units. (Only the Census Bureau poverty thresholds have separate figures for aged and non-aged one-person and two-person units.)

This notice does not provide definitions of such terms as ''income'' or ''family'' as there is considerable variation of these terms among programs that use the poverty guidelines. The legislation or regulations governing each program define these terms and determine how the program applies the poverty guidelines. In cases where legislation or regulations do not establish these definitions, the entity that administers or funds the program is responsible to define such terms as ''income'' and ''family.'' Therefore, questions such as net or gross income, counted or excluded income, or household size should be directed to the entity that administers or funds the program.

Dated: January 11, 2024.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2024–00796 Filed 1–16–24; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Interagency Coordinating Committee on the Validation of Alternative Methods Communities of Practice Webinar on Implementing Computational Approaches for Regulatory Safety Assessments; Notice of Public Webinar; Registration Information

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) announces the public webinar ''Implementing Computational Approaches for Regulatory Safety Assessments.'' The webinar is organized on behalf of ICCVAM by the National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM). Interested persons may participate via the web meeting platform. Time will be allotted for questions from the audience. Information about the webinar and registration are available at *https://ntp.niehs.nih.gov/go/commprac-2024.*

DATES:

Webinar: January 29, 2024, 10 a.m. to approximately 12 noon EST.

Registration for Webinar: January 10, 2024, until 12:00 noon EST January 29, 2024. Registration to view the webinar is required.

ADDRESSES: Webinar web page: *https://ntp.niehs.nih.gov/go/commprac-2024.*

FOR FURTHER INFORMATION CONTACT: Dr. Helena Hogberg, Staff Scientist, NICEATM, email: *helena.hogberg-durdock@nih.gov,* telephone: (984) 287–3150.

SUPPLEMENTARY INFORMATION:

Background: ICCVAM promotes the development and validation of toxicity testing methods that protect human health and the environment while replacing, reducing, or refining animal use. ICCVAM also provides guidance to test method developers and facilitates collaborations that promote the development of new test methods. To address these goals, ICCVAM will hold a Communities of Practice webinar on ''Implementing Computational Approaches for Regulatory Safety Assessments.''

Computational toxicology methods can be useful for generating bioactivity predictions for chemicals for which limited toxicity data are available. They can also help users understand and interpret large, diverse bioactivity data sets, or predict how a chemical might behave in the body. However, users with limited experience with such methods may find it difficult to use them or interpret their outputs, or even understand how the methods could be applied in a specific context.

This webinar will discuss how to establish confidence in computational approaches for regulatory applications. Ongoing activities and key insights will be described in three presentations by speakers from the U.S. government and the private sector focusing on applications of tools such as structure-based models to predict chemical bioactivity and pharmacokinetic models to support understanding of chemical metabolism and disposition. The preliminary agenda and additional information about presentations will be posted at *https://ntp.niehs.nih.gov/go/commprac-2024* as they become available.

Webinar and Registration: This webinar is open to the public with time scheduled for questions by participants following each presentation. Registration for the webinar is required. Registration will open on or before January 10, 2024, and remain open through 12 noon EST on January 29, 2024. Registration is available at *https://ntp.niehs.nih.gov/go/commprac-2024.* Interested individuals are encouraged to visit this web page to stay abreast of the most current webinar information. Registrants will receive instructions on how to access and participate in the webinar in the email confirming their registration. TTY users should contact the Federal TTY Relay Service at 800–877–8339. Requests should be made at least five business days in advance of the event.

Background Information on ICCVAM and NICEATM: ICCVAM is an interagency committee composed of representatives from 17 Federal regulatory and research agencies that require, use, generate, or disseminate toxicological and safety testing information. ICCVAM conducts technical evaluations of new, revised, and alternative safety testing methods and integrated testing strategies with regulatory applicability. ICCVAM also promotes the scientific validation and regulatory acceptance of testing methods that more accurately assess the safety and hazards of chemicals and products and replace, reduce, or refine animal use.

The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) establishes ICCVAM as a permanent interagency committee of the National Institute of Environmental Health Sciences and provides the authority for ICCVAM involvement in activities relevant to the development of alternative test methods. Additional information about ICCVAM can be found at *https://ntp.niehs.nih.gov/go/iccvam.*

NICEATM administers ICCVAM, provides support for ICCVAM-related activities, and conducts and publishes analyses and evaluations of data from new, revised, and alternative testing approaches. NICEATM and ICCVAM work collaboratively to evaluate new and improved testing approaches applicable to the needs of U.S. Federal agencies. NICEATM and ICCVAM welcome the public nomination of new,

revised, and alternative test methods and strategies for validation studies and technical evaluations. Additional information about NICEATM can be found at *https://ntp.niehs.nih.gov/go/niceatm.*

Dated: January 10, 2024.

Richard P. Woychik,

Director, National Institute of Environmental Health Sciences and National Toxicology Program, National Institutes of Health.

[FR Doc. 2024–00758 Filed 1–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS R35 Overflow Meeting.

Date: January 19, 2024.

Time: 11:00 a.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.

Contact Person: DeAnna Lynn Adkins, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH NSC, 6001 Executive Blvd., Rockville, MD 20852, 301–496–9223, *deanna.adkins@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. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: January 11, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00794 Filed 1–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications/contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications/contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel TEP–8: SBIR Contract Review.

Date: February 14, 2024.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Susan Lynn Spence, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850, 240–620–0819, *susan.spence@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; TEP–6A: SBIR Contract Review.

Date: February 22–23, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Susan Lynn Spence, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850, 240–620–0819, *susan.spence@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Human Tumor Atlas (HTA) Research Centers (U01).

Date: February 29, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W240, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Hasan Siddiqui, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W240, Rockville, Maryland 20850, 240–276–5122, *hasan.siddiqui@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; TEP–6B: SBIR Contract Review.

Date: March 1, 2024.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Susan Lynn Spence, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850, 240–620–0819, *susan.spence@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP 11: NCI Clinical and Translational Cancer Research.

Date: March 7, 2024.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W602, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Delia Tang, M.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W602, Rockville, Maryland 20850, 240–276–6456, *tangd@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Translational Research Toward Development of a Kaposi Sarcoma Herpesvirus (KSHV) Vaccine (U01).

Date: March 12, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W264, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Ombretta Salvucci, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W264, Rockville, Maryland 20850, 240–276–7286, *salvucco@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Research Project-Cooperative Agreements (U01).

Date: March 13, 2024.

Time: 9:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Amr M. Ghaleb, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W244, Rockville, Maryland 20850, 240–276–6611, *amr.ghaleb@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; The role of Epstein Barr virus (EBV) infection in Non-Hodgkin Lymphoma (NHL) and Hodgkin disease (HD) development with or without an underlying HIV infection.

Date: March 13, 2024.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W634, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Michael E. Lindquist, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W634, Rockville, Maryland 20850, *mike.lindquist@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Early-Stage Development of Informatics Technologies for Cancer Research and Management (U01 Clinical Trial Optional).

Date: March 13–14, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Susan Lynn Spence, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W254, Rockville, Maryland 20850, 240–620–0819, *susan.spence@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SEP: Health Disparities in Underrepresented People Living with HIV and Cancer.

Date: March 14, 2024.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W618, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: E. Tian, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W618, Rockville, Maryland 20850, 240–276–6611, *tiane@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Pre-Cancer Atlas Research Centers (RFA–CA–23–040) and Human Tumor Atlas Network Data Coordinating Center (RFA–CA–23–041).

Date: March 21, 2024.

Time: 10:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Byeong-Chel Lee, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W238, Rockville, Maryland 20850, 240–276–7755, *byeong-chel.lee@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–2: NCI Clinical and Translational Cancer Research.

Date: March 21, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W108, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Clifford W. Schweinfest, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W108, Rockville, Maryland 20850, 240–276–6343, *schweinfestcw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 11, 2024.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00753 Filed 1–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Office of Programs to Enhance Neuroscience (OPEN) Workforce Tracker (National Institute of Neurological Disorders and Stroke)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Cara Long, Health Science Policy Analyst, Office of Science Policy and Planning, NINDS, NIH, 31 Center Drive, Building 31, Room 8A52, Bethesda, MD 20892, or call non-toll-free number (301) 496–9271, or email your request, including your address to: *cara.long@nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on November 3, 2023, page 75606–75607 (88 FR 75606) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

The National Institute of Neurological Disorders and Stroke (NINDS), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: The OPEN Workforce Tracker, 0925–New, National Institute of Neurological Disorders and Stroke (NINDS), National Institutes of Health (NIH).

Need and Use of Information Collection: The OPEN Workforce Tracker database will gather and store information on neuroscience research trainees who have received NINDS support. The NINDS OPEN will use this information to analyze diversity-targeted career development program outcomes, to make improvements to these programs, and to build and foster a user-friendly community that will allow NINDS to communicate information and opportunities to current and former awardees, including those from groups that may be underrepresented and underserved within federal programs and awards. The OPEN Workforce Tracker will help NINDS collect structured information that is specific to the requirements of NINDS programs and that reflects outcome metrics used to assess program effectiveness. This information includes career stage, position, publications, degrees, and information related to NIH funding and external funding received, as well as protected class identifiers (race and ethnicity, sexual identification, gender, and disability) important for understanding program participation and outcomes across diverse groups.

The tracker follows minimization principles: it only collects relevant and necessary information to accomplish the purposes of program evaluation and communication, and it will interface with and pull in relevant information from existing NIH database systems database systems to minimize reporting burden. The database grants NINDS awardees the right to access their data held by NINDS and the ability to copy and correct any information errors. The information collection is consistent with NINDS's mission and mandate to conduct and support training in neuroscience (Public Health Service Act, 42 U.S.C. 285(j)). Also, this database aligns with the NIH-wide strategic plan to advance diversity, equity, inclusion, and accessibility (DEIA) through research and support analyses to identify and remove potential barriers to the implementation and expansion of promising and effective DEIA practices, policies, and procedures (Objective 3).

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 167.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
Trainee database	Individuals (''trainees'')	500	1	20/60	167
Total			500		167

Dated: January 10, 2024.

Paul A. Scott,

Project Clearance Liaison, National Institute of Neurological Disorders and Stroke, National Institutes of Health.

[FR Doc. 2024–00750 Filed 1–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; National Institute on Drug Abuse Adolescent Brain & Cognitive Development (ABCD) Study℠—Audience Feedback Teams

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Kimberly LeBlanc, Scientific Program Manager, Division of Extramural Research, National Institute on Drug Abuse, C/O NIH Mail Center/Dock 11, 3WFN Room 09C77, MSC 6021, Gaithersburg, MD 20877 (20892 for USPS), or call non-toll-free number (301) 827–4102, or Email your request, including your address, to: *kimberly.leblanc@nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on October 2, 2023, page 67775–67776 (88 FR 67775) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institute on Drug Abuse (NIDA), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Adolescent Brain & Cognitive Development (ABCD) Study℠—Audience Feedback Teams, 0925—NEW, exp., date XX/XX/XXXX, National Institute on Drug Abuse (NIDA), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of this information collection request is to solicit audience feedback to improve the data collection process for the Adolescent Brain Cognitive Development (ABCD) Study. Started in 2015, the ABCD Study® follows a cohort of over 10,000 young people from pre-adolescence into adulthood to understand how growing brains are shaped by experiences and biology. To prepare for each year's Study data

collection, the National Institute of Health is collecting audience feedback on a selection of survey questions and research protocols. Parents/caregivers and teens who are the same age as the study cohort members but who are not Study participants will review proposed questions and give feedback on questions' clarity and acceptability. Recommendations from these findings help the ABCD Study team improve their protocol for a more-successful data collection.

Audience feedback activities will include a mix of asynchronous and scheduled, live data collection: web-based survey activities, virtual discussion boards, individual interviews, and discussions groups. Assembling a cohort of audience feedback participants who are familiar with the ABCD Study and participate in multiple data collection activities minimizes the burden required to familiarize new participants with the purpose of the Study and the expectations for audience feedback.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 172.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Individuals (Parent/Caregiver Phone Screener)	72	1	5/60	6
Individuals (Parent/Caregiver Consent)	15	1	5/60	1
Individuals (Parent/Caregiver Permission for Teen Participation)	36	1	5/60	3
Individuals (Teen Phone Screener)	72	1	5/60	6
Individuals (Teen Assent or Consent)	36	1	10/60	6
Individuals (Teen Web Survey)	36	2	30/60	36
Individuals (Parent/Caregiver Web Survey)	15	2	30/60	15
Individuals (Teen Virtual Group Discussion or Online Bulletin Board)	36	2	1	72
Individuals (Parent/Caregiver Virtual Interview)	15	1	30/60	8
Individuals (Parent/Caregiver Online Bulletin Board)	15	1	1	15
Individuals (Parent/Caregiver "At-Home" Materials Review)	15	1	15/60	4
Total		450		172

Lanette A. Palmquist,

Project Clearance Liaison, National Institute on Drug Abuse, National Institutes of Health.

[FR Doc. 2024–00760 Filed 1–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; HHS–NIH–CDC–SBIR PHS 2024–1 Phase I: Novel Diagnostic Biomarker Discovery and Validation for Malaria and Select Neglected Tropical Diseases (NTDs) (Topic 132).

Date: February 15, 2024.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G13A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Mairi Noverr, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G13A, Rockville, MD 20852, (240) 747–7530, *mairi.noverr@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Small Business Innovation Research (SBIR) Phase II Program Contract Solicitation (PHS 2022–1) Topic 108—Development of Rapid POC Diagnostics for Treponema pallidum (N01).

Date: February 16, 2024.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G13A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Mairi Noverr, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G13A, Rockville, MD 20852, (240) 747–7530, *mairi.noverr@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 11, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00773 Filed 1–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; HHS–NIH–CDC–SBIR PHS 2024–1 Phase I: Adjuvant Development for Vaccines for Infectious and Immune-Mediated Diseases (Topic 128).

Date: February 8–9, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G22, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Michael M. Opata, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G22, Rockville, MD 20852, 240–627–3319, *michael.opata@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 11, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00774 Filed 1–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Surgery, Anesthesiology and Trauma Study Section.

Date: February 7–8, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170, *luow@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiological Basis of Mental Disorders and Addictions Study Section.

Date: February 7–8, 2024.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Boris P. Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@csr.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Imaging Probes and Contrast Agents Study Section.

Date: February 8–9, 2024.

Time: 7:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree McLean Tysons, 1960 Chain Bridge Road, McLean, VA 22101.

Contact Person: Donald Scott Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–8363, *wrightds@csr.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function C Study Section.

Date: February 8–9, 2024.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Bethesdan Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Guillermo Andres Bermejo, Ph.D., Scientific Review Officer, The Center for Scientific Review, The National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–5742, *bermejog@mail.nih.gov*.

Name of Committee: Biology of Development and Aging Integrated Review Group; Mechanisms of Cancer Therapeutics B Study Section.

Date: February 8–9, 2024.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Maria Dolores Arjona Mayor, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 806D, Bethesda, MD 20892, (301) 827–8578, *dolores.arjonamayor@nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Sensory-Motor Neuroscience Study Section.

Date: February 8–9, 2024.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, Bethesda One, Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Alena Valeryevna Savonenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1009J, Bethesda, MD 20892, (301) 594–3444, *savonenkoa2@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Basic Mechanisms of Diabetes and Metabolism Study Section.

Date: February 8–9, 2024.

Time: 8:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites—Old Town Alexandri,a Hilton Alexandria Old Town, VA 22314.

Contact Person: Baskaran Thyagarajan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 800B, Bethesda, MD 20892, (301) 594–0331, *BASKI.THYAGARAJAN@NIH.GOV*,

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Language and Communication Study Section.

Date: February 8–9, 2024.

Time: 8:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle NW, Washington, DC 20005.

Contact Person: Rochelle Francine Hentges, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000C, Bethesda, MD 20892, (301) 402–8720, *hentgesrf@mail.nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Kidney Endocrine and Digestive Disorders Study Section.

Date: February 8–9, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Steven M. Frenk, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, (301) 480–8665, *frenksm@mail.nih.gov*.

Name of Committee: Vascular and Hematology Integrated Review Group; Atherosclerosis and Vascular Inflammation Study Section.

Date: February 8–9, 2024.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Natalia Komissarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, (301) 435–1206, *komissar@mail.nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Clinical Informatics and Digital Health Study Section.

Date: February 8–9, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Paul Hewett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room, Bethesda, MD 20892, (240) 672–8946, *hewettmarxpn@csr.nih.gov*.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Drug and Biologic Disposition and Toxicity Study Section.

Date: February 8–9, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hilton Garden Inn, Washington DC/Georgetown, 2201 M Street NW, Washington, DC 20037.

Contact Person: Stacey Nicole Williams, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867–5309, *stacey.williams@nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Interdisciplinary Clinical Care in Specialty Care Settings Study Section.

Date: February 8–9, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Hybrid Meeting).

Contact Person: Abu Saleh Mohammad Abdullah, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–4043, *abuabdullah.abdullah@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 11, 2024.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–00754 Filed 1–16–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) National Advisory Council (NAC) will meet on February 27, 2024, 9:00 a.m.–4:30 p.m. (EST).

The meeting is open to the public and will include consideration of minutes from the SAMHSA CSAT NAC meeting of August 29, 2023, a discussion with SAMHSA leadership, a discussion on housing and homelessness, a discussion on the activities of the Interdepartmental Substance Use Disorders Coordinating Committee, and a discussion on the following CSAT programs, the Minority Fellowship Program, the Center of Excellence, and Historically Black Colleges and Universities Center of Excellence in Behavioral Health. This meeting will also cover updates on CSAT activities from the Office of the Director; the Division of Pharmacologic Therapies; the Division of States and Community Systems; the Division of Services Improvement; Office of Program Analysis and Coordination; Office of Performance Analysis and Management.

The meeting will be held at SAMHSA, 5600 Fishers Lane, 5N76, Rockville, MD 20857. Attendance by the public will be limited to space available and will be limited to the open sessions of the meeting. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Council. Presentations from the public will be scheduled at the conclusion of the meeting. Individuals interested in making oral presentations must notify the contact person, Tracy Goss, CSAT NAC Designated Federal Officer (DFO) on or before February 16, 2024. Up two minutes will be allotted for each approved public comment as time permits. Written comments received in advance of the meeting will be considered for inclusion in the official record.

The open meeting session may also be accessed virtually. Please register online at *https://snacregister.samhsa.gov,* to attend on either on site or virtually, submit written or brief oral comments, or request special accommodations for persons with disabilities. To communicate with the CSAT NAC DFO please see the contract information below.

Meeting information and a roster of Council members may be obtained by accessing the SAMHSA Committee website at *https://www.samhsa.gov/about-us/advisory-councils/csat-national-advisory-council,* or by contacting the DFO.

Council Name: SAMHSA's Center for Substance Abuse Treatment National Advisory Council.

Date/Time/Type: August 29, 2023, 9:00 a.m.–4:30 p.m. EST, OPEN.

Place: SAMHSA, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: Tracy Goss, Designated Federal Officer, CSAT National Advisory Council, 5600 Fishers Lane, Rockville, Maryland 20857 (mail), Telephone: (240) 276–0759, Email: *tracy.goss@samhsa.hhs.gov.*

Dated: January 10, 2024.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2024–00746 Filed 1–16–24; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Meeting of the Substance Abuse and Mental Health Services Administration, Center for Mental Health Services National Advisory Council

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the meeting on February 27, 2024, of the Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services National Advisory Council (CMHS NAC).

The meeting is open to the public and will include consideration of the meeting minutes from the August 29, 2023, SAMHSA, CMHS NAC meeting; updates from the CMHS Director; remarks from SAMHSA's Assistant Secretary; updates on Statewide Consumer Network Grants; updates on Subcommittee Tasks; Legislative updates; and Tribal updates. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.*

The meeting will be held at SAMHSA, 5600 Fishers Lane, 5W11, Rockville, MD 20857. Attendance by the public will be

limited to space available and will be limited to the open sessions of the meeting. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Council. Presentations from the public will be scheduled at the conclusion of the meeting. Individuals interested in making public comment must notify the contact person, Pamela Foote, CMHS NAC Designated Federal Officer (DFO) on or before February 13, 2024. Up three minutes will be allotted for each public comment as time permits. Written comments received in advance of the meeting will be considered for inclusion in the official record.

The open meeting session may also be accessed virtually. Please register online at *https://snacregister.samhsa.gov,* to attend on either on site or virtually, submit written or brief oral comments, or request special accommodations for persons with disabilities. To communicate with the CMHS NAC DFO please see the contact information below.

Meeting information and a roster of Council members may be obtained by accessing the SAMHSA Committee website at *https://www.samhsa.gov/about-us/advisory-councils/cmhs-national-advisory-council* or by contacting the DFO.

Council Name: SAMHSA's Center for Mental Health Services National Advisory Council.

Date/Time/Type: February 27, 2024, 9:00 a.m. to 4:30 p.m. (EST), Open.

Place: SAMHSA, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: Pamela Foote, Designated Federal Officer, CMHS National Advisory Council, 5600 Fishers Lane, Rockville, Maryland 20857 (mail), Telephone: (240) 276–1279, Email: *pamela.foote@samhsa.hhs.gov.*

Dated: January 10, 2024.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2024–00735 Filed 1–16–24; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2023–0262; FXIA16710900000–234–FF09A30000]

Foreign Endangered Species; Receipt of 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, invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA). With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. The ESA also requires that we invite public comment before issuing permits for any activity otherwise prohibited by the ESA with respect to any endangered species.

DATES: We must receive comments by February 16, 2024.

ADDRESSES:

Obtaining Documents: The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *https://www.regulations.gov* in Docket No. FWS–HQ–IA–2023–0262.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: https://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2023–0262.
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2023–0262; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Timothy MacDonald, by phone at 703–358–2185 or via email at *DMAFR@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:

I. Public Comment Procedures

A. How do I comment on submitted applications?

We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments at *https://www.regulations.gov* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at *https://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, 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.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA prohibits certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to

enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations in part 17.

III. Permit Applications

We invite comments on the following applications.

Applicant: Duke University, Durham, NC; Permit No. PER0056306

The applicant requests authorization to import biological samples derived from E. rufous mouse lemur [*Microcebus rufus;* synonym Goodman's mouse lemur (*Microcebus lehilahytsara*)] from the Institute of Zoology at the University of Veterinary Medicine Hannover Foundation (TiHo), Germany, for the purpose of scientific research. This notification is for a single import.

Applicant: Duke University Lemur Center, Durham, NC; Permit No. PER6238013

The applicant requests a permit to export two captive-bred Coquerel's sifakas (*Propithecus coquereli*) to Tierpark Berlin Zoo in Germany, for the purpose of enhancing the propagation or survival of the species. This notification is for a single export.

Applicant: Cincinnati Zoo & Botanical Garden, Cincinnati, OH; Permit No. PER6139919

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Common name	Scientific name
Cheetah	*Acinonyx jubatus.*
Blue-throated macaw	*Ara glaucogularis.*
Aye-aye	*Daubentonia madagascariensis.*
Eastern black rhinoceros	*Diceros bicornis michaeli.*
Southern rockhopper penguin	*Eudyptes chrysocome.*
Black-footed cat	*Felis nigripes.*
Gorilla	*Gorilla gorilla.*
Japanese crane (Red-crowned crane)	*Grus japonensis.*
White-handed gibbon (Lar gibbon)	*Hylobates lar.*
Ring-tailed lemur	*Lemur catta.*
Brazilian ocelot	*Leopardus pardalis mitis.*
Rothschild's starling (Bali starling)	*Leucopsar rothschildi.*
African wild dog (African painted dog)	*Lycaon pictus.*
Clouded leopard	*Neofelis nebulosa.*
Bonobo	*Pan paniscus.*
African lion	*Panthera leo melanochaita.*
Malayan tiger	*Panthera tigris jacksoni.*
Sumatran orangutan	*Pongo abelii.*
Coquerel's sifaka	*Propithecus coquereli.*
Indian rhinoceros	*Rhinoceros unicornis.*
African penguin	*Spheniscus demersus.*
Siamang	*Symphalangus syndactylus.*
Snow leopard	*Uncia uncia.*
Andean condor	*Vultur gryphus.*

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *https://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to regulations.gov and search for ''12345A''.

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations.

Timothy MacDonald,

Government Information Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 2024–00782 Filed 1–16–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R4–ES–2023–0247; FXES11140400000–245–FF04EF4000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Sand Skink and Blue-Tailed Mole Skink; Polk County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from St. John Methodist Church of Sebring Inc. (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed sand skink (*Neoseps reynoldsi*) and blue-tailed mole-skink (*Eumeces egregius lividus*) incidental to the construction of a residential development in Highlands County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and on the Service's preliminary determination that the proposed permitting action may be eligible for a categorical exclusion pursuant to the Council on Environmental Quality's National

Environmental Policy Act (NEPA) regulations, the Department of the Interior's (DOI) NEPA regulations, and the DOI Departmental Manual. To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review. We invite comment from the public and local, State, Tribal, and Federal agencies.

DATES: We must receive your written comments on or before February 16, 2024.

ADDRESSES:

Obtaining Documents: The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS–R4–ES–2023–0247 at *https://www.regulations.gov.*

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by one of the following methods:

- *Online: https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2023–0247.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2023–0247; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Alfredo Begazo, by telephone at 772–469–4234 or via email at *alfredo_begazo@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 Fish and Wildlife Service (Service), announce receipt of an application from St. John Methodist Church of Sebring Inc. (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed sand skink (*Neoseps reynoldsi*) and blue-tailed mole-skink (*Eumeces egregius lividus*) (skinks) incidental to the construction and operation of a church in Highlands County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and on the Service's preliminary determination that this proposed ITP qualifies as low effect, and may qualify for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations (40 CFR 1501.4), the Department of the Interior's (DOI) NEPA regulations (43 CFR 46), and the DOI's Departmental Manual (516 DM 8.5(C)(2)). To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review.

Proposed Project

The applicant requests a 5-year ITP to take skinks via the conversion of approximately 1.33 acres (ac) of occupied nesting, foraging, and sheltering skink habitat incidental to the construction and operation of a church on a 16.33-ac parcel in Section 22, Township 34 South, Range 28 East, Highlands County, Florida. The applicant proposes to mitigate for take of the skinks by purchasing credits equivalent to 2.66 ac of skink-occupied habitat from a Service-approved conservation bank. The Service would require the applicant to purchase the credits prior to engaging in any construction phase of the project.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project, including the construction of a church, driveways, parking spaces, green areas, stormwater pond, and associated infrastructure (*e.g.,* electric, water, and sewer lines), would individually and cumulatively have a minor effect on the skinks and the human environment. Therefore, we have preliminarily determined that the proposed ESA section 10(a)(1)(B) permit would be a ''low-effect'' ITP that individually or cumulatively would have a minor effect on the sand skink and may qualify for application of a categorical exclusion pursuant to the Council on Environmental Quality's NEPA regulations, DOI's NEPA regulations, and the DOI Departmental Manual. A low-effect incidental take permit is one that would result in (1) minor or nonsignificant effects on species covered in the HCP; (2) nonsignificant effects on the human environment; and (3) impacts that, when added together with the impacts of other past, present, and reasonably foreseeable actions, would not result in significant cumulative effects to the human environment.

Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER5348829 to St. John Methodist Church of Sebring Inc.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

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,

Division Manager, Environmental Review, Florida Ecological Services Office.

[FR Doc. 2024–00751 Filed 1–16–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2023–0055; FF08ESMF00–FXES11140800000–234]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Aramis Solar Energy Generation and Storage Project, Alameda County, CA; Availability of Draft Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of permit application; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a draft environmental assessment under the National Environmental Policy Act (NEPA) for an

incidental take permit (ITP) under the Endangered Species Act (ESA), supported by a draft habitat conservation plan (draft HCP). IP Aramis, LLC (applicant) has applied for an ITP under the ESA for the Aramis Solar Energy Generation and Storage Project in Alameda County, California. The requested ITP, which would be in effect for a period of 32 years, if granted, would authorize incidental take of the federally threatened California red-legged frog, federally threatened Central Distinct Population Segment of the California tiger salamander (Central California tiger salamander), federally endangered San Joaquin kit fox, Federal candidate monarch butterfly, and non-listed golden eagle, which is protected under the Bald and Golden Eagle Protection Act (Eagle Act). We invite the public and local, State, Tribal, and Federal agencies to comment on the application. Before issuing the requested permit, 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 February 16, 2024.

ADDRESSES:

Obtaining Documents: The draft environmental assessment, draft HCP, and any comments and other materials that we receive are available for public inspection at *https://www.regulations.gov* in Docket No. FWS–R8–ES–2023–0055.

Submitting Comments: To submit comments, please use one of the following methods, and note that your information requests or comments are in reference to the draft environmental assessment, draft HCP, or both.

- *Internet:* Submit comments at *https://www.regulations.gov* under Docket No. FWS–R8–ES–2023–0055.
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2023–0055; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comments and Public Availability of Comments, under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Joseph Terry, Senior Fish and Wildlife Biologist, or Ryan Olah, Supervisor, Coast Bay Division, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, by phone at 916–414–6600. 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), announce the availability of a draft environmental assessment, prepared pursuant to the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6. This notice also announces the receipt of an application from IP Aramis, LLC (applicant) for a 32-year incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). Application for the permit requires the preparation of a habitat conservation plan (HCP) with measures to avoid, minimize, and mitigate the impacts of incidental take to the maximum extent practicable. The applicant prepared the draft Aramis Solar Energy Generation and Storage Project Habitat Conservation Plan (draft HCP) pursuant to section 10(a)(1)(B) of the ESA. The purpose of the draft environmental assessment is to assess the effects of issuing the permit and implementing the draft HCP on the natural and human environment. The Eagle Act (16 U.S.C. 668–668d and 50 CFR 22.80) regulations at 50 CFR 22.10 allow the Service to cover eagles under an HCP Section 10(a)(1)(B) ITP. Accordingly, the HCP was written to meet the requirements for the Service to issue the permit under ESA Section 10 and the Eagle Act. Criteria for issuance of an eagle permit are codified in 50 CFR 22.80(f).

Background

Section 9 of the ESA prohibits the take of fish or wildlife species listed as endangered; as applicable to the species affected by the proposed action, the ESA implementing regulations also prohibit take of fish or wildlife species listed as threatened, including the Central California tiger salamander and California red-legged frog, with exceptions for certain ranching activities on private and Tribal lands as described in 50 CFR 17.43(c)(3)(i)–(xi) and 50 CFR 17.43(d)(3)(i)–(xi). Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32. For more about the Federal habitat conservation plan (HCP) program, go to *https://www.fws.gov/service/habitat-conservation-plans.*

National Environmental Policy Act Compliance

The proposed ITP issuance triggers the need for NEPA compliance (42 U.S.C. 4321 *et seq.*). The draft environmental assessment was prepared to analyze the impacts of issuing an ITP based on the draft HCP and to inform the public of the proposed action, any alternatives, and associated impacts, and to disclose any irreversible commitments of resources.

Proposed Action Alternative

Under the Proposed Action Alternative, the Service would issue an ITP to the applicant for a period of 32 years for certain covered activities (described below). The applicant has requested an ITP for three federally listed species, one Federal candidate species, and one non-listed species protected by the Eagle Act (described below).

Habitat Conservation Plan Area

The geographic scope of the draft HCP encompasses a 398-acre (ac) project permit area and a 453-ac mitigation permit area. The project permit area comprises an approximately 398-ac site where the power-generating facilities and battery energy storage system would be constructed in the unincorporated North Livermore area of Alameda County, California, approximately 2.25 miles north of the Livermore city limits and Interstate 580. The project permit area is bounded by Manning Road to the north, North Livermore Avenue to the east, and a private driveway to the south. The mitigation permit area is a 453-ac site located at Vieira Ranch, south of Patterson Pass Road and north of Tesla Road, in unincorporated eastern Alameda County, California.

Eagle Act Compensatory Mitigation

Retrofitting power poles with a high risk of avian electrocution in accordance with Avian Power Line Interaction Committee guidelines is the only form of compensatory mitigation that enables benefits to golden eagles to be quantified with reasonable certainty at this time. High-risk poles would be retrofitted within the eagle management unit. To offset the predicted loss of golden eagle productivity due to disturbance take and loss of breeding productivity to one breeding territory in the vicinity of the project permit area and the disturbance of one breeding territory during two breeding seasons at the mitigation permit area, the applicant would need to retrofit approximately 129 to 298 power poles to offset 8.26 fledged young lost at a 1.2:1 ratio. The final power pole number depends on

the type and expected longevity of each retrofit. Short-term retrofits that use plastic covers equate to avoided loss from retrofits that is maintained and effective for up to 10 years, which would require more poles. Long-term retrofits where avoided loss from retrofits is maintained and effective for up to 30 years require fewer poles. To complete the required compensatory mitigation, the applicant would either work directly with a utility company to complete the required power pole retrofits, with Service approval of the developed plan, or the applicant would work with a Service-approved in-lieu fee program to purchase credits to fulfill the required retrofits that must be completed. The draft HCP contains details of the analysis conducted to estimate the number of power pole retrofits required for compensatory mitigation.

To address the high cumulative impacts on golden eagle populations in this area, primarily due to mortality from wind turbines in the Altamont Pass Wind Resource Area, severe drought, and urban development, the applicant's proposed off-site 453-ac habitat mitigation area includes a known golden eagle nest site and overlaps in part with one golden eagle breeding territory. This nest site and the mitigation lands would be protected and managed to benefit golden eagles as described in the draft HCP.

Covered Activities

The proposed ESA section 10 ITP would allow take of the California red-legged frog, Central California tiger salamander, San Joaquin kit fox, monarch butterfly, and golden eagle from covered activities in the proposed HCP area, including all ground-disturbing activities and impacts from construction, operation and maintenance activities, and site decommissioning or repowering of the project, as well as activities necessary to implement management actions at the mitigation permit area. Covered activities at the 398-ac project permit area include all ground-disturbing activities and impacts from construction, including: (1) site access, staging, and preparation, including development of access roads, internal project area roads, parking areas, and equipment staging areas, as well as limited excavation activities for utility poles and building foundations; (2) installation of a 100-megawatt solar photovoltaic and electrical collection system, including solar arrays, fencing, and utility lines; (3) installation of a project substation and generation intertie line occupying a 5,000 square foot area, and utility lines; (4) installation of a battery energy storage system occupying a 5-ac portion of the project permit area; (5) construction of an operation and maintenance (O&M) building and electrical controls occupying approximately 400 square-feet of the project permit area; (6) construction of project entrances and internal driveways to provide access for routine maintenance of the system; (7) installation of fences, lighting, and signage designed to enable passage of covered species while keeping the project area secure; (8) construction of a detention basin approximately 0.4 ac in size, designed to avoid water ponding, prevent the discharge of off-site stormwater runoff, allow for onsite infiltration within 48 hours (the basin would be routinely maintained to remove vegetative growth); (9) installation of water storage tanks onsite for fire suppression for the battery energy storage system, use for O&M activities, and to maintain proposed landscaping and vegetation; (10) installation of a agricultural landscaping buffer as a visual screen (*i.e.,* buffer) to neighboring properties; (11) O&M activities, including routine preventative maintenance conducted by O&M staff and supported by outside contractors; (12) a sustainable agriculture program that consists of grassland management, sheep grazing, chicken rearing, beekeeping, and an agricultural landscaping buffer; and (13) restoration and management of grassland habitat at the project permit area. Covered activities at the 453-ac mitigation permit area include installation and maintenance of fencing, cattle grazing, maintenance of ponds or impoundments, mowing, controlled burning, erosion control or repair, invasive species control, fire management, monitoring, and plantings for covered species. The applicant is proposing to implement a number of best management practices, as well as general and species-specific avoidance and minimization measures to minimize the impacts of the covered activities on the covered species.

Covered Species

The applicant has requested an ITP for two federally listed threatened species, one federally listed endangered species, one Federal candidate species, and one non-listed species protected by the Eagle Act: the threatened California red-legged frog (*Rana draytonii*), the threatened Central California Distinct Population Segment of the California tiger salamander (*Ambystoma californiense*) (Central California tiger salamander), the endangered San Joaquin kit fox (*Vulpes macrotis mutica*), the candidate monarch butterfly (*Danaus plexippus*), and the non-listed golden eagle (*Aquila chrysaetos*). All species included in the ITP would receive assurances under the Service's ''No Surprises'' regulations at 50 CFR 17.22(b)(5).

No Action Alternative

Under the No Action Alternative, the Service would not issue an ITP, and the HCP would not be implemented. Permit denial would prevent the applicant from proceeding with the covered activities because there would be no other alternative means of complying with the ESA and Eagle Act. Under the No Action Alternative there would be no take of federally listed species, monarch butterflies, or golden eagles, and permanent protection of habitat for federally listed species, monarch butterflies, and the golden eagle at Vieira Ranch would not occur. The retrofit of power poles would also not occur. Under the No Action Alternative, agricultural uses (dry-land farming and grazing) would continue at the project site, and a new source of renewable solar energy would not be available to public utilities, municipal utilities, or private consumers.

Public Comments

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice, the draft environmental assessment, and the draft HCP. We particularly seek comments on the following:

1. Biological information concerning the species;
2. Relevant data concerning the species;
3. Additional information concerning the range, distribution, population size, and population trends of the species;
4. Current or planned activities in the area and their possible impacts on the species;
5. Information on the seasonal use of the mitigation permit area by the monarch butterfly;
6. Information on establishing a monitoring program for the monarch butterfly at the mitigation permit area to inform adaptive management for the benefit of the species;
7. Information on how to enhance, restore, and adaptively manage breeding and nectar habitat for the monarch butterfly at the mitigation permit area while maintaining cattle grazing throughout the mitigation permit area to enhance upland refugia and dispersal

habitat for the Central California tiger salamander and California red-legged frog, denning and dispersal habitat for the San Joaquin kit fox, and foraging habitat for the golden eagle;

8. Information on how to incorporate climate change into an adaptive management plan at the mitigation permit area for the benefit of the Central California tiger salamander, California red-legged frog, San Joaquin kit fox, monarch butterfly, and golden eagle;

9. Information on the effects of photovoltaic solar panels on annual grassland habitat quality, burrowing mammal activity, amphibians (*e.g.,* Central California tiger salamander and California red-legged frog), pollinators (*e.g.,* monarch butterfly and Crotch's bumble bee), golden eagles, and microclimatic effects underneath the solar panels;

10. Information on the effects of sheep grazing and chicken rearing on pollinators (*e.g.,* monarch butterfly and Crotch's bumble bee), amphibians (*e.g.,* Central California tiger salamander and California red-legged frog), and golden eagles;

11. The presence of archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns, which are required to be considered in project planning by the National Historic Preservation Act; and

12. Any other environmental issues that should be considered with regard to the proposed development and permit action.

Public Availability of Comments

Before including your address, phone number, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—might 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.

Next Steps

Issuance of an incidental take permit is a Federal proposed action subject to compliance with NEPA and section 7 of the ESA. We will evaluate the application, associated documents, and any public comments we receive as part of our NEPA compliance process to determine whether the application meets the requirements of section 10(a) of the ESA. If we determine that those requirements are met, we will conduct an intra-Service consultation under section 7 of the ESA for the Federal action for the potential issuance of an ITP. If the intra-Service consultation confirms that issuance of the ITP will not jeopardize the continued existence of any endangered or threatened species, or destroy or adversely modify critical habitat, we will issue a permit to the applicant for the incidental take of the covered species.

Authority

We publish this notice under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and its implementing regulations at 40 CFR 1500–1508, as well as in compliance with section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations at 50 CFR 17.32(b)(1) (ii), and the Eagle Act (16 U.S.C. 668–668d and 50 CFR 22.80) regulations at 50 CFR 22.10 which allow the Service to cover eagles under an HCP Section 10(a)(1)(B) ITP. Criteria for issuance of an eagle permit are codified in 50 CFR 22.80(f).

Michael Fris,

Field Supervisor, Sacramento Fish and Wildlife Office.

[FR Doc. 2024–00755 Filed 1–16–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2023–0230; FXES1114020000–245–FF02ENEH00]

Application for an Amendment to an Incidental Take Permit; Cibolo Canyon Master Phase II Environmental Assessment and Habitat Conservation Plan for the Golden-Cheeked Warbler in Bexar County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: TF Cibolo Canyons, LP (applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an amendment to their existing incidental take permit (ITP) supported by the proposed amendment to the Habitat Conservation Plan for a portion of the Cibolo Canyon Property (Master Phase II) (HCP) pursuant to the Endangered Species Act. The requested amendment to the ITP, if approved, would continue authorization of incidental take of the golden-cheeked warbler (*Setophaga chrysoparia*). The application package includes the proposed changes to the HCP and a draft screening form that has been prepared to evaluate the ITP application in accordance with the requirements of the National Environmental Policy Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these documents.

DATES: *Submission of comments:* We will accept comments received or postmarked on or before February 16, 2024.

ADDRESSES:

Obtaining documents: You may obtain copies of the ITP amendment application, proposed revisions to the HCP, draft screening form, or other related documents online in Docket No. FWS–R2–ES–2023–0230 at *https://www.regulations.gov.* Other related information may be obtained online at *https://www.fws.gov/library/collections/texas-habitat-conservation-plans.*

Submitting comments: You may submit written comments by one of the following methods:

- *Internet: https://www.regulations.gov.* Search for and submit comments on Docket No. FWS–R2–ES–2023–0230; or
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R2–ES–2023–0230; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

Please note which documents your comment references. For more information, see Public Availability of Comments.

FOR FURTHER INFORMATION CONTACT: Karen Myers, Field Supervisor, Austin Ecological Services Field Office, Austin, Texas; telephone (512) 937–7371. 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), have received and make available a proposed amendment to the Habitat Conservation Plan for a portion of the Cibolo Canyon Property (Master Phase II) (HCP) in Bexar County, Texas, and an associated draft screening form. TF Cibolo Canyons, LP (applicant) has applied for an amended incidental take permit (ITP) (TE102437–0) supported by the proposed amendment to their HCP. If approved, the amended permit would continue for the remainder of the 30 years of the original permit to authorize incidental take of the federally listed, endangered golden-cheeked warbler

(*Setophaga chrysoparia;* warbler) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The permit would continue to authorize incidental take of the species resulting from vegetation clearing for construction of homes, apartments, and other such facilities.

In addition, in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), we advise the public that:

1. We have prepared a draft NEPA screening form to evaluate the proposed amendment to the HCP and potential ITP issuance. We are accepting comments on the proposed amendment to the HCP and draft NEPA screening form.

2. The applicant and the Service have developed the proposed amendment to the HCP, which describes the measures the applicant has volunteered to take to meet the issuance criteria for a 10(a)(1)(B) ITP associated with the HCP. The issuance criteria are found at 50 CFR 17.22(b)(2).

3. The HCP would be implemented by the applicant and would remain effective until the expiration of the HCP and associated ITP.

4. As described in the HCP, the potential incidental take of the warbler could result from otherwise lawful activities covered by the HCP.

Background

Section 9 of the ESA and our implementing regulations at 50 CFR part 17 prohibit the ''take'' of fish or wildlife species listed as endangered or threatened. Take is defined under the ESA as to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct'' (16 U.S.C. 1538(19)). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity.

Regulations governing such take of endangered and threatened species are found at 50 CFR 17.21–22 and 50 CFR 17.31–32, respectively.

Proposed Action

The proposed action involves the issuance of an amended 10(a)(1)(B) ITP to TF Cibolo Canyons, LP and approval of the proposed amendment to the HCP. The ITP would cover incidental ''take'' of the species associated with vegetation clearing and construction of homes, apartments, and other such facilities as described in the ITP and HCP.

The existing ITP expires February 18, 2036, and no extension has been requested. The original permit authorized incidental take of the species on 846 acres (ac) and resulted in 768 ac of mitigation on site (May 2, 2005; 70 FR 22682). The proposed amendment would add 144 ac of the original development area to the mitigation lands in exchange for an unoccupied 30-ac tract of the original preserve area, which would reduce the development area from 846 ac to 732 ac and increase the preserve area from 768 ac to 882 ac. The 144 acres being added to the preserve has sufficient habitat to support warblers periodically, while the 30 acres being removed does not contain warbler habitat and, therefore, does not support warblers. The proposed swap will result in less edge-to-area ratio in the preserve area, a reduction in the amount of habitat loss and take of the warbler due to the implementation of the HCP and will provide contiguity between two occupied portions of the preserve.

To meet the requirements of a section 10(a)(1)(B) ITP, the applicant would continue to implement the amended HCP. The HCP describes the conservation measures the applicant has agreed to undertake to minimize and mitigate incidental take, to the maximum extent practicable and ensures that incidental take will not appreciably reduce the likelihood of the survival and recovery of species in the wild.

Next Steps

We will evaluate the ITP application, proposed amendment to the HCP, draft NEPA screening form, and comments we receive to determine whether the HCP application meets the requirements of the ESA, NEPA, and implementing regulations. If we determine that all requirements are met, we will approve the proposed amendment to the HCP and issue the amended ITP to the applicant under section 10(a)(1)(B) of the ESA in accordance with the terms of the HCP and specific terms and conditions of the authorizing ITP. We will not make our final decision until after the 30-day comment period ends, and we have fully considered all comments received during the public comment period.

Public Availability of Comments

All comments we receive become part of the public record associated with this action. Requests for copies of comments will be handled in accordance with the Freedom of Information Act, NEPA, and Service and Department of the Interior policies and procedures. 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 to 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.

Authority

We provide this notice under the authority of section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Jeffrey Fleming,

Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2024–00752 Filed 1–16–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_MT_FRN_MO#4500172285]

Notice of Proposed Withdrawal Extension and Public Meeting, Pryor Mountain Wild Horse Range; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed withdrawal extension.

SUMMARY: The Secretary of the Interior proposes to extend Public Land Order (PLO) No. 7628 for an additional 20-year term. PLO No. 7628 withdrew 1,960.10 acres of public lands in Big Horn County, Wyoming, from settlement, sale, location, or entry under the general land laws, including the United States mining laws, subject to valid existing rights, to protect the Pryor Mountain Wild Horse Range. The withdrawal created by PLO No. 7628 will expire on March 7, 2025, unless extended. This notice announces to the public the opportunity to comment on the proposal and announces the date, time, and location of the public meeting to be held in conjunction with this withdrawal extension application.

DATES: Interested parties who wish to submit comments, suggestions, or objections in connection with the withdrawal extension application may submit their views in writing to the Billings Field Office Manager by April 16, 2024 to the address below. Notice is hereby given that the Bureau of Land Management (BLM) will hold a public meeting in connection with the withdrawal extension application on February 29, 2024 at 4 p.m. at the Lovell Community Center, 1925 US 310, Lovell, WY 82431.

ADDRESSES: Written comments may be mailed or hand delivered to BLM, Billings Field Office Manager, Attn: Pryor Mountain Proposed Withdrawal Extension, 5001 Southgate Drive, Billings, Montana 59101.

FOR FURTHER INFORMATION CONTACT: Marzha Fritzler, BLM Realty Specialist, Billings Field Office, (406) 896–5244, or via email at *mfritzler@blm.gov*. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or Tele Braille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The withdrawal established by PLO No. 7628 (70 FR 11271, March 8, 2005) and serialized as WYW–152420 will expire on March 7, 2025, unless extended. At the request of the BLM, the Secretary is proposing to extend PLO No. 7628 for an additional 20-year term for the protection of wild horse and wildlife habitat, and watershed, recreation, cultural, and scenic values within the Pryor Mountain Wild Horse Range.

The proposed withdrawal extension would encompass the same 1,960.10 acres withdrawn in 2005 by PLO No. 7628. The BLM has updated the legal description of the lands to conform to Specifications for Descriptions of Land Status (2017) and described as follows:

Sixth Principal Meridian, Wyoming

T. 58 N., R. 95 W.,
Sec. 19, lot 2 and SE¼NE¼;
Sec. 20, N½SW¼, SE¼SW¼, and SE¼;
Sec. 21, A portion of land lying southwesterly of a diagonal line drawn from the ¼ cor. of secs. 20 and 21 to the ¼ sec. cor. of secs. 21 and 28;
Sec. 23, NE¼SW¼;
Sec. 26, SW¼NW¼ and W½SW¼;
Sec. 27, S½;
Sec. 28, NW¼NE¼, S½NE¼, and S½;
Sec. 29, NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 33, NE¼ and NE¼NW¼;
Sec. 34, NW¼.

The area described contains 1,960.10 acres.

The use of a right-of-way would not provide adequate protection.

There are no suitable alternative sites available.

Water is required and protected pursuant to a Public Water Reserve No. 107, established pursuant to an Executive order dated April 17, 1926.

Comments, including names and street addresses of respondents, will be available for public review at the Billings Field Office, 5001 Southgate Drive, Billings, Montana 59101, during regular business.

Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask the BLM in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

This withdrawal extension proposal will be processed in accordance with the regulations set forth in 43 CFR 2310.4.

(Authority: 43 U.S.C. 1714)

Sonya I. Germann,

Montana State Director.

[FR Doc. 2024–00775 Filed 1–16–24; 8:45 am]

BILLING CODE 4331–20–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 245S180110; S2D2S SS08011000 SX064A000 24XS501520; OMB Control Number 1029–0054]

Agency Information Collection Activities; Abandoned Mine Reclamation Funds

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before February 16, 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. Please provide a copy of your comments to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240, or by email to *mgehlhar@osmre.gov.* Please reference OMB Control Number 1029–0054 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at (202) 208–2716. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA; 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on September 12, 2023 (88 FR 65597). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: 30 CFR part 872 establishes a procedure whereby to be eligible to receive funds States and Indian tribes must have and maintain an approved reclamation plan. The information is used to determine whether States and Indian tribes will be granted funds and ensure how moneys are spent for long-term abandoned mine land reclamation activities.

Title of Collection: Abandoned Mine Reclamation Funds.

OMB Control Number: 1029–0054.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State and Tribal governments.

Total Estimated Number of Annual Respondents: 26.

Total Estimated Number of Annual Responses: 50.

Estimated Completion Time per Response: 125 hours.

Total Estimated Number of Annual Burden Hours: 6,250.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 2024–00801 Filed 1–16–24; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 245S180110; S2D2S SS08011000 SX064A000 24XS501520; OMB Control Number 1029–0112]

Submission to the Office of Management and Budget for Review and Approval; Requirements for Coal Exploration

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before March 18, 2024.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240, or by email to *mgehlhar@osmre.gov.* Please reference OMB Control Number 1029–0112 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at 202–208–2716. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (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 to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the agency 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: OSMRE and State regulatory authorities use the information collected under 30 CFR part 772 to keep track of coal exploration activities, evaluate the need for an exploration permit, and ensure that exploration activities comply with the environmental protection and reclamation requirements of 30 CFR parts 772 and 815, and section 512 of SMCRA (30 U.S.C. 1262).

Title of Collection: Requirements for Coal Exploration.

OMB Control Number: 1029–0112.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses and State governments.

Total Estimated Number of Annual Respondents: 324.

Total Estimated Number of Annual Responses: 550.

Estimated Completion Time per Response: Varies from 30 minutes to 70 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 1,697.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: $288.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 2024–00797 Filed 1–16–24; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 245S180110; S2D2S SS08011000 SX064A000 24XS501520; OMB Control Number 1029–0040]

Submission to the Office of Management and Budget for Review and Approval; Requirements for Permits for Special Categories of Mining

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before March 18, 2024.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240, or by email to *mgehlhar@osmre.gov.* Please reference OMB Control Number 1029–0040 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at 202–208–2716. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (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 to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the agency 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: The information is being collected to meet the requirements of sections 507, 508, 510,515, 701 and 711 of Public Law 95–87, which require applicants for special types of mining activities to provide descriptions, maps, plans and data of the proposed activity. This information will be used by the regulatory authority in determining if the applicant can meet the applicable performance standards for the special type of mining activity.

Title of Collection: Requirements for Permits for Special Categories of Mining.

OMB Control Number: 1029–0040.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses and State governments.

Total Estimated Number of Annual Respondents: 68.

Total Estimated Number of Annual Responses: 88.

Estimated Completion Time per Response: Varies from 10 hours to 1,000 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 5,275.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 2024–00799 Filed 1–16–24; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1536 (Final) (Remand)]

Methionine From Spain

AGENCY: United States International Trade Commission.

ACTION: Notice of remand proceedings.

SUMMARY: The U.S. International Trade Commission (''Commission'') hereby gives notice of the procedures it intends to follow to comply with the court-ordered remand of its final determination in the antidumping duty investigation of methionine from Spain. For further information concerning the conduct of these remand proceedings and rules of general application, consult the Commission's Rules of Practice and Procedure.

DATES: January 11, 2024.

FOR FURTHER INFORMATION CONTACT: Calvin Chang ((202) 205–3358), Office of Investigations, or Noah Meyer ((202) 708–1521), Office of General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for Investigation Nos. 731–TA–1535–1536 (Final) may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—In June 2021, the Commission unanimously determined that a domestic industry was materially injured by reason of imports of methionine from France. *Methionine from France,* Inv. No. 731–TA–1534 (Final), USITC Pub. 5206 (June 2021). In September 2021, the Commission determined that an industry in the United States was materially injured by reason of imports of methionine from Japan and Spain that were sold in the United States at less than fair value. *Methionine from Japan and Spain,* Inv. Nos. 731–TA–1535–1536 (Final), USITC Pub. 5230 (Sept. 2021). Respondents, Adisseo Espana S.A. and Adisseo USA Inc., contested the Commission's determination regarding Spain before the U.S. Court of International Trade (''CIT''). The CIT remanded the Commission's determination for the agency to reconsider ''the probative value and factual accuracy of the volume of alleged lost sales used to support a finding of adverse price effects in view of the competing methodology proffered by Adisseo in its posthearing brief.'' *Adisseo Espana S.A. et al* v. *United States,* Order accompanying Slip Op. 23–178 (Ct. Int'l Trade, Dec. 18, 2023).

Participation in the remand proceedings.—Only those persons who were interested parties that participated in the investigation of Methionine from Spain and were also parties to the appeal may participate in these remand proceedings. Such persons need not file any additional appearances with the Commission to participate in the remand proceedings, unless they are adding new individuals to the list of persons entitled to receive business proprietary information (''BPI'') under administrative protective order (''APO''). BPI referred to during the remand proceedings will be governed, as appropriate, by the APO issued in the investigations. The Secretary will maintain a service list containing the names and addresses of all persons or their representatives who are parties to the remand proceedings, and the Secretary will maintain a separate list of those authorized to receive BPI under the administrative protective order during the remand proceedings.

Written submissions.—The Commission is not reopening the record and will not accept the submission of new factual information for the record. The Commission will permit the parties entitled to participate in the remand proceedings to file comments concerning how the Commission could best comply with the court's remand instructions.

The comments must be based solely on the information in the Commission's record. The Commission will reject submissions containing additional factual information or arguments pertaining to issues other than those on which the court has remanded this matter. The deadline for filing comments is Feb 16, 2024. Comments must be limited to no more than ten (10) double-spaced and single-sided pages of textual material, inclusive of attachments and exhibits.

Parties are advised to consult with the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207) for provisions of general applicability concerning written submissions to the Commission. All written submissions must conform to the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. The Commission's *Handbook on E-Filing,* available on the Commission's website at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, will not be accepted unless good cause is shown for accepting such submissions or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

By order of the Commission.

Issued: January 11, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–00776 Filed 1–16–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–24–003]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: January 24, 2024 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* none.
2. Minutes.
3. Ratification List.
4. Commission vote on Inv. Nos. 701–TA–684 and 731–TA–1597 (Final) (Gas Powered Pressure Washers from China). The Commission currently is scheduled to complete and file its determinations and views of the Commission on February 5, 2024.
5. *Outstanding action jackets:* none.

CONTACT PERSON FOR MORE INFORMATION: Sharon Bellamy, Supervisory Hearings and Information Officer, 202–205–2000.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: January 12, 2024.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2024–00888 Filed 1–12–24; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint regarding *Certain Capacitive Discharge Ignition Systems, Components Thereof, and Products Containing the Same,* DN 3717; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Altronic, LLC on January 10, 2024. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain capacitive discharge ignition systems, components thereof, and products containing the same. The complaint names as respondents: MOTORTECH GmbH of Germany; and MOTORTECH Americas, LLC of New Orleans, LA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3717'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures.[1]) Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

By order of the Commission.

Issued: January 10, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–00729 Filed 1–16–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–24–004]

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: January 25, 2024 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* none.
2. Minutes.
3. Ratification List.
4. Commission vote on Inv. Nos. 701–TA–489 and 731–TA–1201 (Second Review) (Drawn Stainless Steel Sinks (DSSS) from China). The Commission currently is scheduled to complete and file its determinations and views of the Commission on February 1, 2024.
5. *Outstanding action jackets:* none.

CONTACT PERSON FOR MORE INFORMATION: Sharon Bellamy, Supervisory Hearings and Information Officer, 202–205–2000.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: January 12, 2024.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2024–00909 Filed 1–12–24; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–344 (Fifth Review)]

Tapered Roller Bearings From China; Scheduling of an Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty order on tapered roller bearings from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: December 5, 2023.

FOR FURTHER INFORMATION CONTACT: (Stamen Borisson (202) 205–3125), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On December 5, 2023, the Commission determined that the domestic interested party group response to its notice of institution (88 FR 60489, September 1, 2023) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act (19 U.S.C. 1675(c)(3)).[2]

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the review has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for this review on February 8, 2024. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[3] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before February 15, 2024 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by February 15, 2024. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

*Authority:*This review is being conducted under authority of title VII of the Act; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] Commissioner Amy A. Karpel not participating.

[3] The Commission has found the responses submitted on behalf of The Timken Company and JTEKT Bearings North America LLC to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

Issued: January 10, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–00727 Filed 1–16–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On January 10, 2024, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Columbia in the case captioned *United States* v. *Cummins Inc.,* Case No. 1:24–cv–00088.

The United States filed a Complaint in this lawsuit seeking civil penalties and injunctive relief from Defendant Cummins Inc. (''Cummins'') for alleged violations of title II of the Clean Air Act, as amended, 42 U.S.C. 7521–7590, and the regulations promulgated thereunder, which aim to protect human health and the environment by reducing emissions of nitrogen oxides (''NO_X'') and other pollutants from mobile sources of air pollution, including new motor vehicles. The State of California has filed a separate Complaint alleging corresponding claims for civil penalties and injunctive relief against Cummins under the Clean Air Act's citizen suit provisions, 42 U.S.C. 7404(a)(1), and California laws and regulations.

The United States' Complaint alleges that Cummins violated the Clean Air Act through the company's production and sale of diesel motor vehicle engines—along with associated engine control and emission control systems—that were installed in nearly one million pickup trucks sold in the United States under the RAM 2500 and RAM 3500 model names. The United States alleges that Cummins' applications to the U.S. Environmental Protection Agency for Certificates of Conformity for those trucks did not disclose multiple software-based features that affect their emission control systems. In addition, the United States alleges that some of these undisclosed software features qualify as illegal ''defeat devices'' that bypass, defeat and/or render inoperative emission control systems in more than 630,000 model year 2013–2019 RAM 2500 and RAM 3500 trucks, causing those vehicles to emit substantially higher levels of NO_X during certain normal real world driving conditions, as compared to the vehicles' NO_X emissions levels during federal emission tests.

When the United States' Complaint was filed, the United States also lodged a proposed Consent Decree among the United States (on behalf of the U.S. Environmental Protection Agency), the State of California (on behalf of the California Air Resources Board), and Cummins (the ''Joint Consent Decree''). If approved by the Court, the Joint Consent Decree would resolve the claims against Cummins in the United States' Complaint on agreed terms and conditions. The Joint Consent Decree also would partially resolve the claims against Cummins in the California Complaint. A separate proposed Consent Decree between Cummins and California (the ''California Partial Consent Decree'') was lodged concurrently with the proposed Joint Consent Decree. The California Partial Consent Decree would resolve the remaining claims in the California Complaint, including claims brought by the California Attorney General.

The Joint Consent Decree would require Cummins to: (i) pay the United States a $1.478 billion civil penalty; (ii) pay the California Air Resources Board a $164 million penalty; and (iii)) take various steps to remedy the alleged violations, including conducting vehicle recall campaigns to replace the software in model year 2013–2019 RAM trucks and satisfying mitigation requirements to offset the excess NO_X emissions from those trucks.

The California Partial Consent Decree would require Cummins to pay $33 million in civil penalties to the California Attorney General and make an additional payment to fund actions or projects that reduce NO_X emissions through mitigation programs administered by the California Air Resources Board.

Taken together, the Joint Consent Decree and the California Partial Consent Decree would require Cummins to pay more than $2 billion to resolve the violations alleged by the United States and California, including $1.675 billion in civil penalties.

The publication of this notice opens a period for public comment on the United States' proposed Joint Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *Untied States* v. *Cummins Inc.,* DJ Ref. No. 90–5–2–1–12300. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Joint Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.*

We will provide a paper copy of the proposed Joint 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 $45.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Patricia A. McKenna,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024–00705 Filed 1–16–24; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decrees Under the Comprehensive Environmental Response, Compensation and Liability Act, Clean Water Act, and Oil Pollution Act

On January 8, 2024, the Department of Justice lodged five proposed consent decrees with the United States District Court for the Northern District of Ohio in the lawsuit entitled *United States* v. *Ohio Refining Co., et al.,* Civil Action No. 3:24–cv–00039.

The United States filed a Complaint alleging claims against Ohio Refining Co., LLC, Chevron U.S.A. Inc., Energy Transfer (R&M), LLC, Pilkington North America, Inc., and Chemtrade Logistics, Inc., under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), the Clean Water Act, and the Oil Pollution Act for recovery of damages for injury to, loss of, or destruction of natural resources resulting from the release of hazardous substances and oil at the Duck & Otter Creeks NRDA Site located near Toledo, Ohio. Each Defendant or its predecessor historically owned and/or operated an industrial facility within the Site which discharged polynuclear aromatic hydrocarbon (''PAH'') compounds,

metals (including arsenic and lead), and/or oil into the creeks.

Under the proposed Consent Decrees, the Defendants will collectively pay $7,225,909 in natural resource damages (''NRD''), consisting of $6,322,670 for Trustee-sponsored NRD restoration projects—as identified in a draft Department of the Interior (''DOI'') Restoration Plan, and $903,239 as reimbursement for NRD assessment costs incurred by DOI as Federal Trustee.

The publication of this notice opens a period for public comment on the consent decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Ohio Refining Co., et al.,* D.J. Ref. No. 90–11–3–07084. All comments must be submitted no later than 30 days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Modified Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Modified 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 $33.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Patricia McKenna,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024–00792 Filed 1–16–24; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1100–0049]

Agency Information Collection Activities; Proposed eCollection eComments Requested; InfraGard Membership Application and Profile Questionnaire

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Federal Bureau of Investigation, 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. The proposed information collection was previously published in the **Federal Register** on November 28, 2023 allowing a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until February 16, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Tiffany Locklear, Unit Chief Federal Bureau of Investigation, 935 Pennsylvania Ave., Washington, DC 20535, *ttllocklear@fbi.gov,* 202–436–7627.

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 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/or

—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.

Written comments and recommendations for this 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 information collection or the OMB Control Number [1100–0049]. This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ 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 DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *Title of the Form/Collection:* InfraGard Membership Application and Profile Questionnaire.

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* N/A; Business Operations and Technology Unit.

4. *Affected public who will be asked or required to respond, as well as a brief abstract: Affected Public:* Individuals or households. *Abstract:* This collection is used by FBI's Office of Private Sector to vet applicant's for InfraGard membership which is a Public/Private Alliance that shares intelligence and criminal information about threats and infrastructure vulnerabilities.

5. *Obligation to Respond:* Voluntary.

6. *Total Estimated Number of Respondents:* 11,000.

7. *Estimated Time per Respondent:* 30 minutes.

8. *Frequency:* Annually.

9. *Total Estimated Annual Time Burden:* 5,500 hours.

10. *Total Estimated Annual Other Costs Burden:* $0.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice,

Two Constitution Square, 145 N Street NE, 4W–218 Washington, DC 20530.

Dated: January 11, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–00802 Filed 1–16–24; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; O*Net Data Collection Program

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before February 16, 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: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The O*NET Data Collection Program is an ongoing effort to collect and maintain current information on the detailed characteristics of occupations and skills for more than 900 occupations. The resulting database provides the most comprehensive standardized source of occupational and skills information in the nation. O*NET information is used by a wide range of audiences, including individuals making career decisions, public agencies and schools providing career exploration services or education and training programs, and businesses making staffing and training decisions. The O*NET system provides a common language, framework and database to meet the administrative needs of various federal programs, including workforce investment and training programs supported by funding from the Departments of Labor, Education, and Health and Human Services. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 31, 2023, 88 FR 49502.

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.

Agency: DOL–ETA.

Title of Collection: O*Net Data Collection Program.

OMB Control Number: 1205–0421.

Affected Public: Private sector (for-profit businesses and not-for-profit organizations); State, local and tribal governments, Federal government, Individuals or Households.

Number of Respondents: 42,415.

Frequency: Varies.

Number of Responses: 42,415.

Estimated Average Time per Response: Varies.

Annual Burden Hours: 15,150 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–00777 Filed 1–16–24; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Producer Price Index Survey

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Bureau of Labor Statistics (BLS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before February 16, 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: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Producer Price Index (PPI), one of the Nation's leading economic indicators, is used as a measure of price movements, as an indicator of inflationary trends, for inventory valuation, and as a measure of purchasing power of the dollar at the primary market level. It also is used for market and economic research and as a basis for escalation in long-term contracts and purchase agreements. The purpose of the PPI collection is to accumulate data for the ongoing monthly publication of the PPI family of indexes. For additional substantive information about this ICR, see the

related notice published in the **Federal Register** on November 2, 2023 (88 FRN 75331).

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.

Agency: DOL–BLS.

Title of Collection: Producer Price Index Survey.

OMB Control Number: 1220–0008.

Affected Public: Private sector; Businesses or other for-profit institutions.

Total Estimated Number of Respondents: 5,412.

Total Estimated Number of Responses: 665,182.

Total Estimated Annual Time Burden: 63,740 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–00778 Filed 1–16–24; 8:45 am]

BILLING CODE 4510–24–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings

TIME AND DATE: The Legal Services Corporation (LSC) Board of Directors and its committees will meet January 21–23, 2024. On Sunday, January 21, the first meeting will begin at 12:30 p.m. CT, with the next meeting commencing promptly upon adjournment of the immediately preceding meeting. On Monday, January 22, the first meeting will again begin at 9:00 a.m. CT, with the next meeting commencing promptly upon adjournment of the immediately preceding meeting. On Tuesday, January 23, the first meeting will begin at 8:30 a.m. CT, with the next meeting commencing promptly upon adjournment of the immediately preceding meeting.

PLACE: Public Notice of Hybrid Meeting.

LSC will conduct its January 21–23, 2024, meetings at the Magnolia Hotel Houston, 1100 Texas Avenue, Houston, TX 77002, and virtually via Zoom.

Public Observation: Unless otherwise noted herein, the Board and all committee meetings will be open to public observation. Members of the public who wish to participate virtually in the public proceedings may do so by following the directions provided below.

Directions for Open Sessions

Sunday, January 21, 2024

- To join the Zoom meeting by computer, please use this link.
  - *https://lsc-gov.zoom.us/j/85018832307?pwd=TlfEVaRH5RazooxPnAr96f42KvbfTa.1*
  - *Meeting ID:* 850 1883 2307
  - *Passcode:* 12124

Monday, January 22, 2024

- To join the Zoom meeting by computer, please use this link.
  - *https://lsc-gov.zoom.us/j/84130944281?pwd=bl5OEvsaffYlRvHyycdkvi8VUY9Qgh.1*
  - *Meeting ID:* 841 3094 4281
  - *Passcode:* 12224

Tuesday, January 23, 2024

- To join the Zoom meeting by computer, please use this link.
  - *https://lsc-gov.zoom.us/j/84862120714?pwd=rEALyOaTL37iEvh5v1OP2uCTGSmyrf.1*
  - *Meeting ID:* 848 6212 0714
  - *Passcode:* 012324
  - If calling from outside the U.S., find your local number here: *https://lsc-gov.zoom.us/u/acCVpRj1FD*

Once connected to Zoom, please immediately mute your computer or telephone. Members of the public are asked to keep their computers or telephones muted to eliminate background noise. To avoid disrupting the meetings, please refrain from placing the call on hold if doing so will trigger recorded music or other sound.

From time to time, the Board or Committee Chair may solicit comments from the public. To participate in the meeting during public comment, use the 'raise your hand' or 'chat' functions in Zoom and wait to be recognized by the Chair before stating your questions and/or comments.

STATUS: Open, except as noted below.

Finance Committee—Open, except that, upon a vote of the Board of Directors, the meeting may be closed to the public to discuss LSC's banking services.

Audit Committee—Open, except that, upon a vote of the Board of Directors, the meeting may be closed to the public to discuss follow-up work by the Office of Compliance and Enforcement relating to open Office of Inspector General investigations and to discuss a follow-up on Internal Control Testing.

Institutional Advancement Committee—Open, except that, upon a vote of the Board of Directors, the meeting may be closed to the public to discuss development activities, including LSC's 50th Anniversary fundraising campaign, as well as to consider and act on recommending prospective Leaders Council and Emerging Leaders Council members to the Board of Directors.

Board of Directors—Open, except that, upon a vote of the Board of Directors, a portion of the meeting may be closed to the public to receive briefings from Management and the Inspector General; to discuss LSC's office relocation; and to consider and act on potential and pending litigation involving LSC as well as a list of prospective Leaders Council and Emerging Leaders Council members.

Any portion of the closed session consisting solely of briefings does not fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session.[1]

A verbatim written transcript will be made of the closed sessions of the Finance, Audit, Institutional Advancement Committee and Board of Directors meetings. The transcript of any portions of the closed sessions falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6), (7), (9) and (10), will not be available for public inspection. A copy of the General Counsel's Certification that, in his opinion, the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Meeting Schedule

Sunday, January 21, 2024

Start Time (All MST)

1. Operations & Regulations Committee Meeting, 12:30 p.m. CT

a. Matters to be discussed include the Committee's self-evaluation for 2023 and goals for 2024; Management's report on implementation of LSC's Strategic Plan for 2021–2024; public comments for Part 1638—Restrictions on Solicitation; and reprioritization of rulemaking (Parts 1621, 1624, and 1609).

2. Finance Committee Meeting

a. Matters to be discussed include the Committee's self-evaluation for 2023 and goals for 2024; LSC's Fiscal Year

[1] 5 U.S.C. 552b(a)(2) and (b). See also 45 CFR 1622.2 & 1622.3.

2024 appropriation and additional supplemental appropriation requests; financial report for the first two months of Fiscal Year 2024; and LSC's Fiscal Year 2025 appropriations request.

3. Delivery of Legal Services Committee

a. Matters to be discussed include the Committee's self-evaluation for 2023 and goals for 2024; LSC's performance criteria revisions process and timeline; and the opportunity to recognize long-serving legal aid organization staff during LSC's 50th Anniversary year.

Monday, January 22, 2024

Start Time (All MST)

1. Audit Committee Meeting, 9:00 a.m. CT

a. Matters to be discussed include the Committee's self-evaluation for 2023 and goals for 2024; update on reassessment of the Committee's Charter; briefing by the Office of Inspector General; review of LSC's and the Office of Inspector General's mechanisms for the submission of confidential complaints regarding suspected fraud, theft, corruption, or misuse of funds, or problems involving internal controls, auditing, or accounting, and that there are proper procedures in place for the receipt, retention, and handling of such complaints; management update regarding Risk Management; annual 403(b) plan audit; and a briefing regarding follow-up by the Office of Compliance and Enforcement on referrals by the Office of Inspector General regarding audits and annual independent public audits of grantees.

2. Governance and Performance Review Committee

a. Matters to be discussed include annual Board and Committee self-evaluations; the Committee's self-evaluation for 2023 and goals for 2024; the recent meeting of the Legal Aid Interagency Roundtable; the LSC President's 2023 self-evaluation; and the Inspector General's 2023 activities.

Tuesday, January 23, 2024

Start Time (All MST)

1. Communications Subcommittee of the Institutional Advancement Committee, 8:30 a.m. CT

a. Matters to be discussed include the Committee's self-evaluation for 2023 and goals for 2024 and the quarterly communications and social media update.

2. Institutional Advancement Committee

a. Matters to be discussed include the Committee's self-evaluation for 2023 and goals for 2024; Leaders Council and Emerging Leaders Council updates; development activities; and the status of special and privately funded projects (including the Opioid, Veterans, and Rural Justice Task Forces and the Eviction Study).

3. LSC Board of Directors

a. Matters to be discussed include consideration of Resolution #2024–XXX: In Memoriam of David Hall; Chairman's Report; Members' Reports; President's Report; LSC's 50th Anniversary Campaign, with a guest presentation by Joseph LaMountain, Reingold, Inc.; and consideration of reports from the Institutional Advancement, Finance, Audit, Operations and Regulations, Governance & Performance Review, and Delivery of Legal Services Committees.

Please refer to the LSC website *https://www.lsc.gov/events/board-directors-quarterly-meeting-jan-21-23-2024-houston-tx* for the final schedule and meeting agendas in electronic format. These materials will be made available at least 24 hours in advance of the meeting start time.

CONTACT PERSON FOR MORE INFORMATION: Jessica Wechter, Special Assistant to the President, at (202) 295–1626. Questions may also be sent by electronic mail to *wechterj@lsc.gov.*

Non-Confidential Meeting Materials: Non-confidential meeting materials will be made available in electronic format at least 24 hours in advance of the meeting on the LSC website, at *https://www.lsc.gov/about-lsc/board-meeting-materials.*

(Authority: 5 U.S.C. 552b.)

Dated: January 11, 2024.

Stefanie Davis,

Deputy General Counsel, Legal Services Corporation.

[FR Doc. 2024–00836 Filed 1–12–24; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Thursday, January 18, 2024.

PLACE: Board Room, 7th Floor, Room 7B, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Board Briefing, NCUA's 2024–2026 Diversity, Equity, Inclusion, and Accessibility Strategic Plan.

2. NCUA's 2024 Annual Performance Plan.

CONTACT PERSON FOR MORE INFORMATION: Melane Conyers-Ausbrooks, Secretary of the Board, Telephone: 703–518–6304.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2024–00830 Filed 1–12–24; 11:15 am]

BILLING CODE 7535–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Notice of Members of Senior Executive Service Performance Review Board

This notice announces the membership of the U.S. Nuclear Waste Technical Review Board (NWTRB) Senior Executive Service (SES) Performance Review Board (PRB).

DATES: Applicable immediately and until December 1, 2024.

ADDRESSES: Send comments concerning this notice to: U.S. Nuclear Waste Technical Review Board, Clarendon Blvd., Suite 1300, Arlington, VA 22201–3367.

FOR FURTHER INFORMATION CONTACT: Neysa M. Slater-Chandler, Director of Administration, *slater-chandler@nwtrb.gov.*

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5 of the United States Code, requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES Performance Review Boards. Section 4314(c)(4) of Title 5 requires that notice of appointment of board members be published in the **Federal Register**.

The following executives have been designated as members of the Performance Review Board for the U.S. Nuclear Waste Technical Review Board:

R. Todd Davis, Associate Technical Director, Nuclear Programs and Analysis, Defense Nuclear Facilities Safety Board

Timothy J. Dwyer, Acting Deputy Technical Director, Defense Nuclear Facilities Safety Board

Richard E. Tontodonato, Associate Technical Director, Nuclear Weapon Programs, Defense Nuclear Facilities Safety Board

Candice Trummell, Senior Policy Advisor, Office of Environmental Management, U.S. Department of Energy

Dated: January 9, 2024.

Neysa M. Slater-Chandler,

Director of Administration, U.S. Nuclear Waste Technical Review Board.

[FR Doc. 2024–00703 Filed 1–16–24; 8:45 am]

BILLING CODE 6820–AM–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–163 and CP2024–169; MC2024–164 and CP2024–170]

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:* January 19, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

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).:* MC2024–163 and CP2024–169; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 172 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* January 10, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Samuel Robinson; *Comments Due:* January 19, 2024.

2. *Docket No(s).:* MC2024–164 and CP2024–170; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 173 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* January 10, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Samuel Robinson; *Comments Due:* January 19, 2024.

This Notice will be published in the **Federal Register**.

Jennie L. Jbara,

Alternate Certifying Officer.

[FR Doc. 2024–00764 Filed 1–16–24; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. ACR2023; Order No. 6932]

Postal Service Performance Report and Performance Plan

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: On December 29, 2023, the Postal Service filed the FY 2023 Performance Report and FY 2024 Performance Plan with its FY 2023 Annual Compliance Report. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES:

Comments are due: March 15, 2024.

Reply Comments are due: March 29, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

Each year the Postal Service must submit to the Commission its most recent annual performance plan and annual performance report.[1] On December 29, 2023, the Postal Service filed its FY 2023 Annual Report to Congress in Docket No. ACR2023.[2] The *FY 2023 Annual Report* consists of four reports that include the Postal Service's FY 2023 annual performance report (FY 2023 Report) and FY 2024 annual performance plan (FY 2024 Plan).[3]

The FY 2024 Plan reviews the Postal Service's plans for FY 2024. The FY 2023 Report discusses the Postal Service's progress during FY 2023 toward its four performance goals:

- High-Quality Service
- Excellent Customer Experience
- Safe Workplace and Engaged Workforce
- Financial Health

Each year, the Commission must evaluate whether the Postal Service met the performance goals established in the

[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).

[1] 39 U.S.C. 3652(g)(2) and (3); 39 CFR 3050.43(b)(2) and (3).

[2] United States Postal Service Fiscal Year 2023 Annual Report to Congress, Library Reference USPS–FY23–17, December 29, 2023, ZIP folder ''USPS.FY23.17_ARC.Files'' file ''FY2023.Annual.Report.to.Congress.pdf'' (*FY 2023 Annual Report*).

[3] *FY 2023 Annual Report* at 38–60. The FY 2023 Annual Report also includes the Postal Service's FY 2023 Annual Report and FY 2023 Comprehensive Statement on Postal Service Operations. *Id.* at 2.

annual performance plan and annual performance report. 39 U.S.C. 3653(d). The Commission may also ''provide recommendations to the Postal Service related to the protection or promotion of public policy objectives set out in'' Title 39. *Id.*

Since Docket No. ACR2013, the Commission has evaluated whether the Postal Service met its performance goals in reports separate from the Annual Compliance Determination.[4] The Commission continues this current practice to provide a more in-depth analysis of the Postal Service's progress toward meeting its performance goals and plans to improve performance in future years. To facilitate this review, the Commission invites public comment on the following issues:

- Did the Postal Service meet its performance goals in FY 2023?
- Do the FY 2023 Report and the FY 2024 Plan meet applicable statutory requirements, including 39 U.S.C. 2803 and 2804?
- What recommendations should the Commission provide to the Postal Service that relate to protecting or promoting public policy objectives in Title 39?
- For the Excellent Customer Experience performance goal, are there any customer experience (CX) metrics the Postal Service should add to measure CX? [5]
- What recommendations or observations should the Commission make concerning the Postal Service's strategic initiatives? [6]
- What other matters are relevant to the Commission's analysis of the FY 2023 Report and the FY 2024 Plan under 39 U.S.C. 3653(d)?

II. Request for Comments

Comments by interested persons are due no later than March 15, 2024. Reply comments are due no later than March 29, 2024. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as Public Representative to represent the interests of the general public in this proceeding with respect to issues related to the Commission's analysis of the FY 2023 Report and the FY 2024 Plan.

III. Ordering Paragraphs

It is ordered:

1. The Commission invites public comment on the Postal Service's FY 2023 Report and FY 2024 Plan.
2. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth R. Moeller to serve as Public Representative to represent the interests of the general public in this proceeding with respect to issues related to the Commission's analysis of the FY 2023 Report and the FY 2024 Plan.
3. Comments are due no later than March 15, 2024.
4. Reply comments are due no later than March 29, 2024.
5. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Jennie L. Jbara,

Alternate Certifying Officer.

[FR Doc. 2024–00700 Filed 1–16–24; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99307; File No. SR–CboeBZX–2024–003]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Adopt Fees for the Short Interest Report

January 10, 2024.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 2, 2024, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Cboe U.S. Equities Fee Schedules

BZX Equities

Effective [December 12, 2023] *January 2, 2024*

* * * * *

Market Data Fees:

* * * * *

Cboe Premium Exchange Tools

Description	Fee
Monthly Fee per User Login	$65

[4] *See* Docket No. ACR2013, Postal Regulatory Commission, Review of Postal Service FY 2013 Performance Report and FY 2014 Performance Plan, July 7, 2014; Docket No. ACR2014, Postal Regulatory Commission, Analysis of the Postal Service's FY 2014 Program Performance Report and FY 2015 Performance Plan, July 7, 2015; Docket No. ACR2015, Postal Regulatory Commission, Analysis of the Postal Service's FY 2015 Annual Performance Report and FY 2016 Performance Plan, May 4, 2016; Docket No. ACR2016, Postal Regulatory Commission, Analysis of the Postal Service's FY 2016 Annual Performance Report and FY 2017 Performance Plan, April 27, 2017; Docket No. ACR2017, Postal Regulatory Commission, Analysis of the Postal Service's FY 2017 Annual Performance Report and FY 2018 Performance Plan, April 26, 2018; Docket No. ACR2018, Postal Regulatory Commission, Analysis of the Postal Service's FY 2018 Annual Performance Report and FY 2019 Performance Plan, May 13, 2019; Docket No. ACR2019, Postal Regulatory Commission, Analysis of the Postal Service's FY 2019 Annual Performance Report and FY 2023 Performance Plan, June 1, 2023; Docket No. ACR2020, Postal Regulatory Commission, Analysis of the Postal Service's FY 2020 Annual Performance Report and FY 2021 Performance Plan, June 2, 2021; Docket No. ACR2021, Postal Regulatory Commission, Analysis of the Postal Service's FY 2021 Annual Performance Report and FY 2022 Performance Plan, June 30, 2022; Docket No. ACR2022, Postal Regulatory Commission, Analysis of the Postal Service's FY 2022 Annual Performance Report and FY 2023 Performance Plan, June 28, 2023.

[5] In FY 2023, the Postal Service measured CX based on customer surveys. *See* Docket No. ACR2023, Library Reference USPS–FY23–38, December 29, 2023, ZIP folder ''FY23.38.Files.zip'' PDF file ''CX_Surveys_FY23.pdf.

[6] *See FY 2023 Annual Report* at 59–60.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Short Interest Report *

Delivery	*Fee*
Monthly Fee—Access	*$250*
Monthly Fee—Access (Historical Data)	*250*
Monthly Fee per Internal Distributor	*500*
Monthly Fee Internal Distributor (Historical Data)	*500*
Monthly Fee per External Distributor **	*750*
Monthly Fee External Distributor (Historical Data) **	*750*

* *The Short Interest Report is available for purchase on a monthly basis or on an annual basis.*
** The Short Interest Report provided for External Distribution is only for display use redistribution.

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/BZX/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to adopt fees to be assessed to individuals that elect to subscribe to the Short Interest Reports, effective January 2, 2024.

On December 11, 2023 the Exchange proposed to adopt a new data product known as the Short Interest Report.[3] The Short Interest Report contains a summary of consolidated market short interest positions in all BZX-listed securities [4] only as reported by the Financial Industry Regulatory Authority, Inc. (''FINRA''); it is designed to facilitate the distribution of short sale data to, among other things, provide analytical and investment data that the brokerage industry, academic institutions, and investors may use in developing risk-assessment tool and trading models for BZX-listed issues. The report data fields include Cycle Settlement Date,[5] BATS-Symbol,[6] Security Name, Number of Shares Net Short Current Cycle,[7] Number of Shares Net Short Previous Cycle,[8] Cycle Average Daily Trade Volume,[9] Minimum Number of Trade Days to Cover Shorts,[10] Split Indicator,[11] Manual Revision Indicator,[12] Percent Change in Short Position,[13] and Change in Short Position from Previous.[14]

The Short Interest Report is available for purchase by both Members [15] and non-Members on a monthly or annual subscription basis, and subscribers will receive a daily end-of-day file (with values updated twice per month). The Short Interest Report is also available for purchase on a historical monthly basis. The historical reports provide the end-of-day report for each day during a given calendar month, are available for purchase dating back to March 31, 2015, and include the same data fields as the daily end-of-day files. Members and non-Members have the ability to re-distribute (internally and/or externally) the Short Interest Report.

The Exchange now proposes to adopt fees applicable to individuals that subscribe to the Short Interest Reports. As proposed, the Exchange would assess a monthly [16] fee of $250 per month for individuals that subscribe to the report, $500 per month for an Internal Distributor [17] of the report, and a fee of $750 per month to an External Distributor [18] of the report. These fees may be paid on a monthly basis or on an annual basis.[19] Data provided to an External Distributor via the Short Interest Report is only for display use redistribution (*e.g.,* the data may be provided on the distributor's platform). Therefore, distributors of the data may not charge separately for data included in the Report or incorporate such data into their product. External Distributors, unlike Internal Distributors, are typically compensated for the distribution of short sale data through subscription fees or other mechanisms. The higher price for External Distributors reflects the additional value these distributors may gain from the product.

Additionally, the Exchange proposes to adopt fees for the Short Interest Report provided on a historical basis. As

[3] *See* SR–CboeBZX–2023–102.

[4] A BZX-listed security is a security listed on the Exchange pursuant to Chapter 14 of the Exchange's Rules and includes both corporate listed securities and Exchange Traded Products (''ETPs'').

[5] ''Cycle Settlement Date'' is the reporting period date.

[6] ''BATS-Symbol'' is the Exchange-assigned symbol for the given security.

[7] ''Number Shares Net Short Current Cycle'' is the total of uncovered open short interest positions in a particular security in shares, for the current reporting period.

[8] ''Number of Shares Net Short Previous Cycle'' is the total number of uncovered open short interest positions in a particular security in shares, for the previous reporting period.

[9] ''Cycle Average Daily Trade Volume'' is the number of shares traded on average per day in a particular security in shares.

[10] ''Minimum Number of Trade Days to Cover Shorts'' is the ratio of the current short interest position over the average daily volume for the current settlement date.

[11] ''Split Indicator'' indicates whether the security has undergone a stock split during the current reporting period.

[12] ''Manual Revision Indicator'' indicates whether the security's short interest for the previous reporting period has been revised.

[13] ''Percent Change in Short Position'' is the percent change from the current reporting period's short interest compared to the previous reporting period's short interest.

[14] ''Change in Short Position from Previous'' is the difference between the current and previous reporting period of uncovered short interest positions in a particular security in shares.

[15] *See* Exchange Rule 1.5(n).

[16] The monthly fees for the Short Interest Reports are assessed based on a 30-day period. For example, if an individual subscribes to the Short Interest Report on December 15, 2023, the monthly fee will cover the period of December 15, 2023 through January 15, 2023. If the individual cancels his/her subscription prior to January 15, 2023, the individual will not be charged for (or have access to) Short Interest Reports for the remainder of January.

[17] An ''Internal Distributor'' of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to one or more users within the Distributor's own entity.

[18] An ''External Distributor'' of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more users outside the Distributor's own entity.

[19] Those who subscribe to the Short Interest Report during the middle of a month will receive the end-of-day report for each day beginning on the date of subscription.

noted above, the Short Interest Report will be available for each calendar month dating back to March 31, 2015. As proposed, the fees for Short Interest Reports provided on a historical basis are the same as the fees proposed for the standard Short Interest Report: the Exchange would assess a fee of $250 per historical month for individuals that subscribe, $500 per historical month assessed to Internal Distributors of the report, and a fee of $750 per historical month assessed to External Distributors of the report. Data provided via the historical Short Volume Report is also for display use redistribution only (*e.g.,* the data may be provided on the distributor's platform). Therefore, distributors of the historical data may not charge separately for data included in the Short Interest Report or incorporate such data into their product. Nonetheless, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge a fee for display use redistribution that reflects the value these distributors may gain from the historical product.

The Exchange anticipates that a wide variety of market participants will purchase the Short Interest Report, including, but not limited to, active equity trading firms and academic institutions. For example, the Exchange notes that academic institutions may utilize the Short Interest Report data and as a result promote research and studies of the equities industry to the benefit of all market participants. The Exchange further believes the Short Interest Report may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange.

The Exchange notes that the Short Interest Report is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make the reports or services available and that potential subscribers may purchase it only if they voluntarily choose to do so. Further, the Exchange notes that other exchanges offer similar products for a fee.[20]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 6(b) of the Act.[21] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) [22] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) [23] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with section 6(b)(4) of the Act,[24] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the Short Interest Report further broadens the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The Short Interest Report also promotes increased transparency through the dissemination of short interest data. The Short Interest Report benefits investors by providing access to the Short Interest Report data, which may promote better informed trading, as well as research and studies of the equities industry.

The Exchange operates in a highly competitive environment. Indeed, there are currently 16 registered equities exchanges that trade equities. Based on publicly available information, no single equities exchange has more than 13% of the equity market share.[25] The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [26] Making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more attractive than the competition, that market participant can, and often does, switch between similar products. The proposed fees are a result of the competitive environment of the U.S. equities industry as the Exchange seeks to adopt fees to attract purchasers of the recently introduced Short Interest Report.

The Exchange believes that the proposed fees for the Short Interest Report are consistent with the Act in that they are reasonable, equitable, and not unfairly discriminatory. In particular, the Exchange believes that the proposed fees are reasonable because they are reasonably aligned with the value and benefits provided to users that choose to subscribe to the Short Interest Report on the Exchange. As discussed above, the Short Interest Report may be beneficial to Members and non-Members as it may provide helpful trading information regarding investor sentiment that may allow market participants to make more informed trading decisions and may be used to create and test trading models and analytical strategies and provide comprehensive insight into trading on the Exchange. Therefore, the Exchange believes that it is reasonable to assess a modest fee to users that subscribe to the Short Interest Report.

The Exchange further believes the proposed fee is reasonable because the amount assessed is less than the analogous fees charged by competitor exchanges. For example, for its Short Interest Reports, Nasdaq charges $500

[20] *See, e.g.,* Specifications for Short Interest file, available at: *https://www.nasdaq.com/solutions/short-interest-report;* and NYSE Group Short Interest Client Specification, available at: NYSE_Group_Short_Interest_Client_Specification_v1.5.pdf.

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(5).

[23] *Id.*

[24] 15 U.S.C. 78f(b)(4).

[25] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (December 18, 2023), available at *https://www.cboe.com/us/equities/market_statistics/.*

[26] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

for access, $1,000 for Internal Distributors and from $2,500 to $7,500 for External Distributors (depending on the number of subscribers).[27] Additionally, NYSE and its affiliated equity markets (the ''NYSE Group'') have a similar Short Interest Report offering, seemingly for a charge.[28] The Exchange therefore believes that the proposed fees are reasonable and set at a level to compete with other equity exchanges that offer similar reports. Indeed, proposing fees that are excessively higher than established fees for similar data products would simply serve to reduce demand for the Exchange's data product, which as noted, is entirely optional. Although each of these similar data products provide only proprietary trade data and not trade data from other exchanges, it is possible investors are still able to gauge overall investor sentiment across different equities based on the included data points on any one exchange. As such, if a market participant views another exchange's potential report as more attractive, then such market participant can merely choose not to purchase the Exchange's Short Interest Report and instead purchase another exchange's similar data product, which offers similar data points, albeit based on that other market's trading activity.

In addition, the Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will apply to all similarly situated Members and non-Members that choose to subscribe to the Short Interest Report equally. As stated, the Short Interest Report is completely optional and not necessary for trading. Rather, the Exchange voluntarily makes the Short Interest Report available, and users may choose to subscribe (and pay for) the report based on their own individual business needs. Potential subscribers may subscribe to the Short Interest Report at any time if they believe it to be valuable or may decline to purchase it.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to charge an External Distributor of the Short Interest Report a higher fee than an Internal Distributor as an External Distributor may provide the data on their platform. External Distributors, unlike Internal Distributors, are typically compensated for the distribution of short sale data through subscription fees or other mechanisms. Therefore, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge a higher fee for display use redistribution, as it reflects the additional value these distributors may gain from the Short Interest product. Additionally, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge an Internal Distributor of the Short Interest Report a higher fee than an individual, as an Internal Distributor may distribute the data to one or more users within the Distributor's own entity; thus, the higher fee reflects the additional value such Internal Distributors may gain from the Short Interest product. Further, the proposed fee will apply equally to similarly situated individuals, Internal Distributors and External Distributors, respectively. Moreover, as described above, another Exchange similarly charges Internal and External Distributors higher fees as compared to individuals for a similar data product.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Short Interest Report will be available equally to all Members and non-Members that choose to subscribe to the report. Market participants are not required to purchase the Short Interest Report, and the Exchange is not required to make the Short Interest Report available to investors. Rather, the Exchange is voluntarily making the Short Interest Report available, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential purchasers may request the data at any time if they believe it to be valuable or may decline to purchase such data. Given the above, the Exchange does not believe 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. Additionally, as discussed above, the Exchange believes it is appropriate to charge Internal and External Distributors higher fees as compared to individuals, as the higher fees reflect the additional value such Internal Distributors and External Distributors may gain from the Short Interest product.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, similar products offered by Nasdaq are priced higher than the Short Volume Report. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the Exchange does not believe its proposal imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Further, making similar data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees. In the event that a market participant views one exchange's data product as more attractive than the competition, that market participant can, and often does, switch between similar products. The proposed fees are a result of the competitive environment of the U.S. equities industry as the Exchange seeks to adopt fees to attract purchasers of the Short Interest Report. As noted above, the Exchange believes that the proposed fees are reasonable and set at a level to compete with other equity exchanges that offer similar reports. Accordingly, the Exchange does not believe its proposal imposes any burden on competition that is not necessary or

[27] *See* Nasdaq Rule 7, Section 122.

[28] *See https://www.nyse.com/market-data/reference/nyse-group-short-interest,* which includes a ''Purchase Now'' option. The Exchange is unaware of a related filing for the offering.

appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act [29] and paragraph (f) of Rule 19b–4 [30] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2024–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2024–003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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 the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2024–003 and should be submitted on or before February 7, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00710 Filed 1–16–24; 8:45 am]

BILLING CODE 8011–01–P

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 17 CFR 240.19b–4(f).

[31] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99311; File No. SR–CboeBYX–2023–020]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Modify Rule 11.24 To Introduce an Enhanced RPI Order and Expand Its Retail Price Improvement Program To Include Securities Priced Below $1.00

January 10, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 27, 2023, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify Rule 11.24 to introduce an Enhanced RPI Order and expand its Retail Price Improvement program to include securities priced below $1.00. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.24 to enhance the Exchange's Retail Price Improvement Program (the ''Program'') for the benefit of retail investors. Specifically, the Exchange proposes to introduce a new Retail Price Improvement Order type (''RPI Order'') [3] to be known as an ''Enhanced RPI Order.'' The proposed Enhanced RPI Order will allow retail liquidity providers to post orders at their limit price but have the opportunity to provide a greater amount of price improvement as compared to other resting orders on the same side of the BYX Book with higher priority in order to execute with an incoming Retail Order [4] by exercising at a price within their established step-up range. The proposed change is designed to provide retail investors with additional opportunities for meaningful price

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Rule 11.24(a)(3) (''Retail Price Improvement Order'').

[4] *See* Rule 11.24(a)(2) (''Retail Order'').

improvement by introducing a new order type that will ''step-up'' its price against orders with a higher priority resting on the BYX Book.[5] Additionally, the Exchange proposes to expand the Program to securities priced below $1.00.[6]

Background

In November 2012, the Exchange received approval to operate its Program on a pilot basis.[7] The Program operated under a pilot basis until September 30, 2019, when the Program was approved on a permanent basis.[8] In addition, the Exchange was granted a limited exemption from the Sub-Penny Rule, as well as Regulation NMS Rule 602 (Quote Rule) No Action relief[9] to operate the Program.[10] The Program is currently designed to attract Retail Orders to the Exchange and allow such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than $1.00 per share.[11] Under the Program, a class of market participant called a Retail Member Organization (''RMO'')[12] is eligible to submit certain retail order flow (''Retail Orders'') to the Exchange. Users[13] are permitted to provide potential price improvement for Retail Orders[14] in the form of non-displayed interest that is better than the national best bid that is a Protected Quotation (''Protected NBB'') or the national best offer that is a Protected Quotation (''Protected NBO'', and together with the Protected NBB, the ''Protected NBBO'').[15]

The Exchange developed this Program with the goal of incentivizing RMOs to execute their Retail Orders on the Exchange, rather than off-exchange venues, by providing Retail Orders with greater access to potential opportunities for price improvement on the Exchange. However, as noted by the Commission, even with the presence of retail liquidity programs (''RLPs'') offered by Cboe and other national securities exchanges,[16] the great majority of marketable orders of retail investors continue to be sent to wholesalers.[17] Indeed, as noted in the Commission's recent rule proposal related to minimum pricing increments, RLPs have not yet attracted a significant volume of retail order flow.[18] In fact, since RLPs have been adopted, the percentage of on-exchange share volume has continued to decrease from approximately 71% to approximately 56% as of November 2023.[19]

Accordingly, the Exchange now seeks to enhance its current Program by offering retail liquidity providers an optional Enhanced RPI Order type. The Exchange believes the Enhanced Order type will incentivize additional retail liquidity provision by enabling RPI liquidity providers to submit an order that is ranked at a less aggressive price than the step-up range at which the provider is willing to execute, but have the opportunity to ''step up'' to provide a greater amount of price improvement as compared to other higher priority resting orders on the same side of the BYX Book in order to execute with an incoming contra-side Retail Order. As discussed in more detail, below, the Enhanced RPI Order type will have price priority over resting orders when its step-up range allows for additional price improvement when a contra-side Retail Order is submitted to the Exchange. With the deeper pool of retail liquidity-providing orders, the Exchange believes that RMOs will see increased opportunities for on-exchange price improvement and seek to execute more of their Retail Orders on the Exchange.

Proposal

The Exchange proposes to amend Rule 11.24(a) to include the proposed Enhanced RPI Order, which allows a retail liquidity provider to post a limit order to the Exchange, but also the opportunity to ''step-up'' its price within their defined step-up range by providing a greater amount of price improvement as compared to orders with higher priority that are resting on the same side of the BYX Book in order to execute against an incoming Retail Order seeking to remove liquidity. An Enhanced RPI Order is designed to be entered with a limit price, but must also include a step-up range, which is the most aggressive price it is willing to execute against a contra-side Retail Order. If the Enhanced RPI Order includes a step-up range that improves against the price of the highest-ranked resting order on the same side of the BYX Book, the Enhanced RPI Order will be given price priority over the highest-ranked resting order. In order for an Enhanced RPI Order to receive price priority, the Enhanced RPI Order must be able to provide a greater amount of price improvement to an incoming contra-side Retail Order than would otherwise be available by stepping up to the next valid tick increment.[20]

[5] *See* Rule 1.5(e) (''BYX Book''). The ''BYX Book'' is the System's electronic file of orders. The ''System'' shall mean the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution, and when applicable, routing away. *See* Rule 1.5(aa) (''System'').

[6] See Rule 11.24(h). The Program is currently limited to trades occurring at prices equal to or greater than $1.00 per share.

[7] *See* Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012), SR–BYX–2012–019 (''Pilot Approval Order'').

[8] *See* Securities Exchange Act Release No. 87154 (September 30, 2019), 84 FR 53183 (October 4, 2019), SR–CboeBYX–2019–014 (''RPI Approval Order'').

[9] *See* Letter from David Shillman to Eric Swanson (November 27, 2012) (''No Action Letter''), available at *https://www.sec.gov/divisions/marketreg/mr-noaction/byx-112712-602.pdf.*

[10] *Supra* note 8 at 53185.

[11] *Supra* note 6. The Exchange will periodically notify the membership regarding the securities included in the Program through an information circular. The Exchange is proposing to make the Program available to all securities (discussed *infra*).

[12] See Rule 11.24(a)(1). A ''Retail Member Organization'' or ''RMO'' is a Member (or a division thereof) that has been approved by the Exchange under Rule 11.24 to submit Retail Orders.

[13] *See* Rule 1.5(cc). A ''User'' is defined as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.

[14] *Supra* note 4. A ''Retail Order'' is defined as an agency or riskless principal order that originates from a natural person and is submitted to the Exchange by an RMO, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any computerized methodology.

[15] *See* Rule 1.5(t). The term ''Protected Quotation'' has the same meaning as is set forth in Regulation NMS Rule 600(b)(71). The terms Protected NBB and Protected NBO are defined in BYX Rule 1.5(s). The Protected NBB is the best-priced protected bid and the Protected NBO is the best-priced protected offer. Generally, the Protected NBB and Protected NBO and the national best bid (''NBB'') and national best offer (''NBO'', together with the NBB, the ''NBBO'') will be the same. However, a market center is not required to route to the NBB or NBO if that market center is subject to an exception under Regulation NMS Rule 611(b)(1) or if such NBB or NBO is otherwise not available for an automatic execution. In such case, the Protected NBB or Protected NBO would be the best-priced protected bid or offer to which a market center must route interest pursuant to Regulation NMS Rule 611.

[16] *See, e.g.,* NYSE and NYSE Arca Retail Liquidity programs, which promote cost savings through price improvement for individual investors provided by retail liquidity providers that submit non-displayed interest priced better than the best protected best bid or protected best offer. Available at *https://www.nyse.com/markets/liquidity-programs. See also* IEX Retail Program, which incentivizes midpoint liquidity for retail orders through the use of retail liquidity provider orders. Available at *https://www.iexexchange.io/products/retail-program. See also* Nasdaq BX Retail Price Improvement, which allows retail orders to interact with price-improving liquidity. Available at *https://www.nasdaqtrader.com/content/BXRPIfs.pdf.*

[17] *See* Securities Exchange Act Release No. 96495 (December 14, 2022), 88 FR 128 (January 3, 2023) (''Order Competition Rule'') at 144.

[18] *See* Securities Exchange Act Release No. 96494 (December 14, 2022), 87 FR 80266 (December 29, 2022) (''Tick Size Proposal'') at 80273.

[19] Source: Cboe internal data.

[20] The Exchange notes that the minimum amount of required price improvement will vary between $0.001 and $0.01, based on the order types resting on the BYX Book (discussed *infra*).

The Exchange believes this proposed change would further the purpose of the Program to attract retail marketable order flow to the Exchange, while also increasing opportunities for price improvement. By offering the Enhanced RPI Order, the Exchange has created an enhancement to its current Program that offers a greater incentive for liquidity providers to provide liquidity eligible to execute against marketable retail order flow on the Exchange. The Enhanced RPI Order would allow Users to post orders at their limit price but step-up to a more aggressive price in order to execute against marketable retail order flow that is less prone to adverse selection. Marketable retail order flow, in turn, would receive price improvement greater than what is currently available under the Program. The Exchange believes that the proposed change will lead to increased participation in the Program by Users seeking to provide liquidity for marketable retail order flow, which in turn will attract additional marketable retail order flow to the Exchange in search of price improvement opportunities.

The Exchange also proposes to introduce Rule 11.24(a)(5) in order to define the term RPI Interest as either RPI Orders or Enhanced RPI Orders. Additionally, the Exchange proposes to amend Rule 11.24(g) in order to describe order priority for Enhanced RPI Orders. The Exchange also proposes to make corresponding changes within Rule 11.24 to replace certain references to RPI Order with the term RPI Interest in order to have language inclusive of both RPI Orders and Enhanced RPI Orders. Further, the Exchange proposes to delete Rule 11.24(h), as the Exchange proposes to expand the Program to sub-dollar securities. The Exchange will announce that the RPI Program has expanded to all securities in a Trade Desk notice, and periodic updates will no longer be required. The Exchange also proposes to renumber Rule 11.24(i) in conjunction with the deletion of Rule 11.24(h).

Additionally, with the introduction of the Enhanced RPI Order, the Exchange proposes to amend Rule 11.24(a)(2) to permit a Retail Order to be entered as a Mid-Point Peg Order.[21] The Exchange also proposes to amend Rule 11.24(a)(2) to better describe that the time-in-force requirement for all Retail Orders, including those entered as a Mid-Point Peg Order, is required to be Immediate or Cancel (''IOC''). The Exchange believes that allowing the Mid-Point Peg Order instruction on a Retail Order will benefit Users who choose to submit Retail Orders because it will permit a Retail Order to guarantee price improvement at the midpoint or better. The Mid-Point Peg Order instruction will be optional, and not required for Users of Retail Orders.

Current RPI Orders

Rule 11.24(a)(3) currently defines an RPI Order as ''non-displayed interest on the Exchange that is priced better than the Protected NBB or Protected NBO by at least $0.001 and that is identified as such.'' [22] The Exchange now proposes to amend the definition of RPI Order to more accurately reflect how an RPI Order may be entered by defining an RPI Order as ''non-displayed interest on the Exchange that is eligible to execute at prices better than the Protected NBB or Protected NBO by at least $0.001 in securities priced at or above $1.00 and by at least $0.0001 in securities priced below $1.00 and that is identified as such.'' As the Exchange is also proposing to expand the Program to prices below $1.00, more specificity is required regarding the minimum pricing increment. Further, the Exchange is clarifying that an RPI Order may be entered at any price but may execute only at prices better than the Protected NBB or Protected NBO.

As stated in Rule 11.24(a)(3), RPI Orders are non-displayed and are ranked in accordance with Rule 11.12(a). Furthermore, under Rule 11.24(g), competing RPI Orders in the same security are ranked and allocated according to price then time of entry into the System. Executions occur in price/time priority in accordance with Rule 11.12. Any remaining unexecuted RPI interest remains available to interact with other incoming Retail Orders if such interest is at an eligible price. Any remaining unexecuted portion of the Retail Order will cancel or execute in accordance with Rule 11.24(f). The following example illustrates this method:

- Protected NBBO for security ABC is $10.00–$10.05
- User 1 enters an RPI Order to buy ABC at $10.015 for 500 shares
- User 2 then enters an RPI Order to buy ABC at $10.02 for 500 shares
- User 3 then enters an RPI Order to buy ABC at $10.035 for 500 shares

An incoming Retail Order to sell ABC for 1,000 shares executes first against User 3's bid for 500 shares at $10.035, because it is the best priced bid, then against User 2's bid for 500 shares at $10.02, because it is the next best priced bid. User 1 is not filled because the entire size of the Retail Order to sell 1,000 shares is depleted. The Retail Order executes against RPI Orders in price/time priority.[23]

Enhanced RPI Order

The Exchange now proposes to introduce a new type of RPI Order that Users seeking to provide RPI liquidity may utilize on an optional basis. The proposed Enhanced RPI Order will be eligible to obtain price priority over resting orders in the same security on the same side of the BYX Book in order to execute against a Retail Order by including a step-up range when entered. Enhanced RPI Orders will be ranked in accordance with proposed Rule 11.24(g)(2) (discussed *infra*). In order to effect the proposed change, the Exchange proposes to introduce Rule 11.24(a)(4), which would define an Enhanced RPI Order as:

- An ''Enhanced Retail Price Improvement Order'' or ''Enhanced RPI Order'' consists of non-displayed interest on the Exchange that is eligible to execute against contra-side Retail Orders. An Enhanced RPI Order will be ranked at its limit price and must also include a step-up range, which is the maximum price (for buy orders) or minimum price (for sell orders) at which the Enhanced RPI Order is willing to execute. An Enhanced RPI Order may execute at: (i) its limit price; (ii) for securities priced at or above $1.00, at a price within the step-up range that is able to improve upon the price of a same-side resting order on the BYX Book by stepping up to the next half cent or full cent, and for securities priced below $1.00 by stepping up to the next valid tick increment; or (iii) at a price within the step-up range when the limit price of a contra-side Retail Order is within the step-up range. An Enhanced RPI Order may be a primary pegged order or a limit order. The System will monitor whether Enhanced RPI interest, including the step-up range, and adjusted by any offset and subject to the ceiling or floor price, is eligible to interact with incoming Retail Orders. An Enhanced RPI Order (the buy or sell interest, the step-up range, the offset, and the ceiling or floor) remains non-displayed in its entirety. Any User is permitted, but not required,

[21] *See* Rule 11.9(c)(9). A Mid-Point Peg Order is a limit order that, after entry into the System, the price of the order is automatically adjusted by the System in response to changes in the NBBO to be pegged to the mid-point of the NBBO, or, alternatively, pegged to the less aggressive of the midpoint of the NBBO or one minimum price variation inside the same side of the NBBO as the order.

[22] *Supra* note 3.

[23] *See* Rule 11.24(f) for additional examples of priority and order allocation in the current Program.

to submit Enhanced RPI Orders. An Enhanced RPI Order may be an odd lot, round lot or mixed lot. An Enhanced RPI Order shall have priority as described in Rule 11.24(g)(2).

The price of an Enhanced RPI Order will be determined by a User's entry of the following into the Exchange: (1) Enhanced RPI buy or sell interest; (2) the step-up range; (3) an offset, if any; and (4) a ceiling or floor price, if any. The step-up range of an Enhanced RPI Order is the maximum amount above the order's limit price at which a User is willing to execute. If the Enhanced RPI Order can improve upon resting liquidity on the same side of the BYX Book by stepping up to the nearest whole cent tick or half cent midpoint tick, it will receive price priority over the resting liquidity on the BYX Book. An Enhanced RPI Order, however, will not improve upon the price of another resting Enhanced RPI Order to receive price priority.

Enhanced RPI Order Priority

As discussed above, the proposed Enhanced RPI Order will be ranked at its limit price, which is less aggressive than its step-up range. With the introduction of the proposed Enhanced RPI Order, the Exchange proposes to reorganize Rule 11.24(g) into Rule 11.24(g)(1) and (2). Proposed Rule 11.24(g)(1) would contain the existing rule text that describes order priority with respect to RPI Orders, which the Exchange does not propose to amend. Proposed Rule 11.24(g)(2) would describe order priority with respect to Enhanced RPI Orders.

An Enhanced RPI Order will be ranked and allocated according to its limit price then time of entry into the System. The Exchange proposes, however, that an Enhanced RPI Order will be granted price priority over orders resting on the BYX Book in the event that the Enhanced RPI Order is able to provide a greater amount of price improvement to an incoming contra-side Retail Order by stepping up to the next half cent [24] or full cent (for securities priced at or above $1.00) or the next valid tick increment (for securities priced below $1.00). The step-up range of an Enhanced RPI Order will be utilized to determine price priority when: (1) the range is needed to gain priority over a resting order with higher order book priority that is not an Enhanced RPI Order; (2) in situations where: (a) a contra-side Retail Order is entered at a less aggressive price than the ranked price of the Enhanced RPI Order and all other resting liquidity and (b) the Enhanced RPI Order's step-up range is equal to or more aggressively priced than the Retail Order's limit price; and (3) to determine order book priority when multiple Enhanced RPI Orders are resting on the BYX Book and are eligible to trade ahead of higher priority orders resting on the BYX Book that are not Enhanced RPI Orders. The Exchange notes when multiple Enhanced RPI Orders are resting on the BYX Book. there are no other resting orders on the same side of the BYX Book with higher priority, and a contra-side Retail Order is entered at a price equal to or more aggressive than the highest-priced Enhanced RPI Order resting on the BYX Book, the Enhanced RPI Orders will execute in standard price/time priority according to their limit price rather than utilize the step-up range to determine order book priority.

The Exchange has included the examples below to show how order priority with an Enhanced RPI Order will be determined. In the examples below, the Retail Liquidity Identifier (discussed *infra*) is presumed to be displayed unless stated otherwise.

Example 1 [25]

In order to illustrate priority of an Enhanced RPI Order over other non-displayed orders resting on the BYX Book, consider the following example:

- The Protected NBBO for security ABC is $10.00 × $10.05.
  - User 1 enters a Mid-Point Peg order to buy ABC at $10.03 for 100. User 1's order is ranked at $10.025 as the User elected that the Mid-Point Peg order be pegged to the mid-point of the NBBO.
  - User 2 enters an Enhanced RPI Order to buy ABC at $10.01 for 100. User 2's step-up range is $10.03. User 2's order is ranked at $10.01.
  - User 3 enters a Retail Order to sell ABC at $10.00 for 100.
- *Result:* User 3's Retail Order for 100 will execute against User 2's Enhanced RPI Order at $10.03. While User 1's order is ranked at a higher price ($10.025) than User 2's order ($10.01), User 2's order includes a step-up range of $10.03, which provides additional price improvement to User 3's Retail Order than User 1's Mid-Point Peg Order. As User 2's order provides an additional $0.005 of price improvement over User 1's midpoint price, the Exchange gives priority to User 2's Enhanced RPI Order.

Example 2 [26]

If the best-priced resting order on the BYX Book is ranked at a whole cent, the Enhanced RPI Order may only need to step-up one-half cent in order to provide meaningful price improvement. Consider the following example:

- The Protected NBBO for security ABC is $10.00 × $10.05.
  - User 1 enters a non-displayed order to buy ABC at $10.02 for 100.
  - User 2 enters an Enhanced RPI Order to buy ABC at $10.01 for 100. User 2's step-up range is $10.03. User 2's order is ranked at $10.01.
  - User 3 enters a Retail Order to sell ABC at $10.00 for 100.
- *Result:* User 3's Retail Order for 100 will execute against User 2's Enhanced RPI Order at $10.025. While User 1's order is ranked at a higher price ($10.02) than User 2's order ($10.01), User 2 has included a step-up range of $10.03 on its order and is willing to provide additional price improvement as compared to other orders resting on the BYX Book. Even though User 2's order may execute up to a price of $10.03, it only needs to provide one-half cent price improvement over User 1's ranked price of $10.02 in order to provide meaningful price improvement at the midpoint.

Example 3 [27]

There are instances where an Enhanced RPI Order may need to step-up a full penny in order to provide meaningful price improvement. Consider the following:

- The Protected NBBO for security ABC is $10.00 × $10.10.
  - User 1 enters a non-displayed order to buy ABC at $10.03 for 100.
  - User 2 enters an Enhanced RPI Order to buy ABC at $10.01 for 100. User 2's step-up range is $10.05. User 2's order is ranked at $10.01.
  - User 3 enters a Retail Order to sell ABC at $10.00 for 100.
- *Result:* User 3's Retail Order for 100 will execute against User 2's Enhanced RPI Order at $10.04. While User 1's order is ranked at a higher price ($10.03) than User 2's order ($10.01), User 2 has included a step-up range of $10.05 on its order and is willing to provide additional price improvement as compared to other orders resting on the BYX Book. Even though User 2's order may execute up to a price of $10.05, it only needs to provide one penny of price improvement above User 1's ranked price of $10.03 in order to provide meaningful price improvement.

[24] Discussed *infra* Examples 2 and 5. An Enhanced RPI Order may only need to step-up one half cent in order to provide meaningful price improvement in situations where the best-priced resting order is ranked at a full cent.

[25] *See* proposed Rule 11.24(g)(2)(A).

[26] *See* proposed Rule 11.24(g)(2)(A).

[27] *See* proposed Rule 11.24(g)(2)(A).

Example 4 [28]

There may be instances where there is no other liquidity resting on the BYX Book against which the Enhanced RPI Order can step up against. In these instances, the Enhanced RPI Order will trade at its ranked price. Consider the following example.

- The Protected NBBO for security ABC is $10.00 × $10.05.
  - User 1 enters an Enhanced RPI Order to buy ABC at $10.01 for 100. User 1's step-up range is $10.025. User 1's order is ranked at $10.01.
  - User 2 enters a Retail Order to sell ABC at $10.00 for 100.
- *Result:* User 2's Retail Order for 100 will execute against User 1's Enhanced RPI Order at $10.01 as there are no better-priced orders resting on the BYX Book against which User 1 would need to provide greater price improvement to User 2.

Example 5 [29]

Enhanced RPI Orders will only have priority against other better-priced liquidity resting on the BYX Book in the event that the Enhanced RPI Order can step-up to the next half cent or full cent. In the example below, the Enhanced RPI Order is unable to step up against the best priced order on the BYX Book but is able to step up against an order ranked at the next best price level. Consider the following example:

- The Protected NBBO for security ABC is $10.00 × $10.05.
  - User 1 enters a non-displayed order to buy ABC at $10.04 for 100.
  - User 2 enters a non-displayed order to buy ABC at $10.02 for 100.
  - User 3 enters an Enhanced RPI Order to buy ABC at $10.01 for 100. User 3's step-up range is $10.04. User 3's order is ranked at $10.01.
  - User 4 enters a Retail Order to sell ABC at $10.00 for 150.
- *Result:* User 4's Retail Order will execute 100 shares first with User 1's non-displayed order as User 1's non-displayed order has price priority over the orders submitted by Users 2 and 3. While User 3's Enhanced RPI Order has a step-up range of $10.04, the step-up range does not provide greater price improvement for User 4's Retail Order as compared to User 1's non-displayed order and as such, User 3's Enhanced RPI Order does not have priority over User 1's non-displayed order. Once User 4's Retail Order executes against User 1's non-displayed order, 50 shares remain on User 4's Retail Order. User 4's Retail Order will then execute its remaining 50 shares with User 3's Enhanced RPI Order at a price of $10.025. While User 2's non-displayed order is ranked at a higher price ($10.02) than User 3's Enhanced RPI Order ($10.01), User 3's Enhanced RPI Order has a step-up range of $10.04 and User 2's non-displayed order does not contain a step-up range. As User 3's Enhanced RPI Order is willing to provide greater price improvement as compared to a better-priced order resting on the same side of the BYX Book, it is given priority over User 2's non-displayed order. User 3's Enhanced RPI Order executes 50 shares against User 4's non-displayed order at a price of $10.025 because it provides one-half cent of price improvement over User 2's ranked price of $10.02.

Example 6 [30]

Enhanced RPI Orders will execute within their step-up range when the incoming Retail Order's price is not executable at the Enhanced RPI Order's ranked price. Consider the following example:

- The Protected NBBO for security ABC is $10.00 × $10.05.
  - User 1 enters an Enhanced RPI Order to buy ABC at $10.01 for 100. User 1's step-up range is $10.04. User 1's order is ranked at $10.01.
  - User 2 enters a Retail Order to sell ABC at $10.03 for 100.
- *Result:* User 2's Retail Order will execute with User 1's Enhanced RPI Order at $10.03 as the limit price of User 2's Retail Order ($10.03) is within User 1's step-up range.

Example 7 [31]

When there are multiple Enhanced RPI Orders resting on the BYX Book, no other same side liquidity with higher priority, and the contra-side Retail Order is priced more aggressively than the resting Enhanced RPI Orders, execution priority will be determined by the higher ranked price and not by the step-up ranges of the Enhanced RPI Orders. Consider the following example:

- The Protected NBBO for security ABC is $10.00 × $10.05.
  - User 1 enters an Enhanced RPI Order to buy ABC at $10.01 for 100. User 1's step-up range is $10.05. User 1's order is ranked at $10.01.
  - User 2 enters an Enhanced RPI Order to buy ABC at $10.02 for 100. User 2's step-up range is $10.04. User 2's order is ranked at $10.02.
  - User 3 enters a Retail Order to sell ABC at $10.00 for 100.
- *Result:* User 3's Retail Order will execute with User 2's Enhanced RPI Order at $10.02 because User 2's Enhanced RPI Order has price priority over User 1's Enhanced RPI Order due to its higher ranked price of $10.02. Given that User 3's Retail Order was priced more aggressively than the resting Enhanced RPI Orders at its time of entry, the Exchange believes that priority should be determined by using the ranked price of the Enhanced RPI Orders resting on the BYX Book at the time of User 3's Retail Order entry.

Example 8 [32]

The step-up range will be used to determine order book priority in situations where: (i) a contra-side Retail Order is entered at a less aggressive price than the Enhanced RPI Order's limit price and all other resting liquidity in the same security and (ii) the Enhanced RPI Order's step-up range is equal to or more aggressively priced than the Retail Order's limit price. Consider the following example:

- The Protected NBBO for security ABC is $10.00 × $10.05.
  - User 1 enters an Enhanced RPI Order to buy ABC at $10.01 for 100. User 1's step-up range is $10.05. User 1's order is ranked at $10.01.
  - User 2 enters a non-displayed order to buy ABC at $10.02 for 100. User 2's order is ranked at $10.02.
  - User 3 enters a Retail Order to sell ABC at $10.03 for 100.
- *Result:* User 3's order will execute with User 1's Enhanced RPI Order at $10.03 because (i) User 3's Retail Order was entered at a less aggressive price than the ranked price of both User 1 and User 2's orders; and (ii) the step-up range of User 1's Enhanced RPI Order is more aggressively priced ($10.05) than the limit price of User 3's Retail Order ($10.03). Even though User 2's ranked price is higher than User 1's ranked price, User 2's order is not marketable against User 3's Retail Order. User 3's Retail Order would otherwise be unable to execute if the Exchange did not look to the price improvement provided by User 1's step-up range to permit an execution between User 1 and User 3.

Example 9 [33]

The step-up range will be used to determine order book priority in situations where multiple Enhanced RPI Orders are resting on the BYX Book and are eligible to trade ahead of higher priority orders resting on the BYX Book. Consider the following example:

- The Protected NBBO for security ABC is $10.00 × $10.05.

[28] *See* proposed Rule 11.24(a)(4).
[29] *See* proposed Rule 11.24(g)(2)(A).
[30] *See* proposed Rule 11.24(a)(4).
[31] *See* proposed Rule 11.24(g)(2).
[32] *See* proposed Rule 11.24(g)(2)(B).
[33] *See* proposed Rule 11.24(g)(2)(C).

○ User 1 enters an Enhanced RPI Order to buy ABC at $10.01 for 100. User 1's step-up range is $10.05. User 1's order is ranked at $10.01.

○ User 2 enters an Enhanced RPI Order to buy ABC at $10.02 for 100. User 2's step-up range is $10.04. User 2's order is ranked at $10.02.

○ User 3 enters a non-displayed order to buy ABC at $10.03 for 100. User 3's order is ranked at $10.03.

○ User 4 enters a Retail Order to sell ABC at $10.03 for 100.

• *Result:* User 4's Retail Order will execute with User 1's Enhanced RPI Order at $10.04 because the Exchange looks to the step-up range to determine order book priority when there are multiple Enhanced RPI Orders resting on the BYX Book that are willing to provide additional price improvement as compared to other orders resting on the BYX Book. While both User 1 and User 2 can execute at a price of $10.04, User 1's Enhanced RPI Order has a higher step-up range ($10.05) as compared to the step-up range of User 2's Enhanced RPI Order ($10.04). As such, User 1's Enhanced RPI Order is given priority ahead of User 2's Enhanced RPI Order to execute against User 4's Retail Order. In this instance, when there are multiple Enhanced RPI Orders that can provide price improvement to the contra-side Retail Order, the Exchange believes it is appropriate to use the highest step-up range to determine order book priority as it is encouraging Users to submit aggressively priced orders by granting order book priority to the User with the highest step-up range. As such, the Exchange believes it is appropriate to give priority to User 1's Enhanced RPI Order in this instance because User 1's step-up range is more aggressive than User 2's step-up range and is therefore willing to provide additional price improvement to Retail Orders as compared to User 2's Enhanced RPI Order.

Example 10 [34]

Enhanced RPI Orders will have price priority over resting RPI orders (that do not contain a step-up range) on the BYX Book so long as the step-up range of the Enhanced RPI Order is greater than the limit price of the resting RPI order. Consider the following example:

• The Protected NBBO for security ABC is $10.00 × $10.05.

○ User 1 enters an Enhanced RPI Order to buy ABC at $10.01 for 100. User 1's step-up range is $10.05. User 1's order is ranked at $10.01.

○ User 2 enters an RPI Order to buy ABC at $10.02.

○ User 3 enters a Retail Order to sell ABC at $10.00 for 100.

• *Result:* User 3's Retail Order will execute with User 1's Enhanced RPI Order at a price of $10.025 because User 1's Enhanced RPI Order containing a step-up range allows User 3's Retail Order to receive an additional one-half cent price improvement as compared to the ranked price of User 2's RPI Order. While User 2's RPI Order had a higher ranked price ($10.02) than User 1's Enhanced RPI Order ($10.01), User 2's RPI Order did not contain a step-up range. Given that Enhanced RPI Orders are designed to provide meaningful price improvement against all resting orders on the BYX Book, the Exchange believes this factor favors using the price improvement provided by the step-up range in order to determine priority in situations where there are both resting RPI and Enhanced RPI Orders on the BYX Book. While RPI Orders do provide at least $0.001 of price improvement as compared to the Protected NBBO, Enhanced RPI Orders allow for price improvement to the next valid half cent or full cent as the transaction is priced above $1.00.[35] Thus, using the step-up range to determine priority when RPI Orders are resting on the BYX Book results in an increased amount of price improvement for the contra-side Retail Order.

Example 11 [36]

Enhanced RPI Orders may also improve against displayed orders resting on the BYX Book in order to provide price improvement to a contra-side Retail Order. Consider the following example:

• The Protected NBBO for security ABC is $10.00 × $10.05.

○ User 1 enters an Enhanced RPI Order to buy ABC at $9.99 for 100. User 1's step-up range is $10.05. User 1's order is ranked at $9.99. The Retail Liquidity Identifier is not displayed as the limit price of $9.99 is below the NBB and the Retail Liquidity Identifier will only display when there is RPI interest priced at least $0.001 better than the Protected NBB or Protected NBO.

○ User 2 enters a displayed order to buy ABC at $10.00 for 100.

○ User 3 enters a Retail Order to sell ABC at $10.00 for 100.

• *Result:* User 3's Retail Order will execute with User 1's Enhanced RPI Order at a price of $10.01. While User 2's displayed order is displayed and ranked at a higher price ($10.00) than User 1's Enhanced RPI Order ($9.99), User 1's Enhanced RPI Order includes a step-up range on its order, which permits the order to execute up to a price of $10.05. In this instance, executing User 2's displayed order at $10.00 does not provide any price improvement to the Retail Order when User 1's Enhanced RPI Order is resting on the BYX Book and is willing to provide additional price improvement to Order 3 than Order 2 is willing to provide. User 1's Enhanced RPI Order is willing to step up to the next full cent above $10.00 (in this case, $10.01), which provides a full penny of price improvement to User 3's Retail Order., As such, this is the price at which User 3's Retail Order executes with User 1's Enhanced RPI Order.

As demonstrated in the examples above, the Exchange is proposing to grant an Enhanced RPI Order price priority over equal-priced or better-priced resting orders on the BYX Book so long as the Enhanced RPI Order can provide meaningful price improvement over such resting orders. The Exchange believes that allowing liquidity providers to post orders outside of the range at which they are willing to execute yet maintain the opportunity to step-up against resting orders on the same side of the BYX Book in exchange for price priority will incentivize these liquidity providers to provide additional liquidity on the Exchange. As a result of additional, aggressively priced liquidity submitted to the Exchange designed specifically to interact with Retail Orders, RMOs will therefore be incentivized to submit additional retail order flow to the Exchange which has the potential to interact with an Enhanced RPI Order and receive meaningful price improvement.

Retail Liquidity Identifier

The Exchange currently disseminates an identifier pursuant to Rule 11.24(e) when RPI interest priced at least $0.001 better than the Protected NBB or Protected NBO for a particular security

[34] *See* proposed Rule 11.24(g)(2)(A).

[35] The Exchange notes that there may be situations in which an Enhanced RPI Order that is granted order book priority over an RPI Order will provide only $0.001 of price improvement over the RPI Order when stepping up to the next half cent or full cent. For example, the Protected NBBO is $10.00 × $10.05. Assume that a buy-side Enhanced RPI Order for 100 shares has a step-up range to $10.04 and is granted order book priority over a buy-side RPI Order for 100 shares with a limit price of $10.024. A sell-side Retail Order for 100 shares is entered at $10.00. In this instance, the buy-side Enhanced RPI Order steps-up to a price of $10.025 to execute against the sell-side Retail Order. While the Enhanced RPI Order is only providing $0.001 of price improvement as compared to the RPI Order with a limit price of $10.024, the Enhanced RPI Order provides a total of $0.025 of price improvement to the Retail Order as compared to the Retail Order's limit price of $10.00.

[36] *See* proposed Rule 11.24(g)(2)(A).

is available in the System (''Retail Liquidity Identifier'' or ''Identifier''). The Identifier is disseminated through consolidated data streams (*i.e.,* pursuant to the Consolidated Tape Association Plan/Consolidated Quotation Plan, or CTA/CQ, for Tape A and Tape B securities, and the Nasdaq UTP Plan for Tape C securities) as well as through proprietary Exchange data feeds.[37] The Identifier reflects the symbol and the side (buy or sell) of the RPI interest, but does not include the price or size of the RPI interest. In particular, CQ and UTP quoting outputs include a field for codes related to the Retail Liquidity Identifier. The codes indicate RPI interest that is priced better than the Protected NBB or Protected NBO by at least the minimum level of price improvement as required by the Program.

The Exchange proposes to continue to disseminate the Retail Liquidity Identifier in its current form should the Enhanced RPI Order be approved. For Enhanced RPI orders, the indicator will be based off of the ranked price only and the step-up range will not be used. The purpose of the Identifier is to provide relevant market information to RMOs that there is available RPI interest available on the Exchange, thereby incentivizing RMOs to send Retail Orders to the Exchange. The Exchange proposes to make clear in Rule 11.24(e) that both RPI Orders and Enhanced RPI Orders constitute RPI interest and that the Retail Liquidity Identifier shall be disseminated when RPI Interest (as defined in proposed Rule 11.24(e)) priced at least $0.001 better than the Protected NBB or Protected NBO for a particular security is available in the System. A separate liquidity identifier that identifies Enhanced RPI Order interest will not be disseminated. Because the proposed Enhanced RPI Order is an extension of the existing RPI Order, it will automatically offer at least $0.001 of price improvement over the Protected NBB or Protected NBO. As such, displaying the Retail Liquidity Identifier will provide an indication to RMOs that *at least* $0.001 of price improvement is available in the System, with the opportunity of potentially receiving additional price improvement should the RPI interest be in the form of an Enhanced RPI Order.

As discussed below, the Exchange proposes to expand the Program to include securities priced below $1.00. Given that the minimum price variation (''MPV'') of a sub-dollar security is $0.0001,[38] the Identifier for sub-dollar securities will be displayed when there is at least $0.0001 of price improvement over the Protected NBB or Protected NBO. The Exchange will not make any other changes to the Identifier for sub-dollar securities other than the minimum amount of price improvement required to display the Identifier.

Securities Priced Below $1.00

Rule 11.24(h) currently limits the Program to trades occurring at prices equal to or greater than $1.00 per share and the Exchange periodically notifies Members [39] regarding securities included in the Program through an information circular.[40] Now, the Exchange proposes to expand the Program to all securities, including those priced below $1.00. The rationale behind expanding the Program to all securities regardless of execution price stems from the growth of sub-dollar trading (*i.e.,* trading at prices below $1.00), both on- and off-exchange. As of March 2023, an analysis of SIP [41] data by the Exchange found that sub-dollar average daily volume has increased 313% as compared to first quarter 2019.[42] In this period, sub-dollar on-exchange average daily volume grew from 442 million shares per day to 1.8 billion shares per day.[43] An analysis of SIP and FINRA Trade Reporting Facility (''TRF''),[44] data indicates that exchanges represented approximately 39.8% market share in sub-dollar securities, with a total of 1,638 securities trading below $1.00.[45] As an exchange group, Cboe had approximately 13.3% of market share of sub-dollar securities in the first quarter of 2023.[46]

As trading in sub-dollar securities has grown steadily since 2020, the Exchange believes it is appropriate to expand the Program to include securities priced below $1.00. The Exchange notes, however, that the MPV for sub-dollar securities differs from the MPV for securities priced at or above $1.00. As provided for by Regulation NMS Rule 612, for securities priced below $1.00, the MPV is $0.0001, whereas for securities priced at or above $1.00 the MPV is $0.01.[47] The Exchange proposes that in order for an Enhanced RPI Order to gain queue priority ahead of resting orders on the same side of the BYX Book, the Enhanced RPI Order will be stepped-up to the nearest MPV ($0.0001). This differs from the treatment of Enhanced RPI Orders for securities priced at or above $1.00, which are proposed to be stepped-up to the nearest half-cent midpoint or whole cent tick ahead of resting orders on the same side of the BYX Book. The Exchange believes that the different treatment of Enhanced RPI Orders for securities priced below $1.00 is appropriate given that the MPV for securities priced below $1.00 is significantly less than the MPV for securities priced at or above $1.00. The Exchange notes that it will announce to its Members via a Trade Desk Notice that the Program is expanding to all securities priced below $1.00 and will no longer provide periodic updates of securities included in the Program.

Implementation

The Exchange plans to implement the proposed rule change during the second half of 2024 and will announce the implementation date via Trade Desk Notice.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[48] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [49] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation

[37] The Exchange notes that the Retail Liquidity Identifier for Tape A and Tape B securities are disseminated pursuant to the CTA/CQ Plan. The identifier is also available through the consolidated public market data stream for Tape C securities. The processor for the Nasdaq UTP disseminates the Retail Liquidity Identifier and analogous identifiers from other market centers that operate programs similar to the RPI Program.

[38] *See* 17 CFR 242.612 (''Minimum pricing increment'').

[39] *See* Rule 1.5(n). The term ''Member'' shall mean ay registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act. Membership may be granted to a sole proprietor, partnership, corporation, limited liability company or other organization which is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange.

[40] *Supra* note 6.

[41] The ''SIP'' refers to the centralized securities information processors.

[42] *See* ''How Subdollar Securities are Trading Now'' (March 16, 2023). Available at *https://www.cboe.com/insights/posts/how-subdollar-securities-are-trading-now/.*

[43] *Id.*

[44] Trade Reporting Facilities are facilities through which FINRA members report off-exchange transactions in NMS stocks, as defined in SEC Rule 600(b)(47) of Regulation NMS. See Tick Size Proposal at 80315.

[45] *Supra* note 42.

[46] *Id.*

[47] *Supra* note 38.

[48] 15 U.S.C. 78f(b).

[49] 15 U.S.C. 78f(b)(5).

and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [50] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission has repeatedly emphasized that the U.S. capital markets should be structured with the interests of retail investors in mind [51] and has recently proposed a series of rules designed, in part, to attempt to bring order flow back to the exchanges from off-exchange trading venues.[52] The Exchange believes its proposed enhancements to the Program are consistent with the Commission's goal of ensuring that the equities markets continue to serve the needs of the investing public. Specifically, introducing the Enhanced RPI Order type would protect investors and the public interest by providing retail investors the ability to obtain meaningful price improvement on BYX, a national securities exchange. The Exchange is committed to innovation that improves the quality of the equities markets and believes that the proposed Enhanced RPI Order may increase the attractiveness of the Exchange for the execution of Retail Orders submitted on behalf of the millions of ordinary investors that rely on these markets for their investment needs.

The Exchange believes the proposed Enhanced RPI Order promotes just and equitable principles of trade and is not unfairly discriminatory because the order type will be available for all Users, and is not limited to a certain subset of market participants. Even though Enhanced RPI Orders may be entered by any market participant, the Exchange believes that the majority of Enhanced RPI Orders will be entered by or on behalf of institutional investors that are willing to provide additional price improvement as a way to minimize their adverse selection costs.[53] The Exchange does not believe that such segmentation is inconsistent with section 6(b)(5) of the Act, as it does not permit *unfair* discrimination. The Commission has previously stated that the markets generally distinguish between retail investors, whose orders are considered desirable by liquidity providers because such retail investors are presumed to be less informed about short-term price movements, and professional traders, whose orders are presumed to be more informed.[54] The Commission has further stated that without opportunities for price improvement, retail investors may encounter wider spreads that are a consequence of liquidity providers interacting with more informed order flow.[55] The Exchange believes that its proposed Enhanced RPI Order is reasonably designed to attract marketable retail order flow to the exchange as it will help to ensure that retail investors benefit from the better price that liquidity providers are willing to provide to retail orders in exchange for minimizing their adverse selection costs.

Additionally, the Exchange believes that the proposed Enhanced RPI Order type is not unfairly discriminatory to institutional investors as it rewards the User that enters the most aggressively priced Enhanced RPI Order with order book priority. Ultimately, execution priority amongst orders resting on the BYX Book will be determined by the step-up range entered on each Enhanced RPI Order. If the step-up range for an Enhanced RPI Order provides a marketable, contra-side Retail Order with greater price improvement than would otherwise be available from other resting orders by stepping up to the next half cent or full cent (for securities priced at or above $1.00) or the valid tick increment (for securities priced below $1.00), then the Enhanced RPI Order will be granted order book priority. In the event that multiple Enhanced RPI Orders are resting on the BYX Book, the Enhanced RPI Order with the highest step-up range will be given order book priority. The Exchange believes rewarding the most aggressively priced step-up range will encourage Users to submit Enhanced RPI Orders with step-up ranges that are likely to provide meaningful price improvement to Retail Orders, which ultimately benefits both retail investors, who will receive price improvement over the NBBO, and the User entering the Enhanced RPI Order, who is able to execute against a marketable Retail Order to minimize its adverse selection costs and interact with retail order flow that they are currently unable to access on the Exchange given that such order flow is largely executed off-exchange.

As noted in the Exchange's initial RPI filings,[56] most equities exchanges, including BYX, determine priority based on a price/time/display allocation model.[57] This has contributed to deep and liquid markets for equity securities as liquidity providers compete to be the first to establish a particular price. While the price/time/display allocation model generally works well for institutional investors, retail investors are traditionally not able to compete with market makers and other automated liquidity providers to set an aggressive price on orders submitted to the Exchange. Importantly, retail investors, in contrast to institutional investors, tend to have longer investment time horizons, which means they are not in the business of optimizing queue placement under a time-based allocation model. Therefore, in order to facilitate the needs of retail investors, the Exchange believes an alternative approach—such as this Enhanced RPI Order proposal—would benefit the retail investor community.

As discussed earlier, the proposed introduction of the Enhanced RPI Order is designed to provide retail investors with enhanced opportunities to obtain meaningful price improvement by providing them with potential opportunities to execute versus non-displayed Enhanced RPI Orders that offer price improvement beyond that offered by resting orders on the Exchange. Marketable retail order flow is routinely executed in full on entry at the national best bid or offer or better,[58] but many retail liquidity programs,

[50] *Id.*

[51] *See* U.S. Securities and Exchange Commission, Strategic Plan, Fiscal Years 2018–2022, available at *https://www.sec.gov/files/SEC_Strategic_Plan_FY18-FY22_FINAL_0.pdf.*

[52] *Supra* notes 17–18. *See also,* Securities Exchange Act Release No. 96496 (December 14, 2022), 88 FR 5440 (January 27, 2023) (''Regulation Best Execution''); Securities Exchange Act Release No. 96493 (December 14, 2022), 88 FR 3786 (January 20, 2023) (''Disclosure of Order Execution Information'').

[53] Adverse selection is the phenomenon where the price of a stock drops right after a liquidity provider purchases the stock. Marketable retail order flow is generally seen as more desirable by institutional liquidity providers as executions against retail orders are less prone to adverse selection. The Commission has previously opined that retail liquidity programs may be beneficial to institutional investors as they may be able to reduce their possible adverse selection costs by interacting with retail order flow. *See* Pilot Approval Order at 71656.

[54] *Id.*

[55] *Id.*

[56] *Supra* notes 7–8.

[57] Nasdaq PSX, however, offers a price setter pro rata model that rewards liquidity providers that set the best price and then rewards other market participants that enter larger sized orders. *See* Securities Exchange Act Release No. 72250 (May 23, 2014), 79 FR 31147 (May 30, 2014) (SR–Phlx–2014–24).

[58] A review of internal Exchange data found that 60% of retail orders across the Exchange and its affiliates executed at the NBBO year-to-date in 2023. Similarly, 59% of retail orders across the Exchange and its affiliates executed at the NBBO in calendar year 2022.

including the Exchange's current Program, are designed to offer at least $0.001 of price improvement over the Protected NBB or Protected NBO to Retail Orders.[59] By introducing Enhanced RPI Orders, the Exchange is proposing to prioritize Enhanced RPI Orders ahead of other resting orders on the same side of the BYX Book in exchange for the Enhanced RPI Order offering meaningful price improvement to Retail Orders by stepping up to the next half cent or whole cent (for securities priced at or above $1.00) or the next valid tick increment (for securities priced below $1.00). The Exchange believes the ability to post an order at a price outside of the range at which it is willing to execute with the ability to gain priority in exchange for executing at a more aggressive price will (1) encourage Users to submit aggressively priced Enhanced RPI Orders, and (2) attract Retail Order flow to the Exchange, both of which will benefit all investors. Increased order flow will create a deeper pool of liquidity on the Exchange, which provides for greater execution opportunities for all Users and provides for overall enhanced price discovery and price improvement opportunities on the Exchange. If successful, the proposed rule change would benefit market participants by increasing the diversity of order flow with which they can interact on a national securities exchange, thereby increasing order interaction and contributing to price formation.

Giving queue priority to certain order types is not a novel concept in the securities markets. In fact, on the Exchange's affiliate, Cboe EDGX Exchange, Inc. (''EDGX''), the displayed portion of Retail Orders are given allocation priority ahead of all other available interest on the EDGX Book (''EDGX Retail Priority'').[60] The Commission found that EDGX Retail Priority represented a reasonable effort to enhance the ability of bona fide retail trading interest to compete for executions with orders entered by other market participants that may be better equipped to optimize their place in the intermarket queue.[61] The Exchange believes that grating queue priority to an Enhanced RPI Order as discussed in the Purpose section similarly reflects a reasonable effort by the Exchange to create additional price improvement opportunities for retail investors, as has been the standard identified by the Commission in several approval orders written in regards to RLPs.[62] While the Exchange is not proposing to prioritize Retail Orders as EDGX has done, it is proposing to prioritize Enhanced RPI Orders that provide price improvement and may only interact with contra-side Retail Orders.

The Exchange believes that the prioritization of Enhanced RPI Orders that offer meaningful price improvement over other resting orders on the same side of the BYX Book promotes just and equitable principles of trade and is consistent with Section 6(b)(5) of the Act as it encourages Users to submit aggressively priced Enhanced RPI Orders in exchange for queue priority ahead of all resting orders on the same side of the BYX Book so long as meaningful price improvement is provided to a contra-side Retail Order. The Exchange proposes to provide queue priority for Enhanced RPI Orders over all other types of orders and is not limiting queue priority to a certain subset of order types. As previously stated, all Users are eligible to submit Enhanced RPI Orders. And while the Exchange believes that most Enhanced RPI Orders will be submitted by or on behalf of professional traders, retail investors will have the opportunity to receive better-priced executions should they choose to submit a marketable Retail Order to the Exchange. The Exchange believes the introduction of Enhanced RPI Orders will deepen the Exchange's pool of available liquidity, increase marketable retail order flow to the Exchange and provide additional competition for marketable retail order flow, most of which is currently executed off-exchange in the OTC markets. Promoting competition for retail order flow among execution venues stands to benefit retail investors, who may be eligible to receive greater price improvement on the Exchange by interacting with an Enhanced RPI Order than they would if their order was internalized by a broker-dealer on the OTC market.

Furthermore, the Exchange believes that its proposal to limit the use of the step-up range to determine order book priority is consistent with Section 6(b)(5) of the Act because the use of the step-up range rather than limit price to determine order priority is limited to the following: (1) the range is needed to gain priority over a resting order with higher order book priority; (2) in situations where (i) a contra-side Retail Order is entered at a less aggressive price than the Enhanced RPI Order's limit price and all other resting liquidity in the same security and (ii) the Enhanced RPI Order's step-up range is equal to or more aggressively priced than the Retail Order's limit price; and (3) to determine order book priority when multiple Enhanced RPI Orders are resting on the BYX Book and are eligible to trade ahead of higher priority orders. The primary use case of the Enhanced RPI Order identified in the first scenario listed above is to provide price improvement to marketable retail order flow. As previously discussed in the Statutory Basis section, the Exchange believes allowing the use of a step-up range in order to provide an additional, more aggressive price at which an Enhanced RPI Order may execute is essential in order to deepen the pool of liquidity available to retail investors. In exchange for providing aggressively priced orders, these liquidity providers will be rewarded with executions against marketable retail order flow, which is generally preferred over more informed order flow. Retail investors, on the other hand, will receive meaningful price improvement should their order execute against an Enhanced RPI Order.

In the situation where (i) a contra-side Retail Order is entered at a less aggressive price than the Enhanced RPI Order's limit price and all other resting liquidity in the same security and (ii) the Enhanced RPI Order's step-up range is equal to or more aggressively priced than the limit price of the Retail Order, the Exchange believes using the step-up range to determine order priority promotes just and equitable principles of trade because it rewards the Enhanced RPI Order with the most aggressive step-up range rather than forego an execution due to the limit price of all orders resting on the BYX Book being ineligible to trade with the contra-side Retail Order. The intent of the Enhanced RPI Order is to reward aggressively priced liquidity with queue priority while simultaneously providing price improvement to Retail Orders. The Exchange believes that determining order priority using the step-up range in this limited situation is aligned with the intent of liquidity providers that choose to submit Enhanced RPI Orders and emphasizes a benefit of using the Enhanced RPI Order—the ability to enter an order at a less aggressive price yet also provide a step-up range that the liquidity provider is willing to execute in order to execute against marketable retail order flow rather than forego an

[59] *See, e.g.,* IEX Rule 11.232; Nasdaq BX Rule 4780; NYSE Arca Rule 7.44–E; NYSE Rule 7.44.

[60] *See* EDGX Rule 11.9(a)(2)(A).

[61] *See* Securities Exchange Act Release No. 87200 (October 2, 2019), 84 FR 53788 (October 8, 2019), SR–CboeEDGX–2019–012 (''EDGX Retail Priority Approval Order'').

[62] *Supra* note 8. *See also* Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (SR–NYSE–2011–55; SR–NYSEAmex–2011–84) (''RLP Approval Order'') at 40679.

execution and remain on the BYX Book. The Exchange seeks to encourage liquidity providers to submit order flow designed to interact with marketable retail order flow in an effort to increase the amount of Retail Order executions occurring on-exchange. By rewarding aggressively priced Enhanced RPI Orders in situations where the order would otherwise not execute, the Exchange believes its pool of liquidity available to marketable retail order flow will deepen, thus incentivizing RMOs to submit additional marketable retail order flow to the Exchange.

Likewise, using the step-up range rather than the limit price of an Enhanced RPI Order in situations where multiple Enhanced RPI Orders are resting on the BYX Book and are eligible to trade ahead of higher priority orders promotes the use of the Enhanced RPI Order type as the Exchange seeks to encourage RMOs to submit marketable Retail Orders to the Exchange. Determining order priority of Enhanced Orders based on their step-up range over the limit price of all other higher priority orders rewards the Enhanced RPI Order that provides the most aggressive execution price. The Exchange believes that using the step-up range rather than the limit price in situations where there are multiple Enhanced RPI Orders will encourage Users to submit aggressively priced Enhanced RPI Orders to the Exchange, as they will be given priority to interact with more desirable marketable retail order flow based on their step-up range. Additionally, the Exchange believes that RMOs will be encouraged to direct marketable retail order flow to the Exchange knowing that the *worst* price they will receive is $0.001 better than the Protected NBB or Protected NBO for securities priced at or above $1.00[63] and there is potential to receive more meaningful price improvement should an Enhanced RPI Order be present on the opposite side of the BYX Book.[64]

An analysis of internal Exchange data found that the current Program provided approximately $33 million in price improvement to retail investors during calendar year 2022, which is a substantial increase from the 4.5 million provided to retail investors between January 2016 and June 2018.[65] It is reasonable to believe that the proposed Enhanced RPI Order, by virtue of providing at least $0.005 of price improvement in exchange for execution priority, would only add to the Exchange's ability to provide price improvement to retail investors. The Exchange does not believe that offering additional price improvement to retail investors through Enhanced RPI Orders would cause harm to the broader market. On the contrary, the Exchange believes that rewarding Enhanced RPI Orders with order book priority in exchange for price improvement would further the Commission's goal of providing additional opportunities for retail investors to interact directly with a large volume of individual investor orders. The Exchange created the Enhanced RPI Order with the goal of encouraging liquidity providers to submit orders eligible to interact with marketable retail order flow with the competition from these liquidity providers resulting in a reasonable alternative for marketable retail order flow to receive executions at a price better than the Protected NBBO. As the Commission noted in its Order Competition Rule proposal, over 90% of marketable NMS retail stock orders are routed to wholesalers where the orders are not exposed to order-by-order competition.[66] While wholesalers generally achieve price improvement relative to the NBBO, the Commission has indicated that exchanges often have liquidity available at the NBBO midpoint, which would be a more favorable price than a retail order receives when executed by a wholesaler.[67] Here, the Exchange is proposing price improvement of at least $0.005, and in some cases $0.01, which the Exchange believes would further the Commission's goal of ''increasing competition and enhancing the direct exposure of individual investor orders to a broader spectrum of market participants'' as set forth in section 11A of the Exchange Act.[68]

In addition to the proposed introduction of the Enhanced RPI Order, the Exchange also believes that expanding the Program to include securities priced below $1.00 is consistent with Section 6(b)(5) of the Act because it promotes just and equitable principles of trade by allowing liquidity providers to submit orders designed to interact with retail order flow in all securities, rather than only in securities priced at or above $1.00. As stated above, a significant majority of the increased volume in sub-dollar securities comes from executions occurring off-exchange.[69] By permitting the Exchange to expand its Program to include securities priced below $1.00, the Exchange would be a more attractive venue for liquidity providers seeking to interact with retail order flow, which furthers the Commission's goal of bringing retail order executions back on-exchange. Further, the proposal to expand the Program to include securities priced below $1.00 is not unfairly discriminatory because all Users will be able to submit RPI Orders or Enhanced RPI Orders at prices below $1.00. As noted above, the Exchange, along with its affiliates, maintained a market share of 13.3% in sub-dollar securities during the first quarter of 2023.[70] The Exchange believes that its expansion of the Program to include sub-dollar securities would lead to more liquidity providers submitting order flow to the Exchange in an attempt to execute against Retail Orders. In turn, RMOs would submit additional Retail Order flow to the Exchange to interact with RPI Orders and Enhanced RPI Orders as there would be additional opportunities for price improvement in sub-dollar securities. The proposal removes impediments to and perfect the mechanism of a free and open market and a national market system and protects investors and the public interest by allowing executions in Retail Orders priced below $1.00 to receive price improvement by executing against RPI Orders or Enhanced RPI Orders, which are currently only available at prices at or above $1.00. In addition to the changes described above, the Exchange believes that the changes to certain existing rule text within Rule 11.24 is consistent with Section 6(b)(5) of the Act because it provides additional certainty as to how Rule 11.24 is to be applied. The proposed revised definition of RPI Interest in Rule 11.24(a)(5) is necessary in order to capture the proposed Enhanced RPI Order type, in addition to the existing RPI Order. Additionally, amending Rule 11.24(e) and Rule 11.24(f)(1)–(2) to reflect the changes made in Rule 11.24(a)(5) is necessary in order to ensure that RPI Interest is properly defined throughout Rule 11.24. The deletion of Rule 11.24(h) and renumbering of Rule 11.24(i) are

[63] For securities priced below $1.00, the minimum amount of price improvement as compared to the Protected NBB or Protected NBO is $0.0001.

[64] Retail Orders may only receive $0.001 price improvement in certain situations, including where an Enhanced RPI Order steps up against the limit price of an RPI Order priced in sub-pennies. An Enhanced RPI Order would be given order book priority over RPI Orders in the event that the Enhanced RPI Order was priced equal to or less aggressive than the limit price of a resting RPI Order but had a step-up range that was priced more aggressive than the limit price of the resting RPI Order (*supra* note 20).

[65] *See* RPI Approval Order at 53184.

[66] Supra note 17 at 178.

[67] *Id.*

[68] *Id.*

[69] *Supra* note 42.

[70] *Id.*

consistent with the Exchange's proposal to expand the Program to securities priced below $1.00. The proposed changes to Rule 11.24(a)(2) are intended to: (i) clarify that a Retail Order must be submitted with a time-in-force of IOC; and (ii) introduce the ability for Users to submit Retail Orders as Mid-Point Peg Orders, both of which changes serve to provide additional guidance to Users of Retail Orders about the order modifiers permitted by the Exchange. The Exchange believes these changes are ministerial in nature and serve to ensure that Rule 11.24 is properly describing order behavior after the proposed introduction of the Enhanced RPI Order and proposed expansion of the Program to securities priced below $1.00.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposal does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the proposed rule change is designed to increase intramarket competition for retail order flow by introducing a new order type that is designed to provide price improvement to Retail Orders in exchange for price priority over resting orders on the same side of the BYX Book. The proposal, which seeks to provide an innovative form of price improvement to Retail Orders through the creation of the Enhanced RPI Order, represents an effort by the Exchange to encourage on-exchange liquidity an incentivize the trading of Retail Orders on a national securities exchange.

The Exchange also believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act. As discussed above, IEX, NYSE, NYSE Arca, and Nasdaq BX each operate RLPs and the Exchange believes that its proposed rule change will allow it to compete for additional retail order flow with the aforementioned exchanges.[71] Furthermore, the Exchange's proposal will promote competition between the Exchange and off-exchange trading venues where the majority of retail order flow trades today. The proposed Enhanced RPI Order is designed to foster innovation within the market and increase the quality of the national market system by allowing national securities exchanges to compete both with each other and with off-exchange venues for order flow. Expanding the program to include securities priced below $1.00 similarly would not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act. The Exchange's proposal is designed to increase competition for trading in all securities, including but not limited to securities priced below $1.00. Given the growth of trading in sub-dollar securities since 2020, the Exchange believes that expanding the Program to include sub-dollar securities will make the Program an attractive option for retail investors seeking to trade in lower-priced securities, and as such is a competitive measure designed to compete directly with other exchanges for order flow.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be 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–CboeBYX–2023–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBYX–2023–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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 the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR–CboeBYX–2023–020 and should be submitted on or before February 7, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[72]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00712 Filed 1–16–24; 8:45 am]

BILLING CODE 8011–01–P

[71] *Supra* note 59.

[72] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–667, OMB Control No. 3235–0745]

Proposed Collection; Comment Request; Extension: Rule 18a–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 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 18a–5, under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 18a–5 enumerates the recordkeeping and reporting requirements for security-based swap dealers (''SBSDs'') and major security-based swap participants (''MSBSPs''). More specifically, Rule 18a–5 establishes recordkeeping requirements applicable to stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs. Rule 18a–5 was modeled on Rule 17a–3 under the Exchange Act, which applies to broker-dealers, but Rule 18a–5 does not include a parallel requirement for every requirement in Rule 17a–3 because some of the requirements in Rule 17a–3 relate to activities that are not expected or permitted of SBSDs and MSBSPs. The collections of information under Rule 18a–5 include the following types of records that are required to be created: trade blotters, general ledger, ledgers for customers and non-customer accounts, stock record, memoranda of brokerage orders, memoranda of proprietary orders, confirmations, accountholder information, options positions, trial balances and computation of net capital, associated person's employment application, account equity and margin calculations under Rule 18a–3, possession or control requirements for security-based swap customers, customer reserve requirements for security-based swap customers, unverified transactions, political contributions, and compliance with business conduct requirements. The purpose of requiring stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs to create the records specified in Rule 18a–5 is to enhance regulators' ability to protect investors. These records and the information contained therein are used by examiners and other representatives of the Commission to determine whether stand-alone SBSDs, stand-alone MSBSPs, bank SBSDs, and bank MSBSPs are in compliance with the Commission's anti-fraud and anti-manipulation rules, financial responsibility program, and other laws, rules, and regulations.

Not all types of records enumerated in Rule 18a–5 are required to be made by each of the entities to which Rule 18a–5 applies. For example, Rule 18a–5 requires thirteen types of records to be made and kept current by stand-alone SBSDs and stand-alone MSBSPs.[1] Rule 18a–5 also requires three types of records to be made and kept current by stand-alone SBSDs.[2] Rule 18a–5 requires 10 types of records to be made and kept current by bank SBSDs and bank MSBSPs, all of which are limited to the firm's business as an SBSD or MSBSP.[3] Further, Rule 18a–5 includes paragraphs (b)(9), (b)(10), and (b)(12) which requires bank SBSDs to make and keep current various records for security-based swaps.[4]

As of November 30, 2023, there are 11 stand-alone SBSDs, zero stand-alone MSBSPs, 29 bank SBSDs, and zero bank MSBSPs registered with the Commission. The Commission estimates that each recordkeeping provision of Rule 18a–5 imposes on each firm that is subject to the provision an initial burden and an ongoing annual burden. The total initial industry hour burden attributable to Rule 18a–5 is estimated to be 11,060 hours in the first year and the total industry ongoing hour burden attributable to Rule 18a–5 is estimated to be 13,825 hours per year (including the first year). Over a three-year period, the total estimated industry burden is estimated to be 52,535 hours, or about 17,511 hours per year when annualized. These burdens are recordkeeping burdens.

In addition, the Commission estimates that Rule 18a–5 causes a stand-alone SBSD or stand-alone MSBSP to incur an initial dollar cost of approximately $1,000 to purchase recordkeeping system software and an ongoing dollar cost of $4,650 per year to provide adequate physical space and computer hardware and software for storage. As of November 30, 2023, there are 11 respondents (11 stand-alone SBSDs and zero stand-alone MSBSPs), resulting in an estimated industry-wide initial burden of $11,000 and an industry-wide ongoing burden of $51,150 per year. Over a three-year period, the total estimated industry burden would be $164,450, or about $54,817 per year when annualized.

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 estimates of the burden of the proposed 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 March 18, 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: January 10, 2024.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00702 Filed 1–16–24; 8:45 am]

BILLING CODE 8011–01–P

[1] *See* Rule 18a–5 (paragraph (a)(1) (trade blotters); paragraph (a)(2) (general ledgers); paragraph (a)(3) (ledgers of customer and non-customer accounts); paragraph (a)(4) (stock record); paragraph (a)(5) (memoranda of proprietary orders); paragraph (a)(6) (confirmations); paragraph (a)(7) (accountholder information); paragraph (a)(8) (options positions); paragraph (a)(9) (trial balances and computation of net capital); paragraph (a)(10) (associated person's application); paragraph (a)(12) (Rule 18a–3 calculations); paragraph (a)(15) (unverified transactions); paragraph (a)(17) (compliance with business conduct standards)).

[2] *See* Rule 18a–5 (paragraph (a)(13) (compliance with Rule 18a–4 possession or control requirements); paragraph (a)(14) (Rule 18a–4 reserve account computations); and paragraph (a)(16) (political contributions)).

[3] *See* Rule 18a–5 (paragraph (b)(1) (trade blotters); paragraph (b)(2) (general ledgers); paragraph (b)(3) (stock record); paragraph (b)(4) (memoranda of brokerage orders); paragraph (b)(5) (memoranda of proprietary orders); paragraph (b)(6) (confirmations); paragraph (b)(7) accountholder information); paragraph (b)(8) (associated person's application); paragraph (b)(11) (unverified transactions); and paragraph (b)(13) (compliance with business conduct requirements)).

[4] *See* Rule 18a–5 (paragraph (b)(9) (possession or control requirements under Rule 18a–4); paragraph (b)(10) (customer reserve requirements under Rule 18a–4); and paragraph (b)(12) (political contributions)).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99310; File No. SR–CboeBZX–2024–001]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Remove the Cross Asset Tier

January 10, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 2, 2024, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform (''BZX Equities'') by deleting the Cross Asset Tier (and a related definition) from the Fee Schedule. The Exchange proposes to implement these changes effective January 2, 2024.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Securities Exchange Act of 1934 (the ''Act''), to which market participants may direct their order flow. Based on publicly available information,[3] no single registered equities exchange has more than 15% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a ''Maker-Taker'' model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity. The Exchange's Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above $1.00, the Exchange provides a standard rebate of $0.00160 per share for orders that add liquidity and assesses a fee of $0.0030 per share for orders that remove liquidity.[4] For orders in securities priced below $1.00, the Exchange provides a standard rebate of $0.00009 [sic] per share for orders that add liquidity and assesses a fee of 0.30% of the total dollar value for orders that remove liquidity.[5] Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Cross Asset Tier

Under footnote 2 of the Fee Schedule, the Exchange offers various Step-Up Tiers that provide enhanced rebates for orders yielding fee codes B,[6] V[7] and Y[8] where a Member reaches certain add volume-based criteria, including ''growing'' its volume over a certain baseline month. Additionally, under footnote 2, the Exchange offers a Cross Asset Tier which is designed to incentivize Members to achieve certain levels of participation on both the Exchange's equities and options platform (''BZX Options''). The Exchange now proposes to delete the Cross Asset Tier from the Fee Schedule as the tier expired on December 31, 2023. Additionally, the Exchange does not wish to, nor is required to, maintain such tier by proposing to amend the expiration date or the criteria associated with the Cross Asset Tier. More specifically, the proposed change lets this tier expire as the Exchange would rather redirect future resources and funding into other programs and tiers intended to incentivize increased order flow. In conjunction with discontinuing the Cross Asset Tier, the Exchange proposes to remove the definition of Customer ADAV[9] from its fee schedule as this definition is not used for any other tier.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[10] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[11] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling,

[3] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (December 19, 2023), available at *https://www.cboe.com/us/equities/market_statistics/.*

[4] *See* BZX Equities Fee Schedule, Standard Rates.

[5] *Id.*

[6] Fee code B is appended to displayed orders that add liquidity to BZX in Tape B securities.

[7] Fee code V is appended to displayed orders that add liquidity to BZX in Tape A securities.

[8] Fee code Y is appended to displayed orders that add liquidity to BZX in Tape C securities.

[9] Customer ADAV means average daily volume calculated as the number of contracts added for the account of a Priority Customer as defined in BZX Rule 16.1.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as Section 6(b)(4) [13] as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

The Exchange believes that its proposal to eliminate the Cross Asset Tier and the related definition of Customer ADAV from the Fee Schedule is reasonable because the tier has expired. Additionally, the Exchange is not required to maintain this tier by amending the criteria or extending the expiration date to a date in the future nor is it required to provide Members an opportunity to receive enhanced rebates. The Exchange believes its proposal to let the tier expire is also equitable and not unfairly discriminatory because it applies to all Members (*i.e.,* the tier will not be available for any Member). The Exchange also notes that the proposed rule change to remove this tier merely results in Members not receiving an enhanced rebate, which, as noted above, the Exchange is not required to offer or maintain. Furthermore, the proposed rule change to let the Cross Asset Tier expire enables the Exchange to redirect resources and funding into other programs and tiers intended to incentivize increased order flow.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.''

The Exchange believes the proposed rule changes do not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed change to not renew the Cross Asset Tier and delete it and the related definition of Customer ADAV from the Fee Schedule will not impose any burden on intramarket competition because the changes apply to all Members uniformly, as in, the tier will no longer be available to any Member in accordance with its expiration date.

Next, the Exchange believes the proposed rule changes does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 15% of the market share.[14] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [15] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[16] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and paragraph (f) of Rule 19b–4 [18] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[12] *Id.*

[13] 15 U.S.C. 78f(b)(4).

[14] *Supra* note 3.

[15] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[16] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

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–CboeBZX–2024–001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2024–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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 the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2024–001 and should be submitted on or before February 7, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00711 Filed 1–16–24; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35089; File No. 812–15479]

Venerable Insurance and Annuity Company, et al.

January 11, 2024.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order pursuant to section 11 of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Applicants request an order approving the terms of an offer of exchange of certain annuity contracts issued by Equitable Financial Life Insurance Company (''EFLIC'') and made available through Separate Account No. 49 of Equitable Financial Life Insurance Company for virtually identical annuity contracts issued by Venerable Insurance and Annuity Company (''VIAC'') and made available through the Separate Account EQ of Venerable Insurance and Annuity Company, pursuant to an assumption reinsurance agreement between VIAC and EFLIC.

APPLICANTS: Venerable Insurance and Annuity Company, Separate Account EQ of Venerable Insurance and Annuity Company, and Directed Services LLC.

FILING DATES: The application was filed on June 27, 2023 and amended on October 13, 2023.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on February 5, 2024, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: J. Neil McMurdie, *neil.mcmurdie@venerable.com.*

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, or Lisa Reid Ragen, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' first amended and restated application, dated October 13, 2023, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at, *https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–00791 Filed 1–16–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99306; File Nos. SR–NYSEARCA–2021–90; SR–NYSEARCA–2023–44; SR–NYSEARCA–2023–58; SR–NASDAQ–2023–016; SR–NASDAQ–2023–019; SR–CboeBZX–2023–028; SR–CboeBZX–2023–038; SR–CboeBZX–2023–040; SR–CboeBZX–2023–042; SR–CboeBZX–2023–044; SR–CboeBZX–2023–072]

Self-Regulatory Organizations; NYSE Arca, Inc.; The Nasdaq Stock Market LLC; Cboe BZX Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, To List and Trade Bitcoin-Based Commodity-Based Trust Shares and Trust Units

January 10, 2024.

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] each of NYSE Arca, Inc. (''NYSE Arca''), The Nasdaq Stock Market LLC (''Nasdaq''), and Cboe BZX Exchange, Inc. (''BZX''; and together with NYSE Arca and Nasdaq, the ''Exchanges'') filed with the Securities and Exchange Commission (''Commission'') proposed rule changes to list and trade shares of the following. NYSE Arca proposes to list and trade shares of (1) the Grayscale Bitcoin Trust[3] and (2) the Bitwise Bitcoin ETF[4] under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares), and (3) the Hashdex Bitcoin ETF[5] under NYSE Arca Rule 8.500–E (Trust Units); Nasdaq proposes to list and trade shares of (4) the iShares Bitcoin Trust[6] and (5) the Valkyrie Bitcoin Fund[7] under Nasdaq Rule 5711(d) (Commodity-Based Trust Shares); and BZX proposes to list and trade shares of (6) the ARK 21Shares Bitcoin ETF,[8] (7) the Invesco Galaxy Bitcoin ETF,[9] (8) the VanEck Bitcoin Trust,[10] (9) the WisdomTree Bitcoin Fund,[11] (10) the Fidelity Wise Origin Bitcoin Fund,[12] and (11) the Franklin Bitcoin ETF[13] under BZX Rule 14.11(e)(4) (Commodity-Based Trust Shares). Each filing was subject to notice and comment.[14]

Each of the foregoing proposed rule changes, as modified by their respective amendments, is referred to herein as a ''Proposal'' and collectively as the ''Proposals.'' Each trust (or series of a trust) described in a Proposal is referred to herein as a ''Trust'' and collectively as the ''Trusts.'' As described in more detail in the Proposals' respective amended filings,[15] each Proposal seeks to list and trade shares of a Trust that would hold spot bitcoin,[16] in whole or in part.[17] This order approves the Proposals on an accelerated basis.[18]

II. Discussion and Commission Findings

After careful review, the Commission finds that the Proposals are consistent with the Exchange Act and rules and regulations thereunder applicable to a national securities exchange.[19] In

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Amendment No. 2 to Proposed Rule Change to List and Trade Shares of the Grayscale Bitcoin Trust (BTC) under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares) (SR–NYSEARCA–2021–90), filed Jan. 5, 2024, available at *https://www.sec.gov/comments/sr-nysearca-2021-90/srnysearca202190-358659-884182.pdf* (''Grayscale Amendment'').

[4] *See* Amendment No. 2 to Proposed Rule Change to List and Trade Shares of the Bitwise Bitcoin ETF under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares) (SR–NYSEARCA–2023–44), filed Jan. 5, 2024, available at *https://www.sec.gov/comments/sr-nysearca-2023-44/srnysearca202344-358800-884322.pdf* (''Bitwise Amendment'').

[5] *See* Amendment No. 1 to Proposed Rule Change to List and Trade Shares of the Hashdex Bitcoin ETF under NYSE Arca Rule 8.500–E (Trust Units) (SR–NYSEARCA–2023–58), filed Jan. 5, 2024, available at *https://www.sec.gov/comments/sr-nysearca-2023-58/srnysearca202358-358819-884342.pdf* (''Hashdex Amendment'').

[6] *See* Amendment No. 1 to Proposed Rule Change to List and Trade Shares of the iShares Bitcoin Trust under Nasdaq Rule 5711(d), Commodity-Based Trust Shares (SR–NASDAQ–2023–016), filed Jan. 5, 2024, available at *https://www.sec.gov/comments/sr-nasdaq-2023-016/srnasdaq2023016-357659-883042.pdf* (''iShares Amendment'').

[7] *See* Amendment No. 1 to Proposed Rule Change to List and Trade Shares of the Valkyrie Bitcoin Fund under Nasdaq Rule 5711(d), Commodity-Based Trust Shares (SR–NASDAQ–2023–019), filed Jan. 5, 2024, available at *https://www.sec.gov/comments/sr-nasdaq-2023-019/srnasdaq2023019-358120-883602.pdf* (''Valkyrie Amendment'').

[8] *See* Amendment No. 5 to Proposed Rule Change to List and Trade Shares of the ARK 21Shares Bitcoin ETF under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares (SR–CboeBZX–2023–028), filed Jan. 5, 2024, available at *https://www.sec.gov/comments/sr-cboebzx-2023-028/srcboebzx2023028-358679-884202.pdf* (''ARK Amendment'').

[9] *See* Amendment No. 2 to Proposed Rule Change to List and Trade Shares of the Invesco Galaxy Bitcoin ETF under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares (SR–CboeBZX–2023–038), filed Jan. 5, 2024, available at *https://www.sec.gov/comments/sr-cboebzx-2023-038/srcboebzx2023038-358719-884222.pdf* (''Invesco Amendment'').

[10] *See* Amendment No. 2 to Proposed Rule Change to List and Trade Shares of the VanEck Bitcoin Trust under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares (SR–CboeBZX–2023–040), filed Jan. 5, 2024, available at *https://www.sec.gov/comments/sr-cboebzx-2023-040/srcboebzx2023040-366299-893383.pdf* (''VanEck Amendment'').

[11] *See* Amendment No. 2 to Proposed Rule Change to List and Trade Shares of the WisdomTree Bitcoin Fund under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares (SR–CboeBZX–2023–042), filed Jan. 5, 2024, available at *https://www.sec.gov/comments/sr-cboebzx-2023-042/srcboebzx2023042-366319-893402.pdf* (''WisdomTree Amendment'').

[12] *See* Amendment No. 3 to Proposed Rule Change to List and Trade Shares of the Fidelity Wise Origin Bitcoin Fund under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares (SR–CboeBZX–2023–044), filed Jan. 5, 2024, available at *https://www.sec.gov/comments/sr-cboebzx-2023-044/srcboebzx2023044-358759-884163.pdf* (''Wise Origin Amendment'').

[13] *See* Amendment No. 1 to Proposed Rule Change to List and Trade Shares of the Franklin Bitcoin ETF under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares (SR–CboeBZX–2023–072), filed Jan. 5, 2024, available at *https://www.sec.gov/comments/sr-cboebzx-2023-072/srcboebzx2023072-358799-884282.pdf* (''Franklin Amendment'').

[14] Comments received on SR–NYSEARCA–2021–90 are available at *https://www.sec.gov/comments/sr-nysearca-2021-90/srnysearca202190.htm.* Comments received on SR–NYSEARCA–2023–44 are available at *https://www.sec.gov/comments/sr-nysearca-2023-44/srnysearca202344.htm.* Comments received on SR–NYSEARCA–2023–58 are available at *https://www.sec.gov/comments/sr-nysearca-2023-58/srnysearca202358.htm.* Comments received on SR–NASDAQ–2023–016 are available at *https://www.sec.gov/comments/sr-nasdaq-2023-016/srnasdaq2023016.htm.* Comments received on SR–NASDAQ–2023–019 are available at *https://www.sec.gov/comments/sr-nasdaq-2023-019/srnasdaq2023019.htm.* Comments received on SR–CboeBZX–2023–028 are available at *https://www.sec.gov/comments/sr-cboebzx-2023-028/srcboebzx2023028.htm.* Comments received on SR–CboeBZX–2023–038 are available at *https://www.sec.gov/comments/sr-cboebzx-2023-038/srcboebzx2023038.htm.* Comments received on SR–CboeBZX–2023–040 are available at *https://www.sec.gov/comments/sr-cboebzx-2023-040/srcboebzx2023040.htm.* Comments received on SR–CboeBZX–2023–042 are available at *https://www.sec.gov/comments/sr-cboebzx-2023-042/srcboebzx2023042.htm.* Comments received on SR–CboeBZX–2023–044 are available at *https://www.sec.gov/comments/sr-cboebzx-2023-044/srcboebzx2023044.htm.* Comments received on SR–CboeBZX–2023–072 are available at *https://www.sec.gov/comments/sr-cboebzx-2023-072/srcboebzx2023072.htm.*

[15] *See supra* notes 3–13.

[16] Bitcoins are digital assets that are issued and transferred via a distributed, open-source protocol used by a peer-to-peer computer network through which transactions are recorded on a public transaction ledger known as the ''Bitcoin blockchain.'' The Bitcoin protocol governs the creation of new bitcoins and the cryptographic system that secures and verifies bitcoin transactions.

[17] The Trust described in the Hashdex Amendment currently holds, and could continue to hold, bitcoin futures contracts traded on the Chicago Mercantile Exchange. *See* Hashdex Amendment at 37. Most of the Trusts could also hold cash, and some Trusts could also hold cash equivalents, as described in their respective amended filings. *See* Bitwise Amendment at 5; Hashdex Amendment at 37; iShares Amendment at 4; Valkyrie Amendment at 5; ARK Amendment at 43; Invesco Amendment at 28; VanEck Amendment at 30; WisdomTree Amendment at 28; Wise Origin Amendment at 68; Franklin Amendment at 29.

[18] *See infra* Section III.

[19] In approving the Proposals, the Commission has considered the Proposals' impacts on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f). *See also infra* note 51 and accompanying text, discussing comments received regarding the efficiency of spot bitcoin ETPs; Letter from Michael McGinley, dated July 18, 2023, regarding SR–CboeBZX–2023–044 (''McGinley Letter''), stating

particular, the Commission finds that the Proposals are consistent with Section 6(b)(5) of the Exchange Act,[20] which requires, among other things, that the Exchanges' rules be designed to ''prevent fraudulent and manipulative acts and practices'' and, ''in general, to protect investors and the public interest;'' and with Section 11A(a)(1)(C)(iii) of the Exchange Act,[21] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

A. Exchange Act Section 6(b)(5)

When considering previous proposals to list bitcoin-based commodity trusts and bitcoin-based trust issued receipts,[22] the Commission has explained that one way an exchange that lists bitcoin-based exchange-traded products (''ETPs'') can meet the obligation under Exchange Act Section 6(b)(5) that its rules be designed to prevent fraudulent and manipulative acts and practices is by demonstrating that the exchange has a comprehensive surveillance-sharing agreement with a regulated market of significant size related to the underlying or reference bitcoin assets.[23] Such an agreement would assist in detecting and deterring fraud and manipulation related to that underlying asset. While past proposals to list spot bitcoin-based ETPs have argued that the bitcoin futures market of the Chicago Mercantile Exchange (''CME'') is a market of ''significant size'' related to spot bitcoin, for reasons discussed in the orders disapproving each such proposal, the Commission was unable to make such a finding.[24]

The Commission also has consistently recognized, however, that having a comprehensive surveillance-sharing agreement with a regulated market of significant size related to the underlying or reference bitcoin assets is not the *exclusive* means by which an ETP listing exchange can meet this statutory obligation under Exchange Act Section 6(b)(5).[25] A listing exchange could, alternatively, demonstrate that ''other means to prevent fraudulent and manipulative acts and practices will be sufficient'' to justify dispensing with a surveillance-sharing agreement with a regulated market of significant size.[26]

In the Grayscale Order,[27] the Commission determined that the proposing Exchange had not established that the CME bitcoin futures market was a market of significant size related to spot bitcoin, or that the ''other means'' asserted were sufficient to satisfy the statutory standard. On review of the Grayscale Order, the U.S. Court of Appeals for the D.C. Circuit held that the Commission failed to adequately explain its reasoning. The court therefore vacated the Grayscale Order and remanded the matter to the Commission.[28]

The Commission is considering in this order the remand of the Grayscale Order and the other Proposals referenced above. For the reasons discussed below, based on the record before the Commission and the Commission's analysis of available data and information, the Commission finds that sufficient ''other means'' of preventing fraud and manipulation in this context have been demonstrated.

Each Exchange has a comprehensive surveillance-sharing agreement with the CME via their common membership in the Intermarket Surveillance Group.[29] This facilitates the sharing of information that is available to the CME through its surveillance of its markets, including its surveillance of the CME bitcoin futures market.

Spot bitcoin, however, does not trade on the CME and the CME does not engage in surveillance of spot bitcoin markets. As with prior proposals, this raises questions regarding the sufficiency of a surveillance-sharing agreement with the CME in preventing fraud and manipulation when the proposed ETPs hold spot bitcoin. If a would-be manipulator of a spot bitcoin ETP engages in misconduct (such as fraud, manipulation, or other trading abuses) on the CME itself, the CME's surveillance can be reasonably expected to detect such misconduct. But if the would-be manipulator is not transacting on the CME itself, the impacts of its misconduct would not necessarily be surveilled by the CME unless the misconduct also impacts the CME bitcoin futures market. Thus, when assessing the sufficiency of a surveillance-sharing agreement with the CME, it is critical to establish whether, and to what extent, fraud or manipulation that impacts the spot bitcoin market also impacts the CME bitcoin futures market.

In making that assessment, the Commission begins with a correlation analysis provided in one Proposal (the ''ARK Analysis'') that examines the relationship between prices in the CME bitcoin futures market and the spot bitcoin market.[30] The ARK Analysis

that approving a spot bitcoin ETP ''under stringent regulation . . . aids the formation of new capital in this increasingly relevant market sector.''

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[22] *See* Order Disapproving a Proposed Rule Change To List and Trade Shares of the VanEck Bitcoin Trust Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, Securities Exchange Act Release No. 97102 (Mar. 10, 2023), 88 FR 16055 (Mar. 15, 2023) (SR–CboeBZX–2022–035) (''VanEck Order II'') and n.11 therein for the complete list of previous proposals. The Grayscale order referenced therein (''Grayscale Order'') is discussed below.

[23] *See, e.g.,* VanEck Order II at 16056. The Commission has provided an illustrative definition for ''market of significant size'' to include a market (or group of markets) as to which (a) there is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to successfully manipulate the ETP, so that a surveillance-sharing agreement would assist in detecting and deterring misconduct, and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market. *See* Order Setting Aside Action by Delegated Authority and Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, To List and Trade Shares of the Winklevoss Bitcoin Trust, Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579, 37594 (Aug. 1, 2018) (SR–BatsBZX–2016–30) (''Winklevoss Order'').

[24] *See, e.g.,* VanEck Order II at 16064–67 and the disapproval orders listed at n.11 therein.

[25] *See, e.g.,* Winklevoss Order at 37580; VanEck Order II at 16059 n.43 and accompanying text.

[26] *See* Winklevoss Order at 37580.

[27] *See supra* note 22.

[28] *See Grayscale Investments, LLC* v. *SEC,* 82 F.4th 1239 (D.C. Cir. 2023).

[29] *See, e.g.,* VanEck Order II at 16064.

[30] *See* ARK Amendment at 24–27. A commenter to another Proposal also conducted a correlation analysis and found a 99.9 percent correlation between a ''daily'' spot bitcoin price and a ''daily'' CME bitcoin futures price over a four-month sample period (Nov. 4, 2021, through Feb. 23, 2022). *See* Letter from Paul Grewal, Chief Legal Officer, Coinbase Global, Inc., dated Mar. 3, 2022, regarding SR–NYSEARCA–2021–90. However, based on the commenter's description of its correlation analysis at Figure 6 therein, it appears that this correlation was calculated using time series of price *levels.* Time series of price *levels* are often non-stationary, which leads to results that indicate relationships that do not actually exist. In addition, calculating correlation using only *daily* price observations provides no information on how prices in the two markets are associated—if at all—*throughout* the trading day. Moreover, correlation over a single four-month sample period does not provide evidence of a *consistently* high correlation over time. Several other commenters also assert a relationship between spot bitcoin prices and futures prices, but provide no evidence to support their assertions. *See, e.g.,* Letter from James J. Angel, Georgetown University, dated Aug. 11, 2023, regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, and SR–CboeBZX–2023–044 (''Angel Letter''), at 2 (asserting that spot and futures markets are ''closely locked together through arbitrage, and the difference in market prices between the spot bitcoin price and the futures price is negligible''); Letter from Mike Spotto, dated Aug. 23, 2023, regarding SR–CboeBZX–2023–028 (''Spotto Letter'') (asserting that the price of a futures-based exchange-traded vehicle ''is derived from'' the spot market); Letter from Michael Es, dated Aug. 27, 2023, regarding SR–CboeBZX–2023–028 (''Es Letter'') (asserting that ''the price of futures are correlated with spot'').

calculates Pearson correlation statistics [31] using time series of price returns data [32] that were compiled at the hour- and minute-levels, which account for intra-day movements in prices, and over a lengthy sample period (January 20, 2021, through February 1, 2023). The ARK Analysis claims [33] that price changes in its selected spot bitcoin markets and the CME bitcoin futures market are ''highly correlated.'' Using hourly data, the correlation results are ''no less than 92%''. Using minute-by-minute data, the results are ''no less than 78%''. Importantly, however, the analysis does not assess whether any of the results are consistent across the sample period.

The Commission undertook to verify the ARK Analysis' correlation results for a subset of its selected spot bitcoin markets, as well as to supplement the analysis by assessing the *consistency* of the results across the sample period. For robust [34] results, the Commission used stationary time series of price returns data at hourly, five-minute, and one-minute intervals for the spot BTC/USD trading pair on Coinbase and Kraken, as well as for the closest-to-maturity CME bitcoin futures contract, over a similarly lengthy sample period (March 1, 2021, through October 20, 2023).[35] Pearson correlation statistics were calculated for the full sample period as well as for rolling three-month segments within the sample period. The Commission's correlation analysis utilized frequent intra-day trading data over the lengthy sample period on this subset of spot bitcoin platforms [36] and—crucially—on the CME bitcoin futures market as well.[37]

The results of the Commission's analysis confirm that the CME bitcoin futures market has been consistently highly correlated with this subset of the spot bitcoin market throughout the past 2.5 years. The correlation between the CME bitcoin futures market and this subset of spot bitcoin platforms for the full sample period is no less than 98.4 percent using data at an hourly interval, 94.2 percent using data at a five-minute interval, and 76.9 percent using data at a one-minute interval. The rolling three-month correlation results are similar: ranging between 95.0 and 99.2 percent using data at an hourly interval, 84.0 and 94.5 percent using data at a five-minute interval, and 67.9 and 83.2 percent using data at a one-minute interval.

CORRELATIONS BETWEEN CERTAIN SPOT BITCOIN MARKETS AND THE CME BITCOIN FUTURES MARKET

	Coinbase			Kraken		
	Hourly	5 Minutes	1 Minute	Hourly	5 Minutes	1 Minute
Full Sample: 03/01/21 to 10/20/23	98.4	94.6	77.1	98.4	94.2	76.9
Rolling Three-Month Correlations Over the Full Sample Period:						
Maximum	99.2	94.3	83.2	99.1	94.5	82.4
Minimum	95.0	87.6	69.5	95.0	84.0	67.9

Moreover, the results of the Commission's robust correlation analysis [38] provide empirical evidence supporting the ARK Analysis' conclusion that prices generally move in close (although not perfect) alignment between the spot bitcoin market and the CME bitcoin futures market.[39] As such, in contrast to previous proposals,[40] based on the record before the Commission and the improved quality of the correlation analysis in the record, including the Commission's own analysis, the Commission is able to conclude that fraud or manipulation that impacts prices in spot bitcoin markets would likely similarly impact CME bitcoin futures prices. And because the CME's surveillance can assist in detecting those impacts on CME bitcoin futures prices, the Exchanges' comprehensive surveillance-sharing agreement with the CME—a U.S. regulated market whose bitcoin

[31] *See* ARK Amendment at 24 n.54 (explaining that Pearson correlation is a measure of linear association between two variables and indicates the magnitude as well as direction of this relationship, and that the value can range between −1 (suggesting a strong negative association) and 1 (suggesting a strong positive association)).

[32] Price *returns* data are typically stationary and thus less prone to misleading results than price *levels* data. *See also supra* note 30.

[33] Several aspects of the ARK Analysis are unclear based on the description in the ARK Amendment. For example, the description does not indicate the particular time series that were used for the correlation analysis (*e.g.,* last trade price, bid price, ask price, midpoint of bid-ask). The ARK Analysis also computed correlations *among* several spot bitcoin markets, in addition to *between* the CME bitcoin futures market and those spot markets. However, the ARK Amendment does not present the individual numerical results for each correlation, and thus the results that are specific to the CME bitcoin futures market are unknown.

[34] *See also infra* note 38.

[35] Data were sourced from the CME via the SEC's Market Information Data Analytics System (''MIDAS'') for the closest-to-maturity CME bitcoin futures contract price and from Kaiko for the BTC/USD prices on Coinbase and Kraken. All data sets used in the Commission's analysis are publicly available (although some require subscriptions). One-minute, five-minute, and hourly price *level* time series were created using the last trade price over the given interval for the spot BTC/USD pairs and the closest-to-maturity CME bitcoin futures contract. Each price *level* time series was then log differenced to create price *returns* time series. The stationarity of each price *returns* time series was confirmed through Augmented Dickey-Fuller tests.

[36] The spot bitcoin market has grown since 2009 into a 24-hour, global marketplace. However, due to the unregulated and fragmented nature of the spot bitcoin market, there are no authoritative published figures for spot bitcoin trading. Nonetheless, multiple sources of pricing information for the spot bitcoin market are available 24 hours per day on public websites and through subscription services. *See, e.g.,* Grayscale Amendment at 41 (stating that real-time price and volume data for bitcoin is available by subscription from Reuters and Bloomberg).

[37] The CME bitcoin futures market, which is regulated by the U.S. Commodity Futures Trading Commission (''CFTC''), has developed since its inception in Dec. 2017 into an active market, growing from 498 open BTC contracts on Dec. 31, 2017, to 16,281 open BTC contracts and 6,409 open MBT contracts on Oct. 31, 2023 (source: Refinitiv). Real-time trade information, including prices, for the CME bitcoin futures market is made available through CME at: *https://www.cmegroup.com/markets/cryptocurrencies/bitcoin/bitcoin.quotes.html#venue=globex* and *https://www.cmegroup.com/markets/cryptocurrencies/bitcoin/micro-bitcoin.quotes.html#venue=globex.*

[38] The robustness of the Commission's correlation analysis rests on the pre-requisites of (1) the correlations being calculated with respect to bitcoin futures that trade on *the CME,* a U.S. market regulated by the CFTC, (2) the lengthy sample period of price returns for both the CME bitcoin futures market and the spot bitcoin market, (3) the frequent intra-day trading data in both the CME bitcoin futures market and the spot bitcoin market over that lengthy sample period, and (4) the consistency of the correlation results throughout the lengthy sample period.

[39] Correlation should not be interpreted as an indicator of a causal relationship or whether one variable leads or lags the other.

[40] The Commission years ago, in analyzing previous proposals, recognized that there may be a change in conditions or available information that affects the Exchange Act analysis, and that the Commission would then have the opportunity to consider whether a spot bitcoin ETP would be consistent with the requirements of the Exchange Act. *See* Winklevoss Order at 37580.

futures market is consistently highly correlated to spot bitcoin, albeit not of ''significant size'' related to spot bitcoin—can be reasonably expected to assist in surveilling for fraudulent and manipulative acts and practices in the specific context of the Proposals.[41]

B. Exchange Act Section 11A(a)(1)(C)(iii)

Each Proposal sets forth aspects of its proposed ETP, including the availability of pricing information, transparency of portfolio holdings, and types of surveillance procedures, that are consistent with other spot commodity ETPs that the Commission has approved.[42] This includes commitments regarding: the availability via the relevant securities information processor of quotation and last-sale information for the shares of each Trust; the availability on the websites of each Trust of certain information related to the Trusts' intra-day indicative values (''IIV'') and net asset values; the dissemination of IIV by one or more major market data vendors, updated every 15 seconds throughout the Exchanges' regular trading hours; the Exchanges' surveillance procedures and ability to obtain information regarding trading in the shares of the Trusts; the conditions under which the Exchanges would implement trading halts and suspensions; and the requirements of registered market makers in the shares of each Trust.[43] In addition, in each Proposal, the applicable Exchange deems the shares of the applicable Trust to be equity securities, thus rendering trading in such shares subject to that Exchange's existing rules governing the trading of equity securities.[44] Further, the applicable listing rules of each Exchange require that all statements and representations made in its filing regarding, among others, the description of the applicable Trust's holdings, limitations on such holdings, and the applicability of that Exchange's listing rules specified in the filing, will constitute continued listing requirements.[45] Moreover, each Proposal states that: its issuer has represented to the applicable Exchange that it will advise that Exchange of any failure to comply with the applicable continued listing requirements; pursuant to obligations under Section 19(g)(1) of the Exchange Act, that Exchange will monitor for compliance with the continued listing requirements; and if the applicable Trust is not in compliance with the applicable listing requirements, that Exchange will commence delisting procedures.[46]

The Commission therefore believes that the Proposals, as with the other spot commodity ETPs that the Commission has approved,[47] are reasonably designed to promote fair disclosure of information that may be necessary to price the shares of the Trusts appropriately, to prevent trading when a reasonable degree of transparency cannot be assured, to safeguard material non-public information relating to the Trusts' portfolios, and to ensure fair and orderly markets for the shares of the Trusts.

C. Other Comments Related to Bitcoin ETPs

Some commenters assert that the Commission must approve the Proposals because exchange-traded funds (''ETFs'') and ETPs holding CME bitcoin futures, including leveraged ETFs, are already trading on national securities exchanges.[48] Other commenters state that the Commission should approve the Proposals because ETFs/ETPs holding CME bitcoin futures and spot bitcoin ETPs ultimately track the same underlying asset.[49] These

[41] In the original filings of their respective Proposals, Nasdaq and BZX had each stated that they expected to enter into a bilateral surveillance-sharing agreement with Coinbase, Inc. (''Coinbase'') that would provide supplemental access to certain data regarding spot bitcoin trades on Coinbase. The Commission received comments regarding such potential agreements. Some commenters state that such agreements would adequately address the Commission's concerns around market manipulation with respect to the operation of spot bitcoin ETPs (*see, e.g.,* Letter from Simpson Thacher & Bartlett LLP on behalf of Skybridge Capital LLC, dated Aug. 14, 2023, regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, and SR–CboeBZX–2023–044, at 2–3; Letter from Jason Grunstra, dated Aug. 15, 2023, regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, and SR–CboeBZX–2023–044), would help to protect against attempted manipulation (*see* Letter from Joe Stevens, dated Nov. 29, 2023, regarding SR–CboeBZX–2023–072), and would significantly enhance the Exchanges' market monitoring capabilities (*see* Letter from Julian Schettler, dated Dec. 2, 2023, regarding SR–CboeBZX–2023–072 (''Schettler Letter'')). Other commenters disagree that such agreements would add much value, citing, among other reasons, Coinbase's small portion of overall, global spot bitcoin trading; its lack of registration with either the SEC or CFTC; and that utilizing just Coinbase for surveillance purposes could introduce a single point of failure. *See, e.g.,* Letter from Stephen W. Hall, Legal Director and Securities Specialist, and Scott Farnin, Legal Counsel, Better Markets, Inc., dated Aug. 8, 2023, regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, and SR–CboeBZX–2023–044 (''Better Markets Letter I''), at 6–7; Letter from Dennis M. Kelleher, Co-Founder, President, and CEO, and Stephen W. Hall, Legal Director and Securities Specialist, Better Markets, Inc., dated Jan. 5, 2024, regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, and SR–CboeBZX–2023–044 (''Better Markets Letter II''), at 9–10; Letter from Occupy the SEC, dated Aug. 30, 2023, regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, SR–CboeBZX–2023–044, and SR–NYSEARCA–2023–44 (''Occupy Letter''), at 2–3; Letter from Travis Kling, dated Aug. 14, 2023, regarding SR–CboeBZX–2023–028 (''Kling Letter''). Another commenter contends that the Commission may not require that an Exchange enter into such an agreement to satisfy Exchange Act Section 6(b)(5). *See* Letter from Davis Polk & Wardwell LLP on behalf of Grayscale Investments, LLC, dated July 27, 2023, regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, and SR–CboeBZX–2023–044. Nasdaq's and BZX's amended filings (*see supra* notes 6–13) removed any statements regarding such potential agreements. Because those amended filings no longer reference these agreements, and because the Commission finds that other means have been demonstrated to satisfy the Exchange Act Section 6(b)(5) statutory obligation that an exchange's rules be designed to prevent fraudulent and manipulative acts and practices, the surveillance-sharing agreements with Coinbase are not a basis for approval.

[42] *See, e.g.,* Securities Exchange Act Release No. 61220 (Dec. 22, 2009), 74 FR 68895 (Dec. 29, 2009) (SR–NYSEARCA–2009–94) (Order Granting Approval of Proposed Rule Change Relating To Listing and Trading Shares of the ETFS Palladium Trust); Securities Exchange Act Release No. 94518 (Mar. 25, 2022), 87 FR 18837 (Mar. 31, 2022) (SR–NYSEARCA–2021–65) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the Sprott ESG Gold ETF Under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares)).

[43] *See* Grayscale Amendment at 40–45; Bitwise Amendment at 54–58; Hashdex Amendment at 50–55; iShares Amendment at 41–47, 55–57; Valkyrie Amendment at 32–40, 44–48; ARK Amendment at 51–53, 56–62; Invesco Amendment at 32–34, 37–43; VanEck Amendment at 34–36, 39–45; WisdomTree Amendment at 32–35, 37–44; Wise Origin Amendment at 71–74, 77–83; Franklin Amendment at 34–36, 38–45.

[44] *See* Grayscale Amendment at 42; Bitwise Amendment at 55; Hashdex Amendment at 52; iShares Amendment at 44; Valkyrie Amendment at 37; ARK Amendment at 59; Invesco Amendment at 40; VanEck Amendment at 43; WisdomTree Amendment at 41; Wise Origin Amendment at 80; Franklin Amendment at 42.

[45] *See* Nasdaq Rule 5711(d)(iii); NYSE Arca Rule 8.201–E(e)(2)(vii); NYSE Arca Rule 8.500–E(d)(2)(i)(C); BZX Rule 14.11(a).

[46] *See* Grayscale Amendment at 44; Bitwise Amendment at 57; Hashdex Amendment at 54; iShares Amendment at 40; Valkyrie Amendment at 39; ARK Amendment at 61; Invesco Amendment at 41–42; VanEck Amendment at 44; WisdomTree Amendment at 42–43; Wise Origin Amendment at 82; Franklin Amendment at 43–44.

[47] *See supra* note 42.

[48] *See, e.g.,* Letter from Chris, dated Aug. 11, 2023, regarding SR–CboeBZX–2023–028; Letter from Rocket Academic Services, LLC, dated July 23, 2023, regarding SR–NASDAQ–2023–019.

[49] *See, e.g.,* Angel Letter at 2; Letter from Douglas A. Cifu, Chief Executive Officer, Virtu Financial, Inc., regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, SR–CboeBZX–2023–044, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, and SR–NYSEARCA–2023–44 (''Virtu Letter''), at 2; Letter from Erica Woods, dated July 18, 2023, regarding SR–CboeBZX–2023–044 (''Woods

Continued

commenters, however, do not provide any empirical evidence to support these claims.

The Commission has considered and, for the reasons described above, is approving the Proposals on their own merits and under the standards applicable to them; namely, the standards provided by Section 6(b)(5) and Section 11A(a)(1)(C)(iii) of the Exchange Act.[50] As described above, based on the record before the Commission and the Commission's own correlation analysis, the Commission concludes that fraud or manipulation that impacts prices in spot bitcoin markets would likely similarly impact CME bitcoin futures prices, such that a surveillance-sharing agreement with the CME can be reasonably expected to assist in surveilling for fraud and manipulation that may impact the proposed spot bitcoin ETPs.

Some commenters state that the Commission should approve the Proposals for a variety of investor protection reasons, including that spot bitcoin ETPs would offer a less costly and more efficient way to gain exposure to bitcoin,[51] would be more convenient and secure relative to directly holding bitcoin,[52] and would be more regulated.[53] Other commenters state that the Commission should disapprove the Proposals on investor protection grounds, citing concerns that certain market players would take advantage of retail investors.[54]

The Commission has considered these potential benefits and concerns in the broader context of whether the Proposals meet each of the applicable requirements of the Exchange Act,[55] including the requirement in Section 6(b)(5) [56] that the Exchanges' rules be designed to ''prevent fraudulent and manipulative acts and practices.'' For the reasons described above, the Commission has determined that the Proposals meet such requirement. The Commission also finds that the Proposals are consistent with the Section 6(b)(5) requirement that the Exchanges' rules be designed to protect investors and the public interest because, in addition to the factors discussed in Section II.A and II.B above, existing rules and standards of conduct would apply to recommending and advising investments in the shares of the Trusts. For example, when broker-dealers recommend ETPs to retail customers, Regulation Best Interest (''Reg BI'') would apply.[57] Reg BI requires broker-dealers to, among other things, exercise reasonable diligence, care, and skill when making a recommendation to a retail customer to: (1) understand potential risks, rewards, and costs associated with the recommendation and have a reasonable basis to believe that the recommendation could be in the best interest of at least some retail customers; and (2) have a reasonable basis to believe the recommendation is in the best interest of a particular retail customer based on that retail customer's investment profile.[58] In addition, investment advisers have a fiduciary duty under the Investment Advisers Act of 1940 comprised of a duty of care and a duty of loyalty. These obligations require the adviser to act in the best interest of its client and not subordinate its client's interest to its own.[59]

Some commenters contend that the Commission should disapprove the Proposals because the bitcoin market has been, is being, and/or will likely continue to be, manipulated.[60] The

Letter''); Letter from John Rundle, dated July 18, 2023, regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, and SR–CboeBZX–2023–044.

[50] 15 U.S.C. 78f(b)(5); 15 U.S.C. 78k–1(a)(1)(C)(iii).

[51] *See, e.g.,* Spotto Letter; Letter from John Smith, dated July 18, 2023, regarding SR–CboeBZX–2023–040 (''John Smith Letter''); Letters from Peter L. Briger, Jr., Chairman, Fortress Investment Group LLC, dated Sept. 29, 2023, regarding SR–CboeBZX–2023–028, and dated Oct. 20, 2023, regarding SR–NASDAQ–2023–016 (''Fortress Letters''), at 2.

[52] *See, e.g.,* Virtu Letter at 1 and 3; Fortress Letters at 1; McGinley Letter; Letter from Nick, dated July 18, 2023, regarding SR–NASDAQ–2023–016; Letter from Patrick Brogan, dated July 17, 2023, regarding SR–NASDAQ–2023–016 (''Brogan Letter''); Letter from Parthiban Rathinaswamy, dated July 21, 2023, regarding SR–CboeBZX–2023–044; Letter from Richard Sapp, dated July 17, 2023, regarding SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, and SR–CboeBZX–2023–044 (''Sapp Letter''); Letter from Eric Murphy, dated Aug. 31, 2023, regarding SR–CboeBZX–2023–028; Letter from Dave Lester, dated Aug. 11, 2023, regarding SR–CboeBZX–2023–028 (''Lester Letter''); Letter from Anonymous, dated Nov. 28, 2023, regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, SR–CboeBZX–2023–044, SR–CboeBZX–2023–072, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, SR–NYSEARCA–2023–44, and SR–NYSEARCA–2023–58.

[53] *See, e.g.,* Fortress Letters at 1–2; Es Letter; Woods Letter; Brogan Letter; Letter from Mark S. Abner, dated July 17, 2023, regarding SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, and SR–CboeBZX–2023–044; Letter from Peter Bouraphael, dated Aug. 13, 2023, regarding SR–CboeBZX–2023–028 (''Bouraphael Letter''). The Trust described in the Hashdex Amendment would purchase and sell spot bitcoin exclusively through Exchange for Physical (''EFP'') transactions, which NYSE Arca describes as a ''CME-regulated, bilaterally negotiated block trade'' in which both parties engage in a composite transaction that involves both a CME bitcoin futures leg and a spot bitcoin leg. *See* Hashdex Amendment at 6, 17. Some commenters assert that such EFP transactions involve ''enhanced regulatory standards.'' *See, e.g.,* Letter from Philippe Bekhazi, Chief Executive Officer, XBTO Global Ltd., dated Dec. 27, 2023, regarding SR–NYSEARCA–2023–58, at 2 (''The proposal's commitment to transparency is actively demonstrated through the reporting of EFPs to CME, subjecting prices to ongoing surveillance and review.''); Letter from David Vizsolyi, CEO, DV Chain, LLC, dated Dec. 22, 2023, regarding SR–NYSEARCA–2023–58, at 2 (efforts to affect the price of the Trust's shares could involve a CME participant influencing the EFP prices, but ''[p]resumably, such attempted manipulation would be strictly monitored, prevented, and if need be, sanctioned by CME'').

[54] *See, e.g.,* Occupy Letter at 3 (stating that the Trusts would be ''fertile ground for high-pressure brokers exploiting the hype and volatility to take advantage of unsophisticated investors''); Letter from Tally.xyz, dated Dec. 4, 2023, regarding SR–NASDAQ–2023–016 (stating that certain spot bitcoin ETP sponsors have ''accumulated huge positions to dump on an excited retail market''); Letter from Daniel P.B. Smith, dated Aug. 12, 2023, regarding SR–CboeBZX–2023–028 (''Daniel Smith Letter'') (stating that spot bitcoin ETP sponsors ''just see money flowing from mark to con artist and figure if people are being conned anyway, they might as well divert a little bit of that flow to themselves.''); Letter from Public Citizen, dated Dec. 28, 2023, regarding SR–NYSEARCA–2021–90, at 1 and 4 (stating that ''[b]itcoin specifically, and cryptocurrencies generally, do not serve the public interest and are, in fact, a trap for vulnerable investors'' and that ''[s]ome cryptocurrency sponsors may be exploiting those who believe they've been shut out of the traditional financial system''). *See also infra* note 60 and accompanying text.

[55] *See also* Winklevoss Order at 37602.

[56] 15 U.S.C. 78f(b)(5).

[57] Exchange Act rule 15*l*–1(a).

[58] Exchange Act rules 15*l*–1(a)(2)(ii)(A) and (B). Separately, under Reg BI's Conflict of Interest Obligation, broker-dealers must establish, maintain, and enforce written policies and procedures reasonably designed to, among other things, identify and disclose or eliminate all conflicts of interest associated with a recommendation and mitigate conflicts of interest at the associated person level. *See* Exchange Act rules 15*l*–1(a)(2)(iii)(A) and (B). To the extent that broker-dealers recommend ETPs to customers who are not retail customers covered by Reg BI, FINRA Rule 2111 requires, in part, that a member broker-dealer or associated person ''have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer, based on the information obtained through the reasonable diligence of the [broker-dealer] or associated person to ascertain the customer's investment profile.''

[59] *See* Commission Interpretation Regarding Standard of Conduct for Investment Advisers, Investment Advisers Act Release No. 5248 (June 5, 2019), 84 FR 33669 (July 12, 2019), at 33671; Investment Company Act Release No. 34084 (Nov. 2, 2020), 85 FR 83162 (Dec. 21, 2020), at 83217 (discussing the best interest standard of conduct for broker-dealers and the fiduciary obligations of investment advisers in the context of all ETPs).

[60] *See, e.g.,* Kling Letter (stating that the bitcoin futures price is beholden to the spot price, and the spot price has always been, and continues to be, manipulated by bad actors); Better Markets Letter I at 2 and 4–9 and Better Markets Letter II at 4–6 (stating that spot bitcoin ETPs are extremely vulnerable to manipulation by bad actors because spot bitcoin markets (1) have a history of artificially inflated trading volumes due to rampant manipulation and wash trading, (2) are highly concentrated, and (3) rely on a select group of individuals and entities to maintain the bitcoin network); Letter from John Palmer, dated Aug. 11, 2023, regarding SR–CboeBZX–2023–028 (stating that 75% of the bitcoin in circulation is controlled by a small minority who use market makers to pump and dump); Daniel Smith Letter (''[t]he history of crypto is a never-ending history of frauds and scams''); Letter from Billy Jensen, dated Sept.

Commission acknowledges these concerns. Pursuant to Section 19(b)(2) of the Exchange Act, however, the Commission must approve a proposed rule change filed by a national securities exchange if it finds that the proposed rule change is consistent with the applicable requirements of the Exchange Act.[61] For the reasons described above, the Commission finds that the Proposals satisfy the requirements of the Exchange Act, including the requirement in Section 6(b)(5)[62] that the Exchanges' rules be designed to ''prevent fraudulent and manipulative acts and practices.''

Commenters also raise concerns regarding the custody of spot bitcoin. Some commenters express concern that the Bitcoin blockchain is susceptible to hacking and that the Trusts' bitcoin could be susceptible to ''reverse hacking.''[63] Other commenters express concern that a Trust could become ''uncovered'' if it issues shares that are not backed by adequate amounts of bitcoin held on behalf of the Trust by its bitcoin custodian. These commenters recommend various verification methods, such as publicly sharing the relevant wallet addresses.[64] Another commenter states that a bitcoin custodian is not a ''true custodian,'' but merely a ''pass-through custodian'' because it would only hold keys rather than directly possessing the underlying bitcoin balance.[65] According to this commenter, the bitcoin ''network of strangers'' is the true custodian, undermining the safety and security investors have come to expect for exchange-traded securities.[66]

Conversely, some commenters consider the transparency of the Bitcoin blockchain to be an advantage over traditional asset classes, because it could enable the real-time tracking of the Trusts' bitcoin holdings.[67] And as stated above,[68] some commenters consider custody by the Trusts' bitcoin custodians to be more secure than the self-custody of bitcoin.

The Commission acknowledges that the aggregation of bitcoin under the Trusts' control, and the fact that bitcoin custodians only hold keys to such bitcoin and not the bitcoin itself, could introduce risks. As noted above, however, the Commission must approve a proposed rule change filed by a national securities exchange if it finds that the proposed rule change is consistent with the applicable requirements of the Exchange Act.[69] The Commission has considered the risks raised by commenters, but for the reasons set forth in Section II.A and II.B above, it finds that the Proposals satisfy the requirements of the Exchange Act. With respect to ''uncovered'' shares, the potential for a gap between issued shares and underlying holdings is a risk pertinent to ETPs in general and is not unique to those that would hold bitcoin. Any such gap could constitute a potential violation of Exchange rules and grounds for suspension and the commencement of delisting proceedings.[70] More generally, a failure to maintain good ownership and control of sufficient bitcoin to cover issued ETP shares could, depending on the facts and circumstances, create potential violations of the Exchange Act, the Securities Act of 1933, and/or the Commodity Exchange Act.

Commenters also address, among other things: the nature, uses, merits, and drawbacks of bitcoin, other crypto assets, and blockchain technology;[71] the merits and drawbacks of an investment

5, 2023, regarding SR–CboeBZX–2023–028 (stating that bitcoin is a digital Ponzi, and that approving a spot ETF ''will bring greater unsuspecting fools into the pyramid scheme''); Letter from The Registered Principal, dated Aug. 9, 2023, regarding SR–CboeBZX–2023–038, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, SR–CboeBZX–2023–044, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, and SR–NYSEARCA–2023–44 (''[t]here are no verifiable entities or persons as points of ultimate origin of [b]itcoin which makes it very likely to be a major fraud operation''); Letter from Joseph, dated July 18, 2023, regarding SR–CboeBZX–2023–044 (''[a] cartel of organized crime and money-launders [sic] actively manipulate the price of [b]itcoin through the use of Tether and other crypto-ponzi schemes''); Letter from Avinash Shenoy, dated Oct. 18, 2023, regarding SR–NASDAQ–2023–016 (stating that manipulation in the bitcoin marketplace has not gone away); Letter from Winston Wood, dated Oct. 19, 2023, regarding SR–NASDAQ–2023–016 (stating that the bitcoin market is manipulated and has a history rife with scams and criminal activity); Letter from Greg Steven, dated Oct. 19, 2023, regarding SR–NASDAQ–2023–016 (''Steven Letter'') (stating that bitcoin is wash traded on platforms outside of U.S. jurisdiction); Letter from Neil Fulton, dated Oct. 20, 2023, regarding SR–NASDAQ–2023–016 (recommending that spot bitcoin ETPs be disapproved until bitcoin wash trading is minimized); Letters from Micah Warren, Associate Professor of Mathematics, University of Oregon, dated Oct. 27, 2023, regarding SR–NASDAQ–2023–016, and dated Dec. 15, 2023, regarding SR–CboeBZX–2023–072 (''Warren Letters'') (explaining how the bitcoin ledger, which is maintained by for-profit mining entities, could become significantly less diverse and less costly to manipulate). Some commenters also assert that the bitcoin asset *itself* is a manipulation or fraud. One commenter states that ''the complete lack of knowledge of who the operators of the bitcoin network are means that it is impossible to implement sufficient control measures to ensure a fair market that is free from manipulation of both token trades, actions of the operators, or even the fundamental properties of the asset itself.'' *See* Letter from Brandon B., dated Oct. 25, 2023, regarding SR–NASDAQ–2023–016 (''Brandon Letter''), at 4. Another commenter asserts that the questions the Commission has been asking about fraud and manipulation are misguided because ''they are predicated on the idea that [b]itcoin is something legitimate which could possibly serve the public interest.'' This commenter claims that ''[b]itcoin is, and has always been, a form of investment fraud'' that should be banned, not regulated. *See* Letter from Sal Bayat, dated Oct. 24, 2023, regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, and SR–CboeBZX–2023–044 (''Bayat Letter''), at 11–14.

[61] *See* Exchange Act Section 19(b)(2)(C), 15 U.S.C. 78s(b)(2)(C). The Commission does not apply a ''cannot be manipulated'' standard; rather, the Commission examines whether a proposal meets the requirements of the Exchange Act. *See, e.g.,* Winklevoss Order at 37582; VanEck Order II at 16059 n.43. The Commission does not understand the Exchange Act to require that a particular product or market be immune from manipulation. Rather, the inquiry into whether the rules of an exchange are designed to prevent fraudulent and manipulative acts and practices and, in general, to protect investors and the public interest, has long focused on the mechanisms in place for the detection and deterrence of fraud and manipulation.

[62] 15 U.S.C. 78f(b)(5).

[63] *See, e.g.,* Better Markets Letter at 2 (''[t]he concentrated nature of the spot bitcoin market and the heavy reliance on a select group of individuals and entities to maintain its network threatens a myriad of harms, such as hacking''); Letter from Nathaniel Parton, dated Nov. 14, 2023, regarding SR–NASDAQ–2023–016 (stating that hacking losses have occurred on bitcoin and ether decentralized platforms, centralized platforms, and when spot crypto is in transit; and that a Trust and its shareholders may have ''huge unresolvable loss'' from court-ordered ''reverse hacking'' if the bitcoin held by the Trust is itself the product of a prior alleged hack).

[64] *See, e.g.,* Letter from Alexander Rohner, dated Nov. 30, 2023, regarding SR–CboeBZX–2023–072; Letter from Burak Aktas, dated Nov. 30, 2023, regarding SR–CboeBZX–2023–072; Letter from Michael Fuhrmann, dated Nov. 30, 2023, regarding SR–CboeBZX–2023–072; Letter from Marius, dated Nov. 30, 2023, regarding SR–CboeBZX–2023–072; Letter from Anonymous, dated Nov. 30, 2023, regarding SR–CboeBZX–2023–072.

[65] *See* Brandon Letter at 1.

[66] *See id.* at 4.

[67] *See, e.g.,* Schettler Letter.

[68] *See supra* note 52.

[69] *See* Exchange Act Section 19(b)(2)(C), 15 U.S.C. 78s(b)(2)(C).

[70] *See* BZX Rule 14.11(e)(4)(E)(ii); Nasdaq Rule 5711(d)(vi)(B); NYSE Arca Rule 8.201–E(e)(2); NYSE Arca Rule 8.500–E(d)(2)(i).

[71] *See, e.g.,* Bouraphael Letter; Lester Letter; Bayat Letter; Letter from Shady Attia, dated July 20, 2023, regarding SR–NASDAQ–2023–016; Letter from Maria Fernanda, dated July 19, 2023, regarding SR–CboeBZX–2023–038 (''Fernanda Letter''); Letter from Joseph B. Dart, dated July 18, 2023, regarding SR–CboeBZX–2023–038, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, and SR–CboeBZX–2023–044; Letter from Leeor Shapira, dated Sept. 28, 2023, regarding SR–CboeBZX–2023–028; Letter from Miller McGee, dated Sept. 8, 2023, regarding SR–CboeBZX–2023–028; Letter from The Due Diligence, dated July 31, 2023, regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, SR–CboeBZX–2023–044, and SR–NYSEARCA–2023–44 (''TDD Letter''); Letter from Randy Donnelly, dated Oct. 24, 2023, regarding SR–CboeBZX–2023–028; Letter from N. Vittal, dated July 23, 2023, regarding SR–CboeBZX–2023–038; Letter from Adam R. Smith, dated Oct. 18, 2023, regarding SR–NASDAQ–2023–016; Letter from Jethro Davies, dated Oct. 19, 2023, regarding SR–NASDAQ–2023–016; Letter from Dylan Henderson, dated Nov. 28, 2023, regarding SR–CboeBZX–2023–072.

in bitcoin and/or bitcoin ETPs;[72] the nature of the bitcoin mining network and its environmental impacts;[73] the potential impact of Commission approval of spot bitcoin ETPs on the economy, jobs, U.S. innovation, and/or U.S. geopolitical position;[74] the potential impact of Commission approval of spot bitcoin ETPs on the bitcoin market itself;[75] suggestions for improving regulation of crypto asset markets[76] and criticisms of the current regulatory approach;[77] suggestions for the Commission's allocation of its resources;[78] and specific concerns relating to a sponsor of one of the Trusts.[79] Ultimately, however, the Commission has considered and, for the reasons discussed above, is approving the Proposals under the standards applicable to them; namely, the standards provided by Section 6(b)(5) and Section 11A(a)(1)(C)(iii) of the Exchange Act.[80]

III. Accelerated Approval of the Proposals

The Commission finds good cause to approve the Proposals prior to the 30th day after the date of publication of notice of the Exchanges' amended filings[81] in the **Federal Register**. The amended filings clarified the descriptions of the Trusts; further described the terms of the Trusts; and conformed various representations in the amended filings to the applicable Exchange's listing standards and to representations that the Exchanges have made for other spot commodity ETPs that the Commission has approved.[82] These changes do not raise any novel regulatory issues. Further, the changes assist the Commission in evaluating the Proposals and in determining that they are consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange, as discussed above. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[83] to approve the Proposals on an accelerated basis.

IV. Conclusion

This approval order is based on all of the Exchanges' representations and descriptions in their respective amended filings, which the Commission has carefully evaluated as discussed above.[84] For the reasons set forth above, including the Commission's correlation analysis, the Commission finds, pursuant to Section 19(b)(2) of the Exchange Act,[85] that the Proposals are consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with Section 6(b)(5) and Section 11A(a)(1)(C)(iii) of the Exchange Act.[86]

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[87] that the Proposals (SR–NYSEARCA–2021–90; SR–NYSEARCA–2023–44; SR–NYSEARCA–2023–58; SR–NASDAQ–2023–016; SR–NASDAQ–2023–019; SR–CboeBZX–2023–028; SR–CboeBZX–2023–038; SR–CboeBZX–2023–040; SR–CboeBZX–2023–042; SR–CboeBZX–2023–044; SR–CboeBZX–2023–072) be, and hereby are, approved on an accelerated basis.

By the Commission.

Vanessa A. Countryman,

Secretary.

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[72] *See, e.g.,* Spotto Letter; Lester Letter; Bayat Letter; Occupy Letter at 2; Letter from James Erbe, dated July 17, 2023, regarding SR–NASDAQ–2023–016; Letter from Keith Boyd, dated Oct. 24, 2023, regarding SR–CboeBZX–2023–028; Letter from Michael H., dated Nov. 29, 2023, regarding SR–CboeBZX–2023–028.

[73] *See, e.g.,* TDD Letter; Steven Letter; Bayat Letter; Schettler Letter; Warren Letters; Letter from Mandy DeRoche of Earthjustice, Scott Faber and Jessica Hernandez of the Environmental Working Group, and Josh Archer and Erik Kojola of Greenpeace, dated Aug. 30, 2023, regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–CboeBZX–2023–042, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, SR–NYSEARCA–2023–44; Letter from Marcus AE, dated Nov. 8, 2023, regarding SR–CboeBZX–2023–028.

[74] *See, e.g.,* Woods Letter; Fernanda Letter; John Smith Letter; Sapp Letter; Letter from David Alden, dated Aug. 14, 2023, regarding SR–CboeBZX–2023–028; Letter from Dennis Smith, dated Oct. 24, 2023, regarding SR–NASDAQ–2023–016; McGinley Letter; Letter from Berkshire, dated Aug. 7, 2023, regarding SR–CboeBZX–2023–038; Letter from Omar Ibrahim, dated July 15, 2023, regarding SR–CboeBZX–2023–040, SR–CboeBZX–2023–044, and SR–NASDAQ–2023–016; Letter from Paul Knight, dated July 18, 2023, regarding SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, and SR–CboeBZX–2023–044; Letter from Jeff Calhoun, dated Dec. 12, 2023, regarding SR–CboeBZX–2023–028.

[75] *See, e.g.,* Occupy Letter at 2; Brogan Letter.

[76] *See, e.g.,* Angel Letter at 3–6.

[77] *See, e.g.,* Letter from Naceur Hussein, dated July 18, 2023, regarding SR–CboeBZX–2023–044; Letter from Axel Hoogland, dated Aug. 15, 2023, regarding SR–CboeBZX–2023–028. A commenter discusses the benefits of in-kind creation and redemption mechanisms for spot bitcoin ETPs, and the drawbacks to having only cash creation and redemption mechanisms for such ETPs. *See* Letter from James J. Angel, Georgetown University, dated Dec. 12, 2023, regarding SR–NYSEARCA–2021–90, SR–NYSEARCA–2023–44, SR–NYSEARCA–2023–58, SR–NASDAQ–2023–016, SR–NASDAQ–2023–019, SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, SR–CboeBZX–2023–044, and SR–CboeBZX–2023–072. The Proposals under consideration by the Commission in this order only contemplate cash creation and redemption by authorized participants. Accordingly, in-kind creation and redemption processes by authorized participants, and their relative benefits or drawbacks, are outside the scope of this order.

[78] *See, e.g.,* Angel Letter at 3.

[79] *See, e.g.,* Letters from Marie-Lise Lipchik, dated Aug. 11, 2023, and Aug. 15, 2023, regarding SR–CboeBZX–2023–028; Letter from William C. Piontek, dated Aug. 12, 2023, regarding SR–CboeBZX–2023–028.

[80] 15 U.S.C. 78f(b)(5); 15 U.S.C. 78k–1(a)(1)(C)(iii).

[81] *See supra* notes 3–13.

[82] *See also supra* Section II.B.

[83] 15 U.S.C. 78s(b)(2).

[84] *See supra* notes 3–13. In addition, the shares of the Trusts in SR–NYSEARCA–2021–90 and NYSEARCA–2023–44 must comply with the requirements of NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares) to be listed and traded on NYSE Arca on an initial and continuing basis; the shares of the Trust in SR–NYSEARCA–2023–58 must comply with the requirements of NYSE Arca Rule 8.500–E (Trust Units) to be listed and traded on NYSE Arca on an initial and continuing basis; the shares of the Trusts in SR–NASDAQ–2023–016 and SR–NASDAQ–2023–019 must comply with the requirements of Nasdaq Rule 5711(d) (Commodity-Based Trust Shares) to be listed and traded on Nasdaq on an initial and continuing basis; and the shares of the Trusts in SR–CboeBZX–2023–028, SR–CboeBZX–2023–038, SR–CboeBZX–2023–040, SR–CboeBZX–2023–042, SR–CboeBZX–2023–044, and SR–CboeBZX–2023–072 must comply with the requirements of BZX Rule 14.11(e)(4) (Commodity-Based Trust Shares) to be listed and traded on BZX on an initial and continuing basis.

[85] 15 U.S.C. 78f(b)(2).

[86] 15 U.S.C. 78f(b)(5); 15 U.S.C. 78k–1(a)(1)(C)(iii).

[87] 15 U.S.C. 78f(b)(2).

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Notification of Two Virtual Public Forums on the 2023 Revised Size Standards Methodology White Paper

AGENCY: Small Business Administration.

ACTION: Notification of virtual public forums on size standards review and methodology.

SUMMARY: The U.S. Small Business Administration (SBA) is holding a series of two virtual public forums on size standards to update the public on the status of the forthcoming third five-year review of size standards, as mandated by the Small Business Jobs Act of 2010, and to consider public testimony on proposed changes to the SBA's size standards methodology for establishing, reviewing, or modifying size standards, as detailed in SBA's *2023 Revised Size Standards Methodology White Paper* (2023 Revised Methodology). Testimony presented at these forums will become part of the administrative record for SBA's consideration when finalizing the 2023 Revised Methodology.

DATES: The virtual forum dates are as follows:

- Tuesday, January 23, 2024, from 1:00 p.m. to 3:00 p.m., EST.

• Thursday, January 25, 2024, from 1:00 p.m. to 3:00 p.m., EST.

ADDRESSES: The forums will be held via the Microsoft Teams platform. Registration is required to attend these virtual events. Visit SBA's size standards web page at *http://www.sba.gov/size* to register.

FOR FURTHER INFORMATION CONTACT: Samuel Castilla, Economist, Office of Size Standards, (202) 619–0389 or *sizestandards@sba.gov.* The phone number above may also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Communications Commission's TTY-Based Telecommunications Relay Service teletype service at 711.

SUPPLEMENTARY INFORMATION:

I. Background

SBA is seeking public comments on its SBA's *2023 Revised Size Standards Methodology White Paper* (2023 Revised Methodology) (available at *www.sba.gov/size*) in accordance with SBA's **Federal Register** notice issued on December 11, 2023 (88 FR 85852) which notified the public of the availability of the revised size standards methodology for public review and requested comments on SBA's proposed revisions. The 2023 Revised Methodology explains how SBA establishes, reviews, and modifies small business size standards. Specifically, the 2023 Revised Methodology provides a detailed description of SBA's size standards methodology, including changes from SBA's current methodology (also available at *www.sba.gov/size*), which guided the SBA's recently completed second five-year review of size standards required by the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504, Sept. 27, 2010) (Jobs Act). SBA welcomes from interested parties comments and feedback on the 2023 Revised Methodology, which SBA intends to apply to the forthcoming third five-year review of size standards under the Jobs Act. The comment period ends on February 9, 2024.

SBA is proposing changes to its methodology for reviewing size standards in order to address public comments received under the second five-year review of size standards and to make certain analytical improvements. Major changes to the size standards methodology include: (1) Replacing the current approach to account for the Federal contracting factor with the ''disparity ratio'' approach; (2) Using the Federal Procurement Data System—Next Generation (FPDS–NG) and the System for Award Management (SAM) data to compute the 20th percentile and 80th percentile values of industry factors for evaluating size standards at subindustry levels (''exceptions''), instead of having those calculated based on the Economic Census data; (3) Updating the minimum and maximum size standard levels; and (4) Updating the 20th percentile and 80th percentile values of industry factors, derived from the 2017 Economic Census (latest available) and other industry data, used to evaluate the structure of each industry.

Comments solicited by SBA on the 2023 Revised Methodology are not industry specific, but rather, focused on SBA's process and assumptions for evaluating size standards more generally. After evaluating all comments received and finalizing the 2023 Revised Methodology, SBA will later issue proposed rules detailing the proposed revisions to size standards using the process described in the finalized size standards methodology.

Generally, SBA accepts comments on size standards for specific industries under the relevant proposed rule detailing the proposed revisions to size standards for a particular industry or a group of industries. This is to ensure that commenters are fully informed of the impacts of SBA's finalized size standards methodology on the industries for which they are interested in, and to offer stakeholders the opportunity to provide SBA with comments, data, and analysis assessing the appropriateness of SBA's proposed size standards. As such, SBA encourages commenters with industry-specific comments to share their feedback under the relevant forthcoming proposed rule after reviewing SBA's proposed size standard for their specific industry, or group of industries, of interest. After evaluating all public comments to the proposed rule, SBA will issue a final rule adjusting size standards under the forthcoming third five-year review of size standards.

II. Virtual Public Forums on Size Standards

Under this notice, SBA is advising the public that it is hosting a series of two virtual public forums on size standards to update the public on the status of the forthcoming third five-year review of size standards under the Jobs Act and consider public testimony on proposed changes contained in the 2023 Revised Methodology. These forums also conform to the requirements of section 1344 of the Jobs Act which mandates that SBA hold not less than two public forums during its quinquennial review of size standards.

As part of fulfilling that mandate under the recently completed second five-year review of size standards, on June 14 and June 16, 2022, SBA held a series of two virtual forums on size standards in order to update the public on the status of the ongoing second five-year review of size standards and consider public testimony on proposed changes to size standards contained in the proposed rule covering Manufacturing and other industries with employee-based size standards (87 FR 24752; April 26, 2022). Comments received during the virtual sessions were entered into the public docket for the rule and used to further refine SBA's evaluation of size standards. SBA responded to all comments received during the virtual sessions in the final rule for Manufacturing and other industries with employee-based size standards (88 FR 9970; February 15, 2023). SBA will use a similar format for soliciting and evaluating comments on the 2023 Revised Methodology.

SBA will hold additional public forums after issuing proposed rules evaluating size standards under the third five-year review of size standards. SBA encourages commenters with industry-specific comments to share their feedback at this later stage after reviewing SBA's proposed changes to size standards. SBA considers public forums on size standards as a valuable component of its deliberations and public engagement and believes that these forums allow for constructive dialogue with small businesses and their representatives, industry trade associations, participants in SBA's contracting and financial assistance programs, and other stakeholders.

The format of the public forums on the SBA's 2023 Revised Methodology will consist of a panel of SBA representatives who will preside over the session. The oral and written testimony as well as any comments SBA receives during the public forums will become part of the administrative record for SBA's consideration in finalizing its size standards methodology. Written testimony may be submitted in lieu of oral testimony on or before February 9, 2024, at *www.regulations.gov,* using the following Docket number: SBA–2023–0015; by email to *sizestandards@sba.gov* with subject line ''Comments to SBA–2023–0015''; or by mail to Khem R. Sharma, Chief, Office of Size Standards, 409 3rd Street SW, Mail Code 6530, Washington, DC, 20416. SBA will analyze the testimony, both oral and written, along with any written comments received and respond to all comments in a notice finalizing the 2023 Revised Methodology. However,

during the public forums, SBA officials will not provide comment on the testimony of speakers. SBA requests that commenters focus on the contents of SBA's 2023 Revised Methodology. SBA requests that commenters do not raise issues pertaining to specific industries, or issues outside the scope of SBA's 2023 Revised Methodology.

In the December 11, 2023, **Federal Register** notice, SBA requested feedback on a number of questions within the scope of the 2023 Revised Methodology, including: (a) Should SBA adopt a new disparity ratio approach to evaluating small business participation in the Federal market, which will replace the Federal contracting factor the Agency used in the past?; (b) Should SBA lower size standards regardless of prevailing economic conditions when the analytical results support lowering them or should it consider the prevailing economic environment when deciding on whether to revise size standards?; (c) Should SBA consider adjusting employee-based size standards for labor productivity growth or increased automation similar to it adjusts monetary-based size standards for inflation?; (d) Should SBA consider lowering its size standards generally?; (e) Are there alternative or additional factors or data sources that SBA should consider when establishing, reviewing, or revising size standards?; and (f) Does SBA's current approach to establishing or modifying small business size standards make sense in the current economic environment? SBA hopes to receive public input on these questions, as well as on others, as posed in the December 2023 notice.

Presenters are encouraged to provide a written copy of their testimony. SBA will accept written material that the presenter wishes to provide that further supplements his or her testimony during the public forums. Electronic or digitized submissions are encouraged. The two virtual public forums on size standards will be held on Tuesday, January 16, 2024 and Thursday, January 18, 2024, from 1:00 p.m. to 3:00 p.m. EST; SBA will adjourn early if all testimony has been delivered before the end time.

III. Registration

Participants must pre-register to attend either of the two virtual public forums on size standards by visiting SBA's size standards web page at *http://www.sba.gov/size* and registering at the link provided. On the registration form, participants may indicate whether they would like to testify at the forum. After registering, participants will receive an email with an access link and call-in information which can be used to access the forum on the scheduled date and time. Additional information about the forum is provided on SBA's announcements about updating size standards web page, available at *https://www.sba.gov/articles?keyword=&article_type=253&field_article_authoring_office_target_id=5086&langcode=All,* and in the invitation that participants receive upon registration. SBA will attempt to accommodate all interested parties that wish to present testimony. Based on the number of registrants it may be necessary to impose time limits to ensure that everyone who wishes to testify can do so.

IV. Information on Service for Individuals With Disabilities

For information on services for individuals with disabilities or to request special assistance contact Samuel Castilla at the telephone number or email address indicated above under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Sam Le,

Director, Office of Policy, Planning and Liaison.

[FR Doc. 2024–00781 Filed 1–16–24; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice 12301]

60-Day Notice of Proposed Information Collection: Statement of Material Change, Merger, Acquisition, or Divestiture of a Registered Party

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. 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 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to March 18, 2024.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2024–0001'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: DDTCPublicComments@state.gov.*
- *Regular Mail:* Send written comments to: Directorate of Defense Trade Controls, Attn: Managing Director, 2401 E St. NW, Suite H–1205, Washington, DC 20522–0112.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

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 Andrea Battista, who may be reached at *BattistaAL@state.gov* or 202–663–3136.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Statement of Material Change, Merger, Acquisition, or Divestiture of a Registered Party.
- *OMB Control Number:* 1405–0227.
- *Type of Request:* Extension of a currently approved collection.
- *Originating Office:* Directorate of Defense Trade Controls, Bureau of Political Military Affairs, Department of State (T/PM/DDTC).
- *Form Number:* DS–7789.
- *Respondents:* Individuals and companies registered with DDTC and engaged in the business of manufacturing, brokering, exporting, or temporarily importing defense hardware or defense technology data.
- *Estimated Number of Respondents:* 698.
- *Estimated Number of Responses:* 698.
- *Average Time per Response:* 2 hours.
- *Total Estimated Burden Time:* 1,396 hours.
- *Frequency:* On occasion.
- *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

The Directorate of Defense Trade Controls (DDTC), Bureau of Political-Military Affairs, U.S. Department of State, in accordance with the Arms Export Control Act (AECA) (22 U.S.C. 2751 *et seq.*) and the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130), has the principal missions of taking final action on license applications and other requests for defense trade transactions via commercial channels, ensuring compliance with the statute and regulations, and collecting various types of reports. By statute, Executive Order, regulation, and delegation of authority, DDTC is charged with controlling the export and temporary import of defense articles, the provision of defense services, and the brokering thereof, which are covered by the U.S. Munitions List.

ITAR §§ 122.4 and 129.8 requires registrants to notify DDTC in the event of a change in registration information or if the registrant is a party to a merger, acquisition, or divestiture of an entity producing or marketing ITAR-controlled items. Based on certain conditions enunciated in the ITAR, respondents must notify DDTC of these changes at differing intervals—no less than 60 days prior to the event, if a foreign person is acquiring a registered entity, and/or within 5 days of its culmination. This information is necessary for DDTC to ensure registration records are accurate and to determine whether the transaction is in compliance with the regulations (*e.g.,* with respect to ITAR § 126.1); assess the steps that need to be taken with respect to existing authorizations (*e.g.,* transfers); and to evaluate the implications for US national security and foreign policy.

Methodology

This information will be collected by DDTC's electronic case management system and respondents will certify the data via electronic signature.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, Department of State.

[FR Doc. 2024–00742 Filed 1–16–24; 8:45 am]

BILLING CODE 4710–25–P

TENNESSEE VALLEY AUTHORITY

Browns Ferry Nuclear Plant Subsequent License Renewal Project; Supplemental Environmental Impact Statement

AGENCY: Tennessee Valley Authority.

ACTION: Record of decision.

SUMMARY: The Tennessee Valley Authority (TVA) has decided to adopt the Preferred Alternative identified in the Browns Ferry Nuclear Plant (BFN) Subsequent License Renewal (SLR) project Final Supplemental Environmental Impact Statement (Final SEIS). The Notice of Availability of the Final SEIS for the Browns Ferry Nuclear Plant Subsequent License Renewal project was published in the **Federal Register** on August 11, 2023. The Preferred Alternative, Alternative B—BFN Units 1, 2, and 3 Subsequent License Renewal, supports TVA's goal to continue to generate baseload power at the BFN site between 2033 and 2056, thus generating sufficient electricity to supply the Tennessee Valley with increasingly clean, reliable, and affordable electricity for the region's homes and businesses as outlined in TVA's 2019 Integrated Resource Plan (IRP).

FOR FURTHER INFORMATION CONTACT: J. Taylor Johnson, NEPA Compliance Specialist, Tennessee Valley Authority, 1101 Market Street, BR 2C–C, Chattanooga, Tennessee 37402; by telephone (423) 751–2732, or email at *jtcates@tva.gov.* The Final SEIS, this Record of Decision (ROD), and other project documents are available on TVA's website *https://www.tva.gov/nepa.*

SUPPLEMENTARY INFORMATION: This notice is provided in accordance with the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) (40 Code of Federal Regulations (CFR) 1500 through 1508) and TVA's NEPA procedures 18 CFR part 1318. TVA is a corporate agency and instrumentality of the United States that provides electricity for business customers and local power distributors serving 10 million people in the Tennessee Valley—an 80,000-square-mile region comprised of Tennessee and parts of Alabama, Georgia, Kentucky, Mississippi, North Carolina, and Virginia. TVA receives no taxpayer funding and derives virtually all revenues from the sale of electricity. In addition to operating and investing revenues in its power system, TVA provides flood control, navigation, and land management for the Tennessee Valley watershed, and provides economic development and job creation assistance within the Tennessee Valley power service area.

In March 2002 and June 2002, TVA issued a Final SEIS and a ROD for the operating license renewal of BFN. TVA submitted a License Renewal Application (LRA) to the NRC in December 2003 for a 20-year renewal of the operating licenses for each BFN unit. The environmental conclusions of the NRC Final SEIS did not differ from the TVA Final SEIS conclusions, and the NRC issued Supplement 21 regarding Browns Ferry Nuclear Plant Units 1, 2, and 3, to the Generic EIS (GEIS) for License Renewal of Nuclear Plants (NUREG–1437) in June 2005. The NRC issued operating license renewals for Units 1, 2, and 3 in May 2006, allowing continued operation of the three BFN units until 2033, 2034, and 2036, respectively.

In September 2015, TVA submitted a license amendment request (LAR) for extended power uprate (EPU) of all three units. The NRC issued a draft Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) in the **Federal Register** on December 1, 2016, for public comment. On May 22, 2017, the NRC issued the Final EA and FONSI related to the EPU license amendment.

BFN's 3,900 MWe of electric generating capability provides power to the Tennessee Valley Power Service Area. The TVA service area obtains approximately 40 percent of its power from nuclear generation and BFN provides approximately half of that total. BFN's current baseload generation supports future forecasted baseload power needs, as outlined in the TVA's 2019 IRP, by helping to maintain grid stability and generating capacity for TVA's generation portfolio mix. TVA prepared the Final SEIS pursuant to NEPA to assess the environmental impacts associated with SLR for BFN Units 1, 2, and 3.

Alternatives Considered

TVA considered a wide range of options to identify feasible alternatives available to supply approximately 3,900 MWe between 2033 to 2056, and ultimately carried forward two alternatives for evaluation. The two alternatives considered by TVA in the Final SEIS are:

Alternative A—No Action. Under this alternative, TVA would not submit a SLR application to the NRC to renew the BFN operating licenses. If Alternative A were to be selected, TVA would allow the current BFN operating licenses to

expire at the end of their terms, shutting down each unit no later than the current license expiration dates: December 20, 2033, for Unit 1; June 28, 2034, for Unit 2; and July 2, 2036, for Unit 3.

Unlike the Proposed Action, the No Action Alternative does not provide a practicable means of meeting future electric system needs. Therefore, unless replacement generating capacity is provided as part of the No-Action Alternative, approximately 3,900 MWe of baseload generation would no longer be available to meet TVA's electricity customers' needs, and the alternative would not satisfy the Purpose and Need for the Proposed Action. For this reason, the No-Action Alternative is defined as having two components: (1) replacing the generating capacity of BFN with alternative generating supply available during or by the end of the term of the existing BFN operating licenses, and (2) decommissioning the BFN facility. The replacement generation options considered as part of the No Action Alternative include construction of a combination of new generating capacity using energy from natural gas, solar, storage, and nuclear small modular reactors.

Alternative B—BFN Units 1, 2, and 3 SLR. TVA would seek renewal of operating licenses to allow for the continued operation of Units 1, 2, and 3 for an additional 20 years. License renewal does not require any new construction or modifications beyond normal maintenance and minor refurbishment. Under Alternative B, BFN would continue to produce electrical power by using boiling water reactors and steam-driven turbine generators. The cooling water needed to support BFN power generation would continue to be drawn from Wheeler Reservoir. Once-through cooling would continue to be used, with helper cooling towers operating when river temperatures near one or more of the National Pollutant Discharge Elimination System (NPDES) permit require their use to ensure BFN complies with regulatory thermal limits. Water from the circulating water system would continue to be discharged into Wheeler Reservoir in accordance with BFN's NPDES permit. Solid Low Level Radioactive Waste (LLRW) would continue to be generated during the proposed subsequent period of extended operation. Routine releases of as low as reasonably achievable amounts of radioactive liquids and gases would also continue during the proposed subsequent period of extended operation and would continue to be controlled in accordance with all applicable permit and regulatory requirements, to ensure protection of human health and the environment.

Routine maintenance and upkeep of BFN would continue through the proposed SLR period of extended operation to ensure the safe and reliable operation of the three units and would be managed in accordance with appropriate TVA programs and procedures.

Current work force requirements, approximately 2,147 personnel, would continue during the additional years of operation.

The proposed SLR period of extended operation would require approximately 10 additional refuel cycles per unit, resulting in approximately 3,900 acres of additional land being affected by the uranium mining necessary to fuel BFN. Refueling of one third of the fuel in each unit would continue to be performed approximately every 24 months. The spent fuel would be stored in the spent fuel storage pools until they could be moved to dry cask storage on the onsite Independent Spent Fuel Storage Installation (ISFSI).

Environmentally Preferred Alternative

The SEIS includes baseline information for understanding the potential environmental and socioeconomic impacts associated with the alternatives considered by TVA. TVA considered 23 resource areas related to the human and natural environments and the impacts on these resources associated with each alternative. The anticipated environmental impacts of the No Action and Action Alternative are described in detail in the Final SEIS.

Impacts under Alternative A would occur in association with shutdown and decommissioning of BFN, and offsite in association with construction and operation of new generation facilities. In association with shutdown and decommissioning of BFN, there would be no impacts to groundwater, floodplains and flood risk, wetlands, managed and natural areas, recreation, and visual resources. There would be minor impacts associated with BFN shutdown and decommissioning for land use; soils; surface water; air quality; greenhouse gases; socioeconomics; environmental justice; archaeological and historic resources; hazardous, solid, and low-level radioactive waste; radiological effects; uranium fuel cycle; nuclear and plant safety; and non-radiological public health and safety. Additionally, there would be minor and potentially beneficial impacts from shutdown and decommissioning of BFN for surface water, aquatic ecology, terrestrial ecology, endangered and threatened species, air quality, noise, and non-radiological public health and safety.

Implementation of Alternative A, the No Action Alternative would include the impacts of constructing up to 3,900 MWe of new generation at sites yet to be determined across the Tennessee Valley. The construction and operation of these new generation facilities would have potential impacts to most resource areas. Small to moderate impacts could occur at the selected generation sites in association with land use changes. Ground-disturbing activities during construction would result in small to moderate impacts to geology and soils. With implementation of permit requirements and best management practices, impacts to surface water would be small to large depending on plant water needs and thermal impacts. Impacts to groundwater could range from small to large depending on the nature of groundwater use and site-conditions. Small impacts to floodplains and flood risk would be anticipated as all construction would be consistent with Executive Order 11988. Impacts to wetlands could be small to large depending on site conditions and the physical location of various structures. Aquatic ecology impacts would range from small to large depending on site-specific conditions, species present, location of structures, and water use needs. Terrestrial ecology impacts would be small to moderate for the same reasons. Impacts to aquatic and terrestrial ecology would be mitigated through permit requirements and best management practices. Endangered and threatened species impacts would be small to large depending on the presence of such species, alterations in land use, habitat loss/fragmentation, and loss of biodiversity. Small to large impacts would be anticipated for managed and natural areas due to site development. Recreational impacts would be small to moderate depending on site location, and the associated noise, dust, viewshed, and watershed impacts. There would be temporary small impacts to air quality and greenhouse gases during construction which would be mitigated through adherence to permit requirements and application of best management practices. Small to moderate impacts to air quality and greenhouse gases would occur with operations depending on the nature of the generation source. Transportation impacts would range from small to moderate depending on the local infrastructure, existing traffic levels, and project traffic. Impacts to visual resources would range from small

to moderate depending on site location. Noise impacts would range from small to moderate during construction to small during operations. New generation facilities could partially offset impacts to socioeconomics associated with shutdown of BFN if workers transfer to new sites. Impacts on housing and schools and education could range from small to large depending on site location and existing availability. Impacts to local government revenues would be small. Environmental justice impacts could range from small to moderate depending on location and the socioeconomic impacts. Impacts to archaeological and historic resources would be small to large depending on site location, presence of these features, and ability to avoid them. Mitigation would be developed as appropriate. Hazardous, solid, and low-level waste impacts would be small due to adherence to permit requirements and TVA waste management practices. Radiological effects, uranium fuel cycle impacts, and nuclear plant safety and security effects would only occur for a new nuclear generation source and would be expected to be small and mitigated through adherence to all applicable permits and requirements. Non-radiological public health and safety impacts would range from small to moderate depending on the type of facility, equipment, and site conditions.

Implementation of Alternative B, TVA's preferred alternative, would result in no impact or small impacts to the environment for all resource areas. The renewal of the BFN licenses would allow for the proposed SLR period of extended operation of the units under the same requirements, technical specifications, and limits currently in place. Any changes to the provisions of the operating licenses (*i.e.,* license amendments) would require appropriate environmental review and NRC approval in accordance with applicable regulations. The decommission impacts would be the same as Alternative A after the SLR period, 20 years later. No changes would be expected for the permits currently in place. The current programs, procedures, and permits would be followed; no major changes would be needed to implement this alternative. There would continue to be small impacts to surface water, wetlands, aquatic ecology; terrestrial ecology; endangered and threatened species; managed and natural areas; air quality, climate change, and greenhouse gases; noise and vibration; hazardous, solid, and low-level radioactive waste; radiological effects; uranium fuel cycle; nuclear plant safety and security; and non-radiological public health and safety. Additionally, there would be no changes to land use; geology and soils; groundwater; floodplains and flood risk; recreation; transportation; visual resources; socioeconomics; environmental justice; and archaeological and historic resources.

Alternative B—BFN Units 1, 2, and 3 SLR, would provide the Tennessee Valley Authority service area with an additional 20 years of reliable base load power while promoting TVA's aspiration for net-zero carbon emissions by 2050, make beneficial use of existing assets, and deliver power at the lowest feasible cost. Therefore, the environmentally preferred action alternative that meets the project purpose and need is Alternative B, TVA's preferred alternative. Alternative B would meet the purpose and need of the project and would have less impact than Alternative A.

Decision

Informed by the summary of the submitted alternatives, information, and analyses in the Final SEIS, TVA certifies it has considered all the alternatives, information, analyses, and objections submitted by State, Tribal, and local governments, and public commenters for consideration in developing the SEIS. TVA has selected the preferred alternative identified in the Final PEIS, Alternative B—BFN Units 1, 2, and 3 SLR.

Public Involvement

On June 1, 2021, TVA published a Notice of Intent (NOI) in the **Federal Register** (86 FR 29351) announcing plans to prepare a SEIS to address the potential environmental effects associated with extending the operation of BFN Units 1, 2, and 3, for an additional 20 years. The NOI initiated a 30-day public scoping period, which concluded on July 1, 2021. In addition to the NOI in the **Federal Register**, TVA published notices regarding this effort in two local newspapers: The Decatur Daily, which serves Decatur and the Tennessee Valley in northern Alabama, and the News Courier, which serves Limestone County. TVA also issued a news release to media and posted the news release on the TVA website. The scoping report is included in Appendix A of the Final SEIS.

TVA also created a virtual meeting room that remained available for the duration of the NEPA analysis. The virtual meeting room can be accessed through TVA's website (*https://www.tva.com/environment/environmental-stewardship/environmental-reviews/nepa-detail/browns-ferry-nuclear-plant-subsequent-license-renewal*). The virtual scoping meeting room contains information on the NEPA process and the proposed action, as well as links to TVA and NRC websites related to the project.

On February 10, 2023, the Draft SEIS was released for public review and comment in a Notice of Availability (NOA) in the **Federal Register** (88 FR 8843). The availability of the Draft SEIS and request for comments was announced in newspapers that serve the Limestone County area, and the Draft SEIS was posted on TVA's website. TVA's agency involvement included notification of the availability of the Draft SEIS to local, state, and federal agencies and federally recognized tribes. Comments were accepted through March 27, 2023, via TVA's website, mail, and email.

TVA received two comment letters from members of the public via TVA's website and one comment letter from the U.S. Environmental Protection Agency (EPA). TVA carefully reviewed all the comments. Comments raised during the comment period are summarized by topic along with TVA's responses to each comment in Appendix B of the Final SEIS. A copy of each of the comments are included at the end of the appendix.

The NOA for the Final SEIS was published in the **Federal Register** (88 FR 54612) on August 11, 2023. Following the publication of the NOA for the Final SEIS, and therefore outside of the comment period for the EIS, TVA received an additional public comment in September 2023, from the EPA. The EPA reviewed the document in accordance with section 309 of the Clean Air Act (CAA) and section 102(2)(C) of NEPA. The comments raised by the EPA reiterated the agency's earlier comments on the Draft SEIS, recognized TVA's efforts that were revised in the Final SEIS, and did not raise new issues of relevance that were not already addressed by TVA in the Final SEIS or Appendix B of the Final EIS. TVA recognizes EPA's additional recommendations. TVA plans to stay up to date on best practices for heightened engagement with communities with environmental justice concerns to ensure that all communities, including those with environmental justice concerns, are meaningfully engaged throughout the NEPA process. As appropriate, TVA incorporates Environmental Justice into its environmental reviews, including the BFN SLR Final SEIS.

Mitigation Measures

Because BFN would continue operating within all applicable federal, state, and local regulations, and because no new construction or modifications to the facility is anticipated or planned during the proposed subsequent period of extended operations, no new mitigation measures would be required beyond those already implemented as a result of initial construction and operations. Should any construction or modification be anticipated or planned, TVA would follow all appropriate permitting requirements and environmental reviews would be pursued prior to deciding to pursue those projects. Best Management Practices would be implemented including those described in A Guide for Environmental Protection and Best Management Practices for Tennessee Valley Authority (TVA 2017b), stormwater pollution and Spill Prevention, Control, and Countermeasure (SPCC) plan, and other permit conditions

- BFN also has an Integrated Pollution Prevention Plan that addresses storage, secondary containment, and inspections of fuel, hazardous materials, and chemicals like biocides. Attachment 5 of the plan provides an inventory of all tanks, pumps, transformers, and other containers where these materials are used or stored, including the type of secondary containment for each. The secondary containment limits the potential for minor chemical spills to occur outside of containment areas.
- The discharge of chemicals to surface water would be regulated by the conditions set forth in the NPDES permit.
- Dredged material would be disposed of on land lying and being outside the 500-year floodplain in an onsite spoils area and above the 500-year flood elevation.
- Water-use and water-dependent structures and facilities would be located within 100-year floodplains, and flood-damageable equipment and facilities would be located at a minimum outside 100-year floodplains, and Critical Actions would be located at a minimum outside 500-year floodplains.
- All handling and disposal of non-radioactive and radioactive wastes would be in accordance with applicable rules, regulations and requirements of local, state, and federal laws.

Timothy Rausch,

Executive Vice President and Chief Nuclear Officer, Tennessee Valley Authority.

[FR Doc. 2024–00817 Filed 1–16–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2024–0086]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Part 121 Operating Requirements: Domestic, Flag, and Supplemental Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves regulations that prescribe the requirements governing air carrier operations. The information collected is necessary to determine air operators' compliance with the minimum safety standards and the applicants' eligibility for air operations certification.

DATES: Written comments should be submitted by March 18, 2024.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Sandra Ray, Federal Aviation Administration, AFS–260, 1187 Thorn Run Road, Suite 200, Coraopolis, PA 15108.

By fax: 412–239–3063.

FOR FURTHER INFORMATION CONTACT: Sandra L. Ray by email at: *Sandra.ray@faa.gov;* phone: 412–546–7344

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized 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.

OMB Control Number: 2120–0008.

Title: Part 121 Operating Requirements: Domestic, Flag, and Supplemental Operations.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: Under the authority of Title 49 CFR, Section 44701, Title 14 CFR prescribes the terms, conditions, and limitations as are necessary to ensure safety in air transportation. Title 14 CFR part 121 prescribes the requirements governing air carrier operations. The information collected is used to determine air operators' compliance with the minimum safety standards and the applicants' eligibility for air operations certification. Each operator which seeks to obtain or is in possession of an air carrier operating certificate, must comply with the requirements of part 121 which include maintaining data which is used to determine if the air carrier is operating in accordance with minimum safety standards.

Respondents: 90 Part 121 Air Carriers.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: Varies per response and requirement type.

Estimated Total Annual Burden: 1,472,143 hours.

Issued in Washington, DC, on January 11, 2024.

Sandra L. Ray,

Aviation Safety Inspector, AFS–260.

[FR Doc. 2024–00795 Filed 1–16–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2024–0002]

Advisory Committee on Underride Protection; Notice of Public Meetings

AGENCY: National Highway Traffic Safety Administration, Department of Transportation (DOT).

ACTION: Notice of public meetings.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces multiple meetings of the Advisory Committee on Underride Protection (ACUP). This notice announces the date, time, and location of these meetings, which will be open the public. The purpose of ACUP is to provide advice and recommendations to the Secretary of Transportation on safety regulations to reduce underride crashes and fatalities relating to underride crashes.

DATES: The four ACUP meetings will be held on February 8, March 13, April 24, and May 22, 2024, from 12:30 p.m. to 4:30 p.m. ET. Pre-registration is required to attend each online meeting. A link

permitting access to the meeting will be distributed to registrants within 24 hours of the meeting start time.

ADDRESSES: Each meeting will be held virtually via Zoom. Information and registration for the meetings will be available on the NHTSA website (*https://www.nhtsa.gov/events-and-public-meetings*) at least one week in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: James Myers, U.S. Department of Transportation, Special Vehicles and Systems Division, 1200 New Jersey Avenue SE, Washington, DC 20590, *acup@dot.gov* or (202) 493–0031.

SUPPLEMENTARY INFORMATION:

I. Background

ACUP was established as a statutory committee pursuant to section 23011(d) of the Infrastructure Investment and Jobs Act (IIJA), Public Law 117–58 (commonly referred to as the Bipartisan Infrastructure Law or BIL), and in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. app. 2. The purpose of ACUP is to provide information, advice, and recommendations to the Secretary of Transportation on safety regulations to reduce underride crashes and fatalities relating to underride crashes.

The Committee duties include the following:

a. Gathering information as necessary to discuss issues presented by the Designated Federal Officer (DFO).

b. Deliberating on issues relevant to safety regulations related to underride crashes and fatalities from underride crashes.

c. Providing written consensus advice to the Secretary on underride protection to reduce underride crashes and fatalities relating to underride crashes.

II. Agenda

The agenda for the 3rd ACUP meeting on February 8, 2024, will include the following:

- Welcome & Call to Order
- Overview of Rulemaking Process
- Presentations
- Discussion
  - a. Rear underride crashes
  - b. Prevention and mitigation technologies
  - c. Committee's recommendations to the Secretary of Transportation and Committee's report to Congress
- Motions
- Public Comment Period
- Wrap Up, Assignments, and Adjourn

The agenda for the 4th ACUP meeting on March 13, 2024, will include the following:

- Welcome & Call to Order
- Presentations
- Discussion
  - a. Side underride crashes
  - b. Prevention and mitigation technologies
  - c. Committee's recommendations to the Secretary of Transportation and Committee's report to Congress
- Motions
- Public Comment Period
- Wrap Up, Assignments, and Adjourn

The agenda for the 5th ACUP meeting on April 24, 2024, will include the following:

- Welcome & Call to Order
- Presentations
- Discussion
  - a. Front override crashes
  - b. Prevention and mitigation technologies
  - c. Committee's recommendations to the Secretary of Transportation and Committee's report to Congress
- Motions
- Public Comment Period
- Wrap Up, Assignments, and Adjourn

The agenda for the 6th ACUP meeting on May 22, 2024, will include the following:

- Welcome & Call to Order
- Presentations
- Discussion
  - a. Underride data needs
  - b. Committee's recommendations to the Secretary of Transportation and Committee's report to Congress
- Motions
- Public Comment Period
- Wrap Up, Assignments, and Adjourn

III. Public Participation

The meetings will be open to the public. We are committed to providing equal access to this meeting for all participants. Persons with disabilities in need of an accommodation should send a request to the individual in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than one week prior to each meeting.

Members of the public wanting to reserve time to speak directly to the Committee during the meeting must submit a request. The request must include the name, contact information (address, phone number, and email address), and organizational affiliation of the individual wishing to address ACUP; it must also include a written copy of prepared remarks and must be forwarded to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than one week before each meeting. Due to limited availability of public speaking time, some requests may not be granted.

Members of the public may also submit written materials, questions, and comments to the Committee in advance to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than one week before each meeting. All advance submissions will be reviewed by the DFO. Advance submissions shall be circulated to ACUP representatives for review prior to the meeting. Advance submissions that become part of the committee deliberations will become part of the official record of the meeting.

Authority: The Committee is established as a statutory committee under the authority of section 23011 of IIJA, Pub. L. 117–58 (2021), and established in accordance with the provisions of the FACA, as amended, 5 U.S.C. app. 2.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2024–00733 Filed 1–16–24; 8:45 am]

BILLING CODE 4910–59–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on February 1, 2024 on ''Current and Emerging Technologies in U.S.-China Economic and National Security Competition.''

DATES: The hearing is scheduled for Thursday, February 1, 2024 at 9:30 a.m.

ADDRESSES: Members of the public will be able to attend in person at a location TBD or view a live webcast via the Commission's website at *www.uscc.gov. Visit the Commission's website for updates to the hearing location or possible changes to the hearing schedule. Reservations are not required to view the hearing online or in person.*

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Jameson Cunningham, 444 North Capitol Street NW, Suite 602, Washington, DC 20001; telephone: 202–624–1496, or via email at *jcunningham@*

uscc.gov. Reservations are not required to attend the hearing.

ADA Accessibility: For questions about the accessibility of the event or to request an accommodation, please contact Jameson Cunningham via email at *jcunningham@uscc.gov.* Requests for an accommodation should be made as soon as possible, and at least five business days prior to the event.

SUPPLEMENTARY INFORMATION:

Background: This is the first public hearing the Commission will hold during its 2024 reporting cycle. The hearing will first examine national security risks created by the sale of Chinese information technology hardware and software products in the United States as well as potential tools to regulate their use. Next, the hearing will examine China's research relating to the military applications of artificial intelligence (AI) and quantum information science, and the recent advances it has made in these technologies. Finally, the hearing will examine China's progress in several emerging technologies at the forefront of U.S.-China competition, including the commercial applications of AI, bio-technology, and battery technology.

The hearing will be co-chaired by Commissioner Michael Wessel and Commissioner Jacob Helberg. Any interested party may file a written statement by February 1, 2024 by transmitting to the contact above. A portion of the hearing will include a question and answer period between the Commissioners and the witnesses.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: January 11, 2024.

Christopher P. Fioravante,

Director of Operations and Administration, U.S.-China Economic and Security Review Commission.

[FR Doc. 2024–00749 Filed 1–16–24; 8:45 am]

BILLING CODE 1137–00–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meetings

TIME AND DATE: January 18, 2024, 12:00 p.m. to 3:00 p.m., Eastern Time.

PLACE: This meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (U.S. Toll) or 1–669–900–6833 (U.S. Toll), Meeting ID: 997 6914 3647, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/meeting/register/tJ0qceCpqjgsHtMsNZs9QvcOAmnQC4sbAjfv.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the ''Board'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda

I. Welcome and Call to Order—UCR Board Chair

The UCR Board Chair will welcome attendees, call the meeting to order, call roll for the Board, confirm the presence of a quorum, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify publication of the meeting notice on the UCR website and distribution to the UCR contact list via email, followed by subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Board Agenda—UCR Board Chair

For Discussion and Possible Board Action

The proposed Agenda will be reviewed. The Board will consider action to adopt.

Ground Rules

➢ Board actions taken only in designated areas on the agenda.

IV. Approval of Minutes of the December 7, 2023 UCR Board Meeting—UCR Board Chair

For Discussion and Possible Board Action

Draft Minutes from the December 7, 2023, UCR Board meeting will be reviewed. The Board will consider action to approve.

V. Report of FMCSA—FMCSA Representative

The Federal Motor Carrier Safety Administration (FMCSA) will provide a report on any relevant agency activity, including the status of the FMCSA's Notice of Proposed Rulemaking concerning the 2025 UCR Fee Rulemaking and its publication in the **Federal Register**.

VI. Discussion of UCR Outreach to Canadian and Mexican Carriers Operating in the United States—UCR Board Chair and UCR Executive Director

The UCR Board Chair and UCR Executive Director will lead a discussion on current and possible future UCR outreach to Canadian and Mexican carriers operating in the United States. Discussion will include the form and cost of current outreach efforts to these motor carriers and the form and cost of additional possible outreach.

VI. UCR Chief Legal Officer's Report—UCR Chief Legal Officer

The UCR Chief Legal Officer will report on his activities as Chief Legal Officer of the UCR Plan since the last Board of Directors meeting including, among other things, his efforts to protect the intellectual property assets of the UCR Plan including the issuance of cease-and-desist letters regarding alleged trademark infringement, possible Digital Millennium Copyright Act violations, the initiation of domain name dispute resolution proceedings and the issuance of trademark licenses to participating states.

VII. 2024 Engagement Letter Between the UCR Plan and the Bradley Arant Law Firm—UCR Executive Director and UCR Board Chair

For Discussion and Possible Board Action

An engagement letter between the UCR Plan and the Bradley Arant law firm will be presented to the Board for consideration and approval. The engagement letter covers the legal services performed by Alex Leath, in his capacity as the Chief Legal Officer of the UCR Plan, and the Bradley Arant law firm in support of the Chief Legal Officer's activities. These legal services will be performed on behalf of the UCR Plan during calendar year 2024. The presentation will include the scope of the engagement as well as the amount budgeted to defray the estimated fees and expenses.

VIII. Subcommittee Reports

Audit Subcommittee—UCR Audit Subcommittee Chair

No report.

Finance Subcommittee—UCR Finance Subcommittee Chair and UCR Depository Manager

Distribution From the UCR Depository for the 2024 Registration Year and Update on Selection of 2022 External Auditor—UCR Depository Manager

The UCR Depository Manager will provide an update on the timing of a distribution of the fees from the UCR Depository to states that have not yet reached their revenue entitlements for the 2024 registration year. In addition, the UCR Depository Manager will give an update on the selection of an audit firm to conduct the 2022 external audit.

Education and Training Subcommittee—UCR Education and Training Subcommittee Chair

Update on Current and Future Training Initiatives—UCR Education and Training Subcommittee Chair

The UCR Education and Training Subcommittee Chair will provide an update on current and planned future training initiatives, to include website content review, website optimization strategy, NRS modules, and UCR purpose and subcommittee videos.

Industry Advisory Subcommittee—UCR Industry Advisory Subcommittee Chair

Update on Current Initiatives—UCR Industry Advisory Subcommittee Chair

The UCR Industry Advisory Subcommittee Chair will provide an update on current and planned initiatives, to include the development of a video series intended to increase participation in the UCR focused on brokers, motor carriers, and bus operators.

Enforcement Subcommittee—UCR Enforcement Subcommittee Chair

Update on Current Initiatives—UCR Enforcement Subcommittee Chair

The UCR Enforcement Subcommittee Chair will provide an update on current and planned initiatives to include a review of enforcement rates, creation of standards for annual UCR enforcement awards, conducting biannual enforcement blitzes, roadside enforcement of carriers who are under-registered, and creation of an enforcement presentation.

Dispute Resolution Subcommittee—UCR Dispute Resolution Subcommittee Chair

No report.

IX. Contractor Reports—UCR Board Chair

UCR Executive Director Report

The UCR Executive Director will provide a report covering his recent activity for the UCR Plan including any changes in the dates of UCR meetings in 2024.

UCR Administrator Report (Kellen)

The UCR Chief of Staff will provide a management update covering recent activity for the Depository, Operations, and Communications.

DSL Transportation Services, Inc.

DSL Transportation Services, Inc. will report on the latest data from the FARs program, Tier 5 and 6 unregistered motor carriers, and other matters.

Seikosoft

Seikosoft will provide an update on its recent/new activity related to the UCR's National Registration System.

X. Other Business—UCR Board Chair

The UCR Board Chair will call for any other business, old or new, from the floor.

XI. Adjournment—UCR Board Chair

The UCR Board Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, January 11, 2024, at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2024–00930 Filed 1–12–24; 4:15 pm]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0405]

Agency Information Collection Activity: REPS Annual Eligibility Report; (REPS—Restored Entitlement Program for Survivors)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 18, 2024.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0405'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20420, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0405'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 5101.

Title: REPS Annual Eligibility Report—REPS, 21P–8941.

OMB Control Number: 2900–0405.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21P–8941 is primarily used to gather the necessary information to determine a claimant's continued eligibility for REPS benefits. The information on the form is necessary when a claimant has an income that is at, or near, the allowable limit for income. The form is returned by mail or in person to certify REPS eligibility requirements. Once the form is received, claim processors review the information provided and assess whether the claimant is eligible for REP benefits. Without this information, determination of continued entitlement would not be possible. This is an extension with no substantive changes to the form. There has been no burden change since the last approval.

Affected Public: Individuals and households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,200.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–00759 Filed 1–16–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on the Readjustment of Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10., that the Advisory Committee on the Readjustment of Veterans will conduct in-person meeting sessions in Tampa, Florida on February 7, 2024–February 9, 2024.

The sessions will begin, and end as follows in the noted locations:

Dates	Times	Locations	Open session
February 7, 2024	8 a.m. to 5 p.m. eastern standard time (EST).	Tampa Vet Center, 9206 King Palm Drive, Tampa, FL 33619 ..	No.
February 8, 2024	8 a.m. to 12 p.m. EST	Tampa VA Medical Center (James A. Haley), 13000 Bruce B. Downs Blvd., Tampa, FL 33612–4745.	No.
February 8, 2024	1 p.m. to 5 p.m. EST	Tampa VA Medical Center (James A. Haley), 13000 Bruce B. Downs Blvd., Tampa, FL 33612–4745.	Yes.
February 9, 2024	8 a.m. to 12 p.m. EST	Tampa VA Medical Center (James A. Haley), 13000 Bruce B. Downs Blvd., Tampa, FL 33612–4745.	Yes.

The meeting sessions are open to the public, except when the Committee is conducting tours of VA facilities. Tours of VA facilities are closed to protect Veterans' privacy and personal information, in accordance with 5 U.S.C 552b(c)(6).

The purpose of the Committee is to advise the VA regarding the provision by VA of benefits and services to assist Veterans in the readjustment to civilian life. In carrying out this duty, the Committee shall take into account the needs of Veterans who served in combat theaters of operation. The Committee assembles, reviews, and assesses information relating to the needs of Veterans readjusting to civilian life and the effectiveness of VA services in assisting Veterans in that readjustment.

The Committee, comprised of 14 subject matter experts, advises the Secretary, through the VA Readjustment Counseling Service, on the provision by VA of benefits and services to assist Veterans in the readjustment to civilian life. In carrying out this duty, the Committee assembles, reviews, and assesses information relating to the needs of Veterans readjusting to civilian life and the effectiveness of VA services in assisting Veterans in that readjustment, specifically taking into account the needs of Veterans who served in combat theaters of operation.

On February 7, 2024, the agenda will include a site visit of the Tampa Vet Center, 9206 King Palm Drive, Tampa, FL 33619, from 8 a.m.–5 p.m. EST. The meeting session is closed to the public in accordance with 5 U.S.C. 552b (c)(6). Exemption 6 permits the Committee to close a meeting that is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, which will most likely be the case throughout this field visit.

On February 8, 2024, the Committee will convene in a closed session at the Tampa VA Medical Center (James A. Haley) 13000 Bruce B. Downs Blvd., Tampa, FL 33612–4745, from 8 a.m. to 12 p.m. EST as it tours the VA facility. This portion of the meeting will be closed to the public in accordance with 5 U.S.C. 552b (c) (6). Exemption 6 permits the Committee to close a meeting that is likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, which will most likely be the case throughout this field visit. From 1 p.m. to to 5 p.m. EST, the meeting will reconvene in an open session at the Tampa VA Medical Center (James A. Haley) 13000 Bruce B. Downs Blvd., Tampa, FL 33612–4745. During this session, the agenda will include a briefings and updates.

On February 9, 2024, the session is open to the public and will be held at the Tampa VA Medical Center (James A. Haley) 13000 Bruce B. Downs Blvd., Tampa, FL 33612–4745. The agenda will include presentations and updates. Additionally, the Committee will be solely focused on writing the 24th Annual Report, which will be accomplished through breakout groups and open full committee discussion.

No time will be allotted for receiving oral comments from the public; however, the committee will accept written comments from interested parties on issues outlined in the meeting agenda or other issues regarding the readjustment of Veterans. Parties wishing to submit written questions or comments many send them to Mr. Richard Barbato, via email at VHA RCS Strategy & Analysis *VHARCSStratAnalysis@va.gov* or by mail at Department of Veterans Affairs, Readjustment Counseling Service (10RCS), 810 Vermont Avenue, Washington, DC 20420.

Any member of the public seeking additional information should contact Mr. Barbato at the email addressed noted above.

Dated: February 11, 2024.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–00779 Filed 1–16–24; 8:45 am]

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Part II

Department of Energy

10 CFR Part 430

Energy Conservation Program: Energy Conservation Standards for Refrigerators, Refrigerator-Freezers, and Freezers; Direct Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2017–BT–STD–0003]

RIN 1904–AF56

Energy Conservation Program: Energy Conservation Standards for Refrigerators, Refrigerator-Freezers, and Freezers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Direct final rule.

SUMMARY: The Energy Policy and Conservation Act, as amended (''EPCA''), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including refrigerators, refrigerator-freezers, and freezers. In this direct final rule, the U.S. Department of Energy (''DOE'') is adopting amended energy conservation standards for refrigerators, refrigerator-freezers, and freezers. DOE has determined that the amended energy conservation standards for these products would result in significant conservation of energy, and are technologically feasible and economically justified.

DATES: The effective date of this rule is May 16, 2024. The incorporation by reference of certain material listed in the rule was approved by the Director as of May 21, 2014, and November 12, 2021. If adverse comments are received by May 6, 2024, and DOE determines that such comments may provide a reasonable basis for withdrawal of the direct final rule under 42 U.S.C. 6295(o), a timely withdrawal of this rule will be published in the **Federal Register**. If no such adverse comments are received, compliance with the amended standards established for refrigerators, refrigerator-freezers, and freezers in this direct final rule is required on and after January 31, 2029, for the product classes listed in Table I.1 and January 31, 2030, for the product classes listed in Table I.2.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at *www.regulations.gov/docket/EERE-2017-BT-STD-0003.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT:

Mr. Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–5904. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Matthew Schneider, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (240) 597–6265. Email: *matthew.schneider@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Synopsis of the Direct Final Rule

The Energy Policy and Conservation Act, Public Law 94–163, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B of EPCA [2] established the Energy Conservation Program for Consumer Products Other Than Automobiles. (42 U.S.C. 6291–6309) These products include refrigerators, refrigerator-freezers, and freezers, the subject of this direct final rule. (42 U.S.C. 6292(a)(7))

Pursuant to EPCA, any new or amended energy conservation standard must, among other things, be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

In light of the above and under the authority provided by 42 U.S.C. 6295(p)(4), DOE is issuing this direct final rule amending energy conservation standards for refrigerators, refrigerator-freezers, and freezers.

The adopted standard levels in this direct final rule were proposed in a letter submitted to DOE jointly by groups representing manufacturers, energy and environmental advocates, consumer groups, and a utility. This letter, titled ''Energy Efficiency Agreement of 2023'' (hereafter, the ''Joint Agreement''),[3] recommends specific energy conservation standards for refrigerators, refrigerator-freezers, and freezers that, in the commenters' view, would satisfy the EPCA requirements in 42 U.S.C. 6295(o). DOE subsequently received letters of support from states including California, Massachusetts, and New York [4] and utilities including San Diego Gas and Electric (''SDG&E'') and Southern California Edison (''SCE'') [5] advocating for the adoption of the recommended standards and a follow-up letter from the parties to the Joint Agreement that more specifically described the recommended standards for refrigerators, refrigerator-freezers, and freezers, and their rationale for entering into a negotiation to develop them.[6]

In accordance with the direct final rule provisions at 42 U.S.C. 6295(p)(4), DOE has determined that the recommendations contained in the Joint Agreement are compliant with 42 U.S.C. 6295(o). As required by 42 U.S.C. 6295(p)(4)(A)(i), DOE is also simultaneously publishing a notice of proposed rulemaking (''NOPR'') that contains identical standards to those adopted in this direct final rule. Consistent with the statute, DOE is providing a 110-day public comment period on the direct final rule. (42 U.S.C. 6295(p)(4)(B)) If DOE determines that any comments received provide a reasonable basis for withdrawal of the direct final rule under 42 U.S.C. 6295(o) or any other applicable law, DOE will publish the reasons for withdrawal and continue the rulemaking under the NOPR. (42 U.S.C. 6295(p)(4)(C)) *See* section II.A of this document for more details on DOE's statutory authority.

The amended standards that DOE is adopting in this direct final rule are the efficiency levels recommended in the Joint Agreement (shown in Tables I.1 and I.2) expressed in terms of kilowatt hours per year (''kWh/yr'') as measured according to DOE's current refrigerator, refrigerator-freezer, and freezer test procedures codified at title 10 of the Code of Federal Regulations (''CFR''), part 430, subpart B, appendices A (''appendix A'') and B (''appendix B'').

The amended standards recommended in the Joint Agreement are represented as trial standard level (''TSL'') 4 in this document (hereinafter the ''Recommended TSL'') and are described in section V.A of this document. These standards apply to all products listed in Table I.1 and manufactured in, or imported into the United States starting on January 31, 2029, and all products listed in Table I.2 and manufactured in, or imported into, the United States starting on January 31, 2030.

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[3] This document is available in the docket at: *www.regulations.gov/document/EERE-2017-BT-STD-0003-0103*.

[4] This document is available in the docket at: *www.regulations.gov/document/EERE-2017-BT-STD-0003-0104*.

[5] This document is available in the docket at: *www.regulations.gov/comment/EERE-2017-BT-STD-0003-0107*.

[6] This document is available in the docket at: *www.regulations.gov/document/EERE-2017-BT-STD-0003-0105*.

TABLE I.1—ENERGY CONSERVATION STANDARDS FOR CONSUMER REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS WITH CORRESPONDING DOOR COEFFICIENT TABLE

[Compliance starting January 31, 2029]

Product class ("PC")	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
3–BI. Built-in refrigerator-freezer—automatic defrost with top-mounted freezer.	8.24AV + 238.4 + 28I	0.291av + 238.4 + 28I.
3A–BI. Built-in All-refrigerators—automatic defrost	(7.22AV + 205.7)*K3ABI	(0.255av + 205.7)*K3ABI.
4–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	(8.79AV + 307.4)*K4BI + 28I	(0.310av + 307.4)*K4BI + 28I.
5–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer.	(8.65AV + 309.9)*K5BI + 28I	(0.305av + 309.9)*K5BI + 28I.
5A. Refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(7.76AV + 351.9)*K5A	(0.274av + 351.9)*K5A.
5A–BI. Built-in refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(8.21AV + 370.7)*K5ABI	(0.290av + 370.7)*K5ABI.
7–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	(8.82AV + 384.1)*K7BI	(0.311av + 384.1)*K7BI.
8. Upright freezers with manual defrost	5.57AV + 193.7	0.197av + 193.7.
9–BI. Built-In Upright freezers with automatic defrost	(9.37AV + 247.9)*K9BI + 28I	(0.331av + 247.9)*K9BI + 28I.
9A–BI. Built-In Upright freezers with automatic defrost with through-the-door ice service.	9.86AV + 288.9	0.348av + 288.9.
10. Chest freezers and all other freezers except compact freezers	7.29AV + 107.8	0.257av + 107.8.
10A. Chest freezers with automatic defrost	10.24AV + 148.1	0.362av + 148.1.
11. Compact refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	7.68AV + 214.5	0.271av + 214.5.
11A. Compact all-refrigerators—manual defrost	6.66AV + 186.2	0.235av + 186.2.
12. Compact refrigerator-freezers—partial automatic defrost	(5.32AV + 302.2)*K12	(0.188av + 302.2)*K12.
13. Compact refrigerator-freezers—automatic defrost with top-mounted freezer.	10.62AV + 305.3 + 28I	0.375av + 305.3 + 28I.
13A. Compact all-refrigerators—automatic defrost	(8.25AV + 233.4)*K13A	(0.291av + 233.4)*K13A.
14. Compact refrigerator-freezers—automatic defrost with side-mounted freezer.	6.14AV + 411.2 + 28I	0.217av + 411.2 + 28I.
15. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer.	10.62AV + 305.3 + 28I	0.375av + 305.3 + 28I.
16. Compact upright freezers with manual defrost	7.35AV + 191.8	0.260av + 191.8.
17. Compact upright freezers with automatic defrost	9.15AV + 316.7	0.323av + 316.7.
18. Compact chest freezers	7.86AV + 107.8	0.278av + 107.8.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of 10 CFR part 430.
av = Total adjusted volume, expressed in Liters.
I = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker.
Door Coefficients (*e.g.,* K3ABI) are as defined in the following table.

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K3ABI	1.10	1.0	1.0.
K4BI	1.10	1.06	1 + 0.02 * (N_d − 2).
K5BI	1.10	1.06	1 + 0.02 * (N_d − 2).
K5A	1.10	1.06	1 + 0.02 * (N_d − 3).
K5ABI	1.10	1.06	1 + 0.02 * (N_d − 3).
K7BI	1.10	1.06	1 + 0.02 * (N_d − 2).
K9BI	1.0	1.0	1 + 0.02 * (N_d − 1).
K12	1.0	1.0	1 + 0.02 * (N_d − 1).
K13A	1.10	1.0	1.0.

Notes:
[1] N_d is the number of external doors.
[2] The maximum N_d values are 2 for K12, 3 for K9BI, and 5 for all other K values.

TABLE I.2—ENERGY CONSERVATION STANDARDS FOR CONSUMER REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS WITH CORRESPONDING DOOR COEFFICIENT TABLE

[Compliance starting January 31, 2030]

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
1. Refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	6.79AV + 191.3	0.240av + 191.3.
1A. All-refrigerators—manual defrost	5.77AV + 164.6	0.204av + 164.6.
2. Refrigerator-freezers—partial automatic defrost	(6.79AV + 191.3)*K2	(0.240av + 191.3)*K2.
3. Refrigerator-freezers—automatic defrost with top-mounted freezer.	6.86AV + 198.6 + 28I	0.242av + 198.6 + 28I.
3A. All-refrigerators—automatic defrost	(6.01AV + 171.4)*K3A	(0.212av + 171.4)*K3A.
4. Refrigerator-freezers—automatic defrost with side-mounted freezer.	(7.28AV + 254.9)*K4 + 28I	(0.257av + 254.9)*K4 + 28I.
5. Refrigerator-freezers—automatic defrost with bottom-mounted freezer.	(7.61AV + 272.6)*K5 + 28I	(0.269av + 272.6)*K5 + 28I.
6. Refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service.	7.14AV + 280.0	0.252av + 280.0.
7. Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	(7.31AV + 322.5)*K7	(0.258av + 322.5)*K7.
9. Upright freezers with automatic defrost	(7.33AV + 194.1)*K9 + 28I	(0.259av + 194.1)*K9 + 28I.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of 10 CFR part 430.
Av = Total adjusted volume, expressed in Liters.
I = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker.
Door Coefficients (*e.g.,* K3A) are as defined in the following table.

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K2	1.0	1.0	$1 + 0.02 * (N_d - 1)$.
K4	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K3A	1.10	1.0	1.0.
K5	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K7	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K9	1.0	1.0	$1 + 0.02 * (N_d - 1)$.

Notes:
[1] N_d is the number of external doors.
[2] The maximum N_d values are 2 for K2, and 5 for all other K values.

A. Benefits and Costs to Consumers

Table I.3 summarizes DOE's evaluation of the economic impacts of the adopted standards on consumers of refrigerators, refrigerator-freezers, and freezers, as measured by the average life-cycle cost (''LCC'') savings and the simple payback period (''PBP'').[7] The average LCC savings are positive for all product classes for which a standard is proposed, and the PBP is less than the average lifetime of refrigerators, refrigerator-freezers, and freezers, which varies by product class (*see* section IV.F.7 of this document).

TABLE I.3—IMPACTS OF ENERGY CONSERVATION STANDARDS ON CONSUMERS OF REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

[The recommended TSL]

Product class	Average LCC savings (2022$)	Simple payback period (years)
PC 3	50.91	4.8
PC 5	55.23	5.6
PC 5BI	91.13	2.1
PC 5A	133.27	4.1
PC 7	142.56	1.6
PC 9	56.17	6.6
PC 10	N/A	N/A
PC 11A (residential)	8.35	2.1

[7] The average LCC savings refer to consumers that are affected by a standard and are measured relative to the efficiency distribution in the no-new-standards case, which depicts the market in the compliance year in the absence of new or amended standards (*see* section IV.F.9 of this document). The simple PBP, which is designed to compare specific efficiency levels, is measured relative to the baseline product (*see* section IV.C of this document).

TABLE I.3—IMPACTS OF ENERGY CONSERVATION STANDARDS ON CONSUMERS OF REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS—Continued

[The recommended TSL]

Product class	Average LCC savings (2022$)	Simple payback period (years)
PC 11A (commercial)	3.16	3.2
PC 17	36.86	4.1
PC 18	23.55	4.1

Note: The compliance year for the Recommended TSL (*i.e.,* TSL 4) varies by product class:
2029: PCs 5BI, 5A, 10, 11A, 17, and 18.
2030: PCs 3, 5, 7, and 9.

DOE's analysis of the impacts of the adopted standards on consumers is described in section IV.F of this document.

B. Impact on Manufacturers [8]

The industry net present value (''INPV'') is the sum of the discounted cash flows to the industry from the base year (2023) through the end of the analysis period, which is 30 years from the analyzed compliance date.[9] Using a real discount rate of 9.1 percent, DOE estimates that the INPV for manufacturers of refrigerators, refrigerator-freezers, and freezers in the case without amended standards is $4.91 billion.[10] Under the adopted standards, which align with the Recommended TSL for refrigerators, refrigerator-freezers, and freezers, DOE estimates the change in INPV to range from −10.3 percent to −7.8 percent, which is approximately −$504.4 million to −$383.5 million. In order to bring products into compliance with amended standards, it is estimated that industry will incur total conversion costs of $830.3 million.

DOE's analysis of the impacts of the adopted standards on manufacturers is described in sections IV.J and V.B.2 of this document.

C. National Benefits and Costs

DOE's analyses indicate that the adopted energy conservation standards for refrigerators, refrigerator-freezers, and freezers would save a significant amount of energy. Relative to the case without amended standards, the lifetime energy savings for refrigerators, refrigerator-freezers, and freezers purchased in the 30-year period that begins in the anticipated year of compliance with amended standards (2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2), amount to 5.6 quadrillion British thermal units (''Btu''), or quads.[11] This represents a savings of 11 percent relative to the energy use of these products in the case without amended standards (referred to as the ''no-new-standards case'').

The cumulative net present value (''NPV'') of total consumer benefits of the standards for refrigerators, refrigerator-freezers, and freezers ranges from $9.0 billion (at a 7-percent discount rate) to $27.0 billion (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating cost savings minus the estimated increased product costs for refrigerators, refrigerator-freezers, and freezers purchased in 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

In addition, the adopted standards for refrigerators, refrigerator-freezers, and freezers are projected to yield significant environmental benefits. DOE estimates that the standards will result in cumulative emission reductions (over the same period as for energy savings) of 100.8 million metric tons (''Mt'') [12] of carbon dioxide (''CO_2''), 31.6 thousand tons of sulfur dioxide (''SO_2''), 186.1 thousand tons of nitrogen oxides (''NO_X''), 846.5 thousand tons of methane (''CH_4''), 1.0 thousand tons of nitrous oxide (''N_2O''), and 0.2 tons of mercury (''Hg'').[13]

DOE estimates the value of climate benefits from a reduction in greenhouse gases (''GHG'') using four different estimates of the social cost of CO_2 (''SC–CO_2''), the social cost of methane (''SC–CH_4''), and the social cost of nitrous oxide (''SC–N_2O''). Together these represent the social cost of GHG (''SC–GHG''). DOE used interim SC–GHG values developed by an Interagency Working Group on the Social Cost of Greenhouse Gases (''IWG'').[14] The derivation of these values is discussed in section IV.L of this document. For presentational purposes, the climate benefits associated with the average SC–GHG at a 3-percent discount rate are estimated to be $5.0 billion. DOE does not have a single central SC–GHG point estimate and it emphasizes the importance and value of considering the benefits calculated using all four sets of SC–GHG estimates.

DOE estimated the monetary health benefits of SO_2 and NO_X emissions reductions, using benefit-per-ton estimates from the scientific literature, as discussed in section IV.L of this document. DOE estimated the present value of the health benefits would be $3.4 billion using a 7-percent discount rate, and $9.8 billion using a 3-percent

[8] All monetary values in this document are expressed in 2022 dollars.

[9] DOE's analysis period extends 30-years from the compliance year. The analysis period ranges from 2023–2056 for the no-new-standards case and all TSLs, except for TSL 4 (the Recommended TSL). The analysis period for TSL 4 ranges from 2023–2058 for the product classes listed in Table I.1 and 2023–2059 for the product classes listed in Table I.2.

[10] The no-new-standards case INPV of $4.91 billion reflects the sum of discounted free cash flows from 2023–2056 (from direct final rule publication to 30 years from the 2027 compliance date) plus a discounted terminal value.

[11] The quantity refers to full-fuel-cycle (''FFC'') energy savings. FFC energy savings includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and, thus, presents a more complete picture of the impacts of energy efficiency standards. For more information on the FFC metric, *see* section of this document.

[12] A metric ton is equivalent to 1.1 short tons. Results for emissions other than CO_2 are presented in short tons.

[13] DOE calculated emissions reductions relative to the no-new-standards-case, which reflects key assumptions in the *Annual Energy Outlook 2023* (''*AEO2023*''). *AEO2023* represents current Federal and State legislation and final implementation of regulations as of the time of its preparation. See section IV.K of this document for further discussion of *AEO2023* assumptions that affect air pollutant emissions.

[14] To monetize the benefits of reducing GHG emissions this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the IWG (''February 2021 SC–GHG TSD''). *www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf.*

discount rate.[15] DOE is currently only monetizing (for SO_2 and NO_X) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions.

Table I.4 summarizes the monetized benefits and costs expected to result from the amended standards for refrigerators, refrigerator-freezers, and freezers. There are other important unquantified effects, including certain unquantified climate benefits, unquantified public health benefits from the reduction of toxic air pollutants and other emissions, unquantified energy security benefits, and distributional effects, among others.

TABLE I.4—SUMMARY OF MONETIZED BENEFITS AND COSTS OF ADOPTED ENERGY CONSERVATION STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

[The recommended TSL]

	Billion (2022$)
3% discount rate	
Consumer Operating Cost Savings	36.4
Climate Benefits *	5.0
Health Benefits **	9.8
Total Benefits †	51.2
Consumer Incremental Product Costs ‡	9.4
Net Benefits	41.8
Change in Producer Cashflow (INPV) ‡‡	(0.50)–(0.38)
7% discount rate	
Consumer Operating Cost Savings	14.0
Climate Benefits * (3% discount rate)	5.0
Health Benefits **	3.4
Total Benefits †	22.5
Consumer Incremental Product Costs ‡	5.0
Net Benefits	17.5
Change in Producer Cashflow (INPV) ‡‡	(0.50)–(0.38)

Note: This table presents present value (in 2022$) of the costs and benefits associated with refrigerators, refrigerator-freezers, and freezers shipped in 2029–2058 for the product classes listed in Table I.1 and shipped in 2030–2059 for the product classes listed in Table I.2. These results include benefits which accrue after 2058/9 from the products shipped in 2029/30–2058/9.

* Climate benefits are calculated using four different estimates of the social cost of carbon (SC–CO_2), methane (SC–CH_4), and nitrous oxide (SC–N_2O) (model average at 2.5-percent, 3-percent, and 5-percent discount rates; 95th percentile at 3-percent discount rate) (*see* section IV.L of this document). Together these represent the global SC–GHG. For presentational purposes of this table, the climate benefits associated with the average SC–GHG at a 3-percent discount rate are shown; however DOE emphasizes the importance and value of considering the benefits calculated using all four sets of SC–GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for SO_2 and NO_X) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. *See* section IV.L of this document for more details.

† Total and net benefits include those consumer, climate, and health benefits that can be quantified and monetized. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC–GHG with 3-percent discount rate, but DOE does not have a single central SC–GHG point estimate. DOE emphasizes the importance and value of considering the benefits calculated using all four sets of SC–GHG estimates.

‡‡ Operating Cost Savings are calculated based on the life-cycle costs analysis and national impact analysis as discussed in detail below. *See* sections IV.F and IV.H of this document. DOE's national impact analysis ("NIA") includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the product and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (the MIA). *See* section IV.J of this document. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. Change in INPV is calculated using the industry weighted average cost of capital value of 9.1 percent that is estimated in the manufacturer impact analysis (*see* chapter 12 of the direct final rule technical support document ("TSD") for a complete description of the industry weighted average cost of capital). For refrigerators, refrigerator-freezers, and freezers, those values are −$504 million to −$383 million. DOE accounts for that range of likely impacts in analyzing whether a TSL is economically justified. *See* section V.C of this document. DOE is presenting the range of impacts to the INPV under two markup scenarios: the Preservation of Gross Margin scenario, which is the manufacturer markup scenario used in the calculation of Consumer Operating Cost Savings in this table, and the Preservation of Operating Profit scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated INPV in the above table, drawing on the MIA explained further in section IV.J of this document, to provide additional context for assessing the estimated impacts of this direct final rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A–4 and E.O. 12866. If DOE were to include the INPV into the net benefit calculation for this direct final rule, the net benefits would range from $41.3 billion to $41.4 billion at 3-percent discount rate and would range from $17.0 billion to $17.1 billion at 7-percent discount rate. Parentheses ( ) indicate negative values.

[15] DOE estimates the economic value of these emissions reductions resulting from the considered TSLs for the purpose of complying with the requirements of Executive Order 12866.

The benefits and costs of the proposed standards can also be expressed in terms of annualized values. The monetary values for the total annualized net benefits are (1) the reduced consumer operating costs, minus (2) the increase in product purchase prices and installation costs, plus (3) the value of climate and health benefits of emission reductions, all annualized.[16]

The national operating cost savings are domestic private U.S. consumer monetary savings that occur as a result of purchasing the covered products and are measured for the lifetime of refrigerators, refrigerator-freezers, and freezers shipped in 2029–2058 for the product classes listed in Table I.1 and shipped in 2030–2059 for the product classes listed in Table I.2. The benefits associated with reduced emissions achieved as a result of the adopted standards are also calculated based on the lifetime of refrigerators, refrigerator-freezers, and freezers shipped in 2029–2058 for the product classes listed in Table I.1 and shipped in 2030–2059 for the product classes listed in Table I.2. Total benefits for both the 3-percent and 7-percent cases are presented using the average GHG social costs with 3-percent discount rate. Estimates of SC–GHG values are presented for all four discount rates in section IV.L of this document.

Table I.5 presents the total estimated monetized benefits and costs associated with the proposed standard, expressed in terms of annualized values. The results under the primary estimate are as follows.

Using a 7-percent discount rate for consumer benefits and costs and health benefits from reduced NO_X and SO_2 emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards adopted in this rule is $590.5 million per year in increased equipment costs, while the estimated annual monetized benefits are $1.7 billion in reduced equipment operating costs, $303.8 million in climate benefits, and $410.6 million in health benefits. In this case, the net benefit would amount to $1.8 billion per year.

Using a 3-percent discount rate for all benefits and costs, the estimated cost of the standards is $567.5 million per year in increased equipment costs, while the estimated annual monetized benefits are $2.2 billion in reduced operating costs, $303.8 million in climate benefits, and $592.9 million in health benefits. In this case, the net benefit would amount to $2.5 billion per year.

TABLE I.5—ANNUALIZED MONETIZED BENEFITS AND COSTS OF ADOPTED STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

[TSL 4, the recommended TSL]

	Million (2022$/year)		
	Primary estimate	Low-net-benefits estimate	High-net-benefits estimate
3% discount rate			
Consumer Operating Cost Savings	2,200.5	2,023.9	2,326.6
Climate Benefits*	303.8	291.8	307.9
Health Benefits**	592.9	569.7	600.7
Total Benefits†	3,097.2	2,885.4	3,235.2
Consumer Incremental Product Costs‡	567.5	666.6	547.8
Net Benefits	2,529.6	2,218.8	2,687.4
Change in Producer Cashflow (INPV)‡‡	(49)–(37)	(49)–(37)	(49)–(37)
7% discount rate			
Consumer Operating Cost Savings	1,667.0	1,541.9	1,758.5
Climate Benefits* (3% discount rate)	303.8	291.8	307.9
Health Benefits**	410.6	395.8	415.7
Total Benefits†	2,381.4	2,229.5	2,482.0
Consumer Incremental Product Costs‡	590.5	677.9	569.6
Net Benefits	1,790.9	1,551.6	1,912.5
Change in Producer Cashflow (INPV)‡‡	(49)–(37)	(49)–(37)	(49)–(37)

Note: This table presents present value (in 2022$) of the costs and benefits associated with refrigerators, refrigerator-freezers, and freezers shipped in 2029–2058 for the product classes listed in Table I.1 and shipped in 2030–2059 for the product classes listed in Table I.2. These results include benefits which accrue after 2056 from the products shipped in 2029–2058 for the product classes listed in Table I.1 and shipped in 2030–2059 for the product classes listed in Table I.2. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a medium decline rate in the Primary Estimate, a low decline rate in the Low Net Benefits Estimate, and a high decline rate in the High Net Benefits Estimate. The methods used to derive projected price trends are explained in section IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using four different estimates of the global SC–GHG (*see* section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC–GHG at a 3-percent discount rate are shown; however, DOE emphasizes the importance and value of considering the benefits calculated using all four sets of SC–GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane.*

[16] To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2022, the year used for discounting the NPV of total consumer costs and savings. For the benefits, DOE calculated a present value associated with each year's shipments in the year in which the shipments occur (*e.g.,* 2020 or 2030), and then discounted the present value from each year to 2022. Using the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in the compliance year, that yields the same present value.

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for SO_2 and NO_X) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. *See* section IV.L of this document for more details.

† Total benefits for both the 3-percent and 7-percent cases are presented using the average SC–GHG with 3-percent discount rate, but DOE does not have a single central SC–GHG point estimate.

‡‡ Operating Cost Savings are calculated based on the life-cycle costs analysis and national impact analysis as discussed in detail below. *See* sections IV.F and IV.H of this document. DOE's NIA includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the product and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (the MIA). *See* section IV.J of this document. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 9.1 percent that is estimated in the manufacturer impact analysis (*see* chapter 12 of the direct final rule TSD for a complete description of the industry weighted average cost of capital). For refrigerators, refrigerator-freezers, and freezers, those values are −$48.7 million to −$37.0 million. DOE accounts for that range of likely impacts in analyzing whether a TSL is economically justified. *See* section V.C of this document. DOE is presenting the range of impacts to the INPV under two manufacturer markup scenarios: the Preservation of Gross Margin scenario, which is the manufacturer markup scenario used in the calculation of Consumer Operating Cost Savings in this table, and the Preservation of Operating Profit Markup scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J of this document, to provide additional context for assessing the estimated impacts of this direct final rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A–4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation for this direct final rule, the annualized net benefits would range from $2,480.9 million to $2,492.6 million at 3-percent discount rate and would range from $1,742.2 million to $1,753.9 million at 7-percent discount rate. Parentheses ( ) indicate negative values.

DOE's analysis of the national impacts of the adopted standards is described in sections IV.H, IV.K, and IV.L of this document.

D. Conclusion

DOE has determined that the Joint Agreement was submitted jointly by interested persons that are fairly representative of relevant points of view, in accordance with 42 U.S.C. 6295(p)(4)(A). After considering the recommended standards and weighing the benefits and burdens, DOE has determined that the recommended standards are in accordance with 42 U.S.C. 6295(o), which contains the criteria for prescribing new or amended standards. Specifically, the Secretary has determined that the adoption of the recommended standards would result in the significant conservation of energy and is the maximum improvement in energy efficiency that is technologically feasible and economically justified. In determining whether the recommended standards are economically justified, the Secretary has determined that the benefits of the recommended standards exceed the burdens. The Secretary has further concluded that the recommended standards, when considering the benefits of energy savings, positive NPV of consumer benefits, emission reductions, the estimated monetary value of the emissions reductions, and positive average LCC savings, would yield benefits that outweigh the negative impacts on some consumers and on manufacturers, including the conversion costs that could result in a reduction in INPV for manufacturers.

Using a 7-percent discount rate for consumer benefits and costs and NO_X and SO_2 reduction benefits, and a 3-percent discount rate case for GHG social costs, the estimated cost of the standards for refrigerators, refrigerator-freezers, and freezers is $590.5 million per year in increased product costs, while the estimated annual monetized benefits are $1.7 billion in reduced product operating costs, $303.8 million in climate benefits, and $410.6 million in health benefits. The net monetized benefit amounts to $1.8 billion per year.

The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking.[17] For example, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than products with relatively constant demand. Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis.

As previously mentioned, the standards are projected to result in estimated national energy savings of 5.6 quads (full-fuel cycle (''FFC'')), the equivalent of the primary annual energy use of 37 million homes. In addition, they are projected to reduce CO_2 emissions by 100.8 Mt. Based on these findings, DOE has determined the energy savings from the standard levels adopted in this direct final rule are ''significant'' within the meaning of 42 U.S.C. 6295(o)(3)(B). A more detailed discussion of the basis for these conclusions is contained in the remainder of this document and the accompanying TSD.[18]

Under the authority provided by 42 U.S.C. 6295(p)(4), DOE is issuing this direct final rule amending the energy conservation standards for refrigerators, refrigerator-freezers, and freezers. Consistent with this authority, DOE is also simultaneously publishing elsewhere in this **Federal Register** a NOPR proposing standards that are identical to those contained in this direct final rule. See 42 U.S.C. 6295(p)(4)(A)(i).

II. Introduction

The following section briefly discusses the statutory authority underlying this direct final rule, as well as some of the relevant historical background related to the establishment of standards for refrigerators, refrigerator-freezers, and freezers.

A. Authority

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part B of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include refrigerators, refrigerator-freezers, and freezers, the subject of this document. (42 U.S.C. 6292(a)(1)) EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(b)(1)), and directed DOE to conduct future rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(b)(3)) EPCA further provides that, not later than 6 years after the issuance of any final rule establishing or

[17] Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment, 86 FR 70892, 70901 (Dec. 13, 2021).

[18] The TSD is available in the docket for this rulemaking at *www.regulations.gov/docket/EERE-2017-BT-STD-0003/document.*

amending a standard, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1))

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) the establishment of Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption in limited instances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (*See* 42 U.S.C. 6297(d))

Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product. (42 U.S.C. 6295(o)(3)(A) and 42 U.S.C. 6295(Ir)) Manufacturers of covered products must use the prescribed DOE test procedure as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of those products. (42 U.S.C. 6293(c) and 6295(s)) Similarly, DOE must use these test procedures to determine whether the products comply with standards adopted pursuant to EPCA. (42 U.S.C. 6295(s)) The DOE test procedures for refrigerators, refrigerator-freezers, and freezers appear at 10 CFR part 430, subpart B, appendix A, *Uniform Test Method for Measuring the Energy Consumption of Refrigerators, Refrigerator-Freezers, and Miscellaneous Refrigeration Products* (''appendix A''), and appendix B, *Uniform Test Method for Measuring the Energy Consumption of Freezers* (''appendix B'').

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including refrigerators, refrigerator-freezers, and freezers. Any new or amended standard for a covered product must be designed to achieve the maximum improvement in energy efficiency that the Secretary of Energy determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and 42 U.S.C. 6295(o)(3)(B)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

Moreover, DOE may not prescribe a standard (1) for certain products, including refrigerators, refrigerator-freezers, and freezers, if no test procedure has been established for the product, or (2) if DOE determines by rule that the standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B)) In deciding whether a proposed standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven statutory factors:

(1) The economic impact of the standard on manufacturers and consumers of the products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard;

(3) The total projected amount of energy (or as applicable, water) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy (''Secretary'') considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii))

EPCA, as codified, also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

EPCA specifies requirements when promulgating an energy conservation standard for a covered product that has two or more subcategories. A rule prescribing an energy conservation standard for a type (or class) of product must specify a different standard level for a type or class of products that has the same function or intended use if DOE determines that products within such group (A) consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE consider such factors as the utility to the consumer of such a feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Additionally, pursuant to the amendments contained in the Energy Independence and Security Act of 2007 (''EISA 2007''), Public Law 110–140, final rules for new or amended energy conservation standards promulgated after July 1, 2010, are required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible,

adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE's current test procedures and standards for refrigerators, refrigerator-freezers, and freezers address standby mode and off mode energy use, as do the amended standards adopted in this direct final rule.

Finally, EISA 2007 amended EPCA, in relevant part, to grant DOE authority to issue a final rule (*i.e.,* a ''direct final rule'') establishing an energy conservation standard upon receipt of a statement submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates), as determined by the Secretary, that contains recommendations with respect to an energy or water conservation standard. (42 U.S.C. 6295(p)(4)) Pursuant to 42 U.S.C. 6295(p)(4), the Secretary must also determine whether a jointly-submitted recommendation for an energy or water conservation standard satisfies 42 U.S.C. 6295(o) or 42 U.S.C. 6313(a)(6)(B), as applicable.

The direct final rule must be published simultaneously with a NOPR that proposes an energy or water conservation standard that is identical to the standard established in the direct final rule, and DOE must provide a public comment period of at least 110 days on this proposal. (42 U.S.C. 6295(p)(4)(A)–(B)) While DOE typically provides a comment period of 60 days on proposed standards, for a NOPR accompanying a direct final rule, DOE provides a comment period of the same length as the comment period on the direct final rule—*i.e.,* 110 days. Based on the comments received during this period, the direct final rule will either become effective, or DOE will withdraw it not later than 120 days after its issuance if: (1) one or more adverse comments is received, and (2) DOE determines that those comments, when viewed in light of the rulemaking record related to the direct final rule, may provide a reasonable basis for withdrawal of the direct final rule under 42 U.S.C. 6295(o), 42 U.S.C. 6313(a)(6)(B), or any other applicable law. (42 U.S.C. 6295(p)(4)(C)) Receipt of an alternative joint recommendation may also trigger a DOE withdrawal of the direct final rule in the same manner. (*Id.*)

DOE has previously explained its interpretation of its direct final rule authority. In a final rule amending the Department's ''Procedures, Interpretations and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products'' at 10 CFR part 430, subpart C, appendix A, DOE noted that it may issue standards recommended by interested persons that are fairly representative of relative points of view as a direct final rule when the recommended standards are in accordance with 42 U.S.C. 6295(o) or 6313(a)(6)(B), as applicable. 86 FR 70892, 70912 (Dec. 13, 2021). But the direct final rule provision in EPCA does not impose additional requirements applicable to other standards rulemakings, which is consistent with the unique circumstances of rules issued as consensus agreements under DOE's direct final rule authority. *Id.* DOE's discretion remains bounded by its statutory mandate to adopt a standard that results in the maximum improvement in energy efficiency that is technologically feasible and economically justified—a requirement found in 42 U.S.C. 6295(o). *Id.* As such, DOE's review and analysis of the Joint Agreement is limited to whether the recommended standards satisfy the criteria in 42 U.S.C. 6295(o).

B. Background

1. Current Standards

In a final rule published on September 15, 2011 (''September 2011 Final Rule''), DOE prescribed the current energy conservation standards for refrigerators, refrigerator-freezers, and freezers manufactured on and after September 15, 2014. 76 FR 57516. These standards are set forth in DOE's regulations at 10 CFR 430.32(a).

2. Current Test Procedure

On December 23, 2019, DOE published a test procedure NOPR (''December 2019 TP NOPR'') proposing to amend residential refrigerator, refrigerator-freezer, and freezer test procedure. 84 FR 70842. On October 12, 2021, DOE published a test procedure final rule (''October 2021 TP Final Rule'') establishing test procedures for refrigerators, refrigerator-freezers, and freezers, at 10 CFR part 430, subpart B, appendices A (''appendix A'') and B (''appendix B''). 86 FR 56790. The test procedure adopted the latest version of the relevant industry standard published by the Association of Home Appliance Manufacturers (''AHAM''), updated in 2019, AHAM Standard HRF–1, ''Energy and Internal Volume of Refrigerating Appliances'' (''HRF–1–2019''). 10 CFR 430.3(i)(4). The standard levels proposed in the NOPR are based on the annual energy use (''AEU'') metrics as measured according to appendices A and B.

History of Standards Rulemaking for Consumer Refrigerators, Refrigerator-Freezers, and Freezers

The National Appliance Energy Conservation Act of 1987 (''NAECA''), Public Law 100–12, amended EPCA to establish prescriptive standards for refrigeration products, with requirements that DOE conduct two cycles of rulemakings to determine whether to amend these standards (42 U.S.C. 6295 (b)(1), (2), (3)(A)(i), and (3)(B)–(C)). DOE completed the first of these rulemaking cycles in 1989 and 1990 by adopting amended performance standards for all refrigeration products manufactured on or after January 1, 1993. 54 FR 47916 (November 17, 1989); 55 FR 42845 (October 24, 1990). DOE completed a second rulemaking cycle to amend the standards for refrigeration products by issuing a final rule in 1997, which adopted the current standards for these products. 62 FR 23102 (April 28, 1997).

In 2005, DOE granted a petition, submitted by a coalition of state governments, utility companies, consumer and low-income advocacy groups, and environmental and energy efficiency organizations, requesting a rulemaking to amend the standards for residential refrigerator-freezers. DOE then conducted limited analyses to examine the technological and economic feasibility of amended standards at the ENERGY STAR levels that were in effect for 2005 for the two most popular product classes of refrigerator-freezers. These analyses not only identified potential energy savings, benefits, and burdens from such standards, but also assessed other issues related to them.

DOE initiated a rulemaking and also published a notice announcing the availability of the framework document and a public meeting to discuss the document in September 2008. It also requested public comment on the published document. 73 FR 54089 (September 18, 2008). The framework document described the procedural and analytical approaches that DOE anticipated using to evaluate energy conservation standards for refrigeration products and identified various issues to resolve during the rulemaking. DOE published a final rule on September 15, 2011, to satisfy the statutory requirement that DOE publish a final rule to determine whether to amend the standards for refrigeration products manufactured in 2014. (42 U.S.C. 6295(b)(4)) The limited 2005 analyses served as background for the more extensive analysis conducted for final

rule published on September 15, 2011. 76 FR 57516.

4. The Joint Agreement

On September 25, 2023, DOE received a joint statement (*i.e.,* the Joint Agreement) recommending standards for refrigerators, refrigerator-freezers, and freezers that was submitted by groups representing manufacturers, energy and environmental advocates, consumer groups, and a utility.[19] In addition to the recommended standards for refrigerators, refrigerator-freezers, and freezers, the Joint Agreement also included separate recommendations for several other covered products.[20] And, while acknowledging that DOE may implement these recommendations in separate rulemakings, the Joint Agreement also stated that the recommendations were recommended as a complete package and each recommendation is contingent upon the other parts being implemented. DOE understands this to mean that the Joint Agreement is contingent upon DOE initiating rulemaking processes to adopt all of the recommended standards in the agreement. That is distinguished from an agreement where issuance of an amended energy conservation standard for a covered product is contingent on issuance of amended energy conservation standards for the other covered products. If the Joint Agreement were so construed, it would conflict with the anti-backsliding provision in 42 U.S.C. 6295(o)(1), because it would imply the possibility that, if DOE were unable to issue an amended standard for a certain product, it would have to withdraw a previously issued standard for one of the other products. The anti-backsliding provision, however, prevents DOE from withdrawing or amending an energy conservation standard to be less stringent. As a result, DOE will be proceeding with individual rulemakings that will evaluate each of the recommended standards separately under the applicable statutory criteria. The Joint Agreement recommends amended standard levels for refrigerators, refrigerator-freezers, and freezers as presented in Table II.3. (Joint Agreement, No. 103 at p. 4) Details of the Joint Agreement recommendations for other products are provided in the Joint Agreement posted in the docket.[21]

TABLE II.3—RECOMMENDED AMENDED ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

Product class	Level (Based on AV (ft^3))	Compliance date
1. Refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	6.79AV + 191.3	January 31, 2030.
1A. All-refrigerators—manual defrost	5.77AV + 164.6.	
2. Refrigerator-freezers—partial automatic defrost	(6.79AV + 191.3)*K2.	
3. Refrigerator-freezers—automatic defrost with top-mounted freezer.	6.86AV + 198.6 +28I.	
3A. All-refrigerators—automatic defrost	(6.01AV + 171.4)*K3A.	
4. Refrigerator-freezers—automatic defrost with side-mounted freezer.	7.28AV + 254.9	January 31, 2030.
5. Refrigerator-freezers—automatic defrost with bottom-mounted freezer.	(7.61AV +272.6)*K5 + 28I	January 31, 2030.
5A. Refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(7.76AV + 351.9)*K5A	January 31, 2029.
6. Refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service.	7.14AV + 280.0	January 31, 2030.
7. Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	(7.31AV + 322.5)*K7	January 31, 2030.
8. Upright freezers with manual defrost	5.57AV + 193.7	January 31, 2029.
9. Upright freezers with automatic defrost	7.33AV + 194.1 + 28I	January 31, 2030.
10. Chest freezers and all other freezers except compact freezers	7.29AV + 107.8	January 31, 2029.
10A. Chest freezers with automatic defrost	10.24AV + 148.1	January 31, 2029.
11. Compact refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	7.68AV + 214.5	January 31, 2029.
11A. Compact all-refrigerators—manual defrost	6.66AV + 186.2.	
12. Compact refrigerator-freezers—partial automatic defrost	(5.32AV + 302.2)*K12	January 31, 2029.
13. Compact refrigerator-freezers—automatic defrost with top-mounted freezer.	10.62AV + 305.3 +28I	January 31, 2029.
13A. Compact all-refrigerators—automatic defrost	(8.25AV + 233.4)*K13A.	
14. Compact refrigerator-freezers—automatic defrost with side-mounted freezer.	6.14AV + 411.2 + 28I.	
15. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer.	10.62AV + 305.3 + 28I.	
16. Compact upright freezers with manual defrost	7.35AV + 191.8	January 31, 2029.
17. Compact upright freezers with automatic defrost	9.15AV + 316.7	January 31, 2029.
18. Compact chest freezers	7.86AV + 107.8	January 31, 2029.

[19] The signatories to the Joint Agreement include AHAM, American Council for an Energy-Efficient Economy, Alliance for Water Efficiency, Appliance Standards Awareness Project, Consumer Federation of America, Consumer Reports, Earthjustice, National Consumer Law Center, Natural Resources Defense Council, Northwest Energy Efficiency Alliance, and Pacific Gas and Electric Company. Members of AHAM's Major Appliance Division that manufacture the affected products include: Alliance Laundry Systems, LLC; Asko Appliances AB; Beko US Inc.; Brown Stove Works, Inc.; BSH; Danby Products, Ltd.; Electrolux Home Products, Inc.; Elicamex S.A. de C.V.; Faber; Fotile America; GEA, a Haier Company; L'Atelier Paris Haute Design LLG; LG Electronics USA; Liebherr USA, Co.; Midea America Corp.; Miele, Inc.; Panasonic Appliances Refrigeration Systems (PAPRSA) Corporation of America; Perlick Corporation; Samsung; Sharp Electronics Corporation; Smeg S.p.A; Sub-Zero Group, Inc.; The Middleby Corporation; U-Line Corporation; Viking Range, LLC; and Whirlpool.

[20] The Joint Agreement contained recommendations for 6 covered products: refrigerators, refrigerator-freezers, and freezers; clothes washers; clothes dryers; dishwashers; cooking products; and miscellaneous refrigeration products.

[21] The term sheet is available in the docket at: *www.regulations.gov/document/EERE-2017-BT-STD-0003-0103*.

TABLE II.3—RECOMMENDED AMENDED ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS—Continued

Product class	Level (Based on AV (ft^3))	Compliance date
3–BI. Built-in refrigerator-freezer—automatic defrost with top-mounted freezer.	8.24AV + 238.4 + 28I	January 31, 2029.
3A–BI. Built-in All-refrigerators—automatic defrost	(7.22AV + 205.7)*K3ABI.	
4–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	8.79AV + 307.4 + 28I	January 31, 2029.
5–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer.	(8.65AV + 309.9)*K5BI + 28I	January 31, 2029.
5A–BI. Built-in refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(8.21AV + 370.7)*K5ABI	January 31, 2029.
7–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	(8.82AV + 384.1)*K7BI	January 31, 2029.
9–BI. Built-In Upright freezers with automatic defrost	9.37AV + 247.9 + 28I	January 31, 2029.
9A–BI. NEW PRODUCT CLASS: Upright built-in freezer w/auto defrost and through-door-ice.	9.86AV + 288.9	January 31, 2029.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of 10 CFR part 430.
Av = Total adjusted volume, expressed in Liters.
I = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker. Door Coefficients (*e.g.,* K3A) are as defined in Table I.2.

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K2	N/A	N/A	1 + 0.02 * ($N_d - 1$).
K3A	1.10	N/A	N/A.
K3ABI	1.10	N/A	N/A.
K13A	1.10	N/A	N/A.
K4	1.10	1.06	1 + 0.02 * ($N_d - 2$).
K4BI	1.10	1.06	1 + 0.02 * ($N_d - 2$).
K5	1.10	1.06	1 + 0.02 * ($N_d - 2$).
K5BI	1.10	1.06	1 + 0.02 * ($N_d - 2$).
K5A	1.10	1.06	1 + 0.02 * ($N_d - 3$).
K5ABI	1.10	1.06	1 + 0.02 * ($N_d - 3$).
K7	1.10	1.06	1 + 0.02 * ($N_d - 2$).
K7BI	1.10	1.06	1 + 0.02 * ($N_d - 2$).
K9	N/A	N/A	1 + 0.02 * ($N_d - 1$).
K9BI	N/A	N/A	1 + 0.02 * ($N_d - 1$).
K12	N/A	N/A	1 + 0.02 * ($N_d - 1$).

Note: N_d is the number of external doors.

DOE notes that it was conducting a rulemaking to consider amending the standards for refrigerators, refrigerator-freezers, and freezers when the Joint Agreement was submitted. As part of that process, on February 27, 2023, DOE published a NOPR and announced a public webinar (''February 2023 NOPR'') seeking comment on its proposed amended standard to inform its decision consistent with its obligations under EPCA and the Administrative Procedure Act (''APA''). 88 FR 12452. DOE held a public webinar on April 11, 2023, to discuss and receive comments on the NOPR and NOPR TSD. The NOPR TSD is available at: *www.regulations.gov/document/EERE-2017-BT-STD-0003-0045.*

Although DOE is adopting the Joint Agreement as a direct final rule and no longer proceeding with its own rulemaking, DOE did consider relevant comments, data, and information obtained during that rulemaking process in determining whether the recommended standards from the Joint Agreement are in accordance with 42 U.S.C. 6295(o). Any discussion of comments, data, or information in this direct final rule that were obtained during DOE's own prior rulemaking will include a parenthetical reference that provides the location of the item in the public record.[22]

III. General Discussion

DOE is issuing this direct final rule after determining that the recommended standards submitted in the Joint Agreement meet the requirements in 42 U.S.C. 6295(p)(4). More specifically, DOE has determined that the recommended standards were submitted by interested persons that are fairly representative of relevant points of view and the recommended standards satisfy the criteria in 42 U.S.C. 6295(o).

A. Scope of Coverage

This direct final rule covers those consumer products that meet the definition of ''refrigerator, refrigerator-freezer, and freezer'' as codified at 10 CFR 430.2.

When evaluating and establishing energy conservation standards, DOE divides covered products into product classes by the type of energy used, or by capacity, or based upon performance-related features that justify a higher or lower standard. (42 U.S.C. 6295(q)) In making a determination whether a performance-related feature justifies a

[22] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop energy conservation standards for refrigerators, refrigerator-freezers, and freezers (Docket No. EERE–2017–BT–STD–0003, which is maintained at *www.regulations.gov*). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

different standard, DOE must consider such factors as the utility of the feature to the consumer and other factors DOE determines are appropriate. *Id.*

The Joint Agreement proposed special door and multi-door energy allowances for product classes if manufacturers offer models with those features. Energy allowances applied to energy use equations correspond to performance-related features that would then justify new product classes for those configurations with special door and multi-door designs. The proposed approach also embeds within the energy use equations the difference between classes that are otherwise identical except for presence of an icemaker, using a logical variable I (equal to 1 for a product with an icemaker and equal to 0 for a product without an icemaker) multiplied by the constant icemaker energy use adder.

The structure simplification and amendments in the Joint Agreement are consistent with those proposed by DOE in the February 2023 NOPR. Based on the comments received in response to the February 2023 NOPR and DOE's evaluation of the Joint Agreement, the direct final rule adopts these changes. *See* section IV.A.1 of this document for further detail and discussion regarding the product classes analyzed in this direct final rule.

B. Fairly Representative of Relevant Points of View

Under the direct final rule provision in EPCA, recommended energy conservation standards must be submitted by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates) as determined by DOE. (42 U.S.C. 6295(p)(4)(A)) With respect to this requirement, DOE notes that the Joint Agreement included a trade association, AHAM, which represents 20 manufacturers of refrigerators, refrigerator-freezers, and freezers. The Joint Agreement also included environmental and energy-efficiency advocacy organizations, consumer advocacy organizations, and a gas and electric utility company. Additionally, DOE received a letter in support of the Joint Agreement from the States of New York, California, and Massachusetts (*see* comment No. 104). DOE also received a letter in support of the Joint Agreement from the gas and electric utility, SDG&E, and the electric utility, SCE (*see* comment No. 107). As a result, DOE has determined that the Joint Agreement was submitted by interested persons who are fairly representative of relevant points of view.

C. Technological Feasibility

1. General

In each energy conservation standards rulemaking, DOE conducts a screening analysis based on information gathered on all current technology options and prototype designs that could improve the efficiency of the products or equipment that are the subject of the rulemaking. As the first step in such an analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of those means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercially available products or in working prototypes to be technologically feasible. Sections 6(b)(3)(i) and 7(b)(1) of appendix A to 10 CFR part 430, subpart C (''Process Rule'').

After DOE has determined that particular technology options are technologically feasible, it further evaluates each technology option in light of the following additional screening criteria: (1) practicability to manufacture, install, and service; (2) adverse impacts on product utility or availability; (3) adverse impacts on health or safety and (4) unique-pathway proprietary technologies. Section 7(b)(2)–(5) of the Process Rule. Section IV.B of this document discusses the results of the screening analysis for refrigerators, refrigerator-freezers, and freezers, particularly the designs DOE considered, those it screened out, and those that are the basis for the standards considered in this rulemaking. For further details on the screening analysis for this rulemaking, *see* chapter 4 of the direct final rule TSD.

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt an amended standard for a type or class of covered product, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such product. (42 U.S.C. 6295(o)(2)(A)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for refrigerators, refrigerator-freezers, and freezers, using the design parameters for the most efficient products available on the market or in working prototypes. The max-tech levels that DOE determined for this rulemaking are described in section IV.C of this document and in chapter 5 of the direct final rule TSD.

D. Energy Savings

1. Determination of Savings

For each trial standard level (''TSL''), DOE projected energy savings from application of the TSL to refrigerators, refrigerator-freezers, and freezers purchased in the 30-year period that begins in the year of compliance with the amended standards (2027–2056 for all TSLs other than TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2).[23] The savings are measured over the entire lifetime of products purchased in the 30-year analysis period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the no-new-standards case. The no-new-standards case represents a projection of energy consumption that reflects how the market for a product would likely evolve in the absence of amended energy conservation standards.

DOE used its national impact analysis (''NIA'') spreadsheet models to estimate national energy savings (''NES'') from potential amended standards for refrigerators, refrigerator-freezers, and freezers. The NIA spreadsheet model (described in section IV.H of this document) calculates energy savings in terms of site energy, which is the energy directly consumed by products at the locations where they are used. For electricity, DOE reports national energy savings in terms of primary energy savings, which is the savings in the energy that is used to generate and transmit the site electricity. For natural gas, the primary energy savings are considered to be equal to the site energy savings. DOE also calculates NES in terms of full-fuel cycle (''FFC'') energy savings. The FFC metric includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy conservation standards.[24] DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered products or

[23] DOE also presents a sensitivity analysis that considers impacts for products shipped in a 9-year period.

[24] The FFC metric is discussed in DOE's statement of policy and notice of policy amendment. 76 FR 51282 (Aug. 18, 2011), as amended at 77 FR 49701 (Aug. 17, 2012).

equipment. For more information on FFC energy savings, *see* section IV.H.2 of this document.

2. Significance of Savings

To adopt any new or amended standards for a covered product, DOE must determine that such action would result in significant energy savings. (42 U.S.C. 6295(o)(3)(B))

The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking.[25] For example, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than products with relatively constant demand. However, residential refrigerators, freezers, and refrigerator-freezers have loads that are more consistent throughout the year. Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis, taking into account the significance of cumulative FFC national energy savings, the cumulative FFC emissions reductions, and the need to confront the global climate crisis, among other factors.

As stated, the standard levels adopted in this direct final rule are projected to result in national energy savings of 5.6 quads (FFC), the equivalent of the primary annual energy use of 37 million homes. Based on the amount of FFC savings, the corresponding reduction in emissions, and need to confront the global climate crisis, DOE has determined the energy savings from the standard levels adopted in this direct final rule are ''significant'' within the meaning of 42 U.S.C. 6295(o)(3)(B).

E. Economic Justification

1. Specific Criteria

As noted previously, EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII)) The following sections discuss how DOE has addressed each of those seven factors in this rulemaking.

a. Economic Impact on Manufacturers and Consumers

In determining the impacts of potential amended standards on manufacturers, DOE conducts an MIA, as discussed in section IV.J of this document. DOE first uses an annual cash flow approach to determine the quantitative impacts. This step includes both a short-term assessment—based on the cost and capital requirements during the period between when a regulation is issued and when entities must comply with the regulation—and a long-term assessment over a 30-year period. The industry-wide impacts analyzed include (1) INPV, which values the industry on the basis of expected future cash flows; (2) cash flows by year; (3) changes in revenue and income; and (4) other measures of impact, as appropriate. Second, DOE analyzes and reports the impacts on different types of manufacturers, including impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers.

For individual consumers, measures of economic impact include the changes in LCC and payback period (''PBP'') associated with new or amended standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national net present value of the consumer costs and benefits expected to result from particular standards. DOE also evaluates the impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a standard.

b. Savings in Operating Costs Compared To Increase in Price (LCC and PBP)

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered product that are likely to result from a standard. (42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE conducts this comparison in its LCC and PBP analysis.

The LCC is the sum of the purchase price of a product (including its installation) and the operating cost (including energy, maintenance, and repair expenditures) discounted over the lifetime of the product. The LCC analysis requires a variety of inputs, such as product prices, product energy consumption, energy prices, maintenance and repair costs, product lifetime, and discount rates appropriate for consumers. To account for uncertainty and variability in specific inputs, such as product lifetime and discount rate, DOE uses a distribution of values, with probabilities attached to each value.

The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost due to a more stringent standard by the change in annual operating cost for the year that standards are assumed to take effect.

For its LCC and PBP analysis, DOE assumes that consumers will purchase the covered products in the first year of compliance with new or amended standards. The LCC savings for the considered efficiency levels are calculated relative to the case that reflects projected market trends in the absence of new or amended standards. DOE's LCC and PBP analysis is discussed in further detail in section IV.F of this document.

c. Energy Savings

Although significant conservation of energy is a separate statutory requirement for adopting an energy conservation standard, EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6295(o)(2)(B)(i)(III)) As discussed in section IV.H of this document, DOE uses the NIA spreadsheet models to project national energy savings.

d. Lessening of Utility or Performance of Products

In evaluating design options and the impact of potential standard levels, DOE evaluates potential standards that would not lessen the utility or performance of the considered products. (42 U.S.C. 6295(o)(2)(B)(i)(IV)) Based on data available to DOE, the standards adopted in this document would not reduce the utility or performance of the products under consideration in this rulemaking.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from a standard. (42 U.S.C. 6295(o)(2)(B)(i)(V)) It also directs the Attorney General to determine the impact, if any, of any lessening of

[25] Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment, 86 FR 70892, 70901 (Dec. 13, 2021).

competition likely to result from a standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(ii)) DOE will transmit a copy of this direct final rule to the Attorney General with a request that the Department of Justice (''DOJ'') provide its determination on this issue. DOE will consider DOJ's comments on the rule in determining whether to withdraw the direct final rule. DOE will also publish and respond to the DOJ's comments in the **Federal Register** in a separate document.

f. Need for National Energy Conservation

DOE also considers the need for national energy and water conservation in determining whether a new or amended standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)(VI)) The energy savings from the adopted standards are likely to provide improvements to the security and reliability of the Nation's energy system. Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the Nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the Nation's needed power generation capacity, as discussed in section IV.M of this document.

DOE maintains that environmental and public health benefits associated with the more efficient use of energy are important to take into account when considering the need for national energy conservation. The adopted standards are likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases (''GHGs'') associated with energy production and use. DOE conducts an emissions analysis to estimate how potential standards may affect these emissions, as discussed in section IV.K of this document; the estimated emissions impacts are reported in section V.B.6 of this document. DOE also estimates the economic value of emissions reductions resulting from the considered TSLs, as discussed in section IV.L of this document.

g. Other Factors

In determining whether an energy conservation standard is economically justified, DOE may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII)) To the extent DOE identifies any relevant information regarding economic justification that does not fit into the other categories described previously, DOE could consider such information under ''other factors.''

2. Rebuttable Presumption

As set forth in 42 U.S.C. 6295(o)(2)(B)(iii), EPCA creates a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the consumer of a product that meets the standard is less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable DOE test procedure. DOE's LCC and PBP analyses generate values used to calculate the effect potential amended energy conservation standards would have on the payback period for consumers. These analyses include, but are not limited to, the 3-year payback period contemplated under the rebuttable-presumption test. In addition, DOE routinely conducts an economic analysis that considers the full range of impacts to consumers, manufacturers, the Nation, and the environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE's evaluation of the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable-presumption payback calculation is discussed in section IV.F of this document.

IV. Methodology and Discussion of Related Comments

This section addresses the analyses DOE has performed for this rulemaking with regard to refrigerators, refrigerator-freezers, and freezers. Separate subsections address each component of DOE's analyses, including relevant comments DOE received during its separate rulemaking to amend the energy conservation standards for refrigerators, refrigerator-freezers, and freezers prior to receiving the Joint Agreement.

DOE used several analytical tools to estimate the impact of the standards considered in this document. The first tool is a spreadsheet that calculates the LCC savings and PBP of potential amended or new energy conservation standards. The national impacts analysis uses a second spreadsheet set that provides shipments projections and calculates national energy savings and net present value of total consumer costs and savings expected to result from potential energy conservation standards. DOE uses the third spreadsheet tool, the Government Regulatory Impact Model (''GRIM''), to assess manufacturer impacts of potential standards. These three spreadsheet tools are available on the DOE website for this rulemaking: *www.regulations.gov/docket/EERE-2017-BT-STD-0003.* Additionally, DOE used output from the latest version of the Energy Information Administration's (''EIA's'') *Annual Energy Outlook* (''*AEO*'') for the emissions and utility impact analyses.

A. Market and Technology Assessment

DOE develops information in the market and technology assessment that provides an overall picture of the market for the products concerned, including the purpose of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment for this rulemaking include (1) a determination of the scope of the rulemaking and product classes, (2) manufacturers and industry structure, (3) existing efficiency programs, (4) shipments information, (5) market and industry trends, and (6) technologies or design options that could improve the energy efficiency of refrigerators, refrigerator-freezers, and freezers. The key findings of DOE's market assessment are summarized in the following sections. *See* chapter 3 of the direct final rule TSD for further discussion of the market and technology assessment.

1. Product Classes

The Joint Agreement specifies 32 product classes for refrigerators, refrigerator-freezers, and freezers. (Joint Agreement, No. 103 at p. 15–16) In particular, the Joint Agreement recommends a consolidated product class representation which incorporates icemaker energy adders and door allowances into the energy use equations for product classes in which they are applicable. In addition, the Join Agreement proposes a new product class—upright built-in freezers with automatic defrost and through-the-door ice service (''9A–BI''). (*Id.*) In this direct final rule, DOE is adopting the product classes from the Joint Agreement, as listed in Table IV.1.

TABLE IV.1—RECOMMENDED AMENDED ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

Product class
1. Refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.
1A. All-refrigerators—manual defrost.
2. Refrigerator-freezers—partial automatic defrost.
3. Refrigerator-freezers—automatic defrost with top-mounted freezer.
3A. All-refrigerators—automatic defrost.
4. Refrigerator-freezers—automatic defrost with side-mounted freezer.
5. Refrigerator-freezers—automatic defrost with bottom-mounted freezer.
5A. Refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.
6. Refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service.
7. Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.
8. Upright freezers with manual defrost.
9. Upright freezers with automatic defrost.
10. Chest freezers and all other freezers except compact freezers.
10A. Chest freezers with automatic defrost.
11. Compact refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.
11A. Compact all-refrigerators—manual defrost.
12. Compact refrigerator-freezers—partial automatic defrost.
13. Compact refrigerator-freezers—automatic defrost with top-mounted freezer.
13A. Compact all-refrigerators—automatic defrost
14. Compact refrigerator-freezers—automatic defrost with side-mounted freezer.
15. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer.
16. Compact upright freezers with manual defrost.
17. Compact upright freezers with automatic defrost.
18. Compact chest freezers.
3–BI. Built-in refrigerator-freezer—automatic defrost with top-mounted freezer.
3A–BI. Built-in All-refrigerators—automatic defrost.
4–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.
5–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer.
5A–BI. Built-in refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.
7–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.
9–BI. Built-In Upright freezers with automatic defrost.
9A–BI. NEW PRODUCT CLASS: Upright built-in freezer w/auto defrost and through-door-ice.

DOE further notes that product classes established through EPCA's direct final rule authority are not subject to the criteria specified at 42 U.S.C. 6295(q)(1) for establishing product classes. Nevertheless, in accordance with 42 U.S.C. 6295(o)(4)—which is applicable to direct final rules—DOE has concluded that the standards adopted in this direct final rule will not result in the unavailability in any covered product type (or class) of performance characteristics, features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States currently.[26] DOE's findings in this regard are discussed in detail in section V.B.4 of this document.

[26] EPCA specifies that DOE may not prescribe an amended or new standard if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. (42 U.S.C. 6295(o)(4))

a. Product Classes With Automatic Icemakers

The Joint Agreement includes a proposed simplification of maximum allowable energy and would express the maximum allowable energy use for both icemaking and non-icemaking classes in the same equation, thus consolidating the presentation of classes and their energy conservation standards. The energy use equations will, for those classes that may or may not have an icemaker, include a term equal to the icemaking energy use adder multiplied by a factor that is defined to equal 1 for products with icemakers and to equal zero for products without icemakers. This approach does not combine classes that are the same other than the presence of an icemaker, but does simplify the list of classes and representation of their maximum allowable energy use, providing for each set of classes with and without ice makers a single equation for maximum energy use. (88 FR 12452)

DOE is adopting the Joint Agreement proposal to express the maximum allowable energy use for any set of classes differing only in whether the class includes an icemaker or not within a single equation. The single equation does this by including the icemaker energy use adder multiplied by logical variable I that is set equal to 1 for a product with an icemaker present and 0 for a product without an icemaker.

b. Special Door and Multi-Door Designs

The Joint Agreement made recommendations to establish new product classes for models that implement special and multi-door designs. The standards for these product classes include energy allowances (*i.e.,* specific increases in maximum allowable energy use) corresponding to the specific performance-related features (*i.e.,* door-in-door designs, transparent doors, and multi-door designs). The allowances include a 2-percent energy use allowance for each externally opening door in excess of the typical minimum for the class, a 6-percent total energy use allowance for a product with a door-in-door feature implemented in one or more of its doors, and a 10-percent total energy use allowance for a product with a transparent door or doors.

In this direct final rule, DOE is implementing the recommended special door and multi-door energy allowances. DOE's direct rulemaking authority under 42 U.S.C. 6295(p)(4) is constrained only by the requirements of 42 U.S.C. 6295(o), which does not include the product class requirements in 42 U.S.C. 6295(q). DOE is relying on the product classes provided in the Joint Agreement for consideration in this rule, but DOE notes that special doors (*i.e.,* transparent doors and door-in-door features) and multi-door setups constitute performance-related features that provide consumer utility when implemented. Transparent doors allow for partial view into the interior of fresh food compartments without the need for a door opening. Door-in-door features generally allow for access to a partially separated fresh food compartment without the need to fully expose the main interior fresh food compartment. Multi-door setups provide at least one additional externally opening door accessing either an existing compartment or a separate compartment, thus providing additional options for storage and access to food for the consumer.

Furthermore, DOE's analysis of these features suggests that special door and multi-door designs impact energy usage with some combinations accounting for additional energy consumption of up to 25 percent (based on CERA simulations).[27] DOE notes that the additional energy usage results from additional thermal load associated with additional gasket length necessary for multi-door and door-in-door features, and associated with the higher thermal conductivity of transparent doors compared to solid doors of the same size. DOE also proposed similar special door and multi-door energy allowances in the February 2023 NOPR and finds that the recommended allowances in the Joint Agreement are justifiable on a similar basis in light of the analysis DOE performed to develop the allowances proposed in the NOPR. *See* chapter 5 of the direct final rule TSD for more information on DOE's analysis of special door and multi-door features.

[27] CERA is an updated version of the Environmental Protection Agency's Refrigerator Analysis (''ERA'') program. Earlier versions have been used in previous refrigerator, refrigerator-freezer, and freezer energy conservation standards rulemaking. CERA allows for the simulation of thermal load on refrigerators, refrigerator-freezers, and freezers based of the inputs given for various parameters including cabinet design, compartment dimensions, door design, operating temperatures, controls, anti-sweat heat, and more. More information regarding the software is found in the direct final rule TSD.

For the reasons previously discussed, DOE is adopting the Joint Agreement recommendations to establish new product classes for models that implement special and multi-door designs.

Energy Use Allowance—Application

AHAM, Sub Zero Group, Inc. (''Sub Zero''), and Samsung also recommended that DOE apply the door coefficient to PC 4, PC 4–BI, PC 9, and PC 9–BI, as these classes have products offering multi-door setups or special doors that provide similar customer utility. (AHAM, No. 69 at p. 8; Sub Zero, No. 77 at p. 4; Samsung, No. 78 at p. 3) True Manufacturing (''TRUE'') similarly stated that PC 4I and PC 4, and any other product classes with transparent doors, should have the same transparent door allowance as PC 5A and PC 5. (TRUE, No. 57 at pp. 1–2)

DOE's assessment regarding the energy impact of designs featuring multi-door and special door setups warranted the proposal of energy allowances for classes where such features are offered. DOE reviewed the market and requested input from commenters related to existing models on the market in an effort to assess the prevalence of multi-door designs or special doors in products on the market today and concluded that there likely exist such models in PC 4I, PC 4I–BI, PC 9, and PC 9–BI that implement multi-door setups, special doors, or both. Therefore, DOE is adopting the multi-door and transparent door energy allowances for PC 4, PC 4I, PC 4–BI, PC 4I–BI, PC 9, and PC 9–BI consistent with feature availability. PC 4, PC 4I, PC 4–BI, and PC 4I–BI will be eligible for transparent door and multi-door allowances, while PC 9, and PC 9–BI will be eligible for the multi-door allowance. The magnitude and application of the allowances adopted for the aforementioned product classes are consistent with those recommended in the Joint Agreement. DOE notes that PC 4 and PC 4–BI will be eligible for a 2 percent allowance for each additional door for products without a transparent door or door-in-door with added external doors, a 6 percent allowance for products without a transparent door with a door-in-door, or a 10 percent transparent door allowance for the use of a qualifying transparent door. PC 9 and PC 9–BI will be eligible for a 2 percent allowance for each additional door up to two additional doors.

Energy Use Allowance—Definitions

The Joint Agreement includes the following recommended definition for a transparent door:

- *Transparent door* means a door for which 40 percent or more of the surface area—as determined based on the area of the transparent portion of the door divided by the product of the maximum width and height dimension of the door—is transparent to allow viewing into the refrigerated compartment.
- *Conceptually,* the parties recommend that DOE clarify that products with only very small door or drawers that are transparent should not be included in this definition—*i.e.,* the door must be large enough to justify the allowance.

Upon further consideration of the February 2023 NOPR proposed transparent door definition, the feedback received from stakeholders, and the Joint Agreement submitted by interested parties, including AHAM, DOE conducted further market research into available models with transparent panels, generating a list of models from various manufacturers and product classes representative of the units currently on the market that implement transparent doors. From this list, DOE determined transparent panel and door area based on product literature, in-person measurements, or use of scaled photographs. DOE then determined the percentage of the door covered by the transparent area for each model considered. DOE found that the transparent door on a French door configuration typically had roughly 40 percent or more of the total outer door area transparent, consistent with the percentage recommended in the Joint Agreement. Other configurations, such as two door bottom-mount refrigerator-freezers and compact refrigerators had 54 percent or more of their outer door area transparent. Based on this assessment and consideration of the Joint Agreement recommendations, DOE is adopting a modified definition from the February 2023 NOPR for transparent doors to better align with the products on the market, as follows:

Transparent door means an external fresh food compartment door which meets the following criteria:

- The area of the transparent portion of the door is at least 40 percent of the area of the door.
- The area of the door is at least 50 percent of the sum of the areas of all the external doors providing access to the fresh food compartments and cooler compartments.
- For the purposes of this evaluation, the area of a door is determined as the product of the maximum height and maximum width dimensions of the door, not considering potential extension of flaps used to provide a seal to adjacent doors.

DOE notes that this amended transparent door definition not only aligns with the typical implementation on the market, as previously described, but also is a more straightforward approach compared to those recommended and referenced by commenters. Specifically, DOE expects that the suggested approach based on the internal cabinet dimensions has some potential for questions about interpretation, given the fact that the interior dimensions could vary from the front of the cabinet to the rear. This could lead to varying internal cabinet area determinations. Therefore, in order to eliminate this potential variation, DOE is adopting the above definition and approach that simplifies the determination of the transparent door area by measuring and determining the area of the transparent portion divided by the product of the maximum height and width dimensions of the door.

Energy Use Allowance—Summary

In summary, in this direct final rule DOE is adopting the multi-door and special door energy use allowances as proposed in the Joint Agreement, with the specified amendments as previously discussed.

c. Addition of Product Class 9A–BI

The Joint Agreement recommends the addition of a new product class 9A–BI (*i.e.,* built-in upright freezers with automatic defrost and with through-the-door ice service) and specific energy efficiency standards for the new product class. The current energy conservation standards for freezers do not include a separate product class for products of this configuration, and DOE has not previously considered establishing a separate product class for them because it has not been aware of the existence of such products on the market, nor has it previously been notified by any manufacturer of the potential introduction of such a product. Under the current product class structure, any such product would most appropriately fit into current class 9I–BI (*i.e.,* built-in upright freezers with automatic defrost with an automatic icemaker), since there is no class that fits this description and also has through-the-door ice service. Hence, in the absence of a product class for this configuration, such products would be subject to the current PC 9I–BI standards, which would, under the approach for designating classes and standards provided in this direct final rule, correspond to class grouping 9–BI with the icemaker variable I in the standards equation equal to 1, indicating addition of the 28 kWh/year icemaker energy use.

Considering that the recommendation carries support from a broad cross-section of interests, including trade associations representing these manufacturers, environmental and energy-efficiency advocacy organizations, consumer advocates, and electric utility providers as well as the support of several States, DOE believes it appropriate to adopt this new product class, 9A–BI. DOE notes that the addition of a PC 9A–BI, as suggested by the Joint Agreement, is warranted as the application of a through-the-door icemaker constitutes a performance related feature with consumer utility and is likely to be introduced on the market in the near future.

DOE notes the standard as recommended by the Joint Agreement for PC 9A–BI is 5 percent higher than that of PC 9I–BI (built-in upright freezers with automatic defrost with an automatic icemaker). When considering class 9A–BI and 9I–BI, the key difference is the addition of through-the-door ice service, and the potential additional thermal load associated with its addition. Therefore, the 5 percent adjustment between 9I–BI and 9A–BI can be attributed mainly to the addition of through-the-door ice service. When comparing recommended standards to other product classes in which the key difference is the addition of through-the-door ice (*i.e.,* 5I vs. 5A and 4I vs. 7), the 5 percent adjustment remains consistent with DOE's adopted standards. As a result of this consistency, DOE believes the recommended standard is appropriate in its application.

Given the indication from the aforementioned stakeholders that such a product class standard would be beneficial in its implementation, the classification of through-the-door ice as a performance related feature, and the recommendation's consistency with the other adopted standards, DOE is adopting a PC 9A–BI standard in this direct final rule.

See section V of this document for more information regarding the TSL configuration and discussion of the adopted level for this product class. *See* chapter 5 of the direct final rule TSD for more discussion regarding the addition of this product class.

2. Technology Options

In the preliminary market analysis and technology assessment, DOE identified 37 technology options initially determined to improve the efficiency of refrigerators, refrigerator-freezers, and freezers, as measured by the DOE test procedure:

TABLE IV.1—TECHNOLOGY OPTIONS IDENTIFIED IN THE NOPR

Insulation:
1. Improved resistivity of insulation (insulation type).
2. Inert blowing fluid CO2.
3. Increased insulation thickness.
4. Gas-filled insulation panels.
5. Vacuum-insulated panels (''VIP'').

Gasket and Door Design:
6. Improved gaskets.
7. Double door gaskets.
8. Improved door face frame.
9. Reduced heat load for through-the-door (''TTD'') feature.

Anti-Sweat Heater:
10. Condenser hot gas (Refrigerant anti-sweat heating).
11. Electric anti-sweat heater sizing.
12. Electric heater controls.

Compressor:
13. Improved compressor efficiency.
14. Variable-speed compressors.
15. Linear compressors.

Evaporator:
16. Increased surface area.
17. Improved heat exchange.

TABLE IV.1—TECHNOLOGY OPTIONS IDENTIFIED IN THE NOPR—Continued

Condenser:
18. Increased surface area.
19. Microchannel condenser.
20. Improved heat exchange.
21. Force convection condenser.
Defrost System:
22. Reduced energy for automatic defrost.
23. Adaptive defrost.
24. Condenser hot gas defrost.
Control System:
25. Electronic Temperature control.
26. Anti-Distribution control.
Other Technologies:
27. Fan and fan motor improvements.
28. Improved expansion valve.
29. Fluid control or solenoid off-cycle valve.
30. Alternative refrigerants.
31. Component location.
32. Phase change materials.
Alternative Refrigeration Cycles:
33. Ejector refrigerator.
34. Dual-evaporator systems.
35. Two-stage system.
36. Dual-loop system.
37. Lorenz-Meutzner cycle.

B. Screening Analysis

DOE uses the following four screening criteria to determine which technology options are suitable for further consideration in an energy conservation standards rulemaking:

(1) *Technological feasibility.* Technologies that are not incorporated in commercial products or in commercially viable, existing prototypes will not be considered further.

(2) *Practicability to manufacture, install, and service.* If it is determined that mass production of a technology in commercial products and reliable installation and servicing of the technology could not be achieved on the scale necessary to serve the relevant market at the time of the projected compliance date of the standard, then that technology will not be considered further.

(3) *Impacts on product utility.* If a technology is determined to have a significant adverse impact on the utility of the product to subgroups of consumers, or result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not be considered further.

(4) *Safety of technologies.* If it is determined that a technology would have significant adverse impacts on health or safety, it will not be considered further.

(5) *Unique-pathway proprietary technologies.* If a technology has proprietary protection and represents a unique pathway to achieving a given efficiency level, it will not be considered further, due to the potential for monopolistic concerns.

10 CFR part 430, subpart C, appendix A, sections 6(b)(3) and 7(b).

In summary, if DOE determines that a technology, or a combination of technologies, fails to meet one or more of the listed five criteria, it will be excluded from further consideration in the engineering analysis. The reasons for eliminating any technology are discussed in the following sections.

The subsequent sections include comments from interested parties pertinent to the screening criteria, DOE's evaluation of each technology option against the screening analysis criteria, and whether DOE determined that a technology option should be excluded (''screened out'') based on the screening criteria.

1. Screened-Out Technologies

In conducting the screening analysis for this direct final rule, DOE considered comments it had received in response to the screening analysis conducted for the February 2023 NOPR.

In the February 2023 NOPR, DOE screened out the technologies presented in Table II.2 on the basis of technological feasibility, practicability to manufacture, install, and service, adverse impacts on utility or availability, adverse impacts on health and safety, and/or unique-pathway proprietary technologies.

TABLE IV.2—TECHNOLOGIES SCREENED-OUT IN THE NOPR

Improved Gaskets, Double Gaskets, and Improved Door Face Frame.
Linear Compressors.
Fluid Control or Solenoid Off-Cycle Valves.
Improved Evaporator Heat Exchange.
Improved Condenser Heat Exchange.
Forced-Convection Condenser.
Condenser Hot Gas Defrost.
Compressor Location at Top.
Evaporator Fan Motor Location Outside Cabinet.
Air Distribution Control.
Phase Change Materials.
Lorenz-Meutzner Cycle.
Dual-Loop Systems.
Two-Stage System.
Ejector Refrigerator.

TABLE IV.2—TECHNOLOGIES SCREENED-OUT IN THE NOPR—Continued

Improved VIPs.
Inert Blowing Fluid CO_2.

GEA recommended that DOE screen out ''improved resistivity of foam,'' which is primarily hydrofluoro-olefin (''HFO'') foams, as a technology option. GEA stated that HFO foams represent a unique and proprietary technology pathway and that the two listed by DOE in the February 2023 NOPR TSD—Solstice LBA and Ecomate—should be excluded through the technology screening analysis. GEA stated that Solstice LBA, an HFO foam blowing agent is only produced by a single manufacturer, Honeywell, and should therefore be screened out from consideration in DOE's technology assessment in this rulemaking. GEA noted that Ecomate has no proven commercialization in modern consumer refrigerators or freezers. (GEA, No. 75 at pp. 4–5)

As discussed in the February 2023 NOPR, HFO foams are retained as a design option and passed the screening analysis because the technology option meets the five criteria previously mentioned. While GEA notes Ecomate has no proven commercialization in modern consumer refrigerators or freezer, as discussed in more detail in section 3.4.2.1 of the February 2023 NOPR TSD, improved resistivity foams such as Solstice have been implemented in refrigerator-freezer models in the United States, as of at least 2014 [28] and DOE has not received information regarding negative impacts to product utility or impracticability to manufacture or service products using improved resistivity foam. Some of the improved blowing agents reviewed by DOE (*e.g.,* CO_2) have been found to be non-flammable and lower in GWP than traditional insulation. DOE acknowledges that Solstice LBA is patented by Honeywell but included other potential technologies such as added carbon black and CO_2 blowing agents in its assessment. Therefore, as a technology option, DOE maintains that HFO foams meet the prerequisites to be included past the screening analysis. However, because DOE could not determine the type of foam used in the directly analyzed models from teardowns or based on the feedback from manufacturers, DOE found that there was an insufficient basis to implement this design option as a means to increase energy efficiency in either the February 2023 NOPR or this direct final rule analysis.

An individual commented that microchannel condensers should not be retained as a design option, citing issues with implementation in the HVAC industry. The individual also stated that increased insulation thickness should not be retained as a design option, citing lessening of consumer utility. (Individual Commenter, No. 59 at p. 1)

DOE has observed implementation of microchannel heat exchangers in PC 5I, PC 5A, and several built-in product classes. DOE has also received no information regarding negative impacts in consumer utility or safety, and therefore, DOE retained microchannel condensers as a design option in this analysis As with the HFO foam design option, while microchannel condensers passed the screening analysis, this design option was not included as a design pathway to achieve higher efficiency levels in the direct final rule analysis due to potential system operation drawbacks including irregular refrigerant distribution, greater refrigerant-side pressure drop, and greater air-side pressure drop.[29]

DOE expects that increased insulation thickness would impact either the interior or exterior dimensions of a refrigerator, refrigerator-freezer, or freezer, and as a result did not consider increased insulation thickness as a design option to achieve the higher efficiency levels for standard-size refrigerator-freezers. However, DOE expects that there is potential to increase insulation thickness for some types of freezers and compact refrigerators, given their typical use in in spaces that allow increased exterior dimensions, and therefore continues to consider increased thickness as a design option to achieve higher efficiency levels for PC 10, PC 11A, and PC 18.

2. Remaining Technologies

Through a review of each technology, DOE concludes that all of the other identified technologies listed in section IV.B.1 met all five screening criteria to be examined further as design options in DOE's direct final rule analysis. In summary, DOE did not screen out the following technology options:

TABLE IV.3—TECHNOLOGIES REMAINING IN THE DIRECT FINAL RULE

Insulation:
1. Improved resistivity of insulation (insulation type.
2. Increased insulation thickness.
3. Gas-filled insulation panels.
4. Vacuum-insulated panel.
Gasket and Door Design:
5. Reduced heat load for TTD feature.
Anti-Sweat Heater:
6. Refrigerant anti-sweat heating.
7. Electric anti-sweat heater sizing.
8. Electric heater controls.
Compressor:
9. Improved compressor efficiency.
10. Variable-speed compressors.
Evaporator:
11. Improved expansion valve.

[28] Whirlpool. ''Whirlpool Corporation Partners with Honeywell, Announces Use of Next Generation Solstice® Liquid Blowing Agent in U.S. Refrigerators,'' January 2014. *www.prnewswire.com/news-releases/whirlpool-corporation-partners-with-honeywell-announces-use-of-next-generation-solstice-liquid-blowing-agent-in-us-refrigerators-241489581.html* (accessed July 13, 2023).

[29] Rametta, R.S., Boeng, J., and Melo, C. ''Theoretical and Experimental Evaluation of Microchannel Condensers Applied to Household Refrigerators,'' *International Refrigeration and Air Conditioning Conference,* 2018, Paper 1843.

TABLE IV.3—TECHNOLOGIES REMAINING IN THE DIRECT FINAL RULE—Continued

12. Increased surface area.
13. Dual-evaporator systems.
Condenser:
14. Increased surface area.
15. Microchannel condenser.
Defrost System:
16. Reduced energy for automatic defrost.
17. Adaptive defrost.
Control System:
18. Electronic Temperature control.
Other Technologies:
19. Fan and fan motor improvements.
20. Alternative refrigerants.

DOE determined that these technology options are technologically feasible because they are being used or have previously been used in commercially available products or working prototypes. DOE also finds that all of the remaining technology options meet the other screening criteria (*i.e.,* practicable to manufacture, install, and service and do not result in adverse impacts on consumer utility, product availability, health, or safety). For additional details, *see* chapter 4 of the direct final rule TSD.

C. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of refrigerators, refrigerator-freezers, and freezers. There are two elements to consider in the engineering analysis: the selection of efficiency levels to analyze (*i.e.,* the ''efficiency analysis'') and the determination of product cost at each efficiency level (*i.e.,* the ''cost analysis''). In determining the performance of higher-efficiency products, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each product class, DOE estimates the baseline cost, as well as the incremental cost for the product/equipment at efficiency levels above baseline. The output of the engineering analysis is a set of cost-efficiency ''curves'' that are used in downstream analyses (*i.e.,* the LCC and PBP analyses and the NIA).

1. Efficiency Analysis

DOE typically uses one of two approaches to develop energy efficiency levels for the engineering analysis: (1) relying on observed efficiency levels in the market (*i.e.,* the efficiency-level approach), or (2) determining the incremental efficiency improvements associated with incorporating specific design options to a baseline model (*i.e.,* the design option approach). Using the efficiency-level approach, the efficiency levels established for the analysis are determined based on the market distribution of existing products (in other words, based on the range of efficiencies and efficiency level ''clusters'' that already exist on the market). Using the design option approach, the efficiency levels established for the analysis are determined through detailed engineering calculations and/or computer simulations of the efficiency improvements from implementing specific design options that have been identified in the technology assessment. DOE may also rely on a combination of these two approaches. For example, the efficiency-level approach (based on actual products on the market) may be extended using the design option approach either to establish ''gap fill'' levels (to bridge large gaps between other identified efficiency levels) and/or to extrapolate to the ''max-tech'' level (particularly in cases where the ''max-tech'' level exceeds the maximum efficiency level currently available on the market).

In defining the efficiency levels for this direct final rule, DOE considered comments it had received in response to the efficiency levels proposed in the February 2023 NOPR.

For its analysis in this rulemaking, DOE used a combined efficiency level and design option approach. First, an efficiency-level approach was used to establish an analysis tied to existing products on the market. A design option approach was used to extend the analysis through ''built-down'' efficiency levels and ''built-up'' efficiency levels where there were gaps in the range of efficiencies of products that were reverse engineered. Products from PC 3, PC 5, PC 5A, PC 5-BI, PC 7, PC 9, PC 10, PC 11A, and PC 18 were tested and torn down to provide information to lay the groundwork for the analysis. Other product classes such as 9-BI (and the new PC 9A-BI recommended by the Joint Agreement) were not directly analyzed as a part of DOE's analysis, as they were not deemed sufficiently representative of the market. A number of other product classes were indirectly analyzed, based on relevant directly analyzed product classes. DOE's analysis for PC-9BI, for example, is based on the directly analyzed PC 9.

DOE used design option analysis techniques to extend the analysis to higher efficiency levels and to fill any efficiency level gaps. DOE generally focuses its analysis on product classes with higher market share as their energy impact and associated energy savings are the most significant. Therefore, for this direct final rule analysis DOE chose to test and teardown units from the product classes listed above that represent a significant market share, and extrapolated the analysis to all other product classes that were not directly analyzed, as appropriate.

a. Built-In Products

For the analysis supporting this direct final rule, DOE used an assessment of PC 5-BI (built-in refrigerator-freezer with bottom-mounted freezer) to address built-in products. DOE conducted analysis for a representative 5-BI product and compared it to analysis conducted for freestanding models of class 5. DOE concluded that a built-in model that is comparable to a freestanding model except the built-in configuration would have 5 percent higher energy use. Therefore, for example, the potential reduction in energy use for built-in PC 5 units would be 5 percent lower than their freestanding counterparts, based on the implementation of the same design options to satisfy a higher efficiency level. DOE has applied this 5-percent differential in selecting standard levels for other built-in classes for which DOE did not conduct direct analysis (*e.g.,* PC 3A, PC 7, and PC 9). More information on the analysis of built-in product classes is available in the direct final rule TSD.

b. Baseline Efficiency/Energy Use

For each product/equipment class, DOE generally selects a baseline model as a reference point for each class, and measures changes resulting from potential energy conservation standards against the baseline. The baseline model in each product/equipment class represents the characteristics of a product/equipment typical of that class (*e.g.,* capacity, physical size). Generally, a baseline model is one that just meets current energy conservation standards, or, if no standards are in place, the baseline is typically the most common or least efficient unit on the market. When selecting units for the analysis DOE selects units at baseline from various manufacturers for each directly analyzed product class.

In determining the baseline efficiency level for this direct final rule analysis, DOE maintained the same approach as the February 2023 NOPR, and considered the current Federal energy conservation standards as the baseline level, expressed as maximum annual energy consumption as a function of the product's adjusted volume, adjusting for the change in the automatic icemaker energy contribution for product classes that include this feature. The current standards incorporate an allowance of a constant 84 kWh/yr icemaker adder for product classes with automatic icemakers, consistent with the current test procedure, which requires adding this amount of annual energy use to the product's tested performance if the product has an automatic icemaker. DOE adjusted the baseline energy usage levels for each class to account for the planned revision in the test procedure to reduce the icemaker energy use adder to 28 kWh/yr.[30]

DOE directly analyzed a sample of market representative models from within nine product classes from multiple manufactures. For most product classes a single representative adjusted volume was analyzed, though for PC 3, PC 5, and PC 11, DOE directly analyzed two representative adjusted volumes within the product class. DOE tested and tore down 13 baseline units to provide a basis for development of the cost-efficiency curves. DOE's analysis assumed that all baseline models implement R-600a refrigerant, based on feedback during manufacturer interviews suggesting the industry has or is in the process of shifting to low-GWP refrigerants, in particular away from R-134a, in accordance with regulatory efforts to phasedown of hydrofluorocarbons.[31] Further information on the design characteristics of specific analyzed baseline models is summarized in the direct final rule TSD.

BSH disagreed with DOE's use of HFO foam as representative of a baseline refrigerator, refrigerator-freezer, and/or freezer's insulation in the February 2023 NOPR, citing high environmental impact of the insulation, and encouraged DOE to remove HFO foam from baseline analysis. (BSH, No. 64 at pp. 1-2) AHAM also suggested that considering HFO foam at baseline efficiency levels is inappropriate and result in an artificially high baseline efficiency, excessively stringent standards for high-volume product classes, and negative environmental impacts. (AHAM, No. 69 at pp. 4-5)

DOE was unable to determine the type of insulation used in teardown models and subsequently considered PU insulation at the baseline level for all product classes in the February 2023 NOPR and in this direct final rule. Furthermore, as described in section IV.B.2 of this document, DOE retained the improved insulation resistivity design option (*i.e.,* HFOs) through the screening analysis, though DOE did not utilize it as a design to achieve higher efficiency levels in the engineering analysis. DOE further notes, that BSH and AHAM are parties to the Joint Agreement and are supportive of the recommended standard adopted in this direct final rule.

c. Higher Efficiency Levels

For this direct final rule, DOE maintained the same approach as the February 2023 NOPR, and analyzed up to five incremental efficiency levels beyond the baseline for each of the analyzed product classes. For PC 3 and PC 7, DOE considered an efficiency level at roughly 5 percent more efficient than the current energy conservation standard. For all product classes, DOE considered a level near 10 percent more efficient than the current energy conservation standard, equivalent to the current ENERGY STAR® level for refrigerators, refrigerator-freezers, and freezers.[32] DOE then extended the efficiency levels (''ELs'') in steps of close to 5 percent of the current energy conservation standard up to EL 4, using applicable technologies as discussed in sections IV.A.2 and IV.B of this document. Finally, for all product classes, EL 5 represents ''max-tech,'' using design option analysis to extend the analysis beyond EL 4 using all applicable design options, including the most efficient variable-speed compressors available on the market, and considerable use of vacuum-insulated panels (''VIPs'') in key areas of the cabinet walls and doors. The efficiency levels analyzed beyond the baseline are shown in Table IV.4.

[30] *See* the October 12, 2021, final rule for test procedures for refrigeration products for more information regarding the adoption of the 28 kWh/yr icemaker adder. 86 FR 56790.

[31] *See www.regulations.gov/document/EPA-HQ-OAR-2021-0044-0223* for more information regarding the environmental protection agency's final rule regarding the phasedown of hydrofluorocarbons.

[32] EnergyStar, ''Refrigerators & Freezers Key Product Criteria,'' *www.energystar.gov/products/appliances/refrigerators/key_product_criteria* (accessed July 14, 2023).

TABLE IV.4—INCREMENTAL EFFICIENCY LEVELS FOR ANALYZED PRODUCTS
[% Energy use less than baseline] [33]

Product Class (AV, ft)	Standard-size refrigerator							Standard-size freezers		Compact refrigerators and freezers			
	3 (11.9) (%)	3 (20.6) (%)	5** (23.0) (%)	5** (30.0) (%)	5A** (35.0) (%)	5–BI (26.0) (%)	7 (31.5) (%)	9 (29.3) (%)	10 (26.0) (%)	11A (1.7) (%)	11A (4.4) (%)	17 (9.0) (%)	18 (8.9) (%)
EL 1	5%	5%	8%	7%	*11%	*10%	5%	*10%	*10%	*10%	*10%	*10%	10%
EL 2	*10%	*10%	*13%	*11%	16%	15%	*10%	15%	15%	15%	15%	15%	15%
EL 3	15%	15%	18%	15%	22%	16%	15%	20%	20%	20%	20%	20%	20%
EL 4	20%	20%	20%	17%			19%	25%	23%	32%	30%		30%
EL 5	27%	28%					22%						

*Efficiencies at or slightly better than the ENERGY STAR® efficiency of 10%
**Percentages are based on a 3-door configuration.

d. VIP Analysis and Max-Tech Levels

As discussed in the previous section, DOE's NOPR analysis considered the use of VIPs placed throughout the side walls and doors at max-tech levels for many product classes.

AHAM disagreed with the extent of VIP use at higher efficiency levels in the engineering analysis, asserting that DOE overestimates the use and impact of VIPs in its analysis, despite acknowledging the technology's limitations. AHAM cited panel cost, in the form of labor and production costs, which are significant due to complex installation requirements, processing controls, and quality checks. AHAM also cited lower effectiveness in smaller units due to ''edge effects'' (*i.e.,* heat around the edges caused by the membrane film that forms the walls of the VIP). AHAM suggested that DOE not overestimate the impact of VIPs in its analysis, considering that VIPs are not used in a majority of products and manufacturers have reported varied levels of success using the technology. (AHAM, No. 69 at pp. 5–6)

DOE's implementation of VIPs in the analyses at each stage of this rulemaking is based on a combination of the best information gathered from multiple sources related to cost, use, and energy efficiency impacts. DOE did not specifically account for edge effect impacts on thermal load for compact refrigerator, refrigerator-freezer, or freezer models in its analysis. Regarding VIP pricing, DOE estimated VIP panel, installation, processing, and quality check costs based on a number of discussions with refrigerator manufacturers, VIP producers, and market research. DOE conducted additional interviews and research in support of this direct final rule, which further supported and solidified the VIP cost estimates.

In manufacturer interviews, DOE also gathered information regarding the implementation of VIPs (*e.g.,* locations, number of panels, panel area), and based on that information, DOE performed simulations to estimate the energy impacts using CERA. CERA allowed DOE to analyze the thermal load impact on a fresh food and/or freezer cabinet due to different placements of VIP paneling throughout a cabinet (*e.g.,* side panels, doors, or both). DOE then compared the results from these simulations to existing research into load reductions (which estimates energy savings at around 30 percent) [34] and based on both sources, estimated that the full implementation of VIPs in existing cabinets can reduce heat load by up to 23 percent. DOE did not specifically account for edge effect impacts on thermal load for compact refrigerator, refrigerator-freezer, or freezer models in its analysis. However, DOE notes that the engineering analysis halves the thermal load impact as observed in simulations in order to be conservative with energy savings and to account for factors that are not captured in testing and/or simulation (*e.g.,* differences in VIP core material, VIP installation method and location). DOE also notes VIPs are not implemented in most classes until efficiency levels above that proposed in the February 2023 NOPR and adopted in this direct final rule.

Sub Zero commented that as a small, low-volume manufacturer of niche built-in style refrigeration products, it is concerned that the standards proposed in the February 2023 NOPR will create a significant supply chain burden for them, as components like vacuum insulation panels are supplied by a limited number of manufacturers, which will impede their ability to deliver products to their consumers in a timely manner. Sub Zero requested that DOE reduce the stringency level of adopted standards for built-in products, to reduce these concerns. (Sub Zero, No. 77 at p. 2)

To better characterize and understand the VIP market, DOE conducted research and interviewed relevant VIP manufacturers to gather more data regarding the current global VIP market, and to identify any potential supply chain constraints related to the adoption of more stringent energy conservation standards. DOE estimates that the current demand for VIPs in the U.S. refrigerator market is roughly 1 to 3 million VIP panels, whereas the global supply for VIPs is estimated to exceed 10 million panels. Despite relatively low demand for VIPs in the U.S. market, there is notable VIP use in the European and Asian markets, with supply available from at least three major VIP manufacturers. Based on the information gathered, DOE expects that VIP production lines can be quickly scaled up to meet demand of future amended standards (within 1 to 2 years depending on the specific VIP design), well within 3-year lead time between publication of amended standards and the compliance date for those standards.

In response to stakeholder feedback on the February 2023 NOPR, DOE carefully considered the use of VIPs in its analysis, generally implementing VIPs at the highest efficiency levels as one of the last design options considered. Therefore, based on the engineering analysis and its consideration of VIPs, DOE expects that to meet the adopted standards, manufacturers are likely to implement VIPs only in PC 5 (for three-door, 30 AV configuration) and PC 5A, with partial VIP usage for both classes.

e. Variable-Speed Compressor Supply Chain

Numerous commenters on the February 2023 NOPR suggested that supply chains for VIPs and variable-speed compressor (''VSC'') may not support the quantities of those components that may be required at the efficiency levels proposed in the NOPR. AHAM recommended that DOE conduct a review of component availability and supply chain capacity for VSCs given the general global market trends for increasingly stringent standards for cooling appliances, including both air conditioning and refrigeration. (AHAM, No. 69 at p. 5) Whirlpool further noted that the proposed standards may result in increased component costs to manufacturers due to those same supply chain constraints, especially given that VSCs would be necessary for nearly all evaluated product classes. (Whirlpool, No. 70 at p. 5) Sub Zero also expressed concern that the proposed standards will create a significant supply chain burden for small, low-volume manufacturer of niche market built-in style refrigeration products because VSCs are provided by a limited number of suppliers. Sub Zero commented that the proposed standards will impede the ability of these small manufacturers to deliver to their niche consumers in a timely manner. (Sub Zero, No. 77 at p. 2)

Samsung supported DOE's proposed energy conservation standards for refrigerators, refrigerator-freezers, and freezers and the use of VSC technology as a significant energy-saving option. Samsung stated that there is already significant market availability of VSCs, and a regulatory certainty and 3-year compliance period would provide ample time for manufacturers and suppliers to establish sufficient supply availability of VSCs. (Samsung, No. 78 at p. 2)

In response to these comments, DOE interviewed relevant compressor manufacturers to gather information

[33] DOE notes the recommended TSL for this direct final rule is TSL 4, discussed further in section V.A of this document.

[34] ''Development of Nanoporous Materials for the Production of Vacuum-Insulated Panels (VIPs),'' European Commission, January 2017. Available at *cordis.europa.eu/article/id/190833-insulation-nanomaterials-for-energyefficient-refrigerators* (last accessed October 15, 2020).

regarding the level of VSC implementation that would be required at the efficiency levels in this rule, the current and predicted supply of VSCs into the U.S. market, the predicted time to ramp up production of VSCs, and pricing of VSC compressors and components. DOE notes that the VSC compressors focused on in this supply chain analysis differ from those utilized in air conditioners and other non-related cooling appliances. VSC compressors utilized in refrigerators, refrigerator-freezers, and freezers are generally different designs, are manufactured in different factories, and are generally produced by different manufacturers. Thus, based on the information provided by these manufacturers, DOE has determined that the industry is able to meet the increased demand of VSCs amid likely growing demand in the U.S. market.

Based on manufacturer interviews, DOE estimates the current total global demand for refrigerator, refrigerator-freezer, and freezer compressors (all compressors, not just VSCs) is 230 million. Total compressor production capacity is much higher than demand, with global capacity for compressors estimated at over 400 million. Globally, there has been a shift towards VSC utilization in response to increasing energy efficiency regulations in the European Union (''EU'') and Japan. Estimates project upwards of a quarter of the global market and a third of the U.S. market currently utilize VSCs in refrigerators, refrigerator-freezers, and freezers. Considering the U.S. market accounts for an estimated 12 million consumer refrigeration products, a conservative estimate puts U.S. current demand for VSC compressors at roughly 4 million.

Given DOE's understanding of the compressor marketplace, the expected time to build capacity to meet the new demand is expected to be significantly shorter than the 5 and 6-year lead time between direct final rule publication and the compliance date, with estimates ranging from 8 months to 1 year. Compressor manufacturers indicated that VSC production capacity has been increasing by 7 million per year between 2018 and 2022. Additionally, high-efficiency VSC compressor designs are already developed and do not require additional qualification testing before production. Research and development (''R&D'') time to develop compressor designs is not required and thus would not be a factor affecting availability.

DOE is aware that there have been supply constraints for VSCs recently due to issues with electronic component supply caused by the COVID–19 pandemic. Specifically, Chinese manufacturing and shipping of compressors decreased significantly during COVID-related lockdowns throughout the country between 2020 and 2022. Due to China's outsized impact on global supply, the effects of lockdowns were felt globally. Now that lockdowns have ended, however, the affected factories are open again and in production. Compressor manufacturers also indicated that they have been modifying sourcing strategies, in many cases establishing their own electronic component assembly lines in order to protect against potential future issues that could affect supply and production of VSCs.

In considering all of the information provided by relevant manufacturers of VSCs, DOE believes that significant increases in VSCs in the U.S. market aligned with the standard levels adopted in this direct final rule are well within the production capacity of the compressor industry. DOE further notes, that AHAM, Whirlpool, Sub Zero, and Samsung are parties to the Joint Agreement and are supportive of the recommended standard adopted in this direct final rule.

f. Product Classes 11 and 12 Alignment

The Joint Agreement recommended that DOE adopt a level of 10 percent energy savings relative to the current PC 12 standard. In light of the recommendation outlined in the Joint Agreement, and in consideration of comments received in response to the February 2023 NOPR, DOE is adopting a percentage increase in efficiency for PC 12 at 10 percent lower relative to the current standard. Additionally, as recommended in the Joint Agreement and proposed in the February 2023 NOPR, DOE is including a multi-door energy use allowance for PC 12 for products with two doors.

2. Cost Analysis

The cost analysis portion of the engineering analysis is conducted using one or a combination of cost approaches. The selection of cost approach depends on a suite of factors, including the availability and reliability of public information, characteristics of the regulated product, the availability and timeliness of purchasing the product on the market. The cost approaches are summarized as follows:

- *Physical teardowns:* Under this approach, DOE physically dismantles a commercially available product, component-by-component, to develop a detailed bill of materials for the product.
- *Catalog teardowns:* In lieu of physically deconstructing a product, DOE identifies each component using parts diagrams (available from manufacturer websites or appliance repair websites, for example) to develop the bill of materials for the product.
- *Price surveys:* If neither a physical nor catalog teardown is feasible (for example, for tightly integrated products such as fluorescent lamps, which are infeasible to disassemble and for which parts diagrams are unavailable) or cost-prohibitive and otherwise impractical (*e.g.,* large commercial boilers), DOE conducts price surveys using publicly available pricing data published on major online retailer websites and/or by soliciting prices from distributors and other commercial channels.

In the direct final rule analysis, DOE conducted the analysis using a combination of physical teardowns, catalog teardowns, and price surveys. Where possible, physical teardowns were used to provide a baseline of technology options and pricing for a specific product class at a specific EL. Then with technology option information, DOE estimated the cost of various design options including compressors, VIPs, and insulation, by extrapolating the costs from price surveys. With specific costs for technology options, DOE was then able to ''build-up'' or ''build-down'' from the various teardown models to finish the cost-efficiency curves. DOE used this approach to calibrate the analysis to certified or measured energy use of specific available models where possible, while allowing a broader range of potential efficiency levels to be considered.

The resulting bill of materials provides the basis for the manufacturer production cost (''MPC'') estimates.

To account for manufacturers' non-production costs and profit margin, DOE applies a multiplier (the manufacturer markup) to the MPC. The resulting manufacturer selling price (''MSP'') is the price at which the manufacturer distributes a unit into commerce. DOE developed an average manufacturer markup by examining the annual Securities and Exchange Commission (''SEC'') 10–K reports filed by publicly traded manufacturers primarily engaged in appliance manufacturing and whose combined product range includes refrigerators, refrigerator-freezers, and freezers.

3. Cost-Efficiency Results

The results of the engineering analysis are presented as cost-efficiency data for each of the efficiency levels for each of the analyzed product classes that were

analyzed. DOE developed estimates of MPCs for each unit in the teardown sample, and also performed additional modeling based on representative teardown samples, to extend the analysis to cover the range of efficiency levels appropriate for a representative product. To estimate the MPCs necessary to achieve higher efficiency levels, in particular those beyond the highest-efficiency products in the test sample, DOE considered design options that were most likely to be considered and implemented by manufacturers to achieve the higher efficiency levels. Based on input from manufacturers and an understanding of the markets, DOE then estimated the costs associated with those design option to determine the MPCs at each of the analyzed efficiency levels.

The efficiency levels and design option progression for the analyzed standard-size refrigerator-freezers are presented in Table IV.5. The cells in the table list the design options that DOE considered at each higher efficiency level as compared with the next-lower efficiency level. Similarly, the efficiency levels and design options for standard-size freezers and Compact refrigerators, refrigerator-freezers are presented in Table IV.6. The MPCs for the analyzed product classes across the considered efficiency levels are presented in Tables IV.7 and IV.8. *See* chapter 5 of the direct final rule TSD for additional detail on the engineering analysis.

TABLE IV.5—EFFICIENCY LEVELS AND DESIGN OPTIONS FOR ANALYZED STANDARD-SIZE REFRIGERATOR-FREEZERS

Product class (AV [5])	EL1	EL2	EL3	EL4	EL5
3 (11.9):					
EL Percent [1]	5%	10%	15%	20%	27%.
Design Options Added.	Variable Defrost; Higher-Energy Efficiency Ratio (EER) Single Speed Compressor.	Higher-EER Single Speed Compressor.	Highest-EER Single Speed Compressor.	VIP side walls and doors.	Variable-speed compressor system.[3]
3 (21.0):					
EL Percent [1]	5%	10%	15%	20%	28%.
Design Options Added.	Higher-EER Single Speed Compressor.	Variable Defrost; Higher-EER Single Speed Compressor.	Higher-EER Compressor; Variable-speed compressor system [3].	66% of Max-tech VIP [4].	VIP side walls and doors.
5 (23.0): [2]					
EL Percent [1]	8%	13%	18%	20%..	
Design Options Added.	Higher-EER Single Speed Compressor.	Brushless-DC Evaporator Fan Motor; Higher-EER compressor Variable-speed compressor system [3].	Highest-EER Compressor; 50% of Max-tech VIP.	VIP side walls and doors..	
5 (30.0): [2]					
EL Percent [1]	7%	11%	15%	17%..	
Design Options Added.	Variable Speed Compressor System [6].	Higher-EER Compressor; [6] Brushless-DC Evaporator Fan Motor; 50% of Max-tech VIP [6].	Higher-EER Compressor; 50% of Max-tech VIP.	Highest-EER Compressor; VIP side walls and doors..	
5–BI (26.0):					
EL Percent [1]	10%	15%	16%..		
Design Options Added.	Variable-speed compressor system [3].	50% of Max-tech VIP [4]	VIP side walls and doors..		
5A (35.0): [2]					
EL Percent [1]	11%	16%	22%..		
Design Options Added.	Higher-EER Compressor; Variable-speed compressor system [3].	Highest-EER Compressor; Variable Speed Compressor System; 42% of Max-tech VIP [4].	VIP side walls and doors..		
7 (31.5):					
EL Percent [1]	5%	10%	15%	19%	22%.
Design Options Added.	Highest-EER Single Speed Compressor.	Brushless-DC Evaporator Fan Motor; Variable-speed compressor system [3].	Highest-EER Variable Speed compressor system.	75% of Max-tech VIP [4].	VIP side walls and doors.

Notes:
[1] Percent energy use less than baseline.
[2] For three-door configuration.
[3] Includes two-speed fan control.
[4] The percentage of surface area of VIP as compared with the VIP surface area used in the maximum-technology design, for which VIP would be installed for full coverage of the side walls and doors.
[5] Adjusted Volume in cubic feet.

TABLE IV.6—EFFICIENCY LEVELS AND DESIGN OPTIONS FOR ANALYZED STANDARD-SIZE FREEZERS AND COMPACT REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

Product class (AV [4])	EL1	EL2	EL3	EL4
9 (29.3):				
EL Percent [1]	10%	15%	20%	25%.
Design Options Added	Switch to forced-convection condenser; Brushless-DC Condenser and Evaporator fans.	Highest-EER Compressor; Variable-speed compressor system [2].	37% of Max-tech VIP [3]	VIP side walls and door.
10 (26.0):				
EL Percent [1]	10%	15%	20%	23%.
Design Options Added	Variable-speed compressor system [2]	Wall thickness increase; Brushless-DC Evaporator Fan.	Highest-EER Compressor; Variable-speed compressor system.	VIP door.
11A (1.7):				
EL Percent [1]	10%	15%	20%	32%.

TABLE IV.6—EFFICIENCY LEVELS AND DESIGN OPTIONS FOR ANALYZED STANDARD-SIZE FREEZERS AND COMPACT REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS—Continued

Product class (AV [4])	EL1	EL2	EL3	EL4
Design Options Added ...	Wall thickness increase	Higher-EER Single Speed Compressor.	Higher-EER Single Speed Compressor; VIP sides and door.	Highest-EER Single Speed Compressor.
11A (4.4):				
EL Percent [1]	10%	15%	20%	30%.
Design Options Added ...	Higher-EER Single Speed Compressor	Wall thickness increase	Higher-EER Single Speed Compressor.	Variable-speed Compressor System; [2] VIP sides walls and door.
17 (9.0):				
EL Percent [1]	10%	15%	20%..	
Design Options Added ...	Highest-EER Compressor; Variable-speed Compressor System; [2] Variable Defrost.	50% of Max-tech VIP [3]	VIP side walls and door panels..	
18 (8.9):				
EL Percent [1]	10%	15%	20%	30%.
Design Options Added ...	Higher-EER Single Speed Compressor	Wall thickness increase	Highest-EER Single Speed Compressor; VIP door.	Variable-speed Compressor System.[2]

Notes:
[1] Percent energy use less than baseline.
[2] Includes two-speed fan control.
[3] The percentage of surface area of VIP as compared with the VIP surface area used in the maximum-technology design, for which VIP would be installed for full coverage of the side walls and doors.
[4] Adjusted Volume in cubic feet.

TABLE IV.7—COST-EFFICIENCY CURVES FOR STANDARD-SIZE REFRIGERATOR-FREEZERS

Product Class (AV [3])	EL0	EL1	EL2	EL3	EL4	EL5
3 (11.9):						
EL Percent [1]	0%	5%	10%	15%	20%	27%
MPC	$368.51	$375.65	$377.11	$378.79	$434.79	$464.09
Incremental MPC	$0.00	$7.14	$8.60	$10.28	$66.28	$95.58
3 (21.0):						
EL Percent [1]	0%	5%	10%	15%	20%	28%
MPC	$454.50	$456.08	$473.88	$498.64	$544.91	$570.09
Incremental MPC	$0.00	$1.59	$19.38	$44.14	$90.42	$115.59
5 (23.0): [2]						
EL Percent [1]	0%	8%	13%	18%	20%	
MPC	$662.58	$678.47	$696.39	$736.57	$755.49	
Incremental MPC	$0.00	$15.89	$33.81	$73.99	$92.91	
5 (30.0): [2]						
EL Percent [1]	0%	7%	11%	15%	17%	
MPC	$705.12	$740.80	$763.71	$774.63	$807.62	
Incremental MPC	$0.00	$35.68	$58.58	$69.51	$102.50	
5–BI (26.0):						
EL Percent [1]	0%	10%	15%	16%		
MPC	$829.20	$848.87	$883.70	$918.52		
Incremental MPC	$0.00	$19.67	$54.50	$89.32		
5A (35.0): [2]						
EL Percent [1]	0%	11%	16%	22%		
MPC	$765.69	$786.68	$824.44	$871.93		
Incremental MPC	$0.00	$21.00	$58.75	$106.24		
7 (31.5):						
EL Percent [1]	0%	5%	10%	15%	19%	22%
MPC	$669.60	$671.85	$691.36	$692.20	$750.52	$770.32
Incremental MPC	$0.00	$2.26	$21.77	$22.60	$80.92	$100.72

Notes:
[1] Percent energy use less than baseline.
[2] For three-door configuration.
[3] Adjusted volume in cubic feet.

TABLE IV.8—COST-EFFICIENCY CURVES FOR STANDARD-SIZE FREEZERS AND COMPACT REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

Product class (AV [2])	EL0	EL1	EL2	EL3	EL4
9 (29.3):					
EL Percent [1]	0%	10%	15%	20%	25%
MPC [2]	$536.45	$553.18	$585.43	$614.85	$652.63
Incremental MPC	$0.00	$16.73	$48.97	$78.40	$116.17

TABLE IV.8—COST-EFFICIENCY CURVES FOR STANDARD-SIZE FREEZERS AND COMPACT REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS—Continued

Product class (AV [2])	EL0	EL1	EL2	EL3	EL4
10 (26.0):					
EL Percent [1]	0%	10%	15%	20%	23%
MPC	$522.18	$553.37	$577.47	$579.41	$602.71
Incremental MPC	$0.00	$31.19	$55.29	$57.23	$80.53
11A (1.7):					
EL Percent [1]	0%	10%	15%	20%	32%
MPC	$146.55	$151.55	$152.77	$176.94	$181.26
Incremental MPC	$0.00	$5.00	$6.22	$30.38	$34.70
11A (4.4):					
EL Percent[1]	0%	10%	15%	20%	30%
MPC	$212.15	$214.64	$220.57	$231.84	$289.23
Incremental MPC	$0.00	$2.49	$8.42	$19.69	$77.08
17 (9.0):					
EL Percent [1]	0%	10%	15%	20%	
MPC	$268.95	$294.85	$318.20	$341.55	
Incremental MPC	$0.00	$25.91	$49.26	$72.61	
18 (8.9):					
EL Percent [1]	0%	10%	15%	20%	30%
MPC	$256.22	$258.76	$268.00	$281.06	$311.99
Incremental MPC	$0.00	$2.54	$11.78	$24.84	$55.77

Notes:
[1] Percent energy use less than baseline.
[2] Adjusted volume in cubic feet.

4. Manufacturer Selling Price

To account for manufacturers' non-production costs and revenue attributable to the product, DOE applies a multiplier (the manufacturer markup) to the MPC. The resulting manufacturer selling price (''MSP'') is the price at which the manufacturer distributes a unit into commerce. DOE developed an average manufacturer markup by examining the annual Securities and Exchange Commission (''SEC'') 10–K reports [35] filed by publicly traded manufacturers primarily engaged in appliance manufacturing and whose combined product range includes refrigerators, refrigerator-freezers, and freezers. *See* chapter 12 of the direct final rule TSD for additional detail on the manufacturer markup.

D. Markups Analysis

The markups analysis develops appropriate markups (*e.g.,* retailer markups, wholesaler markups, contractor markups) in the distribution chain and sales taxes to convert the MSP estimates derived in the engineering analysis to consumer prices, which are then used in the LCC and PBP analysis. At each step in the distribution channel, companies mark up the price of the product to cover business costs and operating profit.

For refrigerators, refrigerator-freezers, and freezers, the main parties in the distribution chain are retailers, wholesalers, and general contractors.

DOE developed baseline and incremental markups for each actor in the distribution chain. Baseline markups are applied to the price of products with baseline efficiency, while incremental markups are applied to the difference in price between baseline and higher-efficiency models (the incremental cost increase). The incremental markup is typically less than the baseline markup and is designed to maintain similar per-unit operating profit before and after new or amended standards.[36]

DOE relied on economic data from the U.S. Census Bureau to estimate average baseline and incremental markups. Specifically, DOE used the 2017 Annual Retail Trade Survey for the ''electronics and appliance stores'' sector to develop retailer markups,[37] the 2017 Annual Wholesale Trade Survey for the ''household appliances, and electrical and electronic goods merchant wholesalers'' sector to estimate wholesaler markups,[38] and the industry series for the ''residential building construction'' sector published by the 2017 Economic Census to derive general contractor markups.[39] DOE relied on economic data from the U.S. Census Bureau to estimate average baseline and incremental markups. Specifically, DOE used the 2017 Annual Retail Trade Survey for the ''electronics and appliance stores'' sector to develop retailer markups,[40] the 2017 Annual Wholesale Trade Survey for the ''household appliances, and electrical and electronic goods merchant wholesalers'' sector to estimate wholesaler markups,[41] and the industry series for the ''residential building construction'' sector published by the 2017 Economic Census to derive general contractor markups.[42]

In response to the February 2023 NOPR, AHAM commented on DOE's reliance on the concept of incremental markups, stating that it is based on discredited theory, and it is in contradiction to empirical evidence provided by AHAM during the 2014

[35] U.S. Securities and Exchange Commission, Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system. Available at *www.sec.gov/edgar/search/* (last accessed July 1, 2022).

[36] Because the projected price of standards-compliant products is typically higher than the price of baseline products, using the same markup for the incremental cost and the baseline cost would result in higher per-unit operating profit. While such an outcome is possible, DOE maintains that in markets that are reasonably competitive it is unlikely that standards would lead to a sustainable increase in profitability in the long run.

[37] U.S. Census Bureau, *Annual Retail Trade Survey.* 2017. *www.census.gov/programs-surveys/arts.html.*

[38] U.S. Census Bureau, *Annual Wholesale Trade Survey.* 2017. *www.census.gov/awts.*

[39] U.S. Census Bureau. 2017 Economic Census. *www.census.gov/newsroom/press-kits/2020/2017-economic-census.html.*

[40] U.S. Census Bureau, *Annual Retail Trade Survey.* 2017. *www.census.gov/programs-surveys/arts.html.*

[41] U.S. Census Bureau, *Annual Wholesale Trade Survey.* 2017. *www.census.gov/awts.*

[42] U.S. Census Bureau. 2017 Economic Census. *www.census.gov/newsroom/press-kits/2020/2017-economic-census.html.*

NOPR for Energy Conservation Standards for Residential Dishwashers. (AHAM, No. 69 at p. 15–16)

DOE disagrees that the theory behind the concept of incremental markups is discredited. DOE's incremental markup approach assumes that an increase in profitability, which is implied by keeping a fixed markup when the product price goes up, is unlikely to be viable over time in a reasonably competitive market like household appliance retailers. The Herfindahl-Hirschman Index (HHI) reported by the 2017 Economic Census indicates that household appliance stores sector (North American Industry Classification System (NAICS) code 443141) is a competitive marketplace.[43] DOE recognizes that actors in the distribution chains are likely to seek to maintain the same markup on appliances in response to changes in manufacturer selling prices after an amendment to energy conservation standards. However, DOE believes that retail pricing is likely to adjust over time as those actors are forces to readjust their markups to reach a medium-term equilibrium in which per-unit profit is relatively unchanged before and after standards are implemented.

DOE acknowledges that markup practices in response to amended standards are complex and varying with business conditions. However, DOE's analysis necessarily considers a very simplified and hypothetical version of the world of appliance retailing: namely, a situation in which nothing changes except for those changes in appliance offerings that occur in response to amended standards. Obtaining data on markup practices in the situation described above is very challenging. Hence, DOE continues to believe that its assumption that standards do not facilitate a sustainable increase in profitability is reasonable.

Chapter 6 of the direct final rule TSD provides details on DOE's development of markups for refrigerators, refrigerator-freezers, and freezers.

E. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual energy consumption of refrigerators, refrigerator-freezers, and freezers at different efficiencies in representative U.S. single-family homes, multi-family residences, and commercial buildings, and to assess the energy savings potential of increased product efficiency. The energy use analysis estimates the range of energy use of refrigerators, refrigerator-freezers, and freezers in the field (*i.e.,* as they are actually used by consumers). The energy use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended or new standards.

The DOE test procedure produces standardized results that can be used to assess or compare the performance of products operating under specified conditions. Actual energy usage in the field often differs from that estimated by the test procedure because of variation in operating conditions, the behavior of users, and other factors. In the case of refrigerators, refrigerator-freezers, and freezers, DOE used usage adjustment factors (UAFs) in the February 2023 NOPR to address the difference in field-metered energy consumption and the DOE test results due to household-specific characteristics. 88 FR 12478–12479.

Specifically, DOE combined field-metered energy use data for full-size refrigeration products from the September 2011 Final Rule, the Northwest Energy Efficiency Alliance (''NEEA''), and the Florida Solar Energy Center (''FSEC'') with estimates of the test energy use of each field-metered unit. Then, DOE calculated a unit's UAF by dividing the annual field-metered energy use by the annual energy consumption from the DOE test procedure. DOE then used maximum likelihood estimation to fit log-normal distributions to the empirical distributions of UAFs for primary refrigerators and refrigerator-freezers, secondary refrigerators and refrigerator-freezers, and freezers. DOE sampled UAFs from these fitted log-normal distributions to estimate the actual energy use of refrigeration products for the consumer sample. DOE did not have adequate field-metering data to derive UAFs for compact refrigeration products; therefore, DOE assumed the UAF of compact refrigeration products was 1.0.

In response to the February 2023 NOPR, AHAM commented that DOE relies heavily on the EIA's Residential Energy Consumption Survey (''RECS'') data for estimating energy use and how consumption varies at the household level. Specifically, AHAM expressed concern that the use of RECS data to estimate energy consumption at the household level may introduce ''outlier values,'' resulting in uncertainty and inaccuracies (AHAM, No. 69 at pp. 17–18) In this direct final rule, as well as in the February 2023 NOPR, DOE did not tie the energy consumption of refrigerators, refrigerator-freezers, and freezers to RECS survey data. 88 FR 12452. No household or demographic information from RECS affects the energy consumption of a particular household. Instead, as mentioned above, DOE sampled from distributions of UAFs that were derived from field-metering studies and assigned a randomly selected UAF to each household. Randomly sampling from distributions of UAFs acknowledges the inherent uncertainty in estimating the energy use for any particular household, while capturing the aggregate impact of UAFs measured in the field, and thus better approximates the most likely distribution of field energy use values across the installed base of products than relying strictly on survey data. DOE further notes, that AHAM is a party to the Joint Agreement and is supportive of the recommended standard adopted in this direct final rule.

Chapter 7 of the direct final rule TSD provides details on DOE's energy use analysis for refrigerators, refrigerator-freezers, and freezers.

F. Life-Cycle Cost and Payback Period Analysis

DOE conducted LCC and PBP analyses to evaluate the economic impacts on individual consumers of potential energy conservation standards for refrigerators, refrigerator-freezers, and freezers. The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE used the following two metrics to measure consumer impacts:

- The LCC is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (manufacturer selling price, distribution chain markups, sales tax, and installation costs) plus operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product.
- The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that amended or new standards are assumed to take effect.

For any given efficiency level, DOE measures the change in LCC relative to

[43] 2017 Core Statistics Economic Census: Establishment and Firm Size Statistics for the U.S. (NAICS 443141).

the LCC in the no-new-standards case, which reflects the estimated efficiency distribution of refrigerators, refrigerator-freezers, and freezers in the absence of new or amended energy conservation standards. In contrast, the PBP for a given efficiency level is measured relative to the baseline product.

For each considered efficiency level in each product class, DOE calculated the LCC and PBP for a nationally representative set of housing units (all product classes) and commercial buildings (PC 11A only). DOE included commercial applications in the analysis of compact refrigerators and refrigerator-freezers (PC 11A) because they are used in both the residential and commercial sectors (*e.g.,* hotel rooms and higher-education dormitories). DOE developed household samples from the 2020 RECS and commercial building samples from the 2018 Commercial Buildings Energy Consumption Survey (''CBECS''). For each sample household or building, DOE determined the energy consumption for the refrigerator, refrigerator-freezer, or freezer and the appropriate electricity price and discount rate. By developing a representative sample of households and buildings, the analysis captured the variability in energy consumption, energy prices, and discount rates associated with the use of refrigerators, refrigerator-freezers, and freezers.

Inputs to the calculation of total installed cost include the cost of the product—which includes MPCs, manufacturer markups, distribution chain markups, and sales taxes—and installation costs. Inputs to the calculation of operating expenses include annual energy consumption, energy prices and price projections, repair and maintenance costs, product lifetimes, and discount rates. DOE created distributions of values for product lifetime, discount rates, and sales taxes, with probabilities attached to each value, to account for their uncertainty and variability.

The computer model DOE uses to calculate the LCC relies on a Monte Carlo simulation to incorporate uncertainty and variability into the analysis. The Monte Carlo simulations randomly sample input values from the probability distributions and refrigerator, refrigerator-freezer, and freezer user samples. For this rulemaking, the Monte Carlo approach is implemented in Python. The model calculated the LCC for products at each efficiency level for 10,000 housing units or commercial buildings per simulation run. The analytical results include a distribution of 10,000 data points showing the range of LCC savings for a given efficiency level relative to the no-new-standards case efficiency distribution. In performing an iteration of the Monte Carlo simulation for a given consumer, product efficiency is chosen based on its probability. If the chosen product efficiency is greater than or equal to the efficiency of the standard level under consideration, the LCC calculation reveals that a consumer is not impacted by the standard level. By accounting for consumers who already purchase more efficient products, DOE avoids overstating the potential benefits from increasing product efficiency. DOE calculated the LCC and PBP for consumers of refrigerators, refrigerator-freezers, and freezers as if each were to purchase a new product in the first year of required compliance with new or amended standards. For all TSLs other than TSL 4 (the Recommended TSL detailed in the Joint Agreement), any amended standards were assumed to apply to refrigerators, refrigerator-freezers, and freezers manufactured 3 years after the date on which any new or amended standard is published. (42 U.S.C. 6295(m)(4)(A)(i)) Therefore, DOE used 2027 as the first year of compliance with any amended standards for refrigerators, refrigerator-freezers, and freezers for all TSLs other than TSL 4. For TSL 4, DOE used 2029 as the first year of compliance for representative PCs 5BI, 5A, 10, 11A, 17, and 18 and 2030 as the first year of compliance for the representative PCs 3, 5, 7, and 9, consistent with the Joint Agreement.

Table IV.9 summarizes the approach and data DOE used to derive inputs to the LCC and PBP calculations. The subsections that follow provide further discussion. Details of the spreadsheet model, and of all the inputs to the LCC and PBP analyses, are contained in chapter 8 of the direct final rule TSD and its appendices.

TABLE IV.9—SUMMARY OF INPUTS AND METHODS FOR THE LCC AND PBP ANALYSIS *

Inputs	Source/method
Product Cost	Derived by multiplying MPCs by manufacturer and retailer markups and sales tax, as appropriate. Applied price learning based on historical price index data to project product costs. Applied price trend to electronic controls used on products with VSDs.
Installation Costs	Assumed no change with efficiency level; therefore, not included.
Annual Energy Use	The total annual energy use multiplied by a usage adjustment factor, which is derived using field data. Variability: Based on the product class and field data.
Energy Prices	Electricity: Based on Edison Electric Institute (''EEI'') data for 2022. Variability: Regional energy prices determined for each Census Division and large state.
Energy Price Trends	Based on *AEO2023* price projections.
Repair and Maintenance Costs.	Assumed no change with efficiency level for maintenance costs. Repair costs estimated for each product class and efficiency level.
Product Lifetime	Weibull distributions based on historical shipments and age distribution of installed stock.
Discount Rates	Approach involves identifying all possible debt or asset classes that might be used to purchase the considered appliances or might be affected indirectly. Primary data source was the Federal Reserve Board's Survey of Consumer Finances (residential) and Damadoran Online (commercial).
Compliance Date	2027 for all TSLs other TSL 4. For TSL 4, 2029 for PCs 5BI, 5A, 10, 11A, 17, and 18 and 2030 for PCs 3, 5, 7, and 9.

* References for the data sources mentioned in this table are provided in the sections following the table or in chapter 8 of the direct final rule TSD.

In response to the February 2023 NOPR, an individual objected to the LCC analysis for two reasons: (1) future dollars savings are not the same as present-day dollars for purchase, which is especially problematic for low-income individuals; and (2) some in the elderly population would not live long enough to recover the incremental installed cost due to an amended standard, resulting in ''age discrimination.'' (Individual

Commenter, No. 59 at p. 2) In regard to future dollar savings vs. present-day dollar savings for low-income households, DOE's low-income consumer subgroup LCC analysis uses discount rates that are specific to low-income households, resulting in higher discount rates for these households, on average, compared to the full consumer sample used in the standard LCC analysis. See section IV.I of this document as well as chapter 11 of the direct final rule TSD for more details. In regard to the incremental installed cost for low-income consumers, DOE notes that many low-income consumers are renters who are typically not responsible for purchasing refrigeration equipment (*see* the discussion in section IV.I of this document as well as chapter 11 of the direct final rule TSD). Moreover, the low-income subgroup results indicate that low-income households, on average, are expected to experience higher LCC savings and lower payback periods than the general population (*see* the results in section V.B.1.b of this document). In regard to some individuals not living long enough to recoup the incremental installed cost due to an amended standard, DOE notes that even in such cases—which could happen to non-elderly consumers as well—the equipment would continue to reap energy savings, but for a new owner. Therefore, DOE does not believe the LCC analysis discriminates against elderly consumers relative to younger consumers in the general population.

AHAM commented that due to the skewed nature of the LCC savings results, DOE should report median values rather than mean values. (AHAM, No. 69 at p. 18) DOE notes that there are a variety of ways to characterize distributions of impacts, and DOE considers the impacts of a potential amended standard on refrigerators, refrigerator-freezers, and freezers holistically. DOE also notes that the median LCC savings for affected consumers are shown in the box-and-whisker plots in chapter 8 of the direct final rule TSD.

AHAM also commented that DOE should be conducting a purchase decision analysis in its LCC model to reflect the actual conditions and expectations of the purchaser. (AHAM, No. 69 at p. 15) In the current setup of LCC analysis, DOE is not explicitly modeling the purchase decision made by purchasers when the standard becomes effective. DOE's analysis is intended to model the range of individual outcomes likely to result from a hypothetical amended energy conservation standard at various levels of efficiency. DOE does not discount the consumer decision theory established in the broad behavioral economics field, but rather, notes that its methodological decision was made after considering the existence of various systematic market failures and their implication in rational versus actual purchase behavior. Furthermore, the outcome of the LCC is not considered in isolation, but in the context of the broader set of analyses, including the NIA. Moreover, the type of data required to facilitate a robust consumer choice modeling of a specific household appliance at the individual household level is currently lacking and AHAM did not provide much data. DOE further notes, that AHAM is a party to the Joint Agreement and is supportive of the recommended standard adopted in this direct final rule.

1. Adjusted Volume Distribution

DOE developed adjusted volume distributions within each PC containing more than one representative unit to determine the likelihood that a given purchaser would select each of the representative units for a given PC from the engineering analysis. DOE estimated the distribution of adjusted volumes for PC 3 and PC 5 based on the capacity distribution reported in the TraQline® refrigerator data spanning from Q1 2018 to Q1 2019.[44] DOE estimated the distribution of adjusted volumes for PC 11A based on the distribution of models from DOE's Compliance Certification Management System (''CCMS'') Database. Table IV.10 presents the adjusted volume distribution of each of the PCs having more than one representative unit. DOE assumed that the adjusted volume distribution remains constant over the years considered in the analysis.

TABLE IV.10—ADJUSTED VOLUME PROBABILITY FOR EACH PRODUCT CLASS HAVING MORE THAN ONE REPRESENTATIVE UNIT

Adjusted volume (cu. ft.)	Probability (%)
PC 3:	
11.9	22.3
20.6	77.7
PC 5:	
23	34.7
30	65.3
PC 11A:	
1.7	84.7
4.4	15.3

2. Product Cost

To calculate consumer product costs, DOE multiplied the MPCs developed in the engineering analysis by the markups described previously (along with sales taxes). DOE used different markups for baseline products and higher-efficiency products, because DOE applies an incremental markup to the increase in MSP associated with higher-efficiency products.

Economic literature and historical data suggest that the real costs of many products may trend downward over time according to ''learning'' or ''experience'' curves. Experience curve analysis implicitly includes factors such as efficiencies in labor, capital investment, automation, materials prices, distribution, and economies of scale at an industry-wide level.[45] In the experience curve method, the real cost of production is related to the cumulative production or ''experience'' with a manufactured product. DOE used historical Producer Price Index (''PPI'') data for ''household refrigerator and home freezer manufacturing'' from the Bureau of Labor Statistics' (''BLS'') spanning the time period between 1981 and 2022 as a proxy of the production cost for refrigerators, refrigerator-freezers and freezers.[46] This is the most representative and current price index for refrigerators, refrigerator-freezers, and freezers. An inflation-adjusted price index was calculated by dividing the PPI series by the gross domestic product index from the Bureau of Economic Analysis for the same years. The cumulative production of refrigerators, refrigerator-freezers, and freezers were assembled from the annual shipments from the Association of Household Appliance Manufacturers (AHAM) between 1951 and 2022, and shipment estimates prior to 1951 using a trend analysis. The estimated learning rate (defined as the fractional reduction in price expected from each doubling of cumulative production) is 39.4 ±1.9 percent

DOE included variable-speed compressors as a technology option for higher efficiency levels. To develop future prices specific for that technology, DOE applied a separate price trend to the controls portion of the variable-speed compressor, which represents part of the price increment when moving from an efficiency level achieved with the highest efficiency single-speed compressor to an efficiency

[44] TraQline® is a quarterly market share tracker of 150,000+ consumers.

[45] Taylor, M. and Fujita, K.S. Accounting for Technological Change in Regulatory Impact Analyses: The Learning Curve Technique. LBNL–6195E. Lawrence Berkeley National Laboratory, Berkeley, CA. April 2013. Available at *escholarship.org/uc/item/3c8709p4#page-1*.

[46] Household refrigerator and home freezer manufacturing PPI series ID: PCU3352203352202. Available at *www.bls.gov/ppi/*.

level with variable-speed compressor. DOE used PPI data on ''semiconductors and related device manufacturing'' between 1967 and 2022 to estimate the historic price trend of electronic components in the control.[47] The regression, performed as an exponential trend line fit, results in an R-square of 0.99, with an annual price decline rate of 6.3 percent. *See* chapter 8 of the TSD for further details on this topic.

In response to the February 2023 NOPR, AHAM commented that there is no theoretical underpinning for the implementation of an experience or learning curve and the functional form it should take. In addition, AHAM stated that the data that DOE used merely represents an empirical relationship, and a clear connection between the actual products in question and the data used needs to be made. AHAM noted that there is little reason to support the concept that price learning through manufacturing efficiencies should extend beyond the labor and materials in the product itself, and that such a relationship should not hold for other cost components. (AHAM, No. 69 at pp. 16–17)

DOE notes that there is considerable empirical evidence of consistent price declines for appliances in the past few decades. Several studies examined refrigerator retail prices during different periods of time and showed that prices had been steadily falling while efficiency had been increasing, for example Dale, *et al.* (2009)[48] and Taylor, *et al.* (2015).[49] As mentioned in Taylor and Fujita (2013),[50] Federal agencies have adopted different approaches to account for ''the changing future compliance costs that might result from technological innovation or anticipated behavioral changes.'' Given the limited data availability on historical manufacturing costs broken by different components, DOE utilized the Producer Price Index (''PPI'') published by the BLS as a proxy for manufacturing costs to represent the analyzed product as a whole. While products may experience varying degrees of price learning during different product stages, DOE modeled the average learning rate based on the full historical PPI series for ''household refrigerator and home freezer manufacturing'' to capture the overall price evolution in relation to the cumulative shipments. DOE also conducted sensitivity analyses that are based on a particular segment of the PPI data for household refrigerator manufacturing to investigate the impact of alternative product price projections (low price learning and high price learning) in the NIA of this direct final rule. DOE further notes, that AHAM is a party to the Joint Agreement and is supportive of the recommended standard adopted in this direct final rule.

3. Installation Cost

Installation cost includes labor, overhead, and any miscellaneous materials and parts needed to install the product. DOE found no evidence that installation costs for refrigerators, refrigerator-freezers, and freezers would be impacted with increased efficiency levels. As a result, DOE did not include installation costs in the LCC and PBP analysis.

4. Annual Energy Consumption

For each sampled household or commercial building, DOE determined the energy consumption for a refrigerator, refrigerator-freezer, or freezer at different efficiency levels using the approach described previously in section IV.E of this document.

5. Energy Prices

Because marginal electricity price more accurately captures the incremental savings associated with a change in energy use from higher efficiency, it provides a better representation of incremental change in consumer costs than average electricity prices. Therefore, DOE applied average electricity prices for the energy use of the product purchased in the no-new-standards case, and marginal electricity prices for the incremental change in energy use associated with the other efficiency levels considered.

DOE derived electricity prices in 2022 using data from EEI Typical Bills and Average Rates reports. Based upon comprehensive, industry-wide surveys, this semi-annual report presents typical monthly electric bills and average kilowatt-hour costs to the customer as charged by investor-owned utilities. For the residential sector, DOE calculated electricity prices using the methodology described in Coughlin and Beraki (2018).[51] For the commercial sector, DOE calculated electricity prices using the methodology described in Coughlin and Beraki (2019).[52]

To estimate energy prices in future years, DOE multiplied the 2022 energy prices by the projection of annual average price changes for each of the nine census divisions from the Reference case in *AEO2023*, which has an end year of 2050.[53] To estimate price trends after 2050, DOE used the 2050 electricity prices, held constant.

6. Maintenance and Repair Costs

Repair costs are associated with repairing or replacing product components that have failed in an appliance; maintenance costs are associated with maintaining the operation of the product. Typically, small incremental increases in product efficiency entail no, or only minor, changes in repair and maintenance costs compared to baseline efficiency products. DOE is not aware of any data that suggest the cost of maintenance changes as a function of efficiency for refrigerators, refrigerator-freezers, and freezers. DOE therefore assumed that maintenance costs are the same regardless of EL and do not impact the LCC or PBP.

For the February 2023 NOPR as well as this direct final rule, DOE developed a repair cost estimation method based on the average total installed cost and average annual repair costs by PC and EL from the September 2011 Final Rule. For each of three categories—standard-size refrigerator-freezers, standard-size freezers, and compact refrigeration products—DOE averaged the annual repair cost as a fraction of the total installed cost at each EL. Based on this method, DOE estimated consumers with standard-size refrigerator-freezers have annual repair costs equal to 1.8 percent of their total installed cost, consumers

[47] Semiconductors and related device manufacturing PPI series ID: PCU334413334413; *www.bls.gov/ppi/*.

[48] Dale, L., C. Antinori, M. McNeil, James E. McMahon, and K.S. Fujita. Retrospective evaluation of appliance price trends. *Energy Policy.* 2009. 37 pp. 597–605.

[49] Taylor, M., C.A. Spurlock, and H.-C. Yang. *Confronting Regulatory Cost and Quality Expectations. An Exploration of Technical Change in Minimum Efficiency Performance Standards.* 2015. Lawrence Berkeley National Lab. (LBNL), Berkeley, CA (United States). Report No. LBNL–1000576. Available at *www.osti.gov/biblio/1235570/* (last accessed June 30, 2023).

[50] Taylor, M. and K.S. Fujita. Accounting for Technological Change in Regulatory Impact Analyses: The Learning Curve Technique. 2013. Lawrence Berkeley National Lab (LBNL), Berkeley, CA (United States). Report No. LBNL–6195E. Available at *escholarship.org/uc/3c8709p4* (last accessed July 20, 2023).

[51] Coughlin, K. and B. Beraki. 2018. Residential Electricity Prices: A Review of Data Sources and Estimation Methods. Lawrence Berkeley National Lab. Berkeley, CA. Report No. LBNL–2001169. Available at *ees.lbl.gov/publications/residential-electricity-prices-review* (last accessed July 10, 2023).

[52] Coughlin, K. and B. Beraki. 2019. Non-residential Electricity Prices: A Review of Data Sources and Estimation Methods. Lawrence Berkeley National Lab. Berkeley, CA. Report No. LBNL–2001203. Available at *ees.lbl.gov/publications/non-residential-electricity-prices* (last accessed July 10, 2023).

[53] U.S. Department of Energy—Energy Information Administration. *Annual Energy Outlook 2023 with Projections to 2050.* Washington, DC. Available at *www.eia.gov/outlooks/aeo/* (last accessed July 10, 2023).

with standard-size freezers have an annual repair cost of 0.8 percent of their total installed cost, and consumers with compact refrigeration products have an annual repair cost of 0.9 percent of their total installed cost. Because high-efficiency products have a higher installed cost, their estimated average annual repair costs are also higher.

In response to the February 2023 NOPR, an individual commented that product reliability is inversely related to the number of product parts, and Strauch suggested that DOE use the MIL–HDBK–217 or the Bellcore/Telcordia reliability guides to inform its maintenance and repair cost analysis. (Individual Commenter, No. 59 at pp. 1–2) DOE appreciates the recommendation, but notes that the data required to properly use the MIL–HDBK–217 or Bellcore/Telcordia standards [54] (*e.g.,* parts count, parts stress conditions, and laboratory and field failure rates of specific parts) is unavailable in the LCC analysis. This is due to the fact that the LCC analyzes refrigerator, refrigerator-freezer, and freezer representative units as opposed to specific product models. Moreover, according to Hottinger Brüel & Kjær (''HBK'') there are a number of limitations to such empirical methods, including: (1) the data used to inform these traditional empirical models is typically outdated, (2) whereas the models assume components fail independently of each other, in some cases the overall system design is the causal factor, and (3) obtaining high-quality field and manufacturing data to inform the adjustment factors used in the models is difficult.[55] For these reasons, for this direct final rule analysis DOE continued to use the method used in the February 2023 NOPR.

AHAM also commented that failed VIPs are unrepairable in the field meaning manufacturers work to ensure VIPs will not fail prior to the end of the product's useful life. (AHAM, No. 69 at p. 6) DOE appreciates this information but notes that, due to a lack of available data, the repair cost estimates used in the LCC analysis are not component-specific.

[54] MIL–HDBK–217 is a handbook to establish and maintain consistent and uniform methods for estimating the inherent reliability of military electronic equipment and systems. Bellcore/Telcordia is a similar reliability guide for the telecommunications and electronics industry.

[55] Available at *www.hbkworld.com/en/knowledge/resource-center/articles/2022/mil-217-bellcore-telcordia-and-other-reliability-prediction-methods-for-electronic-products* (last accessed July 13, 2023).

7. Product Lifetime

DOE performed separate modeling of lifetime for standard-size refrigerators and refrigerator-freezers, standard-size freezers, and compact refrigeration products. For standard-size refrigerators, refrigerator-freezers, and freezers, DOE estimated product lifetimes by fitting a survival probability function to data on historical shipments and the age distributions of installed stock from RECS 2005, RECS 2009, RECS 2015, and RECS 2020. The survival function, which DOE assumed has the form of a cumulative Weibull distribution, provides an average and median lifetime. Moreover, the conversion from primary-to-secondary refrigerator or refrigerator-freezer was also modeled as part of the lifetime determination for standard-size refrigerators and refrigerator-freezers.

For compact refrigerators, DOE estimated an average lifetime of 8.8 years using data on shipments and the number of units in use (stock). For compact freezers, DOE did not have reliable stock data available to compare against historical shipments. Therefore, DOE estimated an average lifetime of 11.3 years by multiplying the average lifetime of compact refrigerators by the ratio of the average lifetime of standard-size freezers (18.4 years) to the average lifetime of standard-size refrigerators and refrigerator-freezers (14.3 years).

In response to the February 2023 NOPR, an individual commented that more stringent efficiency standards reduce the service lifetime of refrigerators, refrigerator-freezers, and freezers. (Individual Commenter, No. 59 at p. 1) DOE used the latest available data to inform the lifetime distributions used in this direct final rule analysis, and DOE does not have data to corroborate a causal connection between the stringency of efficiency standards and the expected service lifetime of refrigerators, refrigerator-freezers, and freezers. Therefore, DOE continues to assume that amending the efficiency standards for refrigerators, refrigerator-freezers, and freezers will not directly impact the estimated service lifetime of these products.

8. Discount Rates

In the calculation of LCC, DOE applies discount rates appropriate to residential and commercial consumers to estimate the present value of future operating cost savings. DOE estimated distributions of residential and commercial discount rates for refrigerators, refrigerator-freezers, and freezers based on consumer financing costs and the opportunity cost of consumer funds (for the residential sector) and cost of capital of publicly traded firms (for the commercial sector).

DOE applies weighted average discount rates calculated from consumer debt and asset data, rather than marginal or implicit discount rates.[56] The LCC analysis estimates net present value over the lifetime of the product, so the appropriate discount rate will reflect the general opportunity cost of household funds, taking this time scale into account. Given the long time horizon modeled in the LCC, the application of a marginal interest rate associated with an initial source of funds is inaccurate. Regardless of the method of purchase, consumers are expected to continue to rebalance their debt and asset holdings over the LCC analysis period, based on the restrictions consumers face in their debt payment requirements and the relative size of the interest rates available on debts and assets. DOE estimates the aggregate impact of this rebalancing using the historical distribution of debts and assets.

To establish residential discount rates for the LCC analysis, DOE identified all relevant household debt or asset classes in order to approximate a consumer's opportunity cost of funds related to appliance energy cost savings. It estimated the average percentage shares of the various types of debt and equity by household income group using data from the Federal Reserve Board's triennial Survey of Consumer Finances [57] (''SCF'') starting in 1995 and ending in 2019. Using the SCF and other sources, DOE developed a distribution of rates for each type of debt and asset by income group to represent the rates that may apply in the year in which amended standards would take effect. DOE assigned each sample household a specific discount rate drawn from one of the distributions. The average rate across all types of household debt and equity and income groups, weighted by the shares of each type, is

[56] The implicit discount rate is inferred from a consumer purchase decision between two otherwise identical goods with different first cost and operating cost. It is the interest rate that equates the increment of first cost to the difference in net present value of lifetime operating cost, incorporating the influence of several factors: transaction costs; risk premiums and response to uncertainty; time preferences; interest rates at which a consumer is able to borrow or lend. The implicit discount rate is not appropriate for the LCC analysis because it reflects a range of factors that influence consumer purchase decisions, rather than the opportunity cost of the funds that are used in purchases.

[57] U.S. Board of Governors of the Federal Reserve System. Survey of Consumer Finances. 1995, 1998, 2001, 2004, 2007, 2010, 2013, 2016, and 2019. Available at *www.federalreserve.gov/econresdata/scf/scfindex.htm* (last accessed July 10, 2023).

approximately 4 percent (the average varies by PC).

For commercial consumers, DOE used the cost of capital to estimate the present value of cash flows to be derived from a typical company project or investment. Most companies use both debt and equity capital to fund investments, so the cost of capital is the weighted-average cost to the firm of equity and debt financing. This corporate finance approach is referred to as the weighted-average cost of capital. DOE used currently available economic data in developing discount rates. The average discount rate for the PC 11A commercial consumer sample is 6.8 percent.

In response to the February 2023 NOPR, AHAM commented that operating costs and the depreciation of capital investments are deductible costs for commercial end-users from Federal and State corporate income taxes. AHAM suggested that DOE should incorporate the effects of tax deductibility in the LCC analysis. (AHAM, No. 69 at p. 19) DOE responds that as noted in the comment, the estimation of commercial discount rates accounts for the tax deductibility of the energy costs and capital investment depreciation and therefore the net present value of the future operating cost savings in the LCC analysis should already reflect that effect.

In response to the February 2023 NOPR, AHAM further commented that DOE used an inappropriate discount rate in its analysis of the effects of standards on low-income households, claiming that it does not take into account issues of capital availability or the non-financial costs from a purchase. AHAM also presented data from their survey work with Bellomy Research showing that the lowest 30 percent income groups have no discretionary income to save, making it impossible for them to rebalance their balance sheets after making a purchase. (AHAM, No. 69 at p. 11)

With respect to the issue of DOE's methodology for estimating consumer discount rates, DOE maintains that the LCC is not predicting a purchase decision, which DOE assumes to be AHAM's interpretation given their focus on the availability of cash for appliance purchases. Rather, the LCC estimates the net present value of the financial impact of a given standard level over the lifetime of the product (*i.e.,* 30 years) assuming the standard-compliant product has already been installed and allows for comparison of this value across different hypothetical minimum efficiency levels. It is applied to future-year energy costs and non-energy operations and maintenance costs in order to calculate the net present value of the appliance to a household at the time of installation. The consumer discount rate reflects the opportunity cost of receiving energy cost savings in the future, rather than at the time of purchase and installation. The opportunity cost of receiving operating cost savings in future years, rather than in the first year of the modeled period, is dependent on the rate of return that could be earned if invested into an interest-bearing asset or the interest cost accrual avoided by paying down debt. Consumers in all income bins generally hold a variety of assets (*e.g.,* certificates of deposit, stocks, bonds) and debts (*e.g.,* mortgage, credit cards, vehicle loan), which vary in amount over time as consumers allocate their earnings, make new investments, etc. Thus, the consumer discount rate is estimated as a weighted average of the rates and proportions of the various types of assets and debts held by households in a given income bin, as reported by the Survey of Consumer Finances. In the low-income subgroup analysis, DOE specifically evaluated the impacts of increased efficiency on low-income households using discount rates estimated specifically for the low-income bin. DOE further notes, that AHAM is a party to the Joint Agreement and is supportive of the recommended standard adopted in this direct final rule.

See chapter 8 of the direct final rule TSD for further details on the development of consumer discount rates.

9. Energy Efficiency Distribution in the No-New-Standards Case

To accurately estimate the share of consumers that would be affected by a potential energy conservation standard at a particular efficiency level, DOE's LCC analysis considered the projected distribution (market shares) of product efficiencies under the no-new-standards case (*i.e.,* the case without amended or new energy conservation standards).

To estimate the energy efficiency distribution of refrigerators, refrigerator-freezers, and freezers, DOE used current shipments data provided by AHAM in response to the NOPR for PCs 3, 5, 5A, 7, 9, 11A, and 18, and model counts from DOE's CCMS database for PCs 5BI, 10, and 17. (AHAM, No. 69 at pp. 2–3) Models in the database were categorized by capacity and assigned an efficiency level based on reported energy use. In the absence of data on trends in efficiency, DOE assumed the current efficiency distribution would be representative of the efficiency distribution in the compliance year in the no-new-standards case. The estimated market shares for the no-new-standards case for refrigerators, refrigerator-freezers, and freezers are shown in Table IV.11. *See* chapter 8 of the direct final rule TSD for further information on the derivation of the efficiency distributions.

TABLE IV.11—NO-NEW-STANDARDS CASE EFFICIENCY DISTRIBUTIONS

Product class	Total adjusted volume (cu. ft.)	Market share (%)						
		EL 0	EL 1	EL 2	EL 3	EL 4	EL 5	Total *
3	11.9	77.0	4.0	19.0	0.0	0.0	0.0	100.0
	20.6	77.0	4.0	19.0	0.0	0.0	0.0	100.0
5	23	90.0	7.0	2.0	0.5	0.5	.....	100.0
	30	90.0	7.0	2.0	0.5	0.5	.....	100.0
5A	35	97.0	3.0	0.0	0.0	.....	.....	100.0
5BI	26	27.0	51.4	0.0	21.6	.....	.....	100.0
7	31.5	85.5	14.5	0.0	0.0	0.0	0.0	100.0
9	29.3	83.0	16.0	0.0	0.0	1.0	.....	100.0
10	26	95.3	4.7	0.0	0.0	0.0	.....	100.0
11A	1.7	0.0	100.0	0.0	0.0	0.0	.....	100.0
	4.4	0.0	100.0	0.0	0.0	0.0	.....	100.0
17	9	19.4	58.2	13.4	9.0	.....	.....	100.0
18	8.9	100.0	0.0	0.0	0.0	0.0	.....	100.0

The LCC Monte Carlo simulations draw from the efficiency distributions and randomly assign an efficiency to the refrigerator, refrigerator-freezer, or freezer purchased by each sample household in the no-new-standards case. The resulting percent shares within the sample match the market shares in the efficiency distributions.

In the February 2023 NOPR, DOE performed a random assignment of efficiency levels to consumers in its Monte Carlo sample. 88 FR 12452, 12484–12485. While DOE acknowledges that economic factors may play a role when consumers decide on what type of refrigerator, refrigerator-freezer, or freezer to install, assignment of refrigeration product efficiency for a given installation, based solely on economic measures such as life-cycle cost or simple payback period, most likely would not fully and accurately reflect actual real-world installations. There are a number of market failures discussed in the economics literature that illustrate how purchasing decisions with respect to energy efficiency are unlikely to be perfectly correlated with energy use, as described below. DOE maintains that the method of assignment, which is in part random, is a reasonable approach, because it simulates behavior in the refrigeration product market, where market failures result in purchasing decisions not being perfectly aligned with economic interests, and is more realistic than relying only on apparent cost-effectiveness criteria derived from the limited information in RECS. DOE further emphasizes that its approach does not assume that all purchasers of refrigeration products make economically irrational decisions (*i.e.,* the lack of a correlation is not the same as a negative correlation). By using this approach, DOE acknowledges the uncertainty inherent in the data and minimizes any bias in the analysis by using random assignment, as opposed to assuming certain market conditions that are unsupported given the available evidence.

The following discussion provides more detail about the various market failures that affect refrigeration product purchases. First, consumers are motivated by more than simple financial trade-offs. There are consumers who are willing to pay a premium for more energy-efficient products because they are environmentally conscious.[58] There are also several behavioral factors that can influence the purchasing decisions of complicated multi-attribute products, such as refrigeration products. For example, consumers (or decision makers in an organization) are highly influenced by choice architecture, defined as the framing of the decision, the surrounding circumstances of the purchase, the alternatives available, and how they are presented for any given choice scenario.[59] The same consumer or decision maker may make different choices depending on the characteristics of the decision context (*e.g.,* the timing of the purchase, competing demands for funds), which have nothing to do with the characteristics of the alternatives themselves or their prices. Consumers or decision makers also face a variety of other behavioral phenomena including loss aversion, sensitivity to information salience, and other forms of bounded rationality.[60] Thaler, who won the Nobel Prize in Economics in 2017 for his contributions to behavioral economics, and Sunstein point out that these behavioral factors are strongest when the decisions are complex and infrequent, when feedback on the decision is muted and slow, and when there is a high degree of information asymmetry.[61] These characteristics describe almost all purchasing situations of appliances and equipment, including refrigerators, refrigerator-freezers, and freezers. The installation of a new or replacement refrigeration products is done very infrequently, as evidenced by the mean lifetime of 14.3 years for standard-size refrigerators and refrigerator-freezers and 18.4 years for standard-size freezers. Further, if the purchaser of the refrigerator, refrigerator-freezer, or freezer is not the entity paying the energy costs (*e.g.,* a building owner and tenant), there may be little to no feedback on the purchase. Additionally, there are systematic market failures that are likely to contribute further complexity to how products are chosen by consumers, as explained in the following paragraphs.

The first of these market failures—the split-incentive or principal-agent problem—is likely to significantly affect refrigerators, refrigerator-freezers, and freezers. The principal-agent problem is a market failure that results when the consumer that purchases the equipment does not internalize all of the costs associated with operating the equipment. Instead, the user of the product, who has no control over the purchase decision, pays the operating costs. There is a high likelihood of split-incentive problems in the case of rental properties where the landlord makes the choice of what refrigeration product to install, whereas the renter is responsible for paying energy bills.

In addition to the split-incentive problem, there are other market failures that are likely to affect the choice of refrigerator, refrigerator-freezer, or freezer product efficiency made by consumers. For example, unplanned replacements due to unexpected failure of equipment such as refrigeration products are strongly biased toward like-for-like replacement (*i.e.,* replacing the non-functioning equipment with a similar or identical product). Time is a constraining factor during unplanned replacements, and consumers may not consider the full range of available options on the market, despite their availability. The consideration of alternative product options is far more likely for planned replacements and installations in new construction.

Additionally, Davis and Metcalf[62] conducted an experiment demonstrating that, even when consumers are presented with energy consumption information, the nature of the information available to consumers (*e.g.,* from EnergyGuide labels) results in an inefficient allocation of energy efficiency across households with different usage levels. Their findings indicate that households are likely to make decisions regarding the efficiency of the air conditioning equipment of their homes that do not result in the highest net present value for their specific usage pattern (*i.e.,* their decision is based on imperfect information and, therefore, is not necessarily optimal). Also, most consumers did not properly understand the labels (specifically whether energy consumption and cost estimates were national averages or specific to their

[58] Ward, D.O., Clark, C.D., Jensen, K.L., Yen, S.T., & Russell, C.S. (2011): ''Factors influencing willingness-to pay for the ENERGY STAR® label,'' *Energy Policy, 39* (3), 1450–1458 (available at: *www.sciencedirect.com/science/article/abs/pii/S0301421510009171*) (last accessed August 1, 2023).

[59] Thaler, R.H., Sunstein, C.R., and Balz, J.P. (2014). ''Choice Architecture'' in *The Behavioral Foundations of Public Policy,* Eldar Shafir (ed).

[60] Thaler, R.H., and Bernartzi, S. (2004). ''Save More Tomorrow: Using Behavioral Economics in Increase Employee Savings,'' *Journal of Political Economy* 112(1), S164–S187. *See also* Klemick, H., *et al.* (2015) ''Heavy-Duty Trucking and the Energy Efficiency Paradox: Evidence from Focus Groups and Interviews,'' *Transportation Research Part A: Policy & Practice,* 77, 154–166 (providing evidence that loss aversion and other market failures can affect otherwise profit-maximizing firms).

[61] Thaler, R.H., and Sunstein, C.R. (2008). Nudge: Improving Decisions on Health, Wealth, and Happiness. New Haven, CT: Yale University Press.

[62] Davis, L.W., and G.E. Metcalf (2016): ''Does better information lead to better choices? Evidence from energy-efficiency labels,'' *Journal of the Association of Environmental and Resource Economists,* 3(3), 589–625 (available at: *www.journals.uchicago.edu/doi/full/10.1086/686252*) (last accessed August 1, 2023).

State). As such, consumers did not make the most informed decisions.

In part because of the way information is presented, and in part because of the way consumers process information, there is also a market failure consisting of a systematic bias in the perception of equipment energy usage, which can affect consumer choices. Attari *et al.*[63] show that consumers tend to underestimate the energy use of large energy-intensive appliances (such as air conditioners, dishwashers, and clothes dryers), but overestimate the energy use of small appliances (such as light bulbs). Therefore, it is possible that consumers systematically underestimate the energy use associated with refrigerators, refrigerator-freezers, and freezers, resulting in less cost-effective purchases.

These market failures affect a sizeable share of the consumer population. A study by Houde[64] indicates that there is a significant subset of consumers that appear to purchase appliances without taking into account their energy efficiency and operating costs at all.

The existence of market failures in the residential sector is well supported by the economics literature and by a number of case studies. If DOE developed an efficiency distribution that assigned refrigeration product efficiency in the no-new-standards case solely according to energy use or economic considerations such as life-cycle cost or payback period, the resulting distribution of efficiencies within the consumer sample would not reflect any of the market failures or behavioral factors above. Thus, DOE concludes such a distribution would not be representative of the refrigeration product market. Further, even if a specific household is not subject to the market failures above, the purchasing decision of refrigerator, refrigerator-freezer, or freezer product efficiency can be highly complex and influenced by a number of factors (*e.g.,* aesthetics) not captured by the building characteristics available in the RECS sample. These factors can lead to households or building owners choosing a refrigeration product efficiency that deviates from the efficiency predicted using only energy use or economic considerations such as life-cycle cost or payback period.

There is a complex set of behavioral factors, with sometimes opposing effects, affecting the refrigeration product market. It is impractical to model every consumer decision incorporating all of these effects at this extreme level of granularity given the limited available data. Given these myriad factors, DOE estimates the resulting distribution of such a model, if it were possible, would be very scattered with high variability. It is for this reason DOE utilizes a random distribution (after accounting for efficiency market share constraints) to approximate these effects. The methodology is not an assertion of economic irrationality, but instead, it is a methodological approximation of complex consumer behavior. The analysis is neither biased toward high or low energy savings. The methodology does not preferentially assign lower-efficiency refrigeration products to households in the no-new-standards case where savings from the rule would be greatest, nor does it preferentially assign lower-efficiency refrigeration products to households in the no-new-standards case where savings from the rule would be smallest. Some consumers were assigned the refrigeration products that they would have chosen if they had engaged in perfect economic considerations when purchasing the products. Others were assigned less-efficient refrigeration products even where a more-efficient product would eventually result in life-cycle savings, simulating scenarios where, for example, various market failures prevent consumers from realizing those savings. Still others were assigned refrigeration products that were *more* efficient than one would expect simply from life-cycle costs analysis, reflecting, say, ''green'' behavior, whereby consumers ascribe independent value to minimizing harm to the environment.

10. Payback Period Analysis

The payback period is the amount of time (expressed in years) it takes the consumer to recover the additional installed cost of more efficient products, compared to baseline products, through energy cost savings. Payback periods that exceed the life of the product mean that the increased total installed cost is not recovered in reduced operating expenses.

The inputs to the PBP calculation for each efficiency level are the change in total installed cost of the product and the change in the first-year annual operating expenditures relative to the baseline. DOE refers to this as a ''simple PBP'' because it does not consider changes over time in operating cost savings. The PBP calculation uses the same inputs as the LCC analysis when deriving first-year operating costs.

As noted previously, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii)) For each considered efficiency level, DOE determined the value of the first year's energy savings by calculating the energy savings in accordance with the applicable DOE test procedure, and multiplying those savings by the average energy price projection for the year in which compliance with the amended standards would be required.

G. Shipments Analysis

DOE uses projections of annual product shipments to calculate the national impacts of potential amended or new energy conservation standards on energy use, NPV, and future manufacturer cash flows.[65] The shipments model takes an accounting approach, tracking market shares of each product class and the vintage of units in the stock. Stock accounting uses product shipments as inputs to estimate the age distribution of in-service product stocks for all years. The age distribution of in-service product stocks is a key input to calculations of both the NES and NPV, because operating costs for any year depend on the age distribution of the stock. For this direct final rule, DOE excluded PC 9A—BI from the shipments analysis due to its very small shipments volume.

Total shipments for each product category (*i.e.,* standard-size refrigerators and refrigerator-freezers, standard-size freezers, compact refrigerators and refrigerator-freezers, and compact freezers) are developed by considering the demand from various market segments. For standard-size refrigerators and refrigerator-freezers, DOE considered demand from replacements for units in stock that fail, shipments to new construction, and the demand created by increased saturation into existing households corresponding to

[63] Attari, S.Z., M.L. DeKay, C.I. Davidson, and W. Bruine de Bruin (2010): ''Public perceptions of energy consumption and savings.'' *Proceedings of the National Academy of Sciences* 107(37), 16054–16059 (available at: *www.pnas.org/content/107/37/16054*) (last accessed August 1, 2023).

[64] Houde, S. (2018): ''How Consumers Respond to Environmental Certification and the Value of Energy Information,'' *The RAND Journal of Economics,* 49 (2), 453–477 (available at: *onlinelibrary.wiley.com/doi/full/10.1111/1756-2171.12231*) (last accessed August 1, 2023).

[65] DOE uses data on manufacturer shipments as a proxy for national sales, as aggregate data on sales are lacking. In general, one would expect a close correspondence between shipments and sales.

the conversion of a primary unit to secondary unit. For all other product categories, DOE considered demand from replacements for units in stock that fail, shipments to new construction, and shipments to first-time owners in existing households. DOE calculated shipments due to replacements using the retirement functions developed for the LCC analysis (*see* chapter 8 of the direct final rule TSD for details). DOE projected shipments to new construction using estimates for new housing starts and the average saturation of each product category in new households. Shipments to first-time owners were estimated by analyzing the increasing penetration of products into existing households in each product category. For standard-size refrigerators and refrigerator-freezers, DOE estimated shipments from increased saturation corresponding to the conversion of a primary unit to a secondary unit utilizing the primary-to-secondary conversion function developed for the LCC analysis. More detail on this methodology can be found in chapter 8 of the direct final rule TSD.

For the direct final rule analysis, DOE incorporated data from stakeholders into the shipments. Confidential aggregate historical shipments data from 2015–2022 provided by AHAM were used to calibrate the total shipments for standard-size refrigerator-freezers, compact refrigerators, upright freezers, chest freezers, and built-in refrigerator-freezers. For the direct final rule, DOE used the AHAM-provided estimates for the efficiency distributions based on shipments for standard-size refrigerator-freezers and compact freezers. (AHAM, No. 69 at pp. 2–3)

Whirlpool requested that DOE provide data to indicate that there would be no impact to appliance replacement at the proposed standard level at TSL 5. (Whirlpool, No. 85 at pp. 8–9) DOE uses a price elasticity of demand to address the impact of increased prices on shipments based on an analysis using market-level appliance data including refrigerators.[66] DOE provides the description of the price elasticity methodology in chapter 9 in the direct final rule TSD.

Chapter 9 in the direct final rule TSD provides further information on the shipments analysis.

H. National Impact Analysis

The NIA assesses the national energy savings (''NES'') and the NPV from a national perspective of total consumer costs and savings that would be expected to result from new or amended standards at specific efficiency levels.[67] (''Consumer'' in this context refers to consumers of the product being regulated.) DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual product shipments, along with the annual energy consumption and total installed cost data from the energy use and LCC analyses. For the present analysis, DOE projected the energy savings, operating cost savings, product costs, and NPV of consumer benefits over the lifetime of refrigerators, refrigerator-freezers, and freezers sold from 2027 through 2056 for all TSLs other than TSL 4, the Recommended TSL detailed in the Joint Agreement. For TSL 4, DOE projected the energy savings, operating cost savings, product costs, and NPV of consumer benefits over the lifetime of refrigerators, refrigerator-freezers, and freezers sold from 2029 through 2058 for the product classes listed in Table I.1 and 2030 through 2059 for the product classes listed in Table I.2.

DOE evaluates the impacts of new or amended standards by comparing a case without such standards with standards-case projections. The no-new-standards case characterizes energy use and consumer costs for each product class in the absence of new or amended energy conservation standards. For this projection, DOE considers historical trends in efficiency and various forces that are likely to affect the mix of efficiencies over time. DOE compares the no-new-standards case with projections characterizing the market for each product class if DOE adopted new or amended standards at specific energy efficiency levels (*i.e.,* the TSLs or standards cases) for that class. For the standards cases, DOE considers how a given standard would likely affect the market shares of products with efficiencies greater than the standard.

DOE uses a spreadsheet model, which is available in the docket, to calculate the energy savings and the national consumer costs and savings from each TSL. Interested parties can review DOE's analyses by changing various input quantities within the spreadsheet. The NIA spreadsheet model uses typical values (as opposed to probability distributions) as inputs.

Table IV.12 summarizes the inputs and methods DOE used for the NIA analysis for the direct final rule. Discussion of these inputs and methods follows the table. *See* chapter 10 of the direct final rule TSD for further details.

TABLE IV.12—SUMMARY OF INPUTS AND METHODS FOR THE NATIONAL IMPACT ANALYSIS

Inputs	Method
Shipments	Annual shipments from shipments model.
Compliance Date of Standard	2027 for all TSLs other than TSL 4; for TSL 4, 2029 for the product classes listed in Table I.1 and 2030 for the product classes listed in Table I.2.
Efficiency Trends	No trend assumed.
Annual Energy Consumption per Unit	Calculated for each efficiency level based on inputs from energy use analysis.
Total Installed Cost per Unit	Prices for the year of compliance are calculated in the LCC analysis. Prices in subsequent years are calculated incorporating price learning based on historical data.
Annual Energy Cost per Unit	Calculated for each efficiency level using the energy use per unit, and electricity prices and trends.
Repair and Maintenance Cost per Unit	Annual repair costs from LCC.
Energy Price Trends	*AEO2023* projections (to 2050) and fixed at 2050 thereafter.
Energy Site-to-Primary and FFC Conversion	A time-series conversion factor based on *AEO2023.*
Discount Rate	Three and seven percent.
Present Year	2023.

[66] Fujita, K.S. Estimating Price Elasticity using Market-Level Appliance Data. LBNL–188289. Lawrence Berkeley National Laboratory, Berkeley, CA. August 2015. Available at *escholarship.org/uc/item/1t65f9c3#main.*

[67] The NIA accounts for impacts in the 50 states and U.S. territories.

1. Product Efficiency Trends

A key component of the NIA is the trend in energy efficiency projected for the no-new-standards case and each of the standards cases. Section IV.F.9 of this document describes how DOE developed an energy efficiency distribution for the no-new-standards case (which yields a shipment-weighted average efficiency) for each of the considered product classes for the year of anticipated compliance with an amended or new standard.

For the standards cases, DOE used a ''roll up'' scenario to establish the shipment-weighted efficiency for the year that standards are assumed to become effective. In this scenario, the market shares of products in the no-new-standards case that do not meet the standard under consideration would ''roll up'' to meet the new standard level, and the market share of products above the standard would remain unchanged. In the absence of data on trends in efficiency, DOE assumed no efficiency trend over the analysis period for both the no-new-standards and standards cases. For a given case, market shares by efficiency level were held fixed to their distribution in the compliance year. The approach is further described in chapter 10 of the direct final rule TSD.

2. National Energy Savings

The national energy savings analysis involves a comparison of national energy consumption of the considered products between each potential standards case (''TSL'') and the case with no new or amended energy conservation standards. DOE calculated the national energy consumption by multiplying the number of units (stock) of each product (by vintage or age) by the unit energy consumption (also by vintage). DOE calculated annual NES based on the difference in national energy consumption for the no-new-standards case and for each higher efficiency standard case. DOE estimated energy consumption and savings based on site energy and converted the electricity consumption and savings to primary energy (*i.e.,* the energy consumed by power plants to generate site electricity) using annual conversion factors derived from *AEO2023.* Cumulative energy savings are the sum of the NES for each year over the timeframe of the analysis.

In this direct final rule analysis, DOE analyzed the energy and economic impacts of a potential standard on all product classes in the scope of refrigerators, refrigerator-freezers, and freezers. Results for non-representative product classes (*i.e.,* those not analyzed in the engineering, energy use, and LCC analyses) are scaled using results for the analyzed product class that best represents each non-representative product class. For non-representative freestanding product classes, energy use values are scaled by applying the ratio of the current Federal standard baseline between the two product classes at a fixed volume. For non-representative built-in product classes, DOE developed energy scalars using the most similar freestanding representative product class and assumed a 5-percent reduction in the increase in efficiency at each EL relative to the corresponding EL for the freestanding product class. For example, a 10-percent reduction in energy use for PC 3 would correspond to a 5-percent reduction for PC 3–BI. DOE assumes the incremental cost between efficiency levels is the same for representative and non-representative product classes. *See* chapter 10 of the direct final rule TSD for more details.

In this direct final rule, for the Recommended TSL (TSL 4), the scaling of certain non-representative product classes (specifically PC 12, PC 4–BI, PC 7–BI, and PC 9–BI) has been modified from the February 2023 NOPR, consistent with the Joint Agreement. In the February 2023 NOPR, PC 12 was scaled to PC 11A with the same standard level for PC 12 as PC 11A under a given TSL. However, under the Joint Agreement, at the Recommended TSL, PC 12 is scaled differently. At TSL 4, for PC 11A, the standard is met at EL 2 and for PC 12, the standard level corresponds to EL 1 for PC 11A. Thus, for TSL 4, DOE updated its scaling for PC 12 to reflect EL 1 rather than EL 2 from PC 11A. In the February 2023 NOPR, PC 4–BI and PC 7–BI were scaled to PC 7, and the standard level under TSL 4 corresponded to EL 3 for PC 4–BI, PC 7–BI, and PC 7. Under the Joint Agreement, at TSL 4, PC 7 continues to correspond to EL 3, but PC 4–BI and PC 7–BI correspond to EL 4. Finally, in the February 2023 NOPR, PC 9—BI was scaled to PC 9, and both met the standard under TSL 4 at EL1. At TSL4, the standard for PC 9 is met at EL 2 while PC–9 BI continues to be scaled to EL 1.

Use of higher-efficiency products is sometimes associated with a direct rebound effect, which refers to an increase in utilization of the product due to the increase in efficiency. DOE did not find any data on the rebound effect specific to refrigerators that would indicate that consumers would alter their utilization of their product as a result of an increase in efficiency. DOE assumed a rebound rate of 0. DOE did not receive any comments regarding this assumption in response to the February 2023 NOPR.

In 2011, in response to the recommendations of a committee on ''Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards'' appointed by the National Academy of Sciences, DOE announced its intention to use FFC measures of energy use and greenhouse gas and other emissions in the national impact analyses and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281 (Aug. 18, 2011). After evaluating the approaches discussed in the August 18, 2011 statement of policy, DOE published a statement of amended policy in which DOE explained its determination that EIA's National Energy Modeling System (''NEMS'') is the most appropriate tool for its FFC analysis and its intention to use NEMS for that purpose. 77 FR 49701 (Aug. 17, 2012). NEMS is a public domain, multi-sector, partial equilibrium model of the U.S. energy sector [68] that EIA uses to prepare its *Annual Energy Outlook.* The FFC factors incorporate losses in production and delivery in the case of natural gas (including fugitive emissions) and additional energy used to produce and deliver the various fuels used by power plants. The approach used for deriving FFC measures of energy use and emissions is described in appendix 10B of the direct final rule TSD.

3. Net Present Value Analysis

The inputs for determining the NPV of the total costs and benefits experienced by consumers are (1) total annual installed cost, (2) total annual operating costs (energy costs and repair and maintenance costs), and (3) a discount factor to calculate the present value of costs and savings. DOE calculates net savings each year as the difference between the no-new-standards case and each standards case in terms of total savings in operating costs versus total increases in installed costs. DOE calculates operating cost savings over the lifetime of each product shipped during the projection period.

As discussed in section IV.F.2 of this document, DOE developed refrigerators, refrigerator-freezers, and freezers price trends based on an experience curve calculated using historical PPI data. For efficiency levels with a single-speed compressor, DOE applied a price trend

[68] For more information on NEMS, refer to *The National Energy Modeling System: An Overview 2009,* DOE/EIA–0581(2009), October 2009. Available at *www.eia.gov/forecasts/aeo/index.cfm* (last accessed July 13, 2023).

developed using the ''household refrigerator and home freezer manufacturing'' PPI to the entire cost of the unit. For efficiency levels with a variable-speed compressor, DOE applied a price trend developed from the ''semiconductors and related device manufacturing'' PPI to the cost associated with the electronics used to control the variable-speed compressor and the same price trend used for single-speed compressor units to the non-controls portion of the cost of the unit. By 2059, which is the end date of the projection period for the Recommended TSL detailed in the Joint Agreement, the average single-speed compressor refrigerators, refrigerator-freezers, and freezers price is projected to drop 33-percent relative to 2030. DOE's projection of product prices is described in chapter 8 of the direct final rule TSD.

To evaluate the effect of uncertainty regarding the price trend estimates, DOE investigated the impact of different product price projections on the consumer NPV for the considered TSLs for refrigerators, refrigerator-freezers, and freezers. In addition to the default price trend, DOE considered two product price sensitivity cases: For the single-speed compressor refrigerators, refrigerator-freezers, and freezers and the non-variable-speed controls portion of refrigerators, refrigerator-freezers, and freezers, DOE estimated the high-price-decline and the low-price-decline scenarios based on household refrigerator and home freezer PPI data limited to the period between the period 1981–2008 and 2009–2021, respectively. For the variable-speed controls portion of refrigerators, refrigerator-freezers, and freezers, DOE estimated the high-price-decline and the low-price-decline scenarios based on an exponential trend line fit of the semiconductor PPI between the period 1994–2021 and 1967–1993, respectively. The derivation of these price trends and the results of these sensitivity cases are described in appendix 10C of the direct final rule TSD.

The energy cost savings are calculated using the estimated energy savings in each year and the projected price of the appropriate form of energy. To estimate energy prices in future years, DOE multiplied the average regional energy prices by the projection of annual national-average residential energy price changes in the Reference case from *AEO2023,* which has an end year of 2050. To estimate price trends after 2050, the 2046–2050 average was used for all years. As part of the NIA, DOE also analyzed scenarios that used inputs from variants of the *AEO2023* Reference case that have lower and higher economic growth. Those cases have lower and higher energy price trends compared to the Reference case. NIA results based on these cases are presented in appendix 10C of the direct final rule TSD.

In calculating the NPV, DOE multiplies the net savings in future years by a discount factor to determine their present value. For this direct final rule, DOE estimated the NPV of consumer benefits using both a 3-percent and a 7-percent real discount rate. DOE uses these discount rates in accordance with guidance provided by the Office of Management and Budget (''OMB'') to Federal agencies on the development of regulatory analysis.[69] The discount rates for the determination of NPV are in contrast to the discount rates used in the LCC analysis, which are designed to reflect a consumer's perspective. The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3-percent real value represents the ''social rate of time preference,'' which is the rate at which society discounts future consumption flows to their present value.

I. Consumer Subgroup Analysis

In analyzing the potential impact of new or amended energy conservation standards on consumers, DOE evaluates the impact on identifiable subgroups of consumers that may be disproportionately affected by a new or amended national standard. The purpose of a subgroup analysis is to determine the extent of any such disproportional impacts. DOE evaluates impacts on particular subgroups of consumers by analyzing the LCC impacts and PBP for those particular consumers from alternative standard levels.

For this direct final rule, DOE analyzed the impacts of the considered standard levels on low-income households and, for PC 11A, on small businesses. For low-income households, the analysis used a subset of the RECS 2020 sample composed of low-income households. DOE separately analyzed different groups in the low-income household sample using data from RECS on home ownership status and on who pays the electricity bill. Low-income homeowners are analyzed equivalently to how they are analyzed in the standard LCC analysis. Low-income renters who do not pay their electricity bill are assumed to not be impacted by any new or amended standards. In this case, the landlord purchases the appliance and pays its operating costs, so is effectively the consumer and the renter is not impacted. Low-income renters who do pay their electricity bill are assumed to incur no first cost. DOE made this assumption to acknowledge that the vast majority of low-income renters may not pay to have their refrigerator, refrigerator-freezer, or freezer replaced (that would be up to the landlord).

DOE notes that RECS 2020 indicates that a small fraction of low-income households only have a single compact refrigerator and/or freezer. Because this is the only refrigeration product in the household, DOE assumed that the landlord typically supplies the product. Additionally, RECS 2020 indicates that a small fraction of low-income households have a refrigeration product that would be categorized into PC 5, PC 5BI, or PC 5A. As a result, DOE did not do a low-income subgroup analysis on PCs 5, 5BI, 5A, 11A, 17, and 18.

For small businesses, DOE used the same sample from CBECS 2018 that was used in the standard LCC analysis but used discount rates specific to small businesses. DOE used the LCC and PBP model to estimate the impacts of the considered efficiency levels on these subgroups.

Chapter 11 in the direct final rule TSD describes the consumer subgroup analysis.

In response to the February 2023 NOPR, AHAM commented that amended standards requiring more variable-speed compressors could lead to higher upfront costs, disproportionately impacting low-income consumers. (AHAM, No. 69 at p. 5) Whirlpool added that the proposed standards would raise the cost of entry-level models, which are the preferred models for low-income consumers. (Whirlpool, No. 70 at pp. 5–6) As noted previously, many low-income consumers are renters who are not expected to pay the incremental cost due to an amended standard. For low-income homeowners who are expected to bear that incremental cost, the analysis incorporates the higher incremental costs at each considered TSL. DOE notes that at the Recommended TSL (TSL 4), the estimated increase in installed cost relative to the baseline (EL 0) product across PCs 3, 7, and 9 is less than $20. Moreover, in the aggregate, DOE finds that low-income consumers have higher average LCC savings and lower payback periods relative to the general population (*see* the results in section

[69] United States Office of Management and Budget. *Circular A–4: Regulatory Analysis.* September 17, 2003. Section E. Available at *georgewbush-whitehouse.archives.gov/omb/memoranda/m03-21.html* (last accessed July 10, 2023).

V.B.1.b of this document). DOE also finds that, in the aggregate, only 8.6 percent of impacted low-income consumers would experience a net cost at TSL 4, meaning 91.4 percent would see no change or a net benefit.

AHAM also commented that DOE has not supported its split-incentive assumption for low-income renters (*i.e.,* renters will reap benefits of more efficient products through lower utility bills while landlords have little to no incentive to purchase more efficient products) nor has DOE considered the impact of amended standards on low-income homeowners. (AHAM, No. 69 at p. 10) AHAM provided consumer research results indicating that cost is the primary consideration for households when purchasing a new refrigerator, low-income households that make less than $25,000 per year would not be able to purchase a new refrigerator, and 78 percent of such households would not pay $100 extra for a more efficient refrigerator that saved $50-$150 in utility bills over 10 years. (AHAM, No. 69 at pp. 10–11) AHAM added that the proposed standards in the February 2023 NOPR will result in insignificant savings for consumers, which do not amount to a material benefit, especially for low-income consumers. (AHAM, No. 69 at p. 15) Whirlpool commented that DOE's assumption that landlords will absorb increased appliance costs and not pass them on to tenants is incorrect. (Whirlpool, No. 70 at p. 6)

The existence of a split-incentive across a substantial number of U.S. households, in which a tenant pays for the cost of electricity while the building owner furnishes appliances, has been identified through a number of studies of residential appliance and equipment use broadly. Building from early work including Jaffe and Stavins,[70] Murtishaw and Sathaye [71] discussed the presence of landlord–tenant split incentives (*i.e.,* the ''principal-agent problem''). While the study did not solely focus on the low-income households, they estimated that 33% of all residential refrigerator use is subject to the principal-agent problem, largely within rental housing. Spurlock and Fujita [72] showed that 87% of low-income individuals who rented their homes were found to pay the electricity bill resulting from their energy use, such that they were likely subject to a scenario in which their landlord purchased the appliance, but they paid the operating costs. DOE notes that there continues to be a lack of data to corroborate the notion that landlords pass on some, or all, of increased appliance costs to tenants. Without representative data to suggest otherwise, DOE has continued to analyze low-income renters under the assumption that they pay no upfront costs under an amended standard in this direct final rule. DOE further notes, that AHAM is a party to the Joint Agreement and is supportive of the recommended standard adopted in this direct final rule.

J. Manufacturer Impact Analysis

1. Overview

DOE performed an MIA to estimate the financial impacts of amended energy conservation standards on manufacturers of refrigerators, refrigerator-freezers, and freezers and to estimate the potential impacts of such standards on employment and manufacturing capacity. The MIA has both quantitative and qualitative aspects and includes analyses of projected industry cash flows, the INPV, investments in research and development (''R&D'') and manufacturing capital, and domestic manufacturing employment. Additionally, the MIA seeks to determine how amended energy conservation standards might affect manufacturing employment, capacity, and competition, as well as how standards contribute to overall regulatory burden. Finally, the MIA serves to identify any disproportionate impacts on manufacturer subgroups, including small business manufacturers.

The quantitative part of the MIA primarily relies on the GRIM, an industry cash flow model with inputs specific to this rulemaking. The key GRIM inputs include data on the industry cost structure, unit production costs, product shipments, manufacturer markups, and investments in R&D and manufacturing capital required to produce compliant products. The key GRIM outputs are the INPV, which is the sum of industry annual cash flows over the analysis period, discounted using the industry weighted average cost of capital, and the impact to domestic manufacturing employment. The model uses standard accounting principles to estimate the impacts of more stringent energy conservation standards on a given industry by comparing changes in INPV and domestic manufacturing employment between a no-new-standards case and the various standards cases. To capture the uncertainty relating to manufacturer pricing strategies following amended standards, the GRIM estimates a range of possible impacts under different scenarios.

The qualitative part of the MIA addresses manufacturer characteristics and market trends. Specifically, the MIA considers such factors as a potential standard's impact on manufacturing capacity, competition within the industry, the cumulative impact of other DOE and non-DOE regulations, and impacts on manufacturer subgroups. The complete MIA is outlined in chapter 12 of the direct final rule TSD.

DOE conducted the MIA for this rulemaking in three phases. In Phase 1 of the MIA, DOE prepared a profile of the refrigerators, refrigerator-freezers, and freezers manufacturing industry based on the market and technology assessment and publicly available information. This included a top-down analysis of refrigerators, refrigerator-freezers, and freezers manufacturers that DOE used to derive preliminary financial inputs for the GRIM (*e.g.,* revenues; materials, labor, overhead, and depreciation expenses; selling, general, and administrative expenses (''SG&A''); and R&D expenses). DOE also used public sources of information to further calibrate its initial characterization of the refrigerators, refrigerator-freezers, and freezers manufacturing industry, including company filings of form 10–K from the SEC,[73] corporate annual reports, the U.S. Census Bureau's *Annual Survey of Manufactures* (''*ASM*''),[74] and reports from Dun & Bradstreet.[75]

In Phase 2 of the MIA, DOE prepared a framework industry cash flow analysis to quantify the potential impacts of amended energy conservation standards. The GRIM uses several factors to determine a series of annual cash flows starting with the announcement of the standard and extending over a 30-year period following the compliance date of the standard. These factors include annual expected revenues, costs of sales, SG&A

[70] A.B. Jaffe and R.N. Stavins (1994). The energy-efficiency gap What does it mean? Energy Policy, 22 (10) 804–810, 10.1016/0301–4215(94)90138–4.

[71] Murtishaw, S., & Sathaye, J. (2006). Quantifying the Effect of the Principal-Agent Problem on US Residential Energy Use. Lawrence Berkeley National Laboratory. Retrieved from *https://escholarship.org/uc/item/6f14t11t.*

[72] Equity implications of market structure and appliance energy efficiency regulation, Energy Policy, 165(112943), *https://doi.org/10.1016/j.enpol.2022.112943.*

[73] U.S. Securities and Exchange Commission, Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') system. Available at *www.sec.gov/edgar/search/* (last accessed July 5, 2023).

[74] U.S. Census Bureau, *Annual Survey of Manufactures.* ''Summary Statistics for Industry Groups and Industries in the U.S (2021).'' Available at *www.census.gov/programs-surveys/asm/data.html* (last accessed July 5, 2023).

[75] The Dun & Bradstreet Hoovers login is available at: *app.dnbhoovers.com* (last accessed July 5, 2023).

and R&D expenses, taxes, and capital expenditures. In general, energy conservation standards can affect manufacturer cash flow in three distinct ways: (1) creating a need for increased investment, (2) raising production costs per unit, and (3) altering revenue due to higher per-unit prices and changes in sales volumes.

In addition, during Phase 2, DOE developed interview guides to distribute to manufacturers of refrigerators, refrigerator-freezers, and freezers in order to develop other key GRIM inputs, including product and capital conversion costs, and to gather additional information on the anticipated effects of energy conservation standards on revenues, direct employment, capital assets, industry competitiveness, and subgroup impacts.

In Phase 3 of the MIA, DOE conducted structured, detailed interviews with representative manufacturers. During these interviews, DOE discussed engineering, manufacturing, procurement, and financial topics to validate assumptions used in the GRIM and to identify key issues or concerns. As part of Phase 3, DOE also evaluated subgroups of manufacturers that may be disproportionately impacted by amended standards or that may not be accurately represented by the average cost assumptions used to develop the industry cash flow analysis. Such manufacturer subgroups may include small business manufacturers, low-volume manufacturers (''LVMs''), niche players, and/or manufacturers exhibiting a cost structure that largely differs from the industry average. DOE identified two subgroups for a separate impact analysis: small business manufacturers and domestic LVMs. The small business subgroup is discussed in chapter 12 of the direct final rule TSD. The domestic LVM subgroup is discussed in section V.B.2.d of this document and in chapter 12 of the direct final rule TSD.

2. Government Regulatory Impact Model and Key Inputs

DOE uses the GRIM to quantify the changes in cash flow due to amended standards that result in a higher or lower industry value. The GRIM uses a standard, annual discounted cash flow analysis that incorporates manufacturer costs, manufacturer markups, shipments, and industry financial information as inputs. The GRIM models change in costs, distribution of shipments, investments, and manufacturer margins that could result from an amended energy conservation standard. The GRIM spreadsheet uses the inputs to arrive at a series of annual cash flows, beginning in 2023 (the base year of the analysis) and continuing 30 years from the analyzed compliance year.[76] DOE calculated INPVs by summing the stream of annual discounted cash flows during this period. For manufacturers of refrigerators, refrigerator-freezers, and freezers, DOE used a real discount rate of 9.1 percent, which was derived from industry financials and then modified according to feedback received during manufacturer interviews.

The GRIM calculates cash flows using standard accounting principles and compares changes in INPV between the no-new-standards case and each standards case. The difference in INPV between the no-new-standards case and a standards case represents the financial impact of the amended energy conservation standard on manufacturers. As discussed previously, DOE developed critical GRIM inputs using a number of sources, including publicly available data, results of the engineering analysis, results of the shipments analysis, and information gathered from industry stakeholders during the course of manufacturer interviews. The GRIM results are presented in section V.B.2 of this document. Additional details about the GRIM, the discount rate, and other financial parameters can be found in chapter 12 of the direct final rule TSD.

a. Manufacturer Production Costs

Manufacturing more efficient products is typically more expensive than manufacturing baseline products due to the use of more complex components, which are typically more costly than baseline components. The changes in the MPCs of covered products can affect the revenues, gross margins, and cash flow of the industry. For a complete description of the MPCs, *see* chapter 5 of the direct final rule TSD.

b. Shipments Projections

The GRIM estimates manufacturer revenues based on total unit shipment projections and the distribution of those shipments by efficiency level. Changes in sales volumes and efficiency mix over time can significantly affect manufacturer finances. For this analysis, the GRIM uses the NIA's annual shipment projections derived from the shipments analysis from the base year (2023) to 30 years from the analyzed compliance date.[77] *See* chapter 9 of the direct final rule TSD for additional details.

c. Product and Capital Conversion Costs

Amended energy conservation standards could cause manufacturers to incur conversion costs to bring their production facilities and product designs into compliance. DOE evaluated the level of conversion-related expenditures that would be needed to comply with each considered efficiency level in each product class. For the MIA, DOE classified these conversion costs into two major groups: (1) product conversion costs; and (2) capital conversion costs. Product conversion costs are investments in research, development, testing, marketing, and other non-capitalized costs necessary to make product designs comply with amended energy conservation standards. Capital conversion costs are investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new compliant product designs can be fabricated and assembled.

Product Conversion Costs

DOE based its estimates of the product conversion costs necessary to meet the varying efficiency levels on information from manufacturer interviews, the design paths analyzed in the engineering analysis, and market share and model count information. Generally, manufacturers preferred to meet amended standards with design options that were direct and relatively straight-forward component swaps, such as incrementally more efficiency compressors. However, at higher efficiency levels, manufacturers anticipated the need for platform redesigns. Efficiency levels that potentially necessitate significantly altered cabinet construction would require very large investments to update designs. Manufacturers noted that increasing foam thickness would require complete redesign of the cabinet, and potentially, the liner and shelving, should there be changes in interior volume. Additionally, extensive use of VIPs would require redesign of the cabinet to maximize the benefits of VIPs.

Based on manufacturer feedback, DOE also estimated ''re-flooring'' costs associated with replacing obsolete display models in big-box stores (*e.g.,* Lowe's, Home Depot, Best Buy) due to

[76] For the no-new-standards case and all TSLs except for the Recommended TSL, the analysis period ranges from 2023–2056. For the Recommended TSL, the analysis period ranges from 2023–2058 for the product classes listed in Table I.1 and 2023–2059 for the product classes listed in Table I.2.

[77] *Id.*

more stringent standards. Some manufacturers stated that with a new product release, big-box retailers discount outdated display models, and manufacturers share any losses associated with discounting the retail price. The estimated re-flooring costs for each efficiency level were incorporated into the product conversion cost estimates, as DOE modeled the re-flooring costs as a marketing expense. Manufacturer data was aggregated to protect confidential information.

DOE interviewed manufacturers accounting for approximately 81 percent of domestic refrigerator, refrigerator-freezer, and freezer shipments. DOE scaled product conversion costs by model counts to account for the portion of companies that were not interviewed. In manufacturer interviews, DOE received feedback on the analyzed product classes. For non-represented product classes, for which there was less available data, DOE used model counts to scale the product conversion cost estimates for analyzed product classes. *See* chapter 10 of the direct final rule TSD for details on the mapping of analyzed product classes to non-represented product classes. *See* chapter 12 of the direct final rule TSD for details on product conversion costs.

Capital Conversion Costs

DOE relied on information derived from manufacturer interviews and the engineering analysis to evaluate the level of capital conversion costs manufacturers would likely incur at the considered standard levels. During the interviews, manufacturers provided estimates and descriptions of the required tooling and plant changes that would be necessary to upgrade product lines to meet potential efficiency levels. Based on these inputs, DOE modeled incremental capital conversion costs for efficiency levels that could be reached with individual components swaps. However, based on feedback, DOE modeled major capital conversion costs when manufacturers would have to redesign their existing product platforms. DOE used information from manufacturer interviews to determine the cost of the manufacturing equipment and tooling necessary to implement complete redesigns.

Increases in foam thickness require either reductions to interior volume or increases to exterior volume. Since most refrigerators, refrigerator-freezers, and freezers must fit within standard widths, increases in foam thickness could result in the loss of interior volume. The reduction of interior volume has significant consequences for manufacturing. In addition to redesigning the cabinet to increase the effectiveness of insulation, manufacturers must update all designs and tooling associated with the interior of the product. This could include the liner, shelving, drawers, and doors. Manufacturers would need to invest in significant new tooling to accommodate the changes in dimensions.

To minimize reductions to interior volume, manufacturers may choose to adopt VIP technology. Extensive incorporation of VIPs into designs require significant upfront capital due to differences in the handling, storing, and manufacturing of VIPs as compared to typical polyurethane foams. These investments are incorporated into the conversion costs estimated in the MIA for efficiency levels that would likely necessitate VIP technology. VIPs are relatively fragile and must be protected from punctures and rough handling. If VIPs have leaks of any size, the panel will eventually lose much of its thermal insulative properties and structural strength. If already installed within a cabinet wall, a punctured VIP may significantly reduce the structural strength of the refrigerator, refrigerator-freezer, or freezer cabinet. As a result, VIPs require cautious handling during the manufacturing process. DOE did not receive detailed information about the percent of VIPs that are punctured during the manufacturing process. Manufacturers noted the need to allocate special warehouse space to ensure the VIPs are not jostled or roughly handled in the manufacturing environment. Furthermore, manufacturers anticipated the need for expansion of warehouse space to accommodate the storage of VIPs. VIPs require significantly more warehouse space than the polyurethane foams currently used in most refrigerators, refrigerator-freezers, and freezers. The application of VIPs can be challenging and requires significant investment in hard-tooling or robotic systems to ensure the panels are positioned properly within the cabinet or door. Manufacturers noted that producing cabinets with VIPs is much more labor- and time-intensive than producing cabinets with typical polyurethane foams. Particularly in high-volume factories, which can produce over a million refrigerator-freezers per year, the increase in production time associated in increased VIP usage would necessitate additional investment in manufacturing capacity to meet demand. The cost of extending production lines varies greatly by manufacturer, as it depends heavily on floor space availability in and around existing manufacturing plants.

Higher volume manufacturers would generally have higher investments as they have more production lines and greater production capacity. For manufacturers of both PC 5 (''refrigerator-freezer—automatic defrost with bottom-mounted freezer without an automatic ice maker'') and PC 5A (''refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service''), cabinet changes in one product class would likely necessitate improvements in the other product class as they often share the same architecture, tooling, and production lines.

DOE estimated industry capital conversion costs by extrapolating the interviewed manufacturers' capital conversion costs for each product class to account for the market share of companies that were not interviewed. DOE used the shipments analysis to scale the capital conversion cost estimates of the analyzed product class to account for the non-represented product class. *See* chapter 12 of the direct final rule TSD for additional details on capital conversion costs.

Manufacturers may follow different design paths to reach the various efficiency levels analyzed. An individual manufacturer's investments depend on a range of factors, including the company's current product offerings and product platforms, existing production facilities and infrastructure, and make vs. buy decisions for components. DOE's conversion cost methodology incorporated feedback from all manufacturers that took part in interviews and extrapolated industry values. While industry average values may not represent any single manufacturer, DOE's model provides reasonable estimates of industry-level investments.

DOE adjusted the conversion cost estimates developed in support of the February 2023 NOPR to 2022$ for this analysis.

In general, DOE assumes all conversion-related investments occur between the year of publication of the direct final rule and the year by which manufacturers must comply with the new or amended standard. The conversion cost figures used in the GRIM can be found in section V.B.2 of this document. For additional information on the estimated capital and product conversion costs, *see* chapter 12 of the direct final rule TSD.

d. Manufacturer Markup Scenarios

MSPs include direct manufacturing production costs (*i.e.,* labor, materials,

and overhead estimated in DOE's MPCs) and all non-production costs (*i.e.,* SG&A, R&D, and interest), along with profit. To calculate the MSPs in the GRIM, DOE applied manufacturer markups to the MPCs estimated in the engineering analysis for each product class and efficiency level. Modifying these manufacturer markups in the standards case yields different sets of impacts on manufacturers. For the MIA, DOE modeled two standards-case scenarios to represent uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of amended energy conservation standards: (1) a preservation-of-gross-margin-percentage scenario; and (2) a preservation-of-operating-profit scenario. These scenarios lead to different manufacturer markup values that, when applied to the MPCs, result in varying revenue and cash flow impacts.

Under the preservation-of-gross-margin-percentage scenario, DOE applied a single uniform ''gross margin percentage'' across all efficiency levels, which assumes that manufacturers would be able to maintain the same amount of profit as a percentage of revenues at all efficiency levels within a product class. As manufacturer production costs increase with efficiency, this scenario implies that the per-unit dollar profit will increase. DOE assumed a gross margin percentage of 21 percent for all freestanding product classes and 29 percent for all built-in product classes.[78] Manufacturers tend to believe it is optimistic to assume that they would be able to maintain the same gross margin percentage as their production costs increase, particularly for minimally efficient products. Therefore, this scenario represents a high bound of industry profitability under an amended energy conservation standard.

In the preservation-of-operating-profit scenario, as the cost of production goes up under a standards case, manufacturers are generally required to reduce their manufacturer markups to a level that maintains base-case operating profit. DOE implemented this scenario in the GRIM by lowering the manufacturer markups at each TSL to yield approximately the same earnings before interest and taxes in the standards case as in the no-new-standards case in the year after the expected compliance date of the amended standards. The implicit assumption behind this scenario is that the industry can only maintain its operating profit in absolute dollars after the standard takes effect.

A comparison of industry financial impacts under the two scenarios is presented in section V.B.2.a of this document.

3. Discussion of MIA Comments

For this direct final rule, DOE considered comments it had received regarding its MIA presented in the February 2023 NOPR. The approach used for this direct final rule is largely the same approach DOE had used for the February 2023 NOPR analysis.

In response to the February 2023 NOPR, AHAM stated that manufacturers may need to significantly redesign products in several classes to comply with the proposed DOE standards. In some high-volume product classes, AHAM asserted that there are no or very few shipments of products that meet the proposed standards. AHAM stated that this indicates that even when compliant models exist, they may not represent real-world shipments. AHAM commented that for other product classes, there is considerable variation in the availability of compliant models and shipments. AHAM added that in many instances, there are few compliant models and no reported shipments of compliant products, suggesting that substantial redesign efforts may be required across the market. (AHAM, No. 69 at pp. 2–3)

DOE relied on multiple sources, including feedback from confidential manufacturer interviews and the design paths analyzed in the engineering analysis, to estimate the likely levels of redesign and investment required to meet each analyzed efficiency level. As discussed in section IV.J.2.c of this document, meeting higher efficiency levels may require product redesigns, particularly for efficiency levels that necessitate changes to the cabinet structure (*i.e.,* changes to insulation such as increasing wall thickness or incorporating VIPs). Those costs are incorporated into the MIA. Regarding AHAM's concerns about low shipments at higher efficiency levels, DOE incorporated data from stakeholders into the shipments analysis for this direct final rule analysis. DOE used confidential aggregate historical shipments data from 2015–2022 provided by AHAM to calibrate the total shipments for standard-size refrigerator-freezers, compact refrigerators, upright freezers, chest freezers, and built-in refrigerator-freezers. For this direct final rule, DOE also used the AHAM-provided estimates for the efficiency distributions based on shipments for standard-size refrigerator-freezers and compact freezers. *See* section IV.G of this document for additional information on the shipments analysis.

In response to the February 2023 NOPR, Whirlpool commented that a large decrease in INPV would stifle innovation as manufacturers would be forced to invest product development resources to meet the amended standards and potentially lay off U.S. production employees. (Whirlpool, No. 70 at p. 5)

As discussed in section IV.J.2.c of this document, DOE's analysis shows that as efficiency levels increase, more manufacturers would need to dedicate more financial, engineering, laboratory, and marketing resources to updating products to meet more stringent standards. DOE accounts for those investments in the MIA (*see* section V.B.2.a of this document). However, DOE disagrees with the assertion that redesigning products to improve energy efficiency is in opposition to product innovation. As indicated by manufacturers' participation in the Environmental Protection Agency's (EPA) voluntary ENERGY STAR program and the estimated shipments that meet ENERGY STAR levels, manufacturers and consumers consider energy efficiency a product attribute. Of the 63 refrigerator, refrigerator-freezer, and freezer original equipment manufacturers (OEMs) identified, approximately 46 OEMs manufacture models that meet ENERGY STAR levels and certify those models with the ENERGY STAR program. Approximately 22 percent of refrigerator, refrigerator-freezer, and freezer shipments already meet ENERGY STAR levels. Regarding the potential for a reduction in direct employment as a result of amended standards, DOE provides a range of potential quantitative impacts to direct employment and a discussion of the potential qualitative impacts to direct employment in section V.B.2.b of this document. Most major manufacturers with U.S. production facilities currently produce a portion of their products outside of the United States (*e.g.,* Mexico). Adopting an amended standard that necessitates large increases in labor content or large expenditures to re-tool facilities could cause manufacturers to reevaluate domestic production siting options. *See* section V.B.2.b of this document for additional details on potential impacts to direct employment. DOE further notes, that Whirlpool is a party to the Joint Agreement and is supportive of the

[78] The gross margin percentages of 21 percent and 29 percent are based on manufacturer markups of 1.26 and 1.40 percent, respectively.

recommended standard adopted in this direct final rule.

Whirlpool commented that adoption of the proposed standard levels could make it difficult for multi-brand companies like Whirlpool to differentiate their products and product lines from other manufacturers as models become more technologically complex and costly. Whirlpool added that this could lead to the elimination of certain product segments and result in lost energy savings as consumers switch to more energy-intensive product types. (Whirlpool, No. 70 at pp. 7–8)

DOE uses the GRIM, as described in section IV.J.2 of this document, to determine the quantitative impacts on the refrigerators, refrigerator-freezer, and freezer industry as a whole. DOE recognizes that the industry impacts do not apply evenly across manufacturers. Many manufacturers would need to update certain product designs to meet amended standard levels. However, DOE expects that manufacturers would still be able to differentiate their products and product lines by various factors (*e.g.,* price, technologies, consumer features, energy efficiency). At the adopted level, all analyzed product classes will be required to meet efficiency levels below max-tech levels. Thus, DOE does not expect manufacturers would need to implement all analyzed design options across their product portfolio to meet the adopted levels. Furthermore, in this direct final rule, DOE is adopting the Recommended TSL, which would require lower efficiency levels for high-volume product classes such as PC 5A and PC 7, as compared to the levels proposed in the February 2023 NOPR. Additionally, AHAM, a trade organization representing the interests of their members, including Whirlpool and other refrigerator, refrigerator-freezer, and freezer OEMs, is a signatory of the Joint Agreement. As discussed in section IV.A.1 of this document, DOE is adopting energy allowances for special door and multi-door designs for some product classes. Therefore, DOE expects that these types of features and others will remain prevalent in the market and could offer means for product differentiation. *See* section IV.A.1 of this document for additional information on the energy use allowances.

The California Investor-Owned Utilities (''CA IOUs'') noted the differences between PC 7 and PC 5A in DOE's proposed energy efficiency standards for refrigerators, refrigerator-freezers, and freezers. The CA IOUs commented that the main difference between the two classes is the cost of moving to the VIP side walls and doors at max-tech EL, with PC 7 having a substantially higher order of magnitude for capital conversion costs compared to PC 5A. The CA IOUs recommended revising the proposal to consider EL 5 for PC 7 instead of EL 4. The CA IOUs requested that DOE elaborate on the reason for the differences in cost. (CA IOUs, No. 72 at p. 5)

DOE relied on manufacturer feedback, among other sources, to derive the estimated product and capital conversion costs at each efficiency level for each directly analyzed product class. There are many reasons why the incremental industry conversion costs at each efficiency level could vary between product classes. These reasons include but are not limited to differences in analyzed design options, production volume, the number of models that would require redesign, the number of OEMs engaged in manufacturing each product class, the age of the product families and/or production equipment, and location of the production facilities. For PC 7, manufacturers could include less VIPs to meet the required efficiency level at EL 4 compared to EL 5. At EL 4, 75 percent of the maximum area could incorporate VIPs whereas EL 5 could incorporate VIPs for the maximum area on sidewalls and doors. As discussed in section IV.J.2.c of this document, incorporation of VIPs into designs requires significant upfront capital due to differences in the handling, storing, and manufacturing of VIPs as compared to typical polyurethane foams. DOE estimates the difference in capital conversion costs to be $117.9 million between EL 4 and EL 5. For product conversion costs, extensive use of VIPs would require redesign of the cabinet to maximize the benefits of VIPs. DOE estimated the difference to be $18.8 million between EL 4 and EL 5, which is attributed to design efforts required to meet 75 percent of maximum area of VIPs at EL 4 and the maximum area of VIPs at EL 5. Although manufacturers may incorporate some VIPs (on side walls and doors) for EL 2 for PC 5A, EL 2 may be achieved by component swaps rather than product redesign based on information gathered during manufacturer interviews. AHAM commented the cumulative regulatory burden is significant for home appliance manufacturers when redesigning products and product lines for consumer clothes dryers, residential clothes washers, conventional cooking products, refrigeration products, miscellaneous refrigeration products, and room air conditioners. (AHAM, No. 69 at p. 20) AHAM asserted that engineers will therefore need to spend all their time redesigning products to meet more stringent energy efficiency standards, pulling resources from other development efforts and business priorities. AHAM suggested that DOE could reduce cumulative regulatory burden by spacing out the timing of final rules, allowing more lead time by delaying the publication of final rules in the **Federal Register** after they have been issued, and reducing the stringency of standards such that fewer products would require redesign. (*Id.* At p. 21) AHAM urged DOE to fully review the cumulative impacts its rules will have on manufacturers (as well as consumers). AHAM suggested that this review should include examining the potential impact on the economy and inflation as a result of reducing INPV so significantly. (*Id.* At p. 22)

DOE analyzes cumulative regulatory burden in accordance with section 13(g) of the Process Rule. DOE details the rulemakings and expected conversion expenses of Federal energy conservation standards that could impact refrigerator, refrigerator-freezer, and freezer OEMs that take effect approximately 3 years before the 2029 compliance date and 3 years after the 2030 compliance date in section V.B.2.e of this document. As shown in Table V.29 in section V.B.2.e of this document, DOE considers the potential cumulative regulatory burden from other DOE energy conservation standards rulemakings for consumer clothes dryers, residential clothes washers, conventional cooking products, refrigeration products, miscellaneous refrigeration products, and room air conditioners in this direct final rule analysis. Regarding AHAM's suggestion about spacing out the timing of final rules for home appliance rulemakings, DOE has statutory requirements under EPCA on the timing of rulemakings. For refrigerators, refrigerator-freezers, and freezers, consumer conventional cooking products, residential clothes washers, consumer clothes dryers, room air conditioners, and dishwashers, amended standards apply to covered products manufactured 3 years after the date on which any new or amended standard is published. (42 U.S.C. 6295(m)(4)(A)(i)) For miscellaneous refrigeration products, amended standards apply 5 years after the date on which any new or amended standard is published. (42 U.S.C. 6295(l)(2)) However, the multi-product Joint Agreement recommends alternative compliance dates. As discussed in section of this document, the Joint

Agreement recommendations are in accordance with the statutory requirements of 42 U.S.C. 6295(p)(4) for the issuance of a direct final rule. Therefore, as compared to the EPCA-required lead time, manufacturers will have additional time to meet amended standards for refrigerators, refrigerator-freezers, and freezers in this direct final rule.

Regarding examining the cumulative impacts of energy conservation standards rulemakings on manufacturers and consumers, DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including refrigerators, refrigerator-freezers, and freezers. An amended standard must be designed to achieve the maximum improvement in energy efficiency that is determined to be technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and 42 U.S.C. 6295(o)(3)(B)) In its assessment of whether standards are economically justified, DOE considers the impact of the standard on manufacturers and consumers. DOE analyzes the impacts to manufacturers in accordance with section 13 of the Process Rule and the impacts to consumers in accordance with section 14 of the Process Rule. Although DOE does not analyze the cumulative burden on consumers, section V.B.1.a of this document discusses the economic impact of amended standards on individual consumers, which is the main impact consumers will face with a final amended energy conservation standard.

AHAM stated that it cannot comment on the accuracy of DOE's approach for including how manufacturers might or might not recover potential investments (*i.e.,* the accuracy of DOE's manufacturer markup scenarios) but that AHAM supports DOE's intent in the microwave ovens supplemental notice of proposed rulemaking (''SNOPR'') (''August 2022 SNOPR'') energy conservation standards rulemaking to include those costs and investments in the actual costs of products and retail prices. 87 FR 52282. AHAM urged DOE to apply the same conceptual approach used in the August 2022 SNOPR in this refrigerator/freezer and all future rulemakings (*i.e.,* to analyze a conversion-cost-recovery manufacturer markup scenario). (AHAM, No. 69 at p. 18)

As discussed in section IV.J.2.d of this document, DOE modeled two standards-case manufacturer markup scenarios to represent the uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of amended energy conservation standards. For the February 2023 NOPR, DOE applied the preservation-of-gross-margin-percentage scenario to reflect an upper bound of industry profitability and a preservation-of-operating-profit scenario to reflect a lower bound of industry profitability under amended standards. DOE used these scenarios to reflect the range of realistic profitability impacts under more stringent standards. Manufacturing more efficient refrigerators, refrigerator-freezers, and freezers is generally more expensive than manufacturing baseline refrigerators, refrigerator-freezers, and freezers, as reflected by the MPCs estimated in the engineering analysis. Under the preservation-of-gross-margin scenario for refrigerators, refrigerator-freezers, and freezers, incremental increases in MPCs at higher efficiency levels result in an increase in per-unit dollar profit per unit sold. In interviews, multiple manufacturers asserted that they would likely need to reduce manufacturer markups under more stringent standards to remain competitive in the marketplace. Therefore, the preservation of gross-margin-scenario represents the upper bound of industry profitability under amended standards. Applying the approach used in the microwave ovens rulemaking (*i.e.,* a conversion-cost-recovery scenario) would result in manufacturers increasing manufacturer markups under amended standards. Based on information gathered during confidential interviews in support of the February 2023 NOPR and a review of financial statements of companies engaged in manufacturing refrigerators, refrigerator-freezers, and freezers, DOE does not expect that the refrigerators, refrigerator-freezers, and freezers industry would increase manufacturer markups under an amended standard. Furthermore, in response to the February 2023 NOPR, DOE did not receive any public or confidential data indicating that industry would increase manufacturer markups in response to more stringent standards. Therefore, DOE maintained the two manufacturer markup scenarios from the February 2023 NOPR for this direct final rule analysis.

K. Emissions Analysis

The emissions analysis consists of two components. The first component estimates the effect of potential energy conservation standards on power sector and site (where applicable) combustion emissions of CO_2, NO_X, SO_2, and Hg. The second component estimates the impacts of potential standards on emissions of two additional greenhouse gases, CH_4 and N_2O, as well as the reductions in emissions of other gases due to ''upstream'' activities in the fuel production chain. These upstream activities comprise extraction, processing, and transporting fuels to the site of combustion.

The analysis of electric power sector emissions of CO_2, NO_X, SO_2, and Hg uses emissions intended to represent the marginal impacts of the change in electricity consumption associated with amended or new standards. The methodology is based on results published for the *AEO,* including a set of side cases that implement a variety of efficiency-related policies. The methodology is described in appendix 13A in the direct final rule TSD. The analysis presented in this notice uses projections from *AEO2023.* Power sector emissions of CH_4 and N_2O from fuel combustion are estimated using Emission Factors for Greenhouse Gas Inventories published by the Environmental Protection Agency (EPA).[79]

FFC upstream emissions, which include emissions from fuel combustion during extraction, processing, and transportation of fuels, and ''fugitive'' emissions (direct leakage to the atmosphere) of CH_4 and CO_2, are estimated based on the methodology described in chapter 15 of the direct final rule TSD.

The emissions intensity factors are expressed in terms of physical units per megawatt-hour (''MWh'') or million British thermal units (''MMBtu'') of site energy savings. For power sector emissions, specific emissions intensity factors are calculated by sector and end use. Total emissions reductions are estimated using the energy savings calculated in the national impact analysis.

1. Air Quality Regulations Incorporated in DOE's Analysis

DOE's no-new-standards case for the electric power sector reflects the *AEO,* which incorporates the projected impacts of existing air quality regulations on emissions. *AEO2023* generally represents current legislation and environmental regulations, including recent government actions, that were in place at the time of preparation of *AEO2023,* including the emissions control programs discussed in the following paragraphs.[80]

[79] Available at *www.epa.gov/sites/production/files/2021-04/documents/emission-factors_apr2021.pdf* (last accessed July 12, 2021).

[80] For further information, see the Assumptions to *AEO2023* report that sets forth the major assumptions used to generate the projections in the

SO_2 emissions from affected electric generating units (''EGUs'') are subject to nationwide and regional emissions cap-and-trade programs. Title IV of the Clean Air Act sets an annual emissions cap on SO_2 for affected EGUs in the 48 contiguous States and the District of Columbia (''DC''). (42 U.S.C. 7651 *et seq.*) SO_2 emissions from numerous States in the eastern half of the United States are also limited under the Cross-State Air Pollution Rule (''CSAPR''). 76 FR 48208 (Aug. 8, 2011). CSAPR requires these States to reduce certain emissions, including annual SO_2 emissions, and went into effect as of January 1, 2015.[81] *AEO2023* incorporates implementation of CSAPR, including the update to the CSAPR ozone season program emission budgets and target dates issued in 2016. 81 FR 74504 (Oct. 26, 2016). Compliance with CSAPR is flexible among EGUs and is enforced through the use of tradable emissions allowances. Under existing EPA regulations, for states subject to SO_2 emissions limits under CSAPR, any excess SO_2 emissions allowances resulting from the lower electricity demand caused by the adoption of an efficiency standard could be used to permit offsetting increases in SO_2 emissions by another regulated EGU.

However, beginning in 2016, SO_2 emissions began to fall as a result of the Mercury and Air Toxics Standards (''MATS'') for power plants. 77 FR 9304 (Feb. 16, 2012). The direct final rule establishes power plant emission standards for mercury, acid gases, and non-mercury metallic toxic pollutants. In order to continue operating, coal plants must have either flue gas desulfurization or dry sorbent injection systems installed. Both technologies, which are used to reduce acid gas emissions, also reduce SO_2 emissions. Because of the emissions reductions under the MATS, it is unlikely that excess SO_2 emissions allowances resulting from the lower electricity demand would be needed or used to permit offsetting increases in SO_2 emissions by another regulated EGU. Therefore, energy conservation standards that decrease electricity generation will generally reduce SO_2 emissions. DOE estimated SO_2 emissions reduction using emissions factors based on *AEO2023.*

CSAPR also established limits on NO_X emissions for numerous States in the eastern half of the United States. Energy conservation standards would have little effect on NO_X emissions in those States covered by CSAPR emissions limits if excess NO_X emissions allowances resulting from the lower electricity demand could be used to permit offsetting increases in NO_X emissions from other EGUs. In such case, NO_X emissions would remain near the limit even if electricity generation goes down. Depending on the configuration of the power sector in the different regions and the need for allowances, however, NO_X emissions might not remain at the limit in the case of lower electricity demand. That would mean that standards might reduce NO_X emissions in covered States. Despite this possibility, DOE has chosen to be conservative in its analysis and has maintained the assumption that standards will not reduce NO_X emissions in States covered by CSAPR. Standards would be expected to reduce NO_X emissions in the States not covered by CSAPR. DOE used *AEO2023* data to derive NO_X emissions factors for the group of States not covered by CSAPR.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE's energy conservation standards would be expected to slightly reduce Hg emissions. DOE estimated mercury emissions reduction using emissions factors based on *AEO2023,* which incorporates the MATS.

L. Monetizing Emissions Impacts

As part of the development of this direct final rule, for the purpose of complying with the requirements of Executive Order 12866, DOE considered the estimated monetary benefits from the reduced emissions of CO_2, CH_4, N_2O, NO_X, and SO_2 that are expected to result from each of the TSLs considered. In order to make this calculation analogous to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of products shipped in the projection period for each TSL. This section summarizes the basis for the values used for monetizing the emissions benefits and presents the values considered in this direct final rule.

To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the IWG.

1. Monetization of Greenhouse Gas Emissions

DOE estimates the monetized benefits of the reductions in emissions of CO_2, CH_4, and N_2O by using a measure of the SC of each pollutant (*e.g.,* SC–CO_2). These estimates represent the monetary value of the net harm to society associated with a marginal increase in emissions of these pollutants in a given year, or the benefit of avoiding that increase. These estimates are intended to include (but are not limited to) climate-change-related changes in net agricultural productivity, human health, property damages from increased flood risk, disruption of energy systems, risk of conflict, environmental migration, and the value of ecosystem services.

For this direct final rule, DOE considered comments it had received regarding its approach for monetizing greenhouse gas emissions in the February 2023 NOPR. The approach used for this direct final rule is largely the same approach DOE had used for the February 2023 NOPR analysis.

The attorneys general (AGs) of TN, AL, *et al.* commented that DOE's misguided use of the SC–GHG estimates is a significant problem with the proposed standards. The AGs of TN, AL, *et al.* attached as evidence their comment letter in response to DOE's proposed standards for consumer conventional cooking products, in which they expressed detailed concerns about the IWG estimates. The AGs of TN, AL, *et al.* noted that the reversal of the preliminary injunction that a coalition of States received in *Louisiana* v. *Biden,* 585 F. Supp. 3d 840 (W.D. La. 2022) does not change the criticisms in the aforementioned comment letter. (The AGs of TN, AL, *et al.,* No. 68 at pp. 1–2)

The IWG's SC–GHG estimates were developed over many years, using transparent process, peer-reviewed methodologies, the best science available at the time of that process, and with input from the public. A number of criticisms raised in the comment letter attached by the AGs of TN, AL, *et al.* were addressed by the IWG in its February 2021 SC–GHG TSD, and previous parts of this section summarized the IWG's conclusions on

Annual Energy Outlook. Available at *www.eia.gov/outlooks/aeo/assumptions/* (last accessed July 13, 2023).

[81] CSAPR requires states to address annual emissions of SO_2 and NO_X, precursors to the formation of fine particulate matter (''$PM_{2.5}$'') pollution, in order to address the interstate transport of pollution with respect to the 1997 and 2006 $PM_{2.5}$ National Ambient Air Quality Standards (''NAAQS''). CSAPR also requires certain states to address the ozone season (May-September) emissions of NO_X, a precursor to the formation of ozone pollution, in order to address the interstate transport of ozone pollution with respect to the 1997 ozone NAAQS. 76 FR 48208 (Aug. 8, 2011). EPA subsequently issued a supplemental rule that included an additional five states in the CSAPR ozone season program; 76 FR 80760 (Dec. 27, 2011) (Supplemental Rule), and EPA issued the CSAPR Update for the 2008 ozone NAAQS. 81 FR 74504 (Oct. 26, 2016).

key issues, including the question of discount rates cited by the Competitive Enterprise Institute (''CEI''). The IWG's 2016 TSD [82] and the 2017 National Academies report provide detailed discussions of the ways in which the modeling underlying the development of the SC–GHG estimates addressed quantified sources of uncertainty. In the February 2021 SC–GHG TSD, the IWG stated that the models used to produce the interim estimates do not include all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature. For these same impacts, the science underlying their ''damage functions'' lags behind the most recent research. In the judgment of the IWG, these and other limitations suggest that the range of four interim SC–GHG estimates presented in the TSD likely underestimate societal damages from GHG emissions. The IWG is in the process of assessing how best to incorporate the latest peer-reviewed science and the recommendations of the National Academies to develop an updated set of SC–GHG estimates.

AHAM objected to DOE using the social cost of carbon and other monetization of emissions reductions benefits in its analysis of the factors EPCA requires DOE to balance in determining the appropriate standard. AHAM stated that while it may be acceptable for DOE to continue its current practice of examining the SCC and monetization of other emissions reductions benefits as informational so long as the underlying interagency analysis is transparent and vigorous, the monetization analysis should not impact the TSLs DOE selects as a new or amended standard. (AHAM, No. 69 at pp. 22–23) The AGs of TN, AL, *et al.* stated that even if it is important to take into account emissions reductions when considering the need for national energy conservation (as DOE has claimed), the IWG estimates are unlawful and poor methods for doing so. The AGs of TN, AL, *et al.* concluded that the IWG's SC–GHG estimates are fundamentally flawed and are an unreliable metric on which to base administrative action. (The AGs of TN, AL, *et al.,* No. 68 at pp. 1–2)

As stated in section III.F.1.f of this document, DOE accounts for the environmental and public health benefits associated with the more efficient use of energy, including those connected to global climate change, as they are important to take into account when considering the need for national energy conservation. (*See* 42 U.S.C. 6295(o)(2)(B)(i)(IV)) In addition, Executive Order 13563, which was re-affirmed on January 21, 2021, stated that each agency must, among other things: ''select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity).'' For these reasons, DOE includes the monetized value of emissions reductions in its evaluation of potential standard levels. While the benefits associated with reduction of GHG emissions inform DOE's evaluation of potential standards, the action of proposing or adopting specific standards is not ''based on'' the SC–GHG values, as DOE would reach the same conclusion regarding the economic justification of standards presented in this direct final rule without considering the social cost of greenhouse gases.

DOE exercises its own judgment in presenting monetized climate benefits as recommended by applicable Executive orders, and DOE would reach the same conclusion presented in this proposed rulemaking in the absence of the social cost of greenhouse gases. That is, the social costs of greenhouse gases, whether measured using the February 2021 interim estimates presented by the Interagency Working Group on the Social Cost of Greenhouse Gases or by another means, did not affect the rule ultimately proposed by DOE.

DOE estimated the global social benefits of CO_2, CH_4, and N_2O reductions using SC–GHG values that were based on the interim values presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990,* published in February 2021 by the IWG. The SC–GHG is the monetary value of the net harm to society associated with a marginal increase in emissions in a given year, or the benefit of avoiding that increase. In principle, the SC–GHG includes the value of all climate change impacts, including (but not limited to) changes in net agricultural productivity, human health effects, property damage from increased flood risk and natural disasters, disruption of energy systems, risk of conflict, environmental migration, and the value of ecosystem services. The SC–GHG therefore, reflects the societal value of reducing emissions of the gas in question by one metric ton. The SC–GHG is the theoretically appropriate value to use in conducting benefit-cost analyses of policies that affect CO_2, N_2O, and CH_4 emissions. As a member of the IWG involved in the development of the February 2021 SC–GHG TSD, DOE agrees that the interim SC–GHG estimates represent the most appropriate estimate of the SC–GHG until revised estimates have been developed reflecting the latest, peer-reviewed science.

The SC–GHG estimates presented here were developed over many years, using transparent process, peer-reviewed methodologies, the best science available at the time of that process, and with input from the public. Specifically, in 2009, the IWG, that included the DOE and other executive branch agencies and offices was established to ensure that agencies were using the best available science and to promote consistency in the social cost of carbon ($SC–CO_2$) values used across agencies. The IWG published $SC–CO_2$ estimates in 2010 that were developed from an ensemble of three widely cited integrated assessment models (IAMs) that estimate global climate damages using highly aggregated representations of climate processes and the global economy combined into a single modeling framework. The three IAMs were run using a common set of input assumptions in each model for future population, economic, and CO_2 emissions growth, as well as equilibrium climate sensitivity—a measure of the globally averaged temperature response to increased atmospheric CO_2 concentrations. These estimates were updated in 2013 based on new versions of each IAM. In August 2016 the IWG published estimates of the social cost of methane ($SC–CH_4$) and nitrous oxide ($SC–N_2O$) using methodologies that are consistent with the methodology underlying the $SC–CO_2$ estimates. The modeling approach that extends the IWG $SC–CO_2$ methodology to non-CO_2 GHGs has undergone multiple stages of peer review. The $SC–CH_4$ and $SC–N_2O$ estimates were developed by Marten *et al.*[83] and underwent a standard double-blind peer review process prior to journal publication. In 2015, as part of the response to public comments received to a 2013 solicitation for comments on the $SC–CO_2$ estimates, the IWG announced a National Academies of Sciences, Engineering, and Medicine

[82] Interagency Working Group on Social Cost of Greenhouse Gases, United States Government. Technical Update on the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866. August 2016. Available at *www.epa.gov/sites/default/files/2016-12/documents/sc_co2_tsd_august_2016.pdf* (last accessed January 18, 2022).

[83] Marten, A.L., E.A. Kopits, C.W. Griffiths, S.C. Newbold, and A. Wolverton. Incremental CH4 and N2O mitigation benefits consistent with the US Government's SC–CO2 estimates. *Climate Policy.* 2015. 15(2): pp. 272–298.

review of the SC–CO_2 estimates to offer advice on how to approach future updates to ensure that the estimates continue to reflect the best available science and methodologies. In January 2017, the National Academies released their final report, ''Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide,'' and recommended specific criteria for future updates to the SC–CO_2 estimates, a modeling framework to satisfy the specified criteria, and both near-term updates and longer-term research needs pertaining to various components of the estimation process (National Academies, 2017).[84] Shortly thereafter, in March 2017, President Trump issued Executive Order 13783, which disbanded the IWG, withdrew the previous TSDs, and directed agencies to ensure SC–CO_2 estimates used in regulatory analyses are consistent with the guidance contained in OMB's Circular A–4, ''including with respect to the consideration of domestic versus international impacts and the consideration of appropriate discount rates'' (E.O. 13783, section 5l). Benefit-cost analyses following E.O. 13783 used SC–GHG estimates that attempted to focus on the U.S.-specific share of climate change damages as estimated by the models and were calculated using two discount rates recommended by Circular A–4, 3 percent and 7 percent. All other methodological decisions and model versions used in SC–GHG calculations remained the same as those used by the IWG in 2010 and 2013, respectively.

On January 20, 2021, President Biden issued Executive Order 13990, which re-established the IWG and directed it to ensure that the U.S. Government's estimates of the social cost of carbon and other greenhouse gases reflect the best available science and the recommendations of the National Academies (2017). The IWG was tasked with first reviewing the SC–GHG estimates currently used in Federal analyses and publishing interim estimates within 30 days of the E.O. that reflect the full impact of GHG emissions, including by taking global damages into account. The interim SC–GHG estimates published in February 2021 are used here to estimate the climate benefits for this proposed rulemaking. The E.O. instructs the IWG to undertake a fuller update of the SC–GHG estimates by January 2022 that takes into consideration the advice of the National Academies (2017) and other recent scientific literature. The February 2021 SC–GHG TSD provides a complete discussion of the IWG's initial review conducted under E.O.13990. In particular, the IWG found that the SC–GHG estimates used under E.O. 13783 fail to reflect the full impact of GHG emissions in multiple ways.

First, the IWG found that the SC–GHG estimates used under E.O. 13783 fail to fully capture many climate impacts that affect the welfare of U.S. citizens and residents, and those impacts are better reflected by global measures of the SC–GHG. Examples of omitted effects from the E.O. 13783 estimates include direct effects on U.S. citizens, assets, and investments located abroad, supply chains, U.S. military assets and interests abroad, and tourism, and spillover pathways such as economic and political destabilization and global migration that can lead to adverse impacts on U.S. national security, public health, and humanitarian concerns. In addition, assessing the benefits of U.S. GHG mitigation activities requires consideration of how those actions may affect mitigation activities by other countries, as those international mitigation actions will provide a benefit to U.S. citizens and residents by mitigating climate impacts that affect U.S. citizens and residents. A wide range of scientific and economic experts have emphasized the issue of reciprocity as support for considering global damages of GHG emissions. If the United States does not consider impacts on other countries, it is difficult to convince other countries to consider the impacts of their emissions on the United States. The only way to achieve an efficient allocation of resources for emissions reduction on a global basis—and so benefit the U.S. and its citizens—is for all countries to base their policies on global estimates of damages. As a member of the IWG involved in the development of the February 2021 SC–GHG TSD, DOE agrees with this assessment and, therefore, in this proposed rule DOE centers attention on a global measure of SC–GHG. This approach is the same as that taken in DOE regulatory analyses from 2012 through 2016. A robust estimate of climate damages that accrue only to U.S. citizens and residents does not currently exist in the literature. As explained in the February 2021 SC–GHG TSD, existing estimates are both incomplete and an underestimate of total damages that accrue to the citizens and residents of the U.S. because they do not fully capture the regional interactions and spillovers discussed above, nor do they include all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature. As noted in the February 2021 SC–GHG TSD, the IWG will continue to review developments in the literature, including more robust methodologies for estimating a U.S.-specific SC–GHG value, and explore ways to better inform the public of the full range of carbon impacts. As a member of the IWG, DOE will continue to follow developments in the literature pertaining to this issue.

Second, the IWG found that the use of the social rate of return on capital (7 percent under current OMB Circular A–4 guidance) to discount the future benefits of reducing GHG emissions inappropriately underestimates the impacts of climate change for the purposes of estimating the SC–GHG. Consistent with the findings of the National Academies (2017) and the economic literature, the IWG continued to conclude that the consumption rate of interest is the theoretically appropriate discount rate in an intergenerational context,[85] and recommended that discount rate uncertainty and relevant aspects of intergenerational ethical considerations be accounted for in selecting future discount rates.

Furthermore, the damage estimates developed for use in the SC–GHG are estimated in consumption-equivalent terms, and so an application of OMB Circular A–4's guidance for regulatory analysis would then use the consumption discount rate to calculate

[84] National Academies of Sciences, Engineering, and Medicine. *Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide.* 2017. The National Academies Press: Washington, DC.

[85] Interagency Working Group on Social Cost of Carbon, Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866 (2010) United States Government. Available at *www.epa.gov/sites/default/files/2016-12/documents/scc_tsd_2010.pdf* (last accessed Jan. 3, 2023); Interagency Working Group on Social Cost of Carbon. Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866 (2013). 78 FR 70586 (November 26, 2013). Available at *www.federalregister.gov/documents/2013/11/26/2013-28242/technical-support-document-technical-update-of-the-social-cost-of-carbon-for-regulatory-impact* (last accessed April 15, 2022); Interagency Working Group on Social Cost of Greenhouse Gases, United States Government. Technical Support Document: Technical Update on the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866 (August 2016). Available at *www.epa.gov/sites/default/files/2016-12/documents/sc_co2_tsd_august_2016.pdf* (last accessed Jan. 3, 2023); Interagency Working Group on Social Cost of Greenhouse Gases, United States Government. Addendum to Technical Support Document on Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866: Application of the Methodology to Estimate the Social Cost of Methane and the Social Cost of Nitrous Oxide (August 2016). Available at *www.epa.gov/sites/default/files/2016-12/documents/addendum_to_sc-ghg_tsd_august_2016.pdf* (last accessed Jan. 3, 2023).

the SC–GHG. DOE agrees with this assessment and will continue to follow developments in the literature pertaining to this issue. DOE also notes that while OMB Circular A–4, as published in 2003, recommends using 3-percent and 7-percent discount rates as ''default'' values, Circular A–4 also reminds agencies that ''different regulations may call for different emphases in the analysis, depending on the nature and complexity of the regulatory issues and the sensitivity of the benefit and cost estimates to the key assumptions.'' On discounting, Circular A–4 recognizes that ''special ethical considerations arise when comparing benefits and costs across generations,'' and Circular A–4 acknowledges that analyses may appropriately ''discount future costs and consumption benefits . . . at a lower rate than for intragenerational analysis.'' In the 2015 ''Response to Comments on the Social Cost of Carbon for Regulatory Impact Analysis,'' OMB, DOE, and the other IWG members recognized that ''Circular A–4 is a living document'' and ''the use of 7 percent is not considered appropriate for intergenerational discounting. There is wide support for this view in the academic literature, and it is recognized in Circular A–4 itself.'' Thus, DOE concludes that a 7-percent discount rate is not appropriate to apply to value the social cost of greenhouse gases in the analysis presented in this analysis.

To calculate the present and annualized values of climate benefits, DOE uses the same discount rate as the rate used to discount the value of damages from future GHG emissions, for internal consistency. That approach to discounting follows the same approach that the February 2021 SC–GHG TSD recommends ''to ensure internal consistency—*i.e.,* future damages from climate change using the SC–GHG at 2.5 percent should be discounted to the base year of the analysis using the same 2.5-percent rate.'' DOE has also consulted the National Academies' 2017 recommendations on how SC–GHG estimates can ''be combined in RIAs [regulatory impact analyses] with other cost and benefits estimates that may use different discount rates.'' The National Academies reviewed several options, including ''presenting all discount rate combinations of other costs and benefits with [SC–GHG] estimates.''

As a member of the IWG involved in the development of the February 2021 SC–GHG TSD, DOE agrees with the above assessment and will continue to follow developments in the literature pertaining to this issue. While the IWG works to assess how best to incorporate the latest, peer-reviewed science to develop an updated set of SC–GHG estimates, it set the interim estimates to be the most recent estimates developed by the IWG prior to the group being disbanded in 2017. The estimates rely on the same models and harmonized inputs and are calculated using a range of discount rates. As explained in the February 2021 SC–GHG TSD, the IWG has recommended that agencies revert to the same set of four values drawn from the SC–GHG distributions based on three discount rates as were used in regulatory analyses between 2010 and 2016 and were subject to public comment. For each discount rate, the IWG combined the distributions across models and socioeconomic emissions scenarios (applying equal weight to each) and then selected a set of four values recommended for use in benefit-cost analyses: an average value resulting from the model runs for each of three discount rates (2.5 percent, 3 percent, and 5 percent), plus a fourth value, selected as the 95th percentile of estimates based on a 3-percent discount rate. The fourth value was included to provide information on potentially higher-than-expected economic impacts from climate change. As explained in the February 2021 SC–GHG TSD, and DOE agrees, this update reflects the immediate need to have an operational SC–GHG for use in regulatory benefit-cost analyses and other applications that was developed using a transparent process, peer-reviewed methodologies, and the science available at the time of that process. Those estimates were subject to public comment in the context of dozens of proposed rulemakings as well as in a dedicated public comment period in 2013.

There are a number of limitations and uncertainties associated with the SC–GHG estimates. First, the current scientific and economic understanding of discounting approaches suggests discount rates appropriate for intergenerational analysis in the context of climate change are likely to be less than 3 percent, near 2 percent or lower.[86] Second, the IAMs used to produce these interim estimates do not include all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature and the science underlying their ''damage functions''—*i.e.,* the core parts of the IAMs that map global mean temperature changes and other physical impacts of climate change into economic (both market and nonmarket) damages—lags behind the most recent research. For example, limitations include the incomplete treatment of catastrophic and non-catastrophic impacts in the integrated assessment models, their incomplete treatment of adaptation and technological change, the incomplete way in which inter-regional and intersectoral linkages are modeled, uncertainty in the extrapolation of damages to high temperatures, and inadequate representation of the relationship between the discount rate and uncertainty in economic growth over long time horizons. Likewise, the socioeconomic and emissions scenarios used as inputs to the models do not reflect new information from the last decade of scenario generation or the full range of projections. The modeling limitations do not all work in the same direction in terms of their influence on the SC–CO_2 estimates. However, as discussed in the February 2021 SC–GHG TSD, the IWG has recommended that, taken together, the limitations suggest that the interim SC–GHG estimates used in this direct final rule likely underestimate the damages from GHG emissions. DOE concurs with this assessment.

DOE's derivations of the SC–CO_2, SC–N_2O, and SC–CH_4 values used for this NOPR are discussed in the following sections, and the results of DOE's analyses estimating the benefits of the reductions in emissions of these GHGs are presented in section V.B.6 of this document.

a. Social Cost of Carbon

The SC–CO_2 values used for this direct final rule were based on the values developed for the IWG's February 2021 SC–GHG TSD. Table IV.13 shows the updated sets of SC–CO_2 estimates from the IWG's TSD in 5-year increments from 2020 to 2050. The full set of annual values that DOE used is presented in appendix 14–A of the direct final rule TSD.

[86] Interagency Working Group on Social Cost of Greenhouse Gases. 2021. Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990. February. United States Government. Available at *www.whitehouse.gov/briefing-room/blog/2021/02/26/a-return-to-science-evidence-based-estimates-of-the-benefits-of-reducing-climate-pollution/* (last accessed July 12, 2023).

For purposes of capturing the uncertainties involved in regulatory impact analysis, DOE has determined it is appropriate to include all four sets of $SC–CO_2$ values, as recommended by the IWG.[87]

TABLE IV.13—ANNUAL $SC–CO_2$ VALUES FROM 2021 INTERAGENCY UPDATE, 2020–2050

[2020$ per metric ton CO_2]

Year	Discount rate and statistic			
	5% Average	3% Average	2.5% Average	3% 95th percentile
2020	14	51	76	152
2025	17	56	83	169
2030	19	62	89	187
2035	22	67	96	206
2040	25	73	103	225
2045	28	79	110	242
2050	32	85	116	260

For 2051 to 2070, DOE used $SC–CO_2$ estimates published by EPA, adjusted to 2020$.[88] These estimates are based on methods, assumptions, and parameters identical to the 2020–2050 estimates published by the IWG (which were based on EPA modeling). DOE expects additional climate benefits to accrue for any longer-life refrigerators, refrigerator-freezers, and freezers after 2070, but a lack of available $SC–CO_2$ estimates for emissions years beyond 2070 prevents DOE from monetizing these potential benefits in this analysis.

DOE multiplied the CO_2 emissions reduction estimated for each year by the $SC–CO_2$ value for that year in each of the four cases. DOE adjusted the values to 2022$ using the implicit price deflator for gross domestic product (''GDP'') from the Bureau of Economic Analysis. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the $SC–CO_2$ values in each case.

b. Social Cost of Methane and Nitrous Oxide

The $SC–CH_4$ and $SC–N_2O$ values used for this direct final rule were based on the values developed for the February 2021 SC–GHG TSD. Table IV.14 shows the updated sets of $SC–CH_4$ and $SC–N_2O$ estimates from the latest interagency update in 5-year increments from 2020 to 2050. The full set of annual values used is presented in appendix 14–A of the direct final rule TSD. To capture the uncertainties involved in regulatory impact analysis, DOE has determined it is appropriate to include all four sets of $SC–CH_4$ and $SC–N_2O$ values, as recommended by the IWG. DOE derived values after 2050 using the approach described above for the $SC–CO_2$.

TABLE IV.14—ANNUAL $SC–CH_4$ AND $SC–N_2O$ VALUES FROM 2021 INTERAGENCY UPDATE, 2020–2050

[2020$ per metric ton]

Year	$SC–CH_4$ Discount rate and statistic				$SC–N_2O$ Discount rate and statistic			
	5% Average	3% Average	2.5% Average	3% 95th percentile	5% Average	3% Average	2.5% Average	3% 95th percentile
2020	670	1,500	2,000	3,900	5,800	18,000	27,000	48,000
2025	800	1,700	2,200	4,500	6,800	21,000	30,000	54,000
2030	940	2,000	2,500	5,200	7,800	23,000	33,000	60,000
2035	1,100	2,200	2,800	6,000	9,000	25,000	36,000	67,000
2040	1,300	2500	3,100	6,700	10,000	28,000	39,000	74,000
2045	1,500	2,800	3,500	7,500	12,000	30,000	42,000	81,000
2050	1,700	3,100	3,800	8,200	13,000	33,000	45,000	88,000

DOE multiplied the CH_4 and N_2O emissions reduction estimated for each year by the $SC–CH_4$ and $SC–N_2O$ estimates for that year in each of the cases. DOE adjusted the values to 2022$ using the implicit price deflator for gross domestic product (''GDP'') from the Bureau of Economic Analysis. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the cases using the specific discount rate that had been used to obtain the $SC–CH_4$ and $SC–N_2O$ estimates in each case.

2. Monetization of Other Emissions Impacts

For the direct final rule, DOE estimated the monetized value of NO_X and SO_2 emissions reductions from electricity generation using benefit-per-ton estimates for that sector from the EPA's Benefits Mapping and Analysis Program.[89] DOE used EPA's values for $PM_{2.5}$-related benefits associated with NO_X and SO_2 and for ozone-related benefits associated with NO_X for 2025, 2030, and 2040, calculated with discount rates of 3 percent and 7 percent. DOE used linear interpolation

[87] For example, the February 2021 SC–GHG TSD discusses how the understanding of discounting approaches suggests that discount rates appropriate for intergenerational analysis in the context of climate change may be lower than 3 percent.

[88] *See* EPA, Revised 2023 and Later Model Year Light-Duty Vehicle GHG Emissions Standards: Regulatory Impact Analysis, Washington, DC, December 2021. Available at *nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P1013ORN.pdf* (last accessed January 13, 2023).

[89] Estimating the Benefit per Ton of Reducing $PM_{2.5}$ Precursors from 21 Sectors. Available at *www.epa.gov/benmap/estimating-benefit-ton-reducing-pm25-precursors-21-sectors* (last accessed July 19, 2023).

to define values for the years not given in the 2025 to 2040 period; for years beyond 2040, the values are held constant. DOE combined the EPA benefit-per-ton estimates with regional information on electricity consumption and emissions to define weighted-average national values for NO_X and SO_2 as a function of sector (*see* appendix 14B of the NOPR TSD).

DOE multiplied the site emissions reduction (in tons) in each year by the associated $/ton values, and then discounted each series using discount rates of 3 percent and 7 percent as appropriate.

M. Utility Impact Analysis

The utility impact analysis estimates the changes in installed electrical capacity and generation projected to result for each considered TSL. The analysis is based on published output from the NEMS associated with *AEO2023.* NEMS produces the *AEO* Reference case, as well as a number of side cases that estimate the economy-wide impacts of changes to energy supply and demand. For the current analysis, impacts are quantified by comparing the levels of electricity sector generation, installed capacity, fuel consumption and emissions in the *AEO2023* Reference case and various side cases. Details of the methodology are provided in the appendices to chapters 13 and 15 of the direct final rule TSD.

The output of this analysis is a set of time-dependent coefficients that capture the change in electricity generation, primary fuel consumption, installed capacity and power sector emissions due to a unit reduction in demand for a given end use. These coefficients are multiplied by the stream of electricity savings calculated in the NIA to provide estimates of selected utility impacts of potential new or amended energy conservation standards.

N. Employment Impact Analysis

DOE considers employment impacts in the domestic economy as one factor in selecting a standard. Employment impacts from new or amended energy conservation standards include both direct and indirect impacts. Direct employment impacts are any changes in the number of employees of manufacturers of the products subject to standards. The MIA addresses those impacts. Indirect employment impacts are changes in national employment that occur due to the shift in expenditures and capital investment caused by the purchase and operation of more efficient appliances. Indirect employment impacts from standards consist of the net jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, caused by (1) reduced spending by consumers on energy, (2) reduced spending on new energy supply by the utility industry, (3) increased consumer spending on the products to which the new standards apply and other goods and services, and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department's Bureau of Labor Statistics (''BLS''). BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy.[90] There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital-intensive and less labor-intensive than other sectors. Energy conservation standards have the effect of reducing consumer utility bills. Because reduced consumer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic activity from a less labor-intensive sector (*i.e.,* the utility sector) to more labor-intensive sectors (*e.g.,* the retail and service sectors). Thus, the BLS data suggest that net national employment may increase due to shifts in economic activity resulting from energy conservation standards.

DOE estimated indirect national employment impacts for the standard levels considered in this direct final rule using an input/output model of the U.S. economy called Impact of Sector Energy Technologies version 4 (''ImSET'').[91] ImSET is a special-purpose version of the ''U.S. Benchmark National Input-Output'' (''I–O'') model, which was designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I–O model having structural coefficients that characterize economic flows among 187 sectors most relevant to industrial, commercial, and residential building energy use.

DOE notes that ImSET is not a general equilibrium forecasting model, and that the uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may over-estimate actual job impacts over the long run for this rule. Therefore, DOE used ImSET only to generate results for near-term timeframes (2029/30–2033/4), where these uncertainties are reduced. For more details on the employment impact analysis, *see* chapter 16 of the direct final rule TSD.

O. Other Comments

As discussed previously, DOE considered relevant comments, data, and information obtained during its own rulemaking process in determining whether the recommended standards from the Joint Agreement are in accordance with 42 U.S.C. 6295(o). And while some of those comments were directed at specific aspects of DOE's analysis of the Joint Agreement under 42 U.S.C. 6295(o), others were more generally applicable to DOE's energy conservation standards rulemaking program as a whole. The ensuing discussion focuses on these general comments concerning energy conservation standards issued under EPCA.

1. Commerce Clause

The AGs of TN, AL, *et al.* commented that DOE's approach to Congress's Commerce Clause is improper because precedent dictates that Congress can only regulate intrastate activity under the Commerce Clause when that activity ''substantially affects interstate commerce.'' (AGs of TN, AL, *et al.,* No. 0068 at pp. 3–5) The AGs of TN, AL, *et al.* commented that for the proposed standards to reach the intrastate market for refrigerators, refrigerator-freezers, and freezers, DOE must show that the intrastate activity covered by 42 U.S.C. 6291(17) and 6302(5) substantially affects the interstate market for those products and the proposed standards show no constitutional basis for applying the standards to intrastate commerce in refrigerators, refrigerator-freezers, and freezers. (*Id.*) The AGs of TN, AL, *et al.* added that if such an

[90] *See* U.S. Department of Commerce—Bureau of Economic Analysis. *Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (''RIMS II'').* 1997. U.S. Government Printing Office: Washington, DC. Available at *www.bea.gov/sites/default/files/methodologies/RIMSII_User_Guide.pdf* (last accessed July 17, 2023).

[91] Livingston, O.V., S.R. Bender, M.J. Scott, and R.W. Schultz. *ImSET 4.0: Impact of Sector Energy Technologies Model Description and User's Guide.* 2015. Pacific Northwest National Laboratory: Richland, WA. PNNL–24563.

analysis showed the intrastate market did not substantially affect the interstate market (and so was not properly the subject of Federal regulation), then DOE would be obligated to redo its cost-benefit analysis since the proposed standards would apply to a more limited set of products—those traveling interstate. (*Id.*) Finally, the AGs of TN, AL, *et al.* requested that even if DOE found that the intrastate market substantially affected interstate commerce, DOE should nevertheless exclude intrastate activities from the proposed standards to ''maintain a healthy balance of power between the States and the Federal Government.'' (*Id.* at 4–5)

DOE responds that it believes the scope of both the standard proposed in the NOPR and the amended standard adopted in this direct final rule properly includes all refrigerators, refrigerator-freezers, and freezers distributed in commerce for personal use or consumption because intrastate state activity regulated by 42 U.S.C. 6291(17) and 6302 is inseparable from and substantially affects interstate commerce. DOE has clear authority under EPCA to regulate the energy use of a variety of consumer products and certain commercial and industrial equipment, including the subject refrigerators, refrigerator-freezers, and freezers. *See* 42 U.S.C. 6295. Based on this statutory authority, DOE has a long-standing practice of issuing standards with the same scope as the standard in this direct final rule. For example, DOE has maintained a similar scope of products in the final rule that established the current standards for refrigerators, refrigerator-freezers, and freezers, which was published on September 15, 2011 (76 FR 57516), and in the final rule establishing the preceding set of standards for these products, published on April 28, 1997 (62 FR 23102). DOE disagrees with the AGs of TN, AL, *et al.'s* contention that the Commerce Clause, the Tenth Amendment, the Major Questions Doctrine, or any canons of statutory construction limit DOE's clear and long-standing authority under EPCA to adopt the standard, including its scope, in this direct final rule. A further discussion regarding the AGs of TN, AL, *et al.*'s federalism concerns can be found at section VI.E of this document.

2. National Academy of Sciences Report

The National Academies of Sciences, Engineering, and Medicine (''NAS'') periodically appoint a committee to peer review the assumptions, models, and methodologies that DOE uses in setting energy conservation standards for covered products and equipment. The most recent such peer review was conducted in a series of meetings in 2020, and NAS issued the report [92] in 2021 detailing its findings and recommendations on how DOE can improve its analyses and align them with best practices for cost-benefit analysis.

AHAM stated that despite previous requests from AHAM and others, DOE has failed to review and incorporate the recommendations of the NAS report, instead indicating that it will conduct a separate rulemaking process without such a process having been initiated. (AHAM, No. 69 at pp. 9–10) AHAM further stated that DOE seems to be ignoring the recommendations in the NAS Report and even conducting analysis that is opposite to the recommendations. AHAM commented that DOE cannot continue to perpetuate the errors in its analytical approach that have been pointed out by stakeholders and the NAS report as to do so will lead to arbitrary and capricious rules. (*Id.*)

As discussed, the rulemaking process for establishing new or amended standards for covered products and equipment are specified at appendix A to subpart C of 10 CFR part 430. DOE periodically examines and revises these provisions in separate rulemaking proceedings. The recommendations provided in the 2011 NAS report, which pertain to the processes by which DOE analyzes energy conservation standards, will be considered by DOE in a separate rulemaking process.

3. Family Well-Being

The AGs of TN, AL, *et al.* submitted a joint comment that DOE's proposed standards regulate an appliance that is commonly used in family kitchens, and the costs they impose affect every family's budget, forcing lower-income families to make difficult financial decisions. Therefore, the AGs of TN, AL, *et al.* requested that DOE provide the assessment required by section 654 of the Treasury and General Government Appropriations Act, 1999, which considers the impact of the Proposed Standards on family well-being. (The AGs of TN, AL, *et al.,* No. 68 at pp. 5–6)

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. Although this direct final rule would not have any impact on the autonomy or integrity of the family as an institution as defined, this rule could impact a family's well-being. When developing a Family Policymaking Assessment, agencies must assess whether: (1) the action strengthens or erodes the stability or safety of the family and, particularly, the marital commitment; (2) the action strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children; (3) the action helps the family perform its functions, or substitutes governmental activity for the function; (4) the action increases or decreases disposable income or poverty of families and children; (5) the proposed benefits of the action justify the financial impact on the family; (6) the action may be carried out by State or local government or by the family; and whether (7) the action establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of youth, and the norms of society.

DOE has considered how the proposed benefits of this rule compare to the possible financial impact on a family (the only factor listed that is relevant to this rule). As part of its rulemaking process, DOE must determine whether the energy conservation standards contained in this direct final rule are economically justified. As discussed in section V.C.1 of this document, DOE has determined that the standards are economically justified because the benefits to consumers far outweigh the costs to manufacturers. Families will also see LCC savings as a result of this rule. Moreover, as discussed further in section V.B.1 of this document, DOE has determined that for the for low-income households, average LCC savings and PBP at the considered efficiency levels are improved (*i.e.,* higher LCC savings and lower payback period) as compared to the average for all households. Further, the standards will also result in climate and health benefits for families. Numerous individuals commented against proposed standards. Comments cited cost increases on consumers, narrowing of consumer choice, and government overregulation. (Individual Commenters, No. 47–53, 56, 58, 59 at p. 1)

As discussed in section II.A of this document, DOE conducted numerous analyses in support of this direct final rule consistent with EPCA, which requires that DOE consider many factors, including those concerns raised

[92] National Academies of Sciences, Engineering, and Medicine. 2021. *Review of Methods Used by the U.S. Department of Energy in Setting Appliance and Equipment Standards.* Washington, DC: The National Academies Press. Available at *doi.org/10.17226/25992* (last accessed August 2, 2023).

by commenters. Analyses include the potential negative impacts on consumers and manufacturers and an assessment of the impact relative to the cost and energy savings resulting from amended standards, which are discussed in further detail in sections IV.F, IV.H, and IV.J of this document. DOE conducted its engineering analysis to determine standards that are applicable to reducing energy consumption while remaining technologically feasible. The engineering analysis is discussed in greater detail throughout section IV.C of this document. DOE notes that the comments on government overregulation lack the necessary specificity to properly address them in this context. However, as mentioned above, DOE conducted the analysis in this rulemaking consistent with the requirements in EPCA and those used in past rulemakings for this product.

V. Analytical Results and Conclusions

The following section addresses the results from DOE's analyses with respect to the considered energy conservation standards for refrigerators, refrigerator-freezers, and freezers. It addresses the TSLs examined by DOE, the projected impacts of each of these levels if adopted as energy conservation standards for refrigerators, refrigerator-freezers, and freezers, and the standards levels that DOE is adopting in this direct final rule. Additional details regarding DOE's analyses are contained in the direct final rule TSD supporting this document.

A. Trial Standard Levels

In general, DOE typically evaluates potential amended standards for products and equipment by grouping individual efficiency levels for each class into TSLs. Use of TSLs allows DOE to identify and consider manufacturer cost interactions between the product classes, to the extent that there are such interactions, and market cross elasticity from consumer purchasing decisions that may change when different standard levels are set.

In the analysis conducted for this direct final rule, DOE analyzed the benefits and burdens of six TSLs for refrigerators, refrigerator-freezers, and freezers. DOE developed TSLs that combine efficiency levels for each analyzed product class. TSL 1 represents a modest increase in efficiency, corresponding to the lowest analyzed efficiency level above the baseline for each analyzed product class. TSL 2 represents an increase in efficiency of 10 percent across the product classes analyzed, consistent with ENERGY STAR requirements, except for PC 10, for which a majority of consumers would experience a net cost at all considered ELs. Efficiency improvements for product class 10 were considered only for TSL 1 and max-tech TSL 6. TSL 3 increases the stringency for PCs 5, 5A, 7, 11A, and 18 and increases NES while keeping economic impacts on consumers relatively modest. TSL 4 is the Recommended TSL detailed in the Joint Agreement. TSL 4 increases the proposed standard level for PCs 3 and 9, as well as the expected NES, while average LCC savings are positive for every product class. TSL 4 also corresponds to different compliance years than the other TSLs. Rather than a compliance year of 2027, for TSL 4, 2029 is the compliance year for the product classes listed in Table I.1 and 2030 is the compliance year for the product classes listed in Table I.2. TSL 5 increases the proposed standard level for PC 5A and PC 7, decreases the proposed standard level for PC 9, and increases the expected overall NES, while average LCC savings remain positive for every product class. TSL 6 represents max-tech. DOE presents the results for the TSLs in this document, while the results for all efficiency levels that DOE analyzed are in the direct final rule TSD.

Table V.1 presents the TSLs and the corresponding efficiency levels that DOE has identified for potential amended energy conservation standards for refrigerators, refrigerator-freezers, and freezers.

TABLE V.1—TRIAL STANDARD LEVELS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

	PC 3	PC 5	PC5–BI	PC 5A	PC 7	PC 9	PC 10	PC 11A	PC 17	PC 18
TSL 1	EL 1	EL 1	EL 1	EL 1	EL 1	EL 1	EL 1	EL 1	EL 1	EL 1
TSL 2	EL 2	EL 1	EL 1	EL 1	EL 2	EL 1	EL 0*	EL 1	EL 1	EL 1
TSL 3	EL 2	EL 2	EL 1	EL 2	EL 3	EL 1	EL 0*	EL 2	EL 1	EL 2
TSL 4**	EL 3	EL 2	EL 1	EL 2	EL 3	EL 2	EL 0*	EL 2	EL 1	EL 2
TSL 5	EL 3	EL 2	EL 1	EL 3	EL 4	EL 1	EL 0*	EL 2	EL 1	EL 2
TSL 6	EL 5	EL 4	EL 3	EL 3	EL 5	EL 4	EL 4	EL 4	EL 3	EL 4

* DOE did not consider efficiency levels above baseline for PC 10 for TSLs 2–5.

** Recommended TSL from the Joint Agreement. This TSL also includes different standard levels for the non-representative PCs 4–BI, 5A–BI, 7–BI, 9–BI, 9A–BI and 12. The compliance year varies by product class. See the Joint Agreement for details.

Section IV.C.3 shows the design options determined to be required for representative products of each analyzed class as a function of the TSLs.

B. Economic Justification and Energy Savings

1. Economic Impacts on Individual Consumers

DOE analyzed the economic impacts on refrigerator, refrigerator-freezer, and freezer consumers by looking at the effects that potential amended standards at each TSL would have on the LCC and PBP. DOE also examined the impacts of potential standards on selected consumer subgroups. These analyses are discussed in the following sections.

a. Life-Cycle Cost and Payback Period

In general, higher-efficiency products affect consumers in two ways: (1) purchase price increases and (2) annual operating costs decrease. Inputs used for calculating the LCC and PBP include total installed costs (*i.e.,* product price plus installation costs), and operating costs (*i.e.,* annual energy use, energy prices, energy price trends, repair costs, and maintenance costs). The LCC calculation also uses product lifetime and a discount rate. Chapter 8 of the direct final rule TSD provides detailed information on the LCC and PBP analyses.

Tables V.2 through V.21 show the LCC and PBP results for the TSLs considered for each product class. In the first of each pair of tables, the simple payback is measured relative to the baseline product. In the second table, the impacts are measured relative to the efficiency distribution in the in the no-new-standards case in the compliance year (*see* section IV.F.9 of this document). Because some consumers purchase products with higher efficiency in the no-new-standards case, the average savings are less than the difference between the average LCC of the baseline product and the average LCC at each TSL. The savings refer only to consumers who are affected by a standard at a given TSL. Those who already purchase a product with

efficiency at or above a given TSL are not affected. Consumers for whom the LCC increases at a given TSL experience a net cost.

TABLE V.2—AVERAGE LCC AND PBP RESULTS FOR PRODUCT CLASS 3

TSL*	Efficiency level	Average costs 2022$				Simple payback years	Average lifetime years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	Baseline	830.22	68.31	937.19	1,767.41	.....	14.5
1	1	834.70	65.19	902.11	1,736.81	1.4	14.5
2–3	2	857.14	61.93	868.69	1,725.83	4.2	14.5
4	3	838.61	58.22	835.33	1,673.94	4.8	14.5
5	3	882.91	58.32	831.71	1,714.63	5.3	14.5
	4	959.74	55.15	809.28	1,769.02	9.8	14.5
6	5	999.59	50.11	758.46	1,758.05	9.3	14.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

*All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2030.

TABLE V.3—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR PRODUCT CLASS 3

TSL**	Efficiency level	Life-cycle cost savings	
		Average LCC savings* 2022$	Percent of consumers that experience net cost
1	1	30.50	3.9
2–3	2	40.14	17.3
4	3	50.91	28.3
5	3	43.46	34.2
	4	−10.94	70.7
6	5	0.03	67.1

*The savings represent the average LCC for affected consumers.

**All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2030.

TABLE V.4—AVERAGE LCC AND PBP RESULTS FOR PRODUCT CLASS 5

TSL*	Efficiency level	Average costs 2022$				Simple payback years	Average lifetime years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	Baseline	1,312.92	103.02	1,441.88	2,754.80	.....	14.5
1–2	1	1,343.59	95.86	1,364.05	2,707.64	4.3	14.5
3	2	1,382.17	91.75	1,323.25	2,705.42	6.1	14.5
4	2	1,313.51	91.73	1,329.76	2,643.28	5.6	14.5
5	2	1,382.17	91.75	1,323.25	2,705.42	6.1	14.5
	3	1,433.17	87.11	1,278.50	2,711.67	7.6	14.5
6	4	1,464.67	85.43	1,264.79	2,729.46	8.6	14.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

*All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2030.

TABLE V.5—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR PRODUCT CLASS 5

TSL**	Efficiency level	Life-cycle cost savings	
		Average LCC savings* 2022$	Percent of consumers that experience net cost
1–2	1	46.90	18.2
3	2	45.47	39.4
4	2	55.23	33.6
5	2	45.47	39.4
	3	38.19	52.8
6	4	20.22	60.3

*The savings represent the average LCC for affected consumers.

**All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2030.

TABLE V.6—AVERAGE LCC AND PBP RESULTS FOR PRODUCT CLASS 5BI

TSL *	Efficiency level	Average costs 2022$				Simple payback years	Average lifetime years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	Baseline	1,579.54	106.75	1,534.74	3,114.28	.....	14.5
1–3	1	1,603.84	96.55	1,420.31	3,024.15	2.4	14.5
4	1	1,550.34	96.23	1,423.25	2,973.59	2.1	14.5
5	1	1,603.84	96.55	1,420.31	3,024.15	2.4	14.5
	2	1,659.01	91.45	1,371.03	3,030.04	5.2	14.5
6	3	1,714.16	90.43	1,369.31	3,083.47	8.2	14.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

* All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2029.

TABLE V.7—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR PRODUCT CLASS 5BI

TSL **	Efficiency level	Life-cycle cost savings	
		Average LCC savings * 2022$	Percent of consumers that experience net cost
1–3	1	86.19	1.0
4	1	91.13	0.5
5	1	86.19	1.0
	2	22.77	44.8
6	3	−30.73	61.0

* The savings represent the average LCC for affected consumers.

** All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2029.

TABLE V.8—AVERAGE LCC AND PBP RESULTS FOR PRODUCT CLASS 5A

TSL *	Efficiency level	Average costs 2022$				Simple payback years	Average lifetime years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	Baseline	1,460.58	128.51	1,772.25	3,232.84	.....	14.5
1–2	1	1,487.03	114.95	1,618.23	3,105.26	1.9	14.5
3	2	1,546.91	108.78	1,557.08	3,103.99	4.4	14.5
4	2	1,495.23	108.00	1,561.70	3,056.93	4.1	14.5
5–6	3	1,622.24	101.39	1,484.33	3,106.57	6.0	14.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

* All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2029.

TABLE V.9—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR PRODUCT CLASS 5A

TSL **	Efficiency level	Life-cycle cost savings	
		Average LCC savings * 2022$	Percent of consumers that experience net cost
1–2	1	127.59	1.2
3	2	124.76	23.0
4	2	133.27	19.8
5–6	3	122.18	39.4

* The savings represent the average LCC for affected consumers.

** All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2029.

TABLE V.10—AVERAGE LCC AND PBP RESULTS FOR PRODUCT CLASS 7

TSL *	Efficiency level	Average costs 2022$				Simple payback years	Average lifetime years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	Baseline	1,278.19	107.33	1,475.40	2,753.59	.....	14.5
1	1	1,281.77	102.46	1,419.59	2,701.36	0.7	14.5

TABLE V.10—AVERAGE LCC AND PBP RESULTS FOR PRODUCT CLASS 7—Continued

TSL *	Efficiency level	Average costs 2022$				Simple payback years	Average lifetime years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
2	2	1,305.88	97.68	1,368.72	2,674.59	2.9	14.5
3	3	1,307.20	92.09	1,304.25	2,611.45	1.9	14.5
4	3	1,242.09	91.60	1,310.33	2,552.41	1.6	14.5
5	4	1,399.77	87.83	1,271.83	2,671.59	6.2	14.5
6	5	1,431.19	84.98	1,244.65	2,675.84	6.8	14.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

* All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2030.

TABLE V.11—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR PRODUCT CLASS 7

TSL **	Efficiency level	Life-cycle cost savings	
		Average LCC savings * 2022$	Percent of consumers that experience net cost
1	1	52.10	0.0
2	2	70.96	9.6
3	3	134.10	1.2
4	3	142.56	0.5
5	4	73.96	42.6
6	5	69.71	48.3

* The savings represent the average LCC for affected consumers.

** All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2030.

TABLE V.12—AVERAGE LCC AND PBP RESULTS FOR PRODUCT CLASS 9

TSL *	Efficiency level	Average costs 2022$				Simple payback years	Average lifetime years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	Baseline	1,023.63	70.01	1,072.00	2,095.63	.....	18.5
1–3	1	1,050.17	63.46	983.71	2,033.88	4.1	18.5
4	2	1,039.42	60.04	950.64	1,990.06	6.6	18.5
5	1	1,050.17	63.46	983.71	2,033.88	4.1	18.5
	3	1,141.15	56.64	897.84	2,039.00	8.8	18.5
6	4	1,201.08	53.36	858.25	2,059.33	10.7	18.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

* All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2030.

TABLE V.13—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR PRODUCT CLASS 9

TSL **	Efficiency level	Life-cycle cost savings	
		Average LCC savings * 2022$	Percent of consumers that experience net cost
1–3	1	62.02	12.2
4	2	56.17	39.1
5	1	62.02	12.2
	3	46.62	52.2
6	4	26.33	61.0

* The savings represent the average LCC for affected consumers.

** All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2030.

TABLE V.14—AVERAGE LCC AND PBP RESULTS FOR PRODUCT CLASS 10

TSL *	Efficiency level	Average costs 2022$				Simple payback years	Average lifetime years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
1	1	1,037.56	38.90	638.00	1,675.56	11.2	18.5
2–3	Baseline	994.99	42.72	686.42	1,681.41	.....	18.5
4	Baseline	963.19	42.36	688.01	1,651.20	.....	18.5
5	Baseline	994.99	42.72	686.42	1,681.41	.....	18.5
	2	1,075.74	36.64	610.58	1,686.33	13.3	18.5
	3	1,078.80	34.66	583.52	1,662.32	10.4	18.5
6	4	1,115.72	33.71	574.13	1,689.85	13.4	18.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

* All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2029.

TABLE V.15—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR PRODUCT CLASS 10

TSL **	Efficiency level	Life-cycle cost savings	
		Average LCC savings * 2022$	Percent of consumers that experience net cost
1	1	5.94	57.5
	2	−5.13	69.8
	3	18.87	57.4
6	4	−8.65	70.0

* The savings represent the average LCC for affected consumers.

** All results in this table assume a compliance year of 2027.

TABLE V.16—AVERAGE LCC AND PBP RESULTS FOR PRODUCT CLASS 11A

TSL *	Efficiency level	Average costs 2022$				Simple payback years	Average lifetime years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
Residential:							
	Baseline	298.57	35.44	288.26	586.83	.....	8.9
1–2	1	305.89	32.01	262.49	568.38	2.1	8.9
3	2	308.97	30.52	251.30	560.27	2.1	8.9
4	2	299.10	30.33	253.30	552.40	2.1	8.9
5	2	308.97	30.52	251.30	560.27	2.1	8.9
	3	344.16	28.67	239.20	583.36	6.7	8.9
6	4	362.81	24.73	210.23	573.04	6.0	8.9
Commercial:							
	Baseline	299.37	25.22	179.75	479.12	.....	8.9
1–2	1	306.71	22.99	165.59	472.30	3.3	8.9
3	2	309.79	22.03	159.45	469.24	3.3	8.9
4	2	299.89	21.52	158.91	458.81	3.2	8.9
5	2	309.79	22.03	159.45	469.24	3.3	8.9
	3	345.08	20.82	153.37	498.45	10.4	8.9
6	4	363.77	18.27	137.64	501.41	9.3	8.9

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

* All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2029.

TABLE V.17—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR PRODUCT CLASS 11A

TSL **	Efficiency level	Life-cycle cost savings	
		Average LCC savings * 2022$	Percent of consumers that experience net cost
Residential:			
1–2	1	0.00	0.0
3	2	8.11	8.4
4	2	8.35	8.0
5	2	8.11	8.4
	3	−14.97	84.8
6	4	−4.66	61.7

TABLE V.17—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR PRODUCT CLASS 11A—Continued

TSL **	Efficiency level	Life-cycle cost savings	
		Average LCC savings * 2022$	Percent of consumers that experience net cost
Commercial:			
1–2	1	0.00	0.0
3	2	3.06	16.1
4	2	3.16	15.7
5	2	3.06	16.1
	3	−26.15	99.3
6	4	−29.11	92.7

* The savings represent the average LCC for affected consumers.
** All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2029.

TABLE V.18—AVERAGE LCC AND PBP RESULTS FOR PRODUCT CLASS 17

TSL *	Efficiency level	Average costs 2022$				Simple payback years	Average lifetime years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	Baseline	514.48	73.65	739.82	1,254.30	.....	11.5
1–3	1	548.82	66.16	670.81	1,219.62	4.6	11.5
4	1	529.02	65.85	677.65	1,206.67	4.1	11.5
5	1	548.82	66.16	670.81	1,219.62	4.6	11.5
	2	585.96	62.52	638.75	1,224.71	6.4	11.5
6	3	623.09	58.56	603.65	1,226.75	7.2	11.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.
* All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2029.

TABLE V.19—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR PRODUCT CLASS 17

TSL **	Efficiency level	Life-cycle cost savings	
		Average LCC savings * 2022$	Percent of consumers that experience net cost
1–3	1	32.29	5.6
4	1	36.86	4.5
5	1	32.29	5.6
	2	2.62	52.0
6	3	0.26	61.5

* The savings represent the average LCC for affected consumers.
** All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2029.

TABLE V.20—AVERAGE LCC AND PBP RESULTS FOR PRODUCT CLASS 18

TSL *	Efficiency level	Average costs 2022$				Simple payback years	Average lifetime years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC		
	Baseline	487.72	31.07	329.24	816.96	.....	11.5
1–2	1	491.75	28.09	301.39	793.14	1.4	11.5
3	2	506.37	26.58	288.10	794.47	4.2	11.5
4	2	490.19	26.33	289.27	779.46	4.1	11.5
5	2	506.37	26.58	288.10	794.47	4.2	11.5
	3	527.04	25.26	277.15	804.19	6.8	11.5
6	4	569.15	22.39	253.14	822.29	9.4	11.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.
* All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2029.

TABLE V.21—AVERAGE LCC SAVINGS RELATIVE TO THE NO-NEW-STANDARDS CASE FOR PRODUCT CLASS 18

TSL**	Efficiency level	Life-cycle cost savings	
		Average LCC savings* 2022$	Percent of consumers that experience net cost
1–2	1	23.82	0.8
3	2	22.49	18.9
4	2	23.55	17.6
5	2	22.49	18.9
	3	12.77	45.6
6	4	−5.34	68.5

* The savings represent the average LCC for affected consumers.
** All TSLs except TSL 4 have a compliance year of 2027; TSL 4 has a compliance year of 2029.

b. Consumer Subgroup Analysis

In the consumer subgroup analysis, DOE estimated the impact of the considered TSLs on low-income households and small businesses. Table V.22 compares the average LCC savings and PBP at each efficiency level for the low-income consumer subgroup with similar metrics for the entire consumer sample for PCs 3, 7, 9, and 10 (*see* section IV.I for an explanation of why other product classes are excluded). Table V.23 provides a similar comparison for PC 11A for the small business subgroup. In all cases, the average LCC savings and PBP for low-income households at the considered efficiency levels are improved (*i.e.,* higher LCC savings and lower payback period) from the average for all households. The LCC savings and payback period results for the small business subgroup for PC 11A are similar to those for all businesses. Chapter 11 of the direct final rule TSD presents the complete LCC and PBP results for the subgroups.

TABLE V.22—COMPARISON OF LCC SAVINGS AND PBP FOR LOW-INCOME CONSUMER SUBGROUP AND ALL CONSUMERS

TSL**	Average LCC savings* 2022$		Simple payback period years	
	Low-income households	All households	Low-income households	All households
Product Class 3:				
1	32.24	30.50	0.4	1.4
2–3	58.01	40.14	1.3	4.2
4	80.07	50.91	1.4	4.8
5	76.69	43.46	1.6	5.3
6	123.04	0.03	2.8	9.3
Product Class 7:				
1	56.76	52.10	0.5	0.7
2	87.29	70.96	1.8	2.9
3	154.61	134.10	1.2	1.9
4	161.87	142.56	1.0	1.6
5	132.77	73.96	3.9	6.2
6	142.45	69.71	4.2	6.8
Product Class 9:				
1–3	65.99	62.02	2.8	4.1
4	69.62	56.17	4.6	6.6
5	65.99	62.02	2.8	4.1
6	72.77	26.33	7.4	10.7
Product Class 10:				
1	22.75	5.94	6.4	11.2
2–5	N/A	N/A	N/A	N/A
6	39.03	−8.65	7.6	13.4

* The savings represent the average LCC for affected consumers.
** The compliance year for TSLs 1–3 and 5–6 is 2027; the compliance year for TSL 4 varies by product class: 2029: PC 10; 2030: PCs 3, 7, and 9.

TABLE V.23—COMPARISON OF LCC SAVINGS AND PBP FOR SMALL BUSINESS CONSUMER SUBGROUP AND ALL BUSINESSES

TSL**	Average LCC savings* 2022$		Simple payback period years	
	Small businesses	All businesses	Small businesses	All businesses
Product Class 11A:				
1–2	0.00	0.00	3.3	3.3

TABLE V.23—COMPARISON OF LCC SAVINGS AND PBP FOR SMALL BUSINESS CONSUMER SUBGROUP AND ALL BUSINESSES—Continued

TSL **	Average LCC savings * 2022$		Simple payback period years	
	Small businesses	All businesses	Small businesses	All businesses
3	2.54	3.06	3.2	3.3
4	2.64	3.16	3.2	3.2
5	2.54	3.06	3.2	3.3
6	−31.43	−29.11	9.2	9.3

* The savings represent the average LCC for affected consumers.
** The compliance year for TSLs 1–3 and 5–6 is 2027; the compliance year for TSL 4 is 2029.

c. Rebuttable Presumption Payback

As discussed in section IV.F.10 of this document, EPCA establishes a rebuttable presumption that an energy conservation standard is economically justified if the increased purchase cost for a product that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. In calculating a rebuttable-presumption payback period for each of the considered TSLs, DOE used discrete values, and, as required by EPCA, based the energy use calculation on the DOE test procedures for refrigerators, refrigerator-freezers, and freezers. In contrast, the PBPs presented in section V.B.1.a of this document were calculated using distributions that reflect the range of energy use in the field.

Table V.24 presents the rebuttable-presumption payback periods for the considered TSLs for refrigerators, refrigerator-freezers, and freezers. While DOE examined the rebuttable-presumption criterion, it considered whether the standard levels considered for this rule are economically justified through a more detailed analysis of the economic impacts of those levels, pursuant to 42 U.S.C. 6295(o)(2)(B)(i), that considers the full range of impacts to the consumer, manufacturer, Nation, and environment. The results of that analysis serve as the basis for DOE to definitively evaluate the economic justification for a potential standard level, thereby supporting or rebutting the results of any preliminary determination of economic justification.

TABLE V.24—REBUTTABLE-PRESUMPTION PAYBACK PERIODS

TSL *	PC 3	PC 5	PC 5BI	PC 5A	PC 7	PC 9	PC 10	PC 11A		PC 17	PC 18
								Res.	Com.		
1	1.5	4.5	2.5	2.0	0.7	3.7	10.2	1.9	2.8	3.9	1.2
2	4.3	4.5	2.5	2.0	2.9	3.7	.....	1.9	2.8	3.9	1.2
3	4.3	6.4	2.5	4.5	1.9	3.7	.....	1.9	2.8	3.9	3.7
4	4.9	5.8	2.2	4.2	1.6	6.0	.....	1.8	2.7	3.5	3.6
5	5.4	6.4	2.5	6.1	6.3	3.7	.....	1.9	2.8	3.9	3.7
6	9.6	9.0	8.6	6.1	6.9	9.7	12.2	5.3	7.9	6.2	8.3

* The compliance year for TSLs 1–3 and 5–6 is 2027; the compliance year for TSL 4 varies by product class: 2029: PCs 5BI, 5A, 10, 11A, 17, and 18; 2030: PCs 3, 5, 7, and 9.

2. Economic Impacts on Manufacturers

DOE performed an MIA to estimate the impact of amended energy conservation standards on manufacturers of refrigerators, refrigerator-freezers, and freezers. The next section describes the expected impacts on manufacturers at each considered TSL. Chapter 12 of the direct final rule TSD explains the analysis in further detail.

a. Industry Cash Flow Analysis Results

In this section, DOE provides GRIM results from the analysis, which examines changes in the industry that would result from a standard. The following tables summarize the estimated financial impacts (represented by changes in INPV) of potential amended energy conservation standards on manufacturers of refrigerators, refrigerator-freezers, and freezers, as well as the conversion costs that DOE estimates manufacturers of refrigerators, refrigerator-freezers, and freezers would incur at each TSL.

The impact of potential amended energy conservation standards was analyzed under two scenarios: (1) the preservation-of-gross-margin percentage; and (2) the preservation-of-operating-profit, as discussed in section IV.J.2.d of this document. The preservation-of-gross-margin percentages applies a ''gross margin percentage'' of 21 percent for all freestanding product classes and 29 percent for all built-in product classes, across all efficiency levels.[93] This scenario assumes that a manufacturer's per-unit dollar profit would increase as MPCs increase in the standards cases and represents the upper-bound to industry profitability under potential new or amended energy conservation standards.

The preservation-of-operating-profit scenario reflects manufacturers' concerns about their inability to maintain margins as MPCs increase to reach more stringent efficiency levels. In this scenario, while manufacturers make the necessary investments required to convert their facilities to produce compliant products, operating profit does not change in absolute dollars and decreases as a percentage of revenue. The preservation-of-operating-profit scenario results in the lower (or more severe) bound to impacts of potential amended standards on industry.

Each of the modeled scenarios results in a unique set of cash flows and corresponding INPV for each TSL. INPV is the sum of the discounted cash flows to the industry from the base year through the end of the analysis period (30 years from the analyzed compliance

[93] The gross margin percentages of 21 percent and 29 percent are based on manufacturer markups of 1.26 and 1.40 percent, respectively.

year).[94] The ''change in INPV'' results refer to the difference in industry value between the no-new-standards case and standards case at each TSL. To provide perspective on the short-run cash flow impact, DOE includes a comparison of free cash flow between the no-new-standards case and the standards case at each TSL in the year before amended standards would take effect. This figure provides an understanding of the magnitude of the required conversion costs relative to the cash flow generated by the industry in the no-new-standards case.

Conversion costs are one-time investments for manufacturers to bring their manufacturing facilities and product designs into compliance with potential amended standards. As described in section IV.J.2.c of this document, conversion cost investments occur between the year of publication of the direct final rule and the year by which manufacturers must comply with the new standard. The conversion costs can have a significant impact on the short-term cash flow of the industry and generally result in lower free cash flow in the period between the publication of the direct final rule and the compliance date of potential amended standards. Conversion costs are independent of the manufacturer markup scenarios and are not presented as a range in this analysis.

TABLE V.25—MANUFACTURER IMPACT ANALYSIS RESULTS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

	Unit	No-new-standards case	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
INPV	*2022$ Million*	4,905.8	4,841.5 to 4,891.4	4,798.5 to 4,870.1	4,387.6 to 4,514.7	4,401.3 to 4,522.3	3,839.9 to 4,061.6	3,080.1 to 3,604.0
Change in INPV*	%		(1.3) to (0.3)	(2.2) to (0.7)	(10.6) to (8.0)	(10.3) to (7.8)	(21.7) to (17.2)	(37.2) to (26.5)
Free Cash Flow (2026)**	*2022$ Million*	***414.5	385.3	363.3	137.8	195.3	(166.2)	(581.0)
Change in Free Cash Flow (2026)**.	%		(7.0)	(12.4)	(66.7)	(51.7)	(140.1)	(240.2)
Capital Conversion Costs	*2022$ Million*		10.8	22.3	378.1	471.8	945.3	1,677.2
Product Conversion Costs	*2022$ Million*		71.7	121.7	314.7	358.5	458.7	711.4
Total Conversion Costs	*2022$ Million*		82.5	144.0	692.8	830.3	1,404.0	2,388.6

* Parentheses denote negative (−) values.
** TSL 4 (*i.e.*, the Recommended TSL) represents the change in free cash flow in 2029.
*** In 2029, the no-new-standards case free cash flow is $413.1 million.

The following cash flow discussion refers to product classes as defined in Table I.1 in section I of this document and the efficiency levels and design options as detailed in Tables IV.5 through IV.7 in section IV.C.3 of this document.

At TSL 1, the standard represents a modest increase in efficiency, corresponding to the lowest analyzed efficiency level above the baseline for each analyzed product class. The change in INPV is expected to range from −1.3 to −0.3 percent. At this level, free cash flow is estimated to decrease by 7.0 percent compared to the no-new-standards case value of $414.5 million in the year 2026, the year before the 2027 standards year. Currently, approximately 24 percent of domestic refrigerator, refrigerator-freezer, and freezer shipments meet the efficiencies required at TSL 1. *See* Table V.27 for the percentage of 2023 shipments that meet each TSL by product class.

The design options DOE analyzed primarily included implementing more efficient single-speed compressors. For PC 5,[95] PC 5A, PC 5–BI, PC 10, and PC 17, the design options analyzed included implementing higher-efficiency variable-speed compressors. DOE also analyzed implementing BLDC fan motors and variable defrost for some product classes. DOE expects manufacturers would likely need to increase wall thickness for some of PC 11A models to meet TSL 1 efficiencies. At this level, capital conversion costs are minimal since most manufacturers can achieve TSL 1 efficiencies with relatively minor component changes. Product conversion costs may be necessary for developing, qualifying, sourcing, and testing new components. DOE expects industry to incur some re-flooring costs as manufacturers redesign baseline products to meet the efficiency levels required by TSL 1. DOE estimates capital conversion costs of $10.8 million and product conversion costs of $71.7 million. Conversion costs total $82.5 million.

At TSL 1, the shipment-weighted average MPC for all refrigerators, refrigerator-freezers, and freezers is expected to increase by 1.6 percent relative to the no-new-standards case shipment-weighted average MPC for all refrigerators, refrigerator-freezers, and freezers in 2027. In the preservation-of-gross-margin percentage scenario, the minor increase in cashflow from the higher MSP is slightly outweighed by the $82.5 million in conversion costs, causing a negligible change in INPV at TSL 1 under this scenario. Under the preservation-of-operating-profit scenario, manufacturers earn the same per-unit operating profit as would be earned in the no-new-standards case, but manufacturers do not earn additional profit from their investments. In this scenario, the manufacturer markup decreases in 2028, the year after the analyzed 2027 compliance year. This reduction in the manufacturer markup and the $82.5 million in conversion costs incurred by manufacturers cause a slightly negative change in INPV at TSL 1 under the preservation-of-operating-profit scenario. *See* section IV.J.2.d of this document for details on the manufacturer markup scenarios.

At TSL 2, the standard represents an increase in efficiency of approximately 10 percent across all analyzed product classes, consistent with ENERGY STAR requirements, except for PC 10. The change in INPV is expected to range from −2.2 to −0.7 percent. At this level, free cash flow is estimated to decrease by 12.4 percent compared to the no-new-standards case value of $414.5 million in the year 2026, the year before the 2027 standards year. Currently, approximately 26 percent of domestic refrigerator, refrigerator-

[94] The analysis period ranges from 2023–2056 for the no-new-standards case and all TSLs, except for TSL 4 (the Recommended TSL). The analysis period for the Recommended TSL ranges from 2023–2058 for the product classes listed in Table I.1 and 2023–2059 for the product classes listed in Table I.2.

[95] The engineering analysis modeled PC 5 (23.0 AV) as requiring a higher-efficiency single-speed compressor to meet TSL 1 efficiencies and modeled PC 5 (30.0 AV) as requiring a variable-speed compressor system to meet TSL 1 efficiencies.

freezer, and freezer shipments meet the efficiencies required at TSL 2.

The design options DOE analyzed include implementing similar design options as TSL 1, such as more efficient compressors, BLDC fans, and variable defrost. For PC 3, the design options included implementing incrementally more efficient single-speed compressors and variable defrost. For PC 7, the design options analyzed included implementing variable-speed compressors. For PC 3 and PC 7, TSL 2 corresponds to EL 2. For PC 10, TSL 2 corresponds to baseline efficiency. For the remaining product classes, the efficiencies required at TSL 2 are the same as TSL 1. The increase in conversion costs from the prior TSL is entirely due to the increased efficiencies required for PC 3 and PC 7. Capital conversion costs may be necessary for updated tooling and additional stations to test more variable-speed compressors. Product conversion costs may be necessary for developing, qualifying, sourcing, and testing variable-speed compressors and associated electronics. DOE expects industry to incur slightly more re-flooring costs compared to TSL 1. DOE estimates capital conversion costs of $22.3 million and product conversion costs of $121.7 million. Conversion costs total $144.0 million.

At TSL 2, the shipment-weighted average MPC for all refrigerators, refrigerator-freezers, and freezers is expected to increase by 2.3 percent relative to the no-new-standards case shipment-weighted average MPC for all refrigerators, refrigerator-freezers, and freezers in 2027. In the preservation-of-gross-margin-percentage scenario, the slight increase in cashflow from the higher MSP is outweighed by the $144.0 million in conversion costs, causing a slightly negative change in INPV at TSL 2 under this scenario. Under the preservation-of-operating-profit scenario, the manufacturer markup decreases in 2028. This reduction in the manufacturer markup and the $144.0 million in conversion costs incurred by manufacturers cause a slightly negative change in INPV at TSL 2 under the preservation-of-operating-profit scenario.

At TSL 3, the standard represents an increased stringency for PC 5, PC 5A, PC 7, PC 11A, and PC 18 and increased NES while keeping economic impacts on consumers modest. The change in INPV is expected to range from −10.6 to −8.0 percent. At this level, free cash flow is estimated to decrease by 66.7 percent compared to the no-new-standards case value of $414.5 million in the year 2026, the year before the 2027 standards year. Currently, approximately 18 percent of domestic refrigerator, refrigerator-freezer, and freezer shipments meet the efficiencies required at TSL 3.

In addition to the design options DOE analyzed at TSL 2, the design options analyzed for PC 5 include implementing higher-efficiency variable-speed compressors and incorporating partial VIP for larger capacity (*i.e.,* adjusted volume) products. DOE expects that PC 5A products would likely also need to incorporate some partial VIP. For PC 7, the deign options analyzed included implementing more efficient variable-speed compressors. Additionally, for the compact-size PC 18, DOE expects manufacturers may need to increase cabinet wall thickness. For PC 5, PC 5A, PC 11A, and PC 18, TSL 3 corresponds to EL 2. For PC 7, TSL 3 corresponds to EL 3. For the remaining product classes, the efficiencies required at TSL 3 are the same as TSL 2. The increase in conversion costs from the prior TSL are driven by the efficiencies required for PC 5 and PC 5A due to their large market share (together, these product classes account for approximately 30 percent of total shipments) and the design options required to meet this level. Capital conversion costs may be necessary for new tooling for VIP placement as well as new testing stations for high-efficiency components. Product conversion costs may be necessary for developing, qualifying, sourcing, and testing new components. For products implementing VIPs, product conversion costs may be necessary for prototyping and testing for VIP placement, design, and sizing. For PC 5 and PC 5A, DOE understands the two product classes often share the same production lines, with shared cabinet architecture and tooling. DOE expects manufacturers would likely need to incorporate some VIPs into PC 5A designs, but not to the extent required at TSL 5 and TSL 6. Thus, for the 10 OEMs that manufacture both PC 5 and PC 5A, DOE expects manufacturers could implement similar cabinet upgrades (*i.e.,* partial VIP) for PC 5 and PC 5A designs to achieve the efficiencies required at this level. DOE expects industry to incur re-flooring costs as manufacturers redesign their products to meet the efficiency levels required by TSL 3. DOE estimates capital conversion costs of $378.1 million and product conversion costs of $314.7 million. Conversion costs total $629.8 million.

At TSL 3, the shipment-weighted average MPC for all refrigerators, refrigerator-freezers, and freezers is expected to increase by 4.0 percent relative to the no-new-standards case shipment-weighted average MPC for all refrigerators, refrigerator-freezers, and freezers in 2027. In the preservation-of-gross-margin-percentage scenario, the increase in cashflow from the higher MSP is outweighed by the $692.8 million in conversion costs, causing a negative change in INPV at TSL 3 under this scenario. Under the preservation-of-operating-profit scenario, the manufacturer markup decreases in 2028. This reduction in the manufacturer markup and the $692.8 million in conversion costs incurred by manufacturers cause a negative change in INPV at TSL 3 under the preservation-of-operating-profit scenario.

At TSL 4 (*i.e.,* the Recommended TSL), the standard represents an increased stringency for PC 3 and PC 9, as well as the expected NES, while maintaining positive average LCC savings for every analyzed product class. The change in INPV is expected to range from −10.3 to −7.8 percent. At this level, free cash flow is estimated to decrease by 51.7 percent compared to the no-new-standards case value of $413.1 million in the year 2029, the year before the 2030 standards year.[96] Currently, approximately 14 percent of domestic refrigerator, refrigerator-freezer, and freezer shipments meet the efficiencies required at TSL 4.

In addition to the design options DOE analyzed at TSL 3, the design options analyzed for PC 3 products include implementing the highest-EER single-speed compressors or variable-speed compressors. For PC 9, the design options analyzed included the highest-EER variable-speed compressors. For PC 3, TSL 4 corresponds to EL 3. For PC 9, TSL 4 corresponds to EL 2. For the remaining directly analyzed product classes, the efficiencies required at TSL 4 are the same as TSL 3. At this level, the increase in conversion costs is entirely driven by the higher efficiency levels required for PC 3 and PC 9, which together account for approximately 33 percent of current industry shipments. Many manufacturers of these product classes would need to update their platforms to integrate variable-speed compressors. For PC 5 and PC 5A, DOE understands the two product classes often share the same production lines, with shared cabinet architecture and tooling. DOE expects industry to incur

[96] For the Recommended TSL, the compliance year varies by product class. For the product classes listed in Table I.1, the analyzed compliance year is 2029. For the product classes listed in Table I.2, the analyzed compliance year is 2030. The product classes associated with the 2030 compliance year account for approximately 68 percent of total shipments.

more re-flooring costs compared to TSL 3. DOE estimates capital conversion costs of $471.8 million and product conversion costs of $358.5 million. Conversion costs total $830.3 million.

At TSL 4, the shipment-weighted average MPC for all refrigerator, refrigerator-freezers, and freezers is expected to increase by 4.8 percent relative to the no-new-standards case shipment-weighted average MPC for all refrigerators, refrigerator-freezers, and freezers in 2030. In the preservation-of-gross-margin-percentage scenario, the increase in cashflow from the higher MSP is outweighed by the $830.3 million in conversion costs, causing a negative change in INPV at TSL 4 under this scenario. Under the preservation-of-operating-profit scenario, the manufacturer markup decreases in 2031, the year after the analyzed 2030 compliance year.[97] This reduction in the manufacturer markup and the $830.3 million in conversion costs incurred by manufacturers cause a negative change in INPV at TSL 4 under the preservation-of-operating-profit scenario.

At TSL 5, the standard represents the maximum NPV. The change in INPV is expected to range from −21.7 to −17.2 percent. At this level, free cash flow is estimated to decrease by 140.1 percent compared to the no-new-standards case value of $414.5 million in the year 2026, the year before the 2027 standards year. Currently, approximately 14 percent of domestic refrigerator, refrigerator-freezer, and freezer shipments meet the efficiencies required at TSL 5.

In addition to the design options DOE analyzed at TSL 4, the design options analyzed for PC 5A includes implementing VIPs on all of the cabinet surface (side walls and doors) and for PC 7 includes implementing VIPs on roughly 75 percent of the cabinet surface. For PC 5A, TSL 5 corresponds to EL 3. For PC 7, TSL 5 corresponds to EL 4. For PC 9, TSL 5 corresponds to EL 1, the same efficiency level required for TSL 3. For the remaining product classes, the efficiencies required at TSL 5 are the same as TSL 4. The increase in conversion costs compared to the prior TSL is entirely driven by the higher efficiency level required for PC 5A and PC 7, which likely necessitates incorporating some VIPs. In interviews, some manufacturers stated that their existing PC 5A and PC 7 platforms cannot reach this efficiency level and would require a platform redesign, which would likely mean new cases, liners, and fixtures. DOE expects slightly more re-flooring costs compared to the prior TSL as manufacturers redesign products to meet the required efficiencies. DOE estimates capital conversion costs of $945.3 million and product conversion costs of $458.7 million. Conversion costs total $1.40 billion.

At TSL 5, the large conversion costs result in a free cash flow dropping below zero in the years before the standards year. The negative free cash flow calculation indicates manufacturers may need to access cash reserves or outside capital to finance conversion efforts.

At TSL 5, the shipment-weighted average MPC for all refrigerators, refrigerator-freezers, and freezers is expected to increase by 7.0 percent relative to the no-new-standards case shipment-weighted average MPC for all refrigerators, refrigerator-freezers, and freezers in 2027. In the preservation-of-gross-margin-percentage scenario, the increase in cashflow from the higher MSP is outweighed by the $1.40 billion in conversion costs, causing a moderately negative change in INPV at TSL 5 under this scenario. Under the preservation-of-operating-profit scenario, the manufacturer markup decreases in 2028. This reduction in the manufacturer markup and the $1.40 billion in conversion costs incurred by manufacturers cause a large decrease in INPV at TSL 5 under the preservation-of-operating-profit scenario.

At TSL 6, the standard reflects max-tech for all product classes. The change in INPV is expected to range from −37.2 to −26.5 percent. At this level, free cash flow is estimated to decrease by 240.2 percent compared to the no-new-standards case value of $414.5 million in the year 2026, the year before the 2027 standards year. Currently, approximately 0.9 percent of domestic refrigerator, refrigerator-freezer, and freezer shipments meet the efficiencies required at TSL 6.

At max-tech levels, manufacturers would likely need to implement the best-available-efficiency VSC, forced-convection heat exchangers with multi-speed BLDC fans, variable defrost, and increase in cabinet wall thickness for some classes (*e.g.,* compact refrigerators and both standard-size and compact chest freezers). Manufacturers would also likely incorporate VIP doors for PC 10 and PC 18 and VIPs for roughly half the cabinet surface (typically side walls and doors for an upright cabinet) for all other classes. At TSL 6, only a few manufacturers offer any products that meet the efficiencies required. For PC 3, which accounts for approximately 25 percent of annual shipments, no OEMs currently offer products that meet the efficiency level required. For PC 5, which accounts for approximately 21 percent of annual shipments, DOE estimates that seven out of 22 OEMs currently offer products that meet the efficiency level required. For PC 7, which accounts for approximately 11 percent of annual shipments, only one out of the 11 OEMs currently offers products that meet the efficiency level required.

The efficiencies required by TSL 6 could require a major renovation of existing facilities and completely new refrigerator, refrigerator-freezer, and freezer platforms for many OEMs. In interviews, some manufacturers stated that they are physically constrained at their current production location and would therefore need to expand their existing production facility or move to an entirely new facility. These manufacturers stated that their current manufacturing locations are at capacity and cannot accommodate the additional labor required to implement VIPs. DOE expects industry to incur more re-flooring costs compared to TSL 5 as all display models below max-tech efficiency would need to be replaced due to the more stringent standard. DOE estimates capital conversion costs of $1.68 billion and product conversion costs of $711.4 million. Conversion costs total $2.39 billion.

At TSL 6, the large conversion costs result in a free cash flow dropping below zero in the years before the 2027 standards year. The negative free cash flow calculation indicates manufacturers may need to access cash reserves or outside capital to finance conversion efforts.

At TSL 6, the shipment-weighted average MPC for all refrigerators, refrigerator-freezers, and freezers is expected to increase by 16.8 percent relative to the no-new-standards case shipment-weighted average MPC for all refrigerators, refrigerator-freezers, and freezers in 2027. In the preservation-of-gross-margin-percentage scenario, the increase in cashflow from the higher MSP is outweighed by the $2.39 billion in conversion costs, causing a large negative change in INPV at TSL 6 under this scenario. Under the preservation-of-operating-profit scenario, the manufacturer markup decreases in 2028. This reduction in the manufacturer markup and the $2.39 billion in conversion costs incurred by manufacturers causes a significant decrease in INPV at TSL 6 under the preservation-of-operating-profit scenario.

[97] The compliance year for the Recommended TSL varies by product class. For PC 1, PC 1A, PC 2, PC 3, PC 3A, PC 4, PC 5, PC 6, PC 7, and PC 9, the compliance year is 2030. For the remaining product classes, the compliance year is 2029.

TABLE V.26—PERCENTAGES OF 2023 SHIPMENTS THAT MEET EACH TSL BY PRODUCT CLASS

Directly analyzed equipment class	TSL 1 (%)	TSL 2 (%)	TSL 3 (%)	TSL 4 (%)	TSL 5 (%)	TSL 6 (%)
PC 3	23.0	19.0	19.0	0.0	0.0	0.0
PC 5	10.0	10.0	3.0	3.0	3.0	0.5
PC 5A	3.0	3.0	0.0	0.0	0.0	0.0
PC 7	14.5	0.0	0.0	0.0	0.0	0.0
PC 5 BI	73.0	73.0	73.0	73.0	73.0	21.6
PC 9	17.0	17.0	17.0	1.0	17.0	1.0
PC 10	4.7	100.0	100.0	100.0	100.0	0.0
PC 11A	100.0	100.0	0.0	0.0	0.0	0.0
PC 17	80.6	80.6	80.6	80.6	80.6	9.0
PC 18	0.0	0.0	0.0	0.0	0.0	0.0
Overall Industry*	24.4	26.4	18.5	14.1	13.6	0.9

*Reflects the percent of industry shipments for all product classes that meet each TSL, including the product classes that were not directly analyzed (*i.e.,* non-representative classes).

b. Direct Impacts on Employment

To quantitatively assess the potential impacts of amended energy conservation standards on direct employment in the refrigerators, refrigerator-freezers, and freezers industry, DOE used the GRIM to estimate the domestic labor expenditures and number of direct employees in the no-new-standards case and in each of the standards cases during the analysis period. For the direct final rule, DOE used the most up-to-date information available. DOE calculated these values using statistical data from the 2021 *ASM,*[98] BLS employee compensation data,[99] results of the engineering analysis, and manufacturer interviews conducted in support of the February 2023 NOPR.

Labor expenditures related to product manufacturing depend on the labor intensity of the product, the sales volume, and an assumption that wages remain fixed in real terms over time. The total labor expenditures in each year are calculated by multiplying the total MPCs by the labor percentage of MPCs. The total labor expenditures in the GRIM were then converted to total production employment levels by dividing production labor expenditures by the average fully burdened wage multiplied by the average number of hours worked per year per production worker. To do this, DOE relied on the *ASM* inputs: Production Workers Annual Wages, Production Workers Annual Hours, Production Workers for Pay Period, and Number of Employees. DOE also relied on the BLS employee compensation data to determine the fully burdened wage ratio. The fully burdened wage ratio factors in paid leave, supplemental pay, insurance, retirement and savings, and legally required benefits.

The number of production employees is then multiplied by the U.S. labor Percentage to convert total production employment to total domestic production employment. The U.S. labor percentage represents the industry fraction of domestic manufacturing production capacity for the covered product. This value is derived from manufacturer interviews, product database analysis, and publicly available information. Consistent with the February 2023 NOPR, DOE estimates that 28 percent of refrigerators, refrigerator-freezers, and freezers are produced domestically.

The domestic production employees estimate covers production line workers, including line supervisors, who are directly involved in fabricating and assembling products within the OEM facility. Workers performing services that are closely associated with production operations, such as materials-handling tasks using forklifts, are also included as production labor. DOE's estimates only account for production workers who manufacture the specific products covered by this rulemaking.

Non-production workers account for the remainder of the direct employment figure. The non-production employees estimate covers domestic workers who are not directly involved in the production process, such as sales, engineering, human resources, and management.[100] Using the amount of domestic production workers calculated above, non-production domestic employees are extrapolated by multiplying the ratio of non-production workers in the industry compared to production employees. DOE assumes that this employee distribution ratio remains constant between the no-new-standards case and standards cases.

Using the GRIM, DOE estimates in the absence of new energy conservation standards there would be 6,366 domestic production and non-production workers for refrigerators, refrigerator-freezers, and freezers in 2027. Table V.27 shows the range of the impacts of energy conservation standards on U.S. manufacturing employment in the refrigerator, refrigerator-freezer, and freezer industry. The following discussion provides a qualitative evaluation of the range of potential impacts presented in Table V.27.

[98] U.S. Census Bureau, *Annual Survey of Manufactures.* ''Summary Statistics for Industry Groups and Industries in the U.S (2021).'' Available at *www.census.gov/programs-surveys/asm/data.html* (last accessed July 5, 2023).

[99] U.S. Bureau of Labor Statistics. *Employer Costs for Employee Compensation—March 2023.* June 16, 2023. Available at *www.bls.gov/news.release/pdf/ecec.pdf* (last accessed July 5, 2023).

[100] The comprehensive description of production and non-production workers is available at ''Definitions and Instructions for the Annual Survey of Manufacturers, MA–10000'' (pp. 13–14) *www2.census.gov/programs-surveys/asm/technical-documentation/questionnaire/2021/instructions/MA_10000_Instructions.pdf* (last accessed September 9, 2023).

TABLE V.27—DOMESTIC DIRECT EMPLOYMENT IMPACTS FOR REFRIGERATOR, REFRIGERATOR-FREEZER, AND FREEZER MANUFACTURERS IN THE ANALYZED COMPLIANCE YEAR

	No-new-standards case	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Direct Employment in 2027* (Production Workers + Non-Production Workers)	6,366	6,403	6,405	6,526	6,494	6,740	7,571
Potential Changes in Direct Employment Workers**	.....	(5,683) to 37	(5,683) to 39	(5,683) to 160	(5,683) to 166	(5,683) to 374	(5,683) to 1,205

*For TSL 4 (the Recommended TSL), the direct employment values reflect 2030 estimates.
**DOE presents a range of potential employment impacts. Numbers in parentheses denote negative values.

The direct employment impacts shown in Table V.27 represent the potential domestic employment changes that could result following the compliance date for the refrigerator, refrigerator-freezer, and freezer product classes in this direct final rule. The upper bound estimate corresponds to an increase in the number of domestic workers that would result from amended energy conservation standards if manufacturers continue to produce the same scope of covered products within the United States after compliance takes effect. The lower bound estimate represents the maximum decrease in production workers if manufacturing moved to lower labor-cost countries. Most manufacturers currently produce at least a portion of their refrigerators, refrigerator-freezers, and freezers in countries with lower labor costs. Adopting an amended standard that necessitates large increases in labor content or large expenditures to re-tool facilities could cause manufacturers to reevaluate domestic production siting options. At the Recommended TSL (TSL 4), DOE expects some manufacturers would need to implement insulation changes (*e.g.,* VIPs and/or increasing wall thickness) into certain product classes, which could require additional labor content and capital investment. For the high-volume product classes, DOE expects that PC 5A and some PC 5 models [101] would likely require implementing partial VIPs to meet TSL 4 efficiencies. DOE estimates the products that would likely require some VIPs to meet TSL 4 efficiencies collectively account for approximately 24 percent of industry shipments. Based on information gathered during confidential manufacturer interviews and public sources, DOE understands that a portion of PC 5 and PC 5A products are currently manufactured in the United States. Although it is possible that amended standards in this rulemaking and other DOE rulemakings could factor into production siting locations due to the level of investment and additional labor content required. However, based on information gathered during confidential manufacturer interviews, DOE does not expect most manufacturers would shift domestic production outside of the United States solely as a result of this direct final rule.

Additional detail on the analysis of direct employment can be found in chapter 12 of the direct final rule TSD. Additionally, the employment impacts discussed in this section are independent of the employment impacts from the broader U.S. economy, which are documented in chapter 16 of the direct final rule TSD.

c. Impacts on Manufacturing Capacity

In interviews, some manufacturers noted potential capacity concerns related to implementing VIPs, particularly for high-volume product lines (*i.e.,* PC 3, PC 5, PC 5A, and PC 7). These manufacturers noted that incorporating VIPs (or additional VIPs) is labor intensive. Implementing VIPs requires additional labor associated with initial quality control inspections, placement, and post-foam inspections. These manufacturers noted they are physically constrained at some factories and do not have the ability to extend production lines to accommodate additional labor content. As discussed in section V.B.2.a of this document, some manufacturers noted that the only way to maintain current production levels would be to expand the existing footprint, build a mezzanine, or move to a new production facility. In interviews, some manufacturers expressed concerns at the max-tech efficiencies for top-mount (TSL 6), bottom-mount with through-the-door ice service (TSL 5), bottom-mount without through-the-door ice service (TSL 6), and side-by-side (TSL 6) standard-size refrigerator-freezers, and stated that the 3-year period between the announcement of the direct final rule and the compliance date of the amended energy conservation standard might be insufficient to update existing plants or build new facilities to accommodate the additional labor required to manufacture the necessary number of products to meet demand. In this direct final rule, DOE adopts TSL 4 (the Recommended TSL). At the adopted level, the max-tech efficiencies are not required for any of the analyzed product classes, including the high-volume product classes manufacturers expressed concerns about during confidential interviews. Furthermore, compliance with amended standards would not be required until 2030 for freestanding top-mount product classes (*i.e.,* PC 1, PC 1A, PC 2, PC 3, PC 3A, PC 6), freestanding side-by-side product classes (*i.e.,* PC 4, PC 7), and freestanding bottom-mount without through-the-door ice service product class (*i.e.,* PC 5), and 2029 for the remaining product classes. Compared to TSLs with a 2027 compliance date, manufacturers would have additional time to update production facilities and redesign products to meet amended standards. The Recommended TSL's compliance dates would provide manufacturers the opportunity to spread capital requirements, engineering resources, and conversion activities over a longer period of time.

In response to the February 2023 NOPR, AHAM, Whirlpool, GEA, and Sub Zero expressed concerns that the supply of high-efficiency components such as VIPs and VSCs would not be able to ramp up in the 3-year compliance period to meet the expected consumer demand for refrigerators, refrigerator-freezers, and freezers. (AHAM, No. 69 at p. 5; Whirlpool, No. 70 at p. 5; GEA, No. 75 at p. 2; and Sub Zero, No. 77 at p. 2) Conversely, Samsung commented that the industry has a significant amount of VSCs available for purchase, and that the 3-year compliance period is acceptable for manufacturers and suppliers to establish sufficient availability of VSCs. (Samsung, No. 78 at p. 3)

In support of this analysis, DOE conducted research and interviewed

[101] The design path analyzed in DOE's engineering analysis for PC 5 with a 3-door configuration (adjusted volume of 30 ft^3) would likely require some VIPs at TSL 4 (EL 2). *See* section IV.C.2 of this document for the analyzed design options at each efficiency level for the directly analyzed product classes.

VSC and VIP component suppliers to gather additional information on the global market capacity for these high-efficiency components. Based on the information gathered, DOE expects that VIP production lines can be quickly scaled up to meet demand of future amended standards (within 1 to 2 years depending on the specific VIP design). For VSCs, based on supplier information on the global refrigerator VSC production capacity, supply constraints, and ramp-up time, DOE determined that the industry can meet the increased demand of VSCs that may result due to the adoption of more stringent standards within the necessary compliance period, with an estimated 8 to 12 month VSC production ramp-up, as needed.

d. Impacts on Subgroups of Manufacturers

Using average cost assumptions to develop industry cash flow estimates may not capture the differential impacts among subgroups of manufacturers. Small manufacturers, niche players, or manufacturers exhibiting a cost structure that differs substantially from the industry average could be affected disproportionately. DOE investigated small businesses as a manufacturer subgroup that could be disproportionally impacted by energy conservation standards and could merit additional analysis. DOE also identified the domestic LVM subgroup as a potential manufacturer subgroup that could be adversely impacted by energy conservation standards based on the results of the industry characterization.

Small Businesses

DOE analyzes the impacts on small businesses in a separate analysis for the standards proposed in the NOPR published elsewhere in this issue of the **Federal Register** and in chapter 12 of the direct final rule TSD. In summary, the Small Business Administration (''SBA'') defines a ''small business'' as having 1,500 employees or less for NAICS 335220, ''Major Household Appliance Manufacturing.'' Based on this classification, DOE identified one domestic OEM that qualifies as a small business. For a discussion of the impacts on the small business manufacturer subgroup, *see* chapter 12 of the direct final rule TSD.

Domestic, Low-Volume Manufacturers

In addition to the small business subgroup, DOE identified domestic LVMs as a manufacturer subgroup that may experience differential impacts due to amended standards. DOE identified three domestic LVMs of refrigerators, refrigerator-freezers, and freezers that would potentially face more challenges with meeting amended standards than other larger OEMs of the covered products.

Although these LVMs do not qualify as small businesses according to the SBA criteria previously discussed (*i.e.,* employee count exceeds 1,500), these manufacturers are significantly smaller in terms of annual revenues than the larger, diversified manufacturers selling refrigerators, refrigerator-freezers, and freezers in the United States. The domestic LVM subgroup consists of refrigerator, refrigerator-freezer, and freezer manufacturers that primarily sell high-end, built-in or fully integrated consumer refrigeration products (''undercounter'' and standard-size) as well as miscellaneous refrigeration products, commercial refrigeration equipment, and cooking products. Specifically, manufacturers indicated during confidential interviews that the fully integrated compact (''undercounter'') products produced by the domestic LVMs are niche products and are more expensive to produce (and, therefore, have higher selling prices) than the majority of the compact products sold in the United States.

Table V.28 lists the range of product offerings and estimated total company annual revenue for the three domestic LVMs identified. These three manufacturers account for approximately 1 percent of the overall domestic refrigerator, refrigerator-freezer, and freezer shipments. This table also contains the range of total company annual revenue for the five largest appliance manufacturers selling refrigerators, refrigerator-freezers, and freezers in the U.S. market. These five appliance manufacturers account for approximately 95 percent of the overall domestic refrigerator, refrigerator-freezer, and freezer shipments.

TABLE V.28—REVENUES AND PRODUCT OFFERINGS OF LOW-VOLUME MANUFACTURERS AND LARGE MANUFACTURERS OF REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

Manufacturer type	Estimated range of annual company revenue * (2022$ millions)	Refrigerator, refrigerator-freezer, and freezer product offerings
Domestic LVMs	$186 to $4,030	High-end, built-in or fully integrated ''undercounter'' or standard-size refrigeration products (*e.g.,* PC 5–BI, PC 13A, PC 14).
Large Appliance Manufacturers	$15,730 to $164,030	Wide range of freestanding, standard-size refrigerator-freezers and freezers. (*e.g.,* PC 3, PC 5, PC 5A, PC 7, PC 10) Most also offer premium brands for standard-size built-in products.

* Revenue estimates refer to the total annual company revenue of the parent company and any associated subsidiaries.

LVMs may be disproportionately affected by conversion costs. Product redesign, testing, and certification costs tend to be fixed per basic model and do not scale with sales volume. Both large manufacturers and LVMs must make investments in R&D to redesign their products, but LVMs lack the sales volumes to sufficiently recoup these upfront investments without substantially marking up their products' selling prices. LVMs may also face challenges related to purchasing power and a less robust supply chain for key technologies or components, as compared to larger manufacturers. DOE notes that domestic LVMs have access to the same technology options as larger appliance manufacturers, the challenge with redesigning products to meet amended standards relates to scale and their ability to recover investments necessitated by more stringent standards.

Although domestic, low-volume manufacturers would likely face additional challenges meeting amended standards for the built-in and compact (''undercounter'') refrigerator, refrigerator-freezer, and freezer product classes compared to other refrigerator, refrigerator-freezer, and freezer manufacturers, some of the adopted amendments may be beneficial for domestic LVMs. As discussed in section IV.A.1 of this document, DOE is proposing to incorporate certain energy use allowances for products with special doors and multi-door designs. A review of the three domestic LVM's product offerings and information gathered in confidential interviews

indicates transparent door designs are particularly prevalent in their products. *See* section IV.A.1 of this document for additional details on energy use allowances for products with special doors and multi-door designs.

e. Cumulative Regulatory Burden

One aspect of assessing manufacturer burden involves looking at the cumulative impact of multiple DOE standards and the regulatory actions of other Federal agencies and States that affect the manufacturers of a covered product or equipment. While any one regulation may not impose a significant burden on manufacturers, the combined effects of several existing or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Multiple regulations affecting the same manufacturer can strain profits and lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

For the cumulative regulatory burden analysis, DOE examines Federal, product-specific regulations that could affect refrigerator, refrigerator-freezer, and freezer manufacturers that take effect approximately 3 years before the 2029 compliance date and 3 years after the after the 2030 compliance date (2026 to 2033). This information is presented in Table V.29.

TABLE V.29—COMPLIANCE DATES AND EXPECTED CONVERSION EXPENSES OF FEDERAL ENERGY CONSERVATION STANDARDS AFFECTING REFRIGERATOR, REFRIGERATOR-FREEZER, AND FREEZER ORIGINAL EQUIPMENT MANUFACTURERS

Federal Energy Conservation Standard	Number of OEMs *	Number of OEMs affected by this rule **	Approximate standards compliance year	Industry conversion costs (Millions)	Industry conversion costs/ equipment revenue ***
Portable Air Conditioners; 85 FR 1378 (January 10, 2020)	9	2	2025	$320.9 (2015$)	6.7
Consumer Conventional Cooking Products; 88 FR 6818 † (February 1, 2023)	34	12	2027	183.4 (2021$)	1.2
Residential Clothes Washers; † 88 FR 13520 (March 3, 2023)	19	14	2027	690.8 (2021$)	5.2
Consumer Clothes Dryers; † 87 FR 51734 (August 23, 2022)	15	11	2027	149.7 (2020$)	1.8
Miscellaneous Refrigeration Products; † 88 FR 19382 (March 31, 2023)	38	23	2029	126.9 (2021$)	3.1
Automatic Commercial Ice Makers; † 88 FR 30508 (May 11, 2023)	23	6	2027	15.9 (2022$)	0.6
Dishwashers; † 88 FR 32514 (May 19, 2023)	21	16	2027	125.6 (2021$)	2.1
Refrigerated Bottled or Canned Beverage Vending Machines; † 88 FR 33968 (May 25, 2023)	5	1	2028	1.5 (2022$)	0.2
Room Air Conditioners; 88 FR 34298 (May 26, 2023)	8	4	2026	24.8 (2021$)	0.4
Microwave Ovens; 88 FR 39912 (June 20, 2023)	18	12	2026	46.1 (2021$)	0.7
Walk-in Coolers and Freezers; † 88 FR 60746 (September 5, 2023)	79	1	2027	89.0 (2022$)	0.8
Commercial Water Heating Equipment; 88 FR 69686 (October 6, 2023)	15	1	2026	42.7 (2022$)	3.8
Consumer Water Heaters; † 88 FR 49058 (July 27, 2023)	22	3	2030	228.1 (2022$)	1.1
Consumer Boilers; † 88 FR 55128 (August 14, 2023)	24	1	2030	98.0 (2022$)	3.6
Commercial Refrigerators, Refrigerator-Freezers, and Freezers; † 88 FR 70196 (October 10, 2023)	83	10	2028	226.4 (2022$)	1.6
Dehumidifiers; † 88 FR 76510 (November 6, 2023)	20	4	2028	6.9 (2022$)	0.4
Consumer Furnaces ‡	15	1	2029	162.0 (2022$)	1.8

* This column presents the total number of OEMs identified in the energy conservation standard rule that is contributing to cumulative regulatory burden.

** This column presents the number of OEMs producing refrigerators, refrigerator-freezers, and freezers that are also listed as OEMs in the identified energy conservation standard that is contributing to cumulative regulatory burden.

*** This column presents industry conversion costs as a percentage of equipment revenue during the conversion period. Industry conversion costs are the upfront investments manufacturers must make to sell compliant products/equipment. The revenue used for this calculation is the revenue from just the covered product/equipment associated with each row. The conversion period is the time frame over which conversion costs are made and lasts from the publication year of the final rule to the compliance year of the energy conservation standard. The conversion period typically ranges from 3 to 5 years, depending on the rulemaking.

† These rulemakings are at the NOPR stage, and all values are subject to change until finalized through publication of a final rule.

‡ At the time of issuance of this refrigerator, refrigerator-freezer, and freezer direct final rule, the consumer furnace final rule has been issued and is pending publication in the FEDERAL REGISTER. Once published, the final rule pertaining to gas-fired consumer furnaces will be available at: *www.regulations.gov/docket/EERE-2014-BT-STD-0031/document.*

As shown in Table V.29, the ongoing rulemakings with the largest overlap of refrigerator, refrigerator-freezer, and freezer OEMs include miscellaneous refrigeration products, consumer conventional cooking products, residential clothes washers, consumer clothes dryers, and dishwashers, which are all part of the multi-product Joint Agreement submitted by interested parties. As detailed in the multi-product Joint Agreement, the signatories indicated that their recommendations should be considered a ''complete package.'' The signatories further stated that ''each part of this agreement is contingent upon the other parts being implemented.'' (Joint Agreement, No. 103 at p. 3)

The multi-product Joint Agreement states the ''jointly recommended

compliance dates will achieve the overall energy and economic benefits of this agreement while allowing necessary lead-times for manufacturers to redesign products and retool manufacturing plants to meet the recommended standards across product categories.'' (Joint Agreement, No. 103 at p. 2) The staggered compliance dates help mitigate manufacturers' concerns about their ability to allocate sufficient resources to comply with multiple concurrent amended standards and about the need to align compliance dates for products that are typically designed or sold as matched pairs (such as RCWs and consumer clothes dryers). *See* section IV.J.3 of this document for stakeholder comments about cumulative regulatory burden. *See* Table V.30 for a comparison of the estimated compliance dates based on EPCA-specified timelines and the compliance dates detailed in the Joint Agreement.

TABLE V.30—EXPECTED COMPLIANCE DATES FOR MULTI-PRODUCT JOINT AGREEMENT

Rulemaking	Estimated compliance year based on EPCA requirements	Compliance year in the joint agreement
Consumer Clothes Dryers	2027	2028
RCWs	2027	2028
Consumer Conventional Cooking Products	2027	2028
Dishwashers	2027	2027 *
Refrigerators, Refrigerator-Freezers, and Freezers	2027	2029 or 2030 depending on the product class
Miscellaneous Refrigeration Products	2029	2029

* Estimated compliance year. The Joint Agreement states, ''3 years after the publication of a final rule in the FEDERAL REGISTER.'' (Joint Agreement, No. 103 at p. 2).

3. National Impact Analysis

This section presents DOE's estimates of the national energy savings and the NPV of consumer benefits that would result from each of the TSLs considered as potential amended standards.

a. Significance of Energy Savings

To estimate the energy savings attributable to potential amended standards for refrigerators, refrigerator-freezers, and freezers, DOE compared their energy consumption under the no-new-standards case to their anticipated energy consumption under each TSL. The savings are measured over the entire lifetime of products purchased in the 30-year period that begins in the year of anticipated compliance with amended standards (2027–2056 for all TSLs other than TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2). Tables V.30 and V.31 present DOE's projections of the national energy savings for each TSL considered for refrigerators, refrigerator-freezers, and freezers. The savings were calculated using the approach described in section IV.H.2 of this document.

TABLE V.31—CUMULATIVE NATIONAL ENERGY SAVINGS FOR FREESTANDING REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *

	TSL	Standard size refrigerator-freezers				Standard size freezers		Compact		Total
		Top mount	Bottom mount	Bottom mount with TTD	Side-by-side	Upright	Chest	Refrigerators	Freezers	
		PC 1, 1A, 2, 3, 3A, 3I, and 6	PC 5 and 5I	PC 5A	PC 4, 4I, and 7	PC 8 and 9	PC 10 and 10A	PC 11, 11A, 12, 13, 13A, 14, and 15	PC 16, 17, and 18	
		(quads)								
Primary Energy	1	0.352	0.756	0.682	0.326	0.327	0.151	0.022	0.064	2.680
	2	0.738	0.756	0.682	0.699	0.316	0.000	0.022	0.064	3.278
	3	0.738	1.223	1.002	1.136	0.316	0.000	0.062	0.094	4.571
	4	1.310	1.263	1.023	1.173	0.512	0.000	0.049	0.096	5.427
	5	1.269	1.223	1.383	1.469	0.316	0.000	0.062	0.094	5.816
	6	2.442	1.950	1.383	1.687	0.916	0.365	0.310	0.195	9.248
FFC	1	0.361	0.777	0.701	0.335	0.336	0.155	0.023	0.065	2.753
	2	0.758	0.777	0.701	0.718	0.324	0.000	0.023	0.065	3.367
	3	0.758	1.257	1.029	1.167	0.324	0.000	0.063	0.097	4.696
	4	1.346	1.298	1.051	1.205	0.526	0.000	0.050	0.099	5.574
	5	1.303	1.257	1.421	1.509	0.324	0.000	0.063	0.097	5.974
	6	2.508	2.003	1.421	1.733	0.940	0.375	0.318	0.200	9.500

* 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

TABLE V.32—CUMULATIVE NATIONAL ENERGY SAVINGS FOR BUILT-IN REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *

	TSL	Built-in				Total
		All refrigerator	Bottom-mount refrigerator	Side-by-side refrigerator-freezers	Upright freezers	
		PC 3A–BI	PC 5–BI, 5I–BI	PC 4–BI, 4I–BI, and 7–BI	PC 9–BI	
		(quads)				

TABLE V.32—CUMULATIVE NATIONAL ENERGY SAVINGS FOR BUILT-IN REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *—Continued

	TSL	Built-in				Total
		All refrigerator	Bottom-mount refrigerator	Side-by-side refrigerator-freezers	Upright freezers	
		PC 3A–BI	PC 5–BI, 5I–BI	PC 4–BI, 4I–BI, and 7–BI	PC 9–BI	
Primary Energy	1	0.000	0.007	0.000	0.000	0.007
	2	0.005	0.007	0.005	0.000	0.017
	3	0.005	0.007	0.012	0.000	0.024
	4	0.011	0.007	0.017	0.000	0.036
	5	0.011	0.007	0.017	0.000	0.035
	6	0.028	0.018	0.021	0.001	0.067
FFC	1	0.000	0.007	0.000	0.000	0.007
	2	0.005	0.007	0.005	0.000	0.017
	3	0.005	0.007	0.012	0.000	0.024
	4	0.012	0.007	0.018	0.000	0.037
	5	0.011	0.007	0.017	0.000	0.036
	6	0.028	0.018	0.021	0.001	0.069

* 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

OMB Circular A–4 [102] requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this rulemaking, DOE undertook a sensitivity analysis using 9 years, rather than 30 years, of product shipments. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[103] The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to refrigerators, refrigerator-freezers, and freezers. Thus, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology. The NES sensitivity analysis results based on a 9-year analytical period are presented in Tables V.32 and V.33. The impacts are counted over the lifetime of refrigerators, refrigerator-freezers, and freezers purchased 2027–2035 for all TSLs except TSL 4; for TSL 4, 2029–2037 for the product classes listed in Table I.1 and 2030–2038 for the product classes listed in Table I.2.

TABLE V.33—CUMULATIVE NATIONAL ENERGY SAVINGS FOR FREESTANDING REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 9 YEARS OF SHIPMENTS *

	TSL	Standard size refrigerator-freezers				Standard size freezers		Compact		Total
		Top mount	Bottom mount	Bottom mount with TTD	Side-by-side	Upright	Chest	Refrigerators	Freezers	
		PC 1, 1A, 2, 3, 3A, 3I, and 6	PC 5 and 5I	PC 5A	PC 4, 4I, and 7	PC 8 and 9	PC 10 and 10A	PC 11, 11A, 12, 13, 13A, 14, and 15	PC 16, 17, and 18	
		quads								
Primary Energy	1	0.094	0.202	0.182	0.087	0.089	0.041	0.006	0.017	0.718
	2	0.197	0.202	0.182	0.187	0.086	0.000	0.006	0.017	0.876
	3	0.197	0.326	0.267	0.303	0.086	0.000	0.015	0.025	1.220
	4	0.351	0.338	0.274	0.314	0.141	0.000	0.012	0.025	1.454
	5	0.338	0.326	0.369	0.391	0.086	0.000	0.015	0.025	1.551
	6	0.647	0.519	0.369	0.449	0.249	0.100	0.077	0.051	2.460
FFC	1	0.097	0.208	0.187	0.089	0.092	0.042	0.006	0.017	0.738
	2	0.203	0.208	0.187	0.192	0.089	0.000	0.006	0.017	0.901
	3	0.203	0.335	0.275	0.312	0.089	0.000	0.016	0.025	1.255
	4	0.360	0.347	0.281	0.323	0.145	0.000	0.013	0.026	1.494
	5	0.348	0.335	0.379	0.402	0.089	0.000	0.016	0.025	1.595
	6	0.666	0.533	0.379	0.462	0.256	0.103	0.079	0.052	2.530

* 2027–2035 for all TSLs except TSL 4; for TSL 4, 2029–2037 for the product classes listed in Table I.1 and 2030–2038 for the product classes listed in Table I.2.

[102] U.S. Office of Management and Budget. *Circular A–4: Regulatory Analysis.* Available at *https://www.whitehouse.gov/omb/information-for-agencies/circulars/* (last accessed July 13, 2023). DOE used the prior version of Circular A–4 (2003) as a result of the effective date of the new version.

[103] EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. While adding a 6-year review to the 3-year compliance period adds up to 9 years, DOE notes that it may undertake reviews at any time within the 6-year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some products, the compliance period is 5 years rather than 3 years.

TABLE V.34—CUMULATIVE NATIONAL ENERGY SAVINGS FOR BUILT-IN REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 9 YEARS OF SHIPMENTS *

	TSL	Built-in				Total
		All refrigerator	Bottom-mount refrigerator	Side-by-side refrigerator-freezers	Upright freezers	
		PC 3A–BI	PC 5–BI, 5I–BI	PC 4–BI, 4I–BI, and 7–BI	PC 9–BI	
		(quads)				
Primary Energy	1	0.000	0.002	0.000	0.000	0.002
	2	0.001	0.002	0.001	0.000	0.004
	3	0.001	0.002	0.003	0.000	0.006
	4	0.003	0.002	0.005	0.000	0.010
	5	0.003	0.002	0.005	0.000	0.009
	6	0.007	0.005	0.005	0.000	0.018
FFC	1	0.000	0.002	0.000	0.000	0.002
	2	0.001	0.002	0.001	0.000	0.005
	3	0.001	0.002	0.003	0.000	0.006
	4	0.003	0.002	0.005	0.000	0.010
	5	0.003	0.002	0.005	0.000	0.010
	6	0.008	0.005	0.006	0.000	0.018

* 2027–2035 for all TSLs except TSL 4; for TSL 4, 2029–2037 for the product classes listed in Table I.1 and 2030–2038 for the product classes listed in Table I.2

b. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for consumers that would result from the TSLs considered for refrigerators, refrigerator-freezers, and freezers. In accordance with OMB's guidelines on regulatory analysis,[104] DOE calculated NPV using both a 7-percent and a 3-percent real discount rate. Tables V.34 and V.35 show the consumer NPV results with impacts counted over the lifetime of products purchased in 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

TABLE V.35—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR FREESTANDING REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *

	TSL	Standard size refrigerator-freezers				Standard size freezers		Compact		Total
		Top mount	Bottom mount	Bottom mount with TTD	Side-by-side	Upright	Chest	Refrigerators	Freezers	
		PC 1, 1A, 2, 3, 3A, 3I, and 6	PC 5 and 5I	PC 5A	PC 4, 4I, and 7	PC 8 and 9	PC 10 and 10A	PC 11, 11A, 12, 13, 13A, 14, and 15	PC 16, 17, and 18	
		(Billion $2022)								
3 percent	1	2.46	4.45	4.70	2.24	1.63	0.44	0.06	0.42	16.41
	2	3.87	4.45	4.70	4.24	1.59	0.00	0.06	0.42	19.33
	3	3.87	5.65	5.28	7.37	1.59	0.00	0.28	0.47	24.51
	4	6.20	5.69	5.21	7.12	1.96	0.00	0.20	0.46	26.84
	5	6.26	5.65	5.87	5.54	1.59	0.00	0.28	0.47	25.66
	6	5.27	5.48	5.87	5.71	2.18	0.54	−0.20	0.48	25.33
7 percent	1	1.01	1.68	1.92	0.94	0.58	0.09	0.02	0.18	6.42
	2	1.43	1.68	1.92	1.68	0.57	0.00	0.02	0.18	7.47
	3	1.43	1.87	1.95	3.01	0.57	0.00	0.11	0.18	9.12
	4	2.01	1.76	1.81	2.63	0.55	0.00	0.07	0.17	9.00
	5	2.20	1.87	1.93	1.73	0.57	0.00	0.11	0.18	8.59
	6	0.58	1.09	1.93	1.64	0.28	−0.06	−0.33	0.09	5.24

* 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

TABLE V.36—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR BUILT-IN REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *

	TSL	Built-in				Total
		All refrigerator	Bottom-mount refrigerator	Side-by-side refrigerator-freezers	Upright freezers	
		PC 3A–BI	PC 5–BI, 5I–BI	PC 4–BI, 4I–BI, and 7–BI	PC 9–BI	
		(Billion $2022)				
3 percent	1	0.00	0.05	0.00	0.00	0.05
	2	0.01	0.05	0.02	0.00	0.09

[104] U.S. Office of Management and Budget. *Circular A–4: Regulatory Analysis.* September 17, 2003. *obamawhitehouse.archives.gov/omb/circulars_a004_a-4* (last accessed July 1, 2021).

TABLE V.36—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR BUILT-IN REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *—Continued

	TSL	Built-in				Total
		All refrigerator	Bottom-mount refrigerator	Side-by-side refrigerator-freezers	Upright freezers	
		PC 3A–BI	PC 5–BI, 5I–BI	PC 4–BI, 4I–BI, and 7–BI	PC 9–BI	
	3	0.01	0.05	0.07	0.00	0.13
	4	0.04	0.05	0.05	0.00	0.14
	5	0.04	0.05	0.05	0.00	0.14
	6	0.03	0.01	0.06	0.00	0.10
7 percent	1	0.00	0.02	0.00	0.00	0.02
	2	0.00	0.02	0.01	0.00	0.03
	3	0.00	0.02	0.03	0.00	0.05
	4	0.01	0.02	0.01	0.00	0.04
	5	0.01	0.02	0.01	0.00	0.04
	6	−0.01	−0.01	0.01	0.00	−0.01

*2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

The NPV results based on the aforementioned 9-year analytical period are presented in Tables V.36 and V.37. The impacts are counted over the lifetime of products purchased in 2027–2035 for all TSLs except TSL 4; for TSL 4, 2029–2037 for the product classes listed in Table I.1 and 2030–2038 for the product classes listed in Table I.2. As mentioned previously, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE V.37—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR CONSUMER BENEFITS FOR FREESTANDING REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 9 YEARS OF SHIPMENTS *

Discount rate	TSL	Standard size refrigerator-freezers				Standard size freezers		Compact		Total
		Top mount	Bottom mount	Bottom mount with TTD	Side-by-side	Upright	Chest	Refrigerators	Freezers	
		PC 1, 1A, 2, 3, 3A, 3I, and 6	PC 5 and 5I	PC 5A	PC 4, 4I, and 7	PC 8 and 9	PC 10 and 10A	PC 11, 11A, 12, 13, 13A, 14, and 15	PC 16, 17, and 18	
		(Billion $2022)								
3 percent	1	0.85	1.40	1.56	0.78	0.56	0.10	0.01	0.14	5.40
	2	1.26	1.40	1.56	1.36	0.55	0.00	0.01	0.14	6.28
	3	1.26	1.64	1.68	2.46	0.55	0.00	0.08	0.15	7.81
	4	1.96	1.74	1.69	2.43	0.62	0.00	0.05	0.15	8.64
	5	1.89	1.64	1.76	1.60	0.55	0.00	0.08	0.15	7.67
	6	1.00	1.28	1.76	1.59	0.54	0.07	−0.21	0.09	6.13
7 percent	1	0.47	0.70	0.87	0.45	0.26	0.01	0.00	0.08	2.84
	2	0.62	0.70	0.87	0.73	0.26	0.00	0.00	0.08	3.26
	3	0.62	0.69	0.83	1.36	0.26	0.00	0.04	0.08	3.88
	4	0.84	0.70	0.79	1.21	0.22	0.00	0.03	0.07	3.86
	5	0.87	0.69	0.75	0.63	0.26	0.00	0.04	0.08	3.31
	6	−0.21	0.15	0.75	0.54	−0.01	−0.10	−0.23	0.00	0.88

*2027–2035 for all TSLs except TSL 4; for TSL 4, 2029–2037 for the product classes listed in Table I.1 and 2030–2038 for the product classes listed in Table I.2.

TABLE V.38—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR CONSUMER BENEFITS FOR BUILT-IN REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 9 YEARS OF SHIPMENTS *

	TSL	Built-in				Total
		All refrigerator	Bottom-mount refrigerator	Side-by-side refrigerator-freezers	Upright freezers	
		PC 3A–BI	PC 5–BI, 5I–BI	PC 4–BI, 4I–BI, and 7–BI	PC 9–BI	
		(Billion $2022)				
3 percent	1	0.00	0.02	0.00	0.00	0.02
	2	0.00	0.02	0.01	0.00	0.03
	3	0.00	0.02	0.02	0.00	0.04
	4	0.01	0.02	0.01	0.00	0.04
	5	0.01	0.02	0.01	0.00	0.04
	6	0.00	0.00	0.01	0.00	0.01
7 percent	1	0.00	0.01	0.00	0.00	0.01
	2	0.00	0.01	0.00	0.00	0.01
	3	0.00	0.01	0.01	0.00	0.02
	4	0.00	0.01	0.00	0.00	0.02
	5	0.00	0.01	0.00	0.00	0.02

TABLE V.38—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR CONSUMER BENEFITS FOR BUILT-IN REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 9 YEARS OF SHIPMENTS *—Continued

TSL	Built-in				Total
	All refrigerator	Bottom-mount refrigerator	Side-by-side refrigerator-freezers	Upright freezers	
	PC 3A–BI	PC 5–BI, 5I–BI	PC 4–BI, 4I–BI, and 7–BI	PC 9–BI	
6	−0.01	−0.01	0.00	0.00	−0.02

*2027–2035 for all TSLs except TSL 4; for TSL 4, 2029–2037 for the product classes listed in Table I.1 and 2030–2038 for the product classes listed in Table I.2.

The previous results reflect the use of a default trend to estimate the change in price for refrigerators, refrigerator-freezers, and freezers over the analysis period (*see* section IV.H.3 of this document). DOE also conducted a sensitivity analysis that considered one scenario with a lower rate of price decline than the reference case and one scenario with a higher rate of price decline than the reference case. The results of these alternative cases are presented in appendix 10C of the direct final rule TSD. In the high-price-decline case, the NPV of consumer benefits is higher than in the default case. In the low-price-decline case, the NPV of consumer benefits is lower than in the default case.

c. Indirect Impacts on Employment

DOE estimates that amended energy conservation standards for refrigerators, refrigerator-freezers, and freezers will reduce energy expenditures for consumers of those products, with the resulting net savings being redirected to other forms of economic activity. These expected shifts in spending and economic activity could affect the demand for labor. As described in section IV.N of this document, DOE used an input/output model of the U.S. economy to estimate indirect employment impacts of the TSLs that DOE considered. There are uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Therefore, DOE generated results for near-term timeframes (2029/30–2033/34), where these uncertainties are reduced.

The results suggest that the adopted standards are likely to have a negligible impact on the net demand for labor in the economy. The net change in jobs is so small that it would be imperceptible in national labor statistics and might be offset by other, unanticipated effects on employment. Chapter 16 of the direct final rule TSD presents detailed results regarding anticipated indirect employment impacts.

4. Impact on Utility or Performance of Products

As discussed in section III.F.1.d of this document, DOE has concluded that the standards adopted in this direct final rule will not lessen the utility or performance of the refrigerators, refrigerator-freezers, and freezers under consideration in this rulemaking. Manufacturers of these products currently offer units that meet or exceed the adopted standards.

5. Impact of Any Lessening of Competition

DOE considered any lessening of competition that would be likely to result from new or amended standards. As discussed in section III.F.1.e, EPCA directs the Attorney General of the United States (''Attorney General'') to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination in writing to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. To assist the Attorney General in making this determination, DOE is providing DOJ with copies of this direct final rule and the TSD for review.

6. Need of the Nation To Conserve Energy

Enhanced energy efficiency, where economically justified, improves the Nation's energy security, strengthens the economy, and reduces the environmental impacts (costs) of energy production. Reduced electricity demand due to energy conservation standards is also likely to reduce the cost of maintaining the reliability of the electricity system, particularly during peak-load periods. Chapter 15 in the direct final rule TSD presents the estimated impacts on electricity generating capacity, relative to the no-new-standards case, for the TSLs that DOE considered in this rulemaking.

Energy conservation resulting from potential energy conservation standards for refrigerators, refrigerator-freezers, and freezers is expected to yield environmental benefits in the form of reduced emissions of certain air pollutants and greenhouse gases. Table V.38 provides DOE's estimate of cumulative emissions reductions expected to result from the TSLs considered in this rulemaking. The emissions were calculated using the multipliers discussed in section IV.K. DOE reports annual emissions reductions for each TSL in chapter 13 of the direct final rule TSD.

TABLE V.39—CUMULATIVE EMISSIONS REDUCTION FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *

	Trial standard level					
	1	2	3	4	5	6
Power Sector Emissions						
CO_2 (*million metric tons*)	46.21	56.73	79.15	91.53	100.79	160.31
CH_4 (*thousand tons*)	3.48	4.28	5.97	6.80	7.60	12.08
N_2O (*thousand tons*)	0.48	0.60	0.83	0.95	1.06	1.68
NO_X (*thousand tons*)	21.81	26.81	37.42	42.15	47.66	75.73
SO_2 (*thousand tons*)	15.72	19.30	26.93	31.03	34.29	54.53

TABLE V.39—CUMULATIVE EMISSIONS REDUCTION FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *—Continued

	Trial standard level					
	1	2	3	4	5	6
Hg (*tons*)	0.11	0.13	0.19	0.22	0.24	0.38
Upstream Emissions						
CO_2 (*million metric tons*)	4.58	5.62	7.83	9.22	9.98	15.88
CH_4 (*thousand tons*)	416.14	510.42	711.93	839.67	906.55	1443.16
N_2O (*thousand tons*)	0.02	0.03	0.03	0.04	0.04	0.07
NO_X (*thousand tons*)	71.35	87.52	122.07	143.96	155.44	247.45
SO_2 (*thousand tons*)	0.27	0.34	0.47	0.54	0.60	0.95
Hg (*tons*)	0.00	0.00	0.00	0.00	0.00	0.00
Total FFC Emissions						
CO_2 (*million metric tons*)	50.79	62.34	86.98	100.76	110.76	176.19
CH_4 (*thousand tons*)	419.63	514.70	717.90	846.48	914.15	1455.24
N_2O (*thousand tons*)	0.50	0.62	0.87	0.99	1.10	1.75
NO_X (*thousand tons*)	93.17	114.33	159.50	186.11	203.10	323.18
SO_2 (*thousand tons*)	16.00	19.64	27.40	31.57	34.89	55.49
Hg (*tons*)	0.11	0.13	0.19	0.22	0.24	0.38

* 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

As part of the analysis for this rule, DOE estimated monetary benefits likely to result from the reduced emissions of CO_2 that DOE estimated for each of the considered TSLs for refrigerators, refrigerator-freezers, and freezers. Section IV.L of this document discusses the estimated SC–CO_2 values that DOE used. Table V.39 presents the value of CO_2 emissions reduction at each TSL for each of the SC–CO_2 cases. The time-series of annual values is presented for the selected TSL in chapter 14 of the direct final rule TSD.

TABLE V.40—PRESENT MONETIZED VALUE OF CO_2 EMISSIONS REDUCTION FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *

TSL	SC–CO_2 Case Discount rate and statistics			
	5% Average	3% Average	2.5% Average	3% 95th percentile
	(Billion 2022$)			
1	0.49	2.11	3.30	6.39
2	0.60	2.60	4.07	7.89
3	0.85	3.64	5.69	11.03
4	0.89	3.93	6.21	11.92
5	1.08	4.63	7.25	14.06
6	1.70	7.34	11.49	22.26

* 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

As discussed in section IV.L.2, DOE estimated the climate benefits likely to result from the reduced emissions of methane and N_2O that DOE estimated for each of the considered TSLs for refrigerators, refrigerator-freezers, and freezers. Table V.40 presents the value of the CH_4 emissions reduction at each TSL, and Table V.41 presents the value of the N_2O emissions reduction at each TSL. The time-series of annual values is presented for the selected TSL in chapter 14 of the direct final rule TSD.

TABLE V.41—PRESENT MONETIZED VALUE OF METHANE EMISSIONS REDUCTION FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *

TSL	SC–CH_4 Case Discount rate and statistics			
	5% Average	3% Average	2.5% Average	3% 95th percentile
	(Billion 2022$)			

TABLE V.41—PRESENT MONETIZED VALUE OF METHANE EMISSIONS REDUCTION FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *—Continued

TSL	SC–CH_4 Case Discount rate and statistics			
	5% Average	3% Average	2.5% Average	3% 95th percentile
1	0.18	0.56	0.78	1.47
2	0.23	0.68	0.96	1.81
3	0.32	0.96	1.34	2.53
4	0.34	1.07	1.51	2.84
5	0.40	1.22	1.70	3.22
6	0.64	1.93	2.70	5.11

* 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

TABLE V.42—PRESENT MONETIZED VALUE OF NITROUS OXIDE EMISSIONS REDUCTION FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *

TSL	SC–N_2O Case Discount rate and statistics			
	5% Average	3% Average	2.5% Average	3% 95th percentile
	(Billion 2022$)			
1	0.00	0.01	0.01	0.02
2	0.00	0.01	0.01	0.02
3	0.00	0.01	0.02	0.03
4	0.00	0.01	0.02	0.04
5	0.00	0.02	0.03	0.04
6	0.01	0.03	0.04	0.07

* 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

DOE is well aware that scientific and economic knowledge about the contribution of CO_2 and other GHG emissions to changes in the future global climate and the potential resulting damages to the global and U.S. economy continues to evolve rapidly. DOE, together with other Federal agencies, will continue to review methodologies for estimating the monetary value of reductions in CO_2 and other GHG emissions. This ongoing review will consider the comments on this subject that are part of the public record for this and other rulemakings, as well as other methodological assumptions and issues. DOE notes, however, that the adopted standards would be economically justified even without inclusion of monetized benefits of reduced GHG emissions.

DOE also estimated the monetary value of the economic benefits associated with NO_X and SO_2 emissions reductions anticipated to result from the considered TSLs for refrigerators, refrigerator-freezers, and freezers. The dollar-per-ton values that DOE used are discussed in section IV.L of this document. Table V.42 presents the present value for NO_X emissions reduction for each TSL calculated using 7-percent and 3-percent discount rates, and Table V.43 presents similar results for SO_2 emissions reductions. The results in these tables reflect application of EPA's low dollar-per-ton values, which DOE used to be conservative. The time-series of annual values is presented for the selected TSL in chapter 14 of the direct final rule TSD.

TABLE V.43—PRESENT MONETIZED VALUE OF NO_X EMISSIONS REDUCTION FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *

TSL	3% Discount rate	7% Discount rate
	(million 2022$)	
1	4,225.06	1,638.96
2	5,207.05	2,026.87
3	7,278.46	2,837.92
4	7,910.68	2,778.25
5	9,271.74	3,615.51
6	14,703.70	5,718.41

* 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

TABLE V.44—PRESENT MONETIZED VALUE OF SO_2 EMISSIONS REDUCTION FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS; 30 YEARS OF SHIPMENTS *

TSL	3% Discount rate	7% Discount rate
	(million 2022$)	
1	1,017.36	401.52
2	1,254.07	496.67
3	1,752.92	695.41
4	1,886.57	670.36
5	2,233.05	885.97
6	3,539.43	1,400.46

* 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

Not all the public health and environmental benefits from the reduction of greenhouse gases, NO_X, and SO_2 are captured in the values above, and additional unquantified benefits from the reductions of those pollutants as well as from the reduction of direct PM and other co-pollutants may be significant. DOE has not included monetary benefits of the reduction of Hg emissions because the amount of reduction is very small.

7. Other Factors

The Secretary of Energy, in determining whether a standard is economically justified, may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII)) No other factors were considered in this analysis.

8. Summary of Economic Impacts

Table V.44 presents the NPV values that result from adding the estimates of the economic benefits resulting from reduced GHG and NO_X and SO_2 emissions to the NPV of consumer benefits calculated for each TSL considered in this rulemaking. The consumer benefits are domestic U.S. monetary savings that occur as a result of purchasing the covered refrigerators, refrigerator-freezers, and freezers, and are measured for the lifetime of products shipped in 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

The climate benefits associated with reduced GHG emissions resulting from the adopted standards are global benefits, and are also calculated based on the lifetime of refrigerators, refrigerator-freezers, and freezers shipped during the period 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

TABLE V.45—CONSUMER NPV COMBINED WITH PRESENT VALUE OF CLIMATE BENEFITS AND HEALTH BENEFITS

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Using 3% discount rate for Consumer NPV and Health Benefits (billion 2022$)						
5% Average SC–GHG case	22.37	26.71	34.85	38.01	38.79	46.02
3% Average SC–GHG case	24.37	29.17	38.29	41.80	43.17	52.96
2.5% Average SC–GHG case	25.78	30.92	40.73	44.52	46.28	57.89
3% 95th percentile SC–GHG case	29.58	35.60	47.28	51.57	54.63	71.11
Using 7% discount rate for Consumer NPV and Health Benefits (billion 2022$)						
5% Average SC–GHG case	9.15	10.86	13.87	13.72	14.63	14.70
3% Average SC–GHG case	11.15	13.32	17.31	17.51	19.01	21.64
2.5% Average SC–GHG case	12.56	15.06	19.75	20.23	22.12	26.57
3% 95th percentile SC–GHG case	16.36	19.75	26.30	27.28	30.46	39.79

C. Conclusion

When considering new or amended energy conservation standards, the standards that DOE adopts for any type (or class) of covered product must be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering the seven statutory factors discussed previously. (42 U.S.C. 6295(o)(2)(B)(i)) The new or amended standard must also result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

For this direct final rule, DOE considered the impacts of amended standards for refrigerators, refrigerator-freezers, and freezers at each TSL, beginning with the maximum technologically feasible level, to determine whether that level was economically justified. Where the max-tech level was not justified, DOE then considered the next most efficient level and undertook the same evaluation until it reached the highest efficiency level that is both technologically feasible and economically justified and saves a significant amount of energy.

To aid the reader as DOE discusses the benefits and/or burdens of each TSL, tables in this section present a summary of the results of DOE's quantitative analysis for each TSL. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of consumers who may be

disproportionately affected by a national standard and impacts on employment.

DOE also notes that the economics literature provides a wide-ranging discussion of how consumers trade off upfront costs and energy savings in the absence of government intervention. Much of this literature attempts to explain why consumers appear to undervalue energy efficiency improvements. There is evidence that consumers undervalue future energy savings as a result of (1) a lack of information; (2) a lack of sufficient salience of the long-term or aggregate benefits; (3) a lack of sufficient savings to warrant delaying or altering purchases; (4) excessive focus on the short term, in the form of inconsistent weighting of future energy cost savings relative to available returns on other investments; (5) computational or other difficulties associated with the evaluation of relevant tradeoffs; and (6) a divergence in incentives (for example, between renters and owners, or builders and purchasers). Having less than perfect foresight and a high degree of uncertainty about the future, consumers may trade off these types of investments at a higher-than-expected rate between current consumption and uncertain future energy cost savings.

In DOE's current regulatory analysis, potential changes in the benefits and costs of a regulation due to changes in consumer purchase decisions are included in two ways. First, if consumers forego the purchase of a product in the standards case, this decreases sales for product manufacturers, and the impact on manufacturers attributed to lost revenue is included in the MIA. Second, DOE accounts for energy savings attributable only to products actually used by consumers in the standards case; if a standard decreases the number of products purchased by consumers, this decreases the potential energy savings from an energy conservation standard. DOE provides estimates of shipments and changes in the volume of product purchases in chapter 9 of the direct final rule TSD. However, DOE's current analysis does not explicitly control for heterogeneity in consumer preferences, preferences across subcategories of products or specific features, or consumer price sensitivity variation according to household income.[105]

While DOE is not prepared at present to provide a fuller quantifiable framework for estimating the benefits and costs of changes in consumer purchase decisions due to an energy conservation standard, DOE is committed to developing a framework that can support empirical quantitative tools for improved assessment of the consumer welfare impacts of appliance standards. DOE has posted a paper that discusses the issue of consumer welfare impacts of appliance energy conservation standards, and potential enhancements to the methodology by which these impacts are defined and estimated in the regulatory process.[106] DOE welcomes comments on how to more fully assess the potential impact of energy conservation standards on consumer choice and how to quantify this impact in its regulatory analysis in future rulemakings.

1. Benefits and Burdens of TSLs Considered for Refrigerator, Refrigerator-Freezer, and Freezer Standards

Tables V.46 and V.47 summarize the quantitative impacts estimated for each TSL for refrigerators, refrigerator-freezers, and freezers. The national impacts are measured over the lifetime of refrigerators, refrigerator-freezers, and freezers purchased in the 30-year period that begins in the anticipated year of compliance with amended standards (2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2). The energy savings, emissions reductions, and value of emissions reductions refer to full-fuel-cycle results. DOE is presenting monetized benefits of GHG emissions reductions in accordance with the applicable Executive orders and DOE would reach the same conclusion presented in this direct final rule in the absence of the social cost of greenhouse gases, including the Interim Estimates presented by the Interagency Working Group. The efficiency levels contained in each TSL are described in section V.A of this document.

TABLE V.46—SUMMARY OF ANALYTICAL RESULTS FOR REFRIGERATOR, REFRIGERATOR-FREEZER, AND FREEZER TSLS: NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Cumulative FFC National Energy Savings						
Quads	2.76	3.38	4.72	5.61	6.01	9.57
Cumulative FFC Emissions Reduction						
CO_2 (*million metric tons*)	50.79	62.34	86.98	100.76	110.76	176.19
CH_4 (*thousand tons*)	419.63	514.70	717.90	846.48	914.15	1455.24
N_2O (*thousand tons*)	0.50	0.62	0.87	0.99	1.10	1.75
SO_2 (*thousand tons*)	16.00	19.64	27.40	31.57	34.89	55.49
NO_X (*thousand tons*)	93.17	114.33	159.50	186.11	203.10	323.18
Hg (*tons*)	0.11	0.13	0.19	0.22	0.24	0.38
Present Value of Benefits and Costs (*3% discount rate, billion 2022$*)						
Consumer Operating Cost Savings	19.68	24.06	33.21	36.36	41.23	63.08
Climate Benefits*	2.67	3.29	4.60	5.02	5.87	9.29
Health Benefits**	5.24	6.46	9.03	9.80	11.50	18.24
Total Benefits†	27.60	33.81	46.85	51.18	58.60	90.61
Consumer Incremental Product Costs‡	3.23	4.64	8.56	9.38	15.43	37.66

[105] P.C. Reiss and M.W. White. Household Electricity Demand, Revisited. *Review of Economic Studies.* 2005. 72(3): pp. 853–883. doi: *10.1111/0034–6527.00354.*

[106] Sanstad, A.H. *Notes on the Economics of Household Energy Consumption and Technology Choice.* 2010. Lawrence Berkeley National Laboratory. Available at *www1.eere.energy.gov/buildings/appliance_standards/pdfs/consumer_ee_theory.pdf* (last accessed July 1, 2021).

TABLE V.46—SUMMARY OF ANALYTICAL RESULTS FOR REFRIGERATOR, REFRIGERATOR-FREEZER, AND FREEZER TSLS: NATIONAL IMPACTS—Continued

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Consumer Net Benefits	16.45	19.42	24.65	26.98	25.80	25.42
Total Net Benefits	24.37	29.17	38.29	41.80	43.17	52.96
Present Value of Benefits and Costs (*7% discount rate, billion 2022$*)						
Consumer Operating Cost Savings	8.36	10.25	14.17	14.00	17.60	26.88
Climate Benefits*	2.67	3.29	4.60	5.02	5.87	9.29
Health Benefits**	2.04	2.52	3.53	3.45	4.50	7.12
Total Benefits†	13.07	16.06	22.31	22.47	27.97	43.29
Consumer Incremental Product Costs‡	1.92	2.75	5.00	4.96	8.96	21.65
Consumer Net Benefits	6.44	7.50	9.17	9.04	8.64	5.23
Total Net Benefits	11.15	13.32	17.31	17.51	19.01	21.64

Note: This table presents the costs and benefits associated with consumer refrigerators, refrigerator-freezers, and freezers shipped in 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2. These results include benefits to consumers which accrue after 2056 from the products shipped in 2027–2056 for all TSLs except TSL 4; for TSL 4, 2029–2058 for the product classes listed in Table I.1 and 2030–2059 for the product classes listed in Table I.2.

* Climate benefits are calculated using four different estimates of the SC–CO_2, SC–CH_4, and SC–N_2O. Together, these represent the global SC–GHG. For presentational purposes of this table, the climate benefits associated with the average SC–GHG at a 3-percent discount rate are shown; however, DOE emphasizes the importance and value of considering the benefits calculated using all four sets of SC–GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990* published in February 2021 by the IWG.

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for NO_X and SO_2) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. The health benefits are presented at real discount rates of 3 and 7 percent. *See* section IV.L of this document for more details.

† Total and net benefits include consumer, climate, and health benefits. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC–GHG with 3-percent discount rate.

TABLE V.47—SUMMARY OF ANALYTICAL RESULTS FOR REFRIGERATOR, REFRIGERATOR-FREEZER, AND FREEZER TSLS: MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Manufacturer Impacts:						
Industry NPV (million 2022$) (No-new-standards case INPV = 4,905.8)	4,841.5 to 4,891.4	4,798.5 to 4,870.1	4,387.6 to 4,514.7	4,401.3 to 4,522.3	3,839.9 to 4,061.6	3,080.1 to 3,604.0
Industry NPV (% change)	(1.3) to (0.3)	(2.2) to (0.7)	(10.6) to (8.0)	(10.3) to (7.8)	(21.7) to (17.2)	(37.2) to (26.5)
Consumer Average LCC Savings (2022$):						
PC 3	30.50	40.14	40.14	50.91	43.46	0.03
PC 5	46.90	46.90	45.47	55.23	45.47	20.22
PC 5BI	86.19	86.19	86.19	91.13	86.19	(30.73)
PC 5A	127.59	127.59	124.76	133.27	122.18	122.18
PC 7	52.10	70.96	134.10	142.56	73.96	69.71
PC 9	62.02	62.02	62.02	56.17	62.02	26.33
PC 10	5.94	N/A	N/A	N/A	N/A	(8.65)
PC 11A (residential)	0.00	0.00	8.11	8.35	8.11	(4.66)
PC 11A (commercial)	0.00	0.00	3.06	3.16	3.06	(29.11)
PC 17	32.29	32.29	32.29	36.86	32.29	0.26
PC 18	23.82	23.82	22.49	23.55	22.49	(5.34)
Shipment-Weighted Average*	47.08	55.22	63.46	70.88	55.93	27.51
Consumer Simple PBP (years):						
PC 3	1.4	4.2	4.2	4.8	5.3	9.3
PC 5	4.3	4.3	6.1	5.6	6.1	8.6
PC 5BI	2.4	2.4	2.4	2.1	2.4	8.2
PC 5A	1.9	1.9	4.4	4.1	6.0	6.0
PC 7	0.7	2.9	1.9	1.6	6.2	6.8
PC 9	4.1	4.1	4.1	6.6	4.1	10.7
PC 10	11.2	N/A	N/A	N/A	N/A	13.4
PC 11A (residential)	2.1	2.1	2.1	2.1	2.1	6.0
PC 11A (commercial)	3.3	3.3	3.3	3.2	3.3	9.3
PC 17	4.6	4.6	4.6	4.1	4.6	7.2
PC 18	1.4	1.4	4.2	4.1	4.2	9.4
Shipment-Weighted Average*	3.0	3.6	4.3	4.5	5.4	8.7
Percent of Consumers that Experience a Net Cost:						
PC 3	3.9	17.3	17.3	28.3	34.2	67.1
PC 5	18.2	18.2	39.4	33.6	39.4	60.3
PC 5BI	1.0	1.0	1.0	0.5	1.0	61.0
PC 5A	1.2	1.2	23.0	19.8	39.4	39.4
PC 7	0.0	9.6	1.2	0.5	42.6	48.3
PC 9	12.2	12.2	12.2	39.1	12.2	61.0

TABLE V.47—SUMMARY OF ANALYTICAL RESULTS FOR REFRIGERATOR, REFRIGERATOR-FREEZER, AND FREEZER TSLS: MANUFACTURER AND CONSUMER IMPACTS—Continued

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
PC 10	57.5	N/A	N/A	N/A	N/A	70.0
PC 11A (residential)	0.0	0.0	8.4	8.0	8.4	61.7
PC 11A (commercial)	0.0	0.0	16.1	15.7	16.1	92.7
PC 17	5.6	5.6	5.6	4.5	5.6	61.5
PC 18	0.8	0.8	18.9	17.6	18.9	68.5
Shipment-Weighted Average*	10.2	12.7	20.5	24.4	33.2	60.0

Parentheses indicate negative (−) values. The entry "N/A" means not applicable because there is no change in the standard at certain TSLs.
*Weighted by shares of each product class in total projected shipments in 2027 for all TSLs except TSL 4; for TSL 4, 2029 for PCs 5BI, 5A, 10, 11A, 17, and 18, and 2030 for PCs 3, 5, 7, and 9.

DOE first considered TSL 6, which represents the max-tech efficiency levels. At this level, DOE expects that all product classes would require VIPs and most would require VSCs. For most product classes, this represents the use of VIPs for roughly half the cabinet surface (typically side walls and doors for an upright cabinet), the best-available-efficiency variable-speed compressor, forced-convection heat exchangers with multi-speed BLDC fans, variable defrost, and increase in cabinet wall thickness for some classes (*e.g.,* compact refrigerators and both standard-size and compact chest freezers). DOE estimates that less than 1 percent of annual shipments across all refrigerator, refrigerator-freezer, and freezer product classes currently meet the max-tech efficiencies required. TSL 6 would save an estimated 9.57 quads of energy, an amount DOE considers significant. Under TSL 6, the NPV of consumer benefit would be $5.23 billion using a discount rate of 7 percent, and $25.42 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 6 are 176 Mt of CO_2, 55.5 thousand tons of SO_2, 323 thousand tons of NO_X, 0.38 tons of Hg, 1,455 thousand tons of CH_4, and 1.75 thousand tons of N_2O. The estimated monetary value of the climate benefits from reduced GHG emissions (associated with the average SC–GHG at a 3-percent discount rate) at TSL 6 is $9.29 billion. The estimated monetary value of the health benefits from reduced SO_2 and NO_X emissions at TSL 6 is $7.12 billion using a 7-percent discount rate and $18.24 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO_2 and NO_X emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 6 is $21.64 billion. Using a 3-percent discount rate for all benefits and costs, the estimated total NPV at TSL 6 is $52.96 billion. The estimated total NPV is provided for additional information, however DOE primarily relies upon the NPV of consumer benefits when determining whether a standard level is economically justified.

At TSL 6, for the largest product classes, which are 3, 5, 5A, and 7 and together account for approximately 76 percent of annual shipments, there is a life-cycle cost savings of $0.03, $20.22, $122.18, and $69.71 and a payback period of 9.3 years, 8.6 years, 6.0 years and 6.8 years, respectively. However, for these product classes, the fraction of customers experiencing a net LCC cost is 67.1 percent, 60.3 percent, 39.4 percent and 48.3 percent with increases in first cost of $169.37, $151.75, $161.65, and $153.01, respectively. Overall, a majority of refrigerators, refrigerator-freezers, and freezers consumers (60 percent) would experience a net cost and the average LCC savings would be negative for PC 5BI, PC 10, PC 11A, and PC 18. Additionally, 35 percent of low-income households with a side-by-side refrigerator-freezer (represented by PC 7 and used by 19 percent of low-income households) would experience a net cost.

At TSL 6, the projected change in INPV ranges from a decrease of $1.83 billion to a decrease of $1.30 billion, which corresponds to decreases of 37.2 percent and 26.5 percent, respectively. Industry conversion costs could reach $2.39 billion as manufacturers work to redesign their portfolio of model offerings and re-tool entire factories to comply with amended standards at TSL 6.

DOE estimates that less than 1 percent of refrigerator, refrigerator-freezer, and freezer current annual shipments meet the max-tech levels. At TSL 6, only a few manufacturers offer any standard-size products that meet the efficiencies required. For PC 3, which accounts for approximately 25 percent of annual shipments, no OEMs currently offer products that meet the efficiency level required. For PC 5, which accounts for approximately 21 percent of annual shipments, DOE estimates that seven out of 22 OEMs currently offer products that meet the efficiency level required. For PC 7, which accounts for approximately 11 percent of annual shipments, only one out of 11 OEMs currently offers products that meet the efficiency level required.

At max-tech, manufacturers would likely need to implement all the most efficient design options in the engineering analysis. In interviews, manufacturer indicated they would redesign all product platforms and dramatically update manufacturing facilities to meet max-tech for all approximately 17.0 million annual shipments of refrigerators, refrigerator-freezers, and freezers.[107]

In particular, increased incorporation of VIPs could increase the expense of adapting manufacturing plants. As discussed in section IV.J.2.c of this document, DOE expects manufacturers would likely adopt VIP technology to improve thermal insulation while minimizing loss to the interior volume for their products. Extensive incorporation of VIPs requires significant capital expenditures due to the need for more careful product handling and conveyor, increased warehousing requirements, investments in tooling necessary for the VIP installation process, and adding production line capacity to compensate for more time-intensive manufacturing associated with VIPs. Manufacturers with facilities that have limited space and few options to expand may consider greenfield projects. In interviews, several manufacturers expressed concerns about their ability to produce sufficient quantities of refrigerators, refrigerator-freezers, and freezers at max-tech given the required scale of investment, redesign effort, and 3-year compliance timeline.

[107] Current shipments calculations relied on shipments in the year 2023.

The Secretary concludes that at TSL 6 for refrigerators, refrigerator-freezers, and freezers, the benefits of energy savings, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the economic burden on many consumers, and the impacts on manufacturers, including the large potential reduction in INPV and the lack of manufacturers currently offering products meeting the efficiency levels required at this TSL. At TSL 6, a majority of refrigerator, refrigerator-freezer, and freezers consumers (60 percent) would experience a net cost and the average LCC savings would be negative for PC 5BI, PC 10, PC 11A, and PC 18. Additionally, manufacturers would need to make significant upfront investments to update product lines and manufacturing facilities. Manufacturers expressed concern that they would not be able to complete product and production line updates within the 3-year conversion period. Consequently, the Secretary has concluded that TSL 6 is not economically justified.

DOE then considered TSL 5 for refrigerators, refrigerator-freezers, and freezers. For classes other than refrigerator-freezers with bottom-mounted freezers and through-the-door ice service (PC 5A), this TSL represents efficiency levels less than max-tech. TSL 5 represents similar design options as max-tech, but generally incorporates the use of high-efficiency compressors (single speed compressors or VSCs) rather than maximum efficiency VSCs, incorporates VIPs in fewer product classes, and incorporates less VIP surface area for the product classes requiring the use of VIPs as compared to TSL 6. TSL 5 would save an estimated 6.01 quads of energy, an amount DOE considers significant. Under TSL 5, the NPV of consumer benefit would be $8.64 billion using a discount rate of 7 percent, and $25.80 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 5 are 111 Mt of CO_2, 34.9 thousand tons of SO_2, 203 thousand tons of NO_X, 0.24 tons of Hg, 914 thousand tons of CH_4, and 1.10 thousand tons of N_2O. The estimated monetary value of the climate benefits from reduced GHG emissions (associated with the average SC–GHG at a 3-percent discount rate) at TSL 5 is $5.87 billion. The estimated monetary value of the health benefits from reduced SO_2 and NO_X emissions at TSL 5 is $4.50 billion using a 7-percent discount rate and $11.50 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO_2 and NO_X emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at TSL 5 is $19.01 billion. Using a 3-percent discount rate for all benefits and costs, the estimated total NPV at TSL 5 is $43.17 billion. The estimated total NPV is provided for additional information, however DOE primarily relies upon the NPV of consumer benefits when determining whether a standard level is economically justified.

At TSL 5, for the largest product classes, which are 3, 5, 5A, and 7, there is a life-cycle cost savings of $43.46, $45.47, $122.18, and $73.96 and a payback period of 5.3 years, 6.1 years, 6.0 years and 6.2 years, respectively. For these product classes, the fraction of customers experiencing a net LCC cost is 34.2 percent, 39.4 percent, 39.4 percent and 42.6 percent with increases in first cost of $52.69, $69.25, $161.65, and $121.58, respectively. Overall, 33 percent of refrigerators, refrigerator-freezers, and freezers consumers would experience a net cost and the average LCC savings are positive for all product classes.

At TSL 5, an estimated 16 percent of all low-income households experience a net cost, including 11 percent of low-income households with a top-mount or single-door refrigerator-freezer (represented by PC 3 and used by 72 percent of low-income households) and 32 percent of low-income households with a side-by-side refrigerator-freezer (represented by PC 7 and used by 19 percent of low-income households). More than half of low-income PC 7 consumers with a net cost experience a net cost of at least $40 and while low-income PC 7 consumers experience an average LCC savings of $132.77 at TSL 5, there are larger average LCC savings at TSL 4 ($161.87) and substantially fewer low-income PC 7 consumers would experience a net cost (0.6 percent) at that TSL. Further, the incremental increase in purchase price at TSL 5 for PC 7 is $121.58, which may be difficult for low-income homeowners to afford.

At TSL 5, the projected change in INPV ranges from a decrease of $1.07 billion to a decrease of $844.2 million, which corresponds to decreases of 21.7 percent and 17.2 percent, respectively. DOE estimates that industry must invest $1.40 billion to comply with standards set at TSL 5.

DOE estimates that approximately 14 percent of refrigerator, refrigerator-freezer, and freezer annual shipments meet the TSL 5 efficiencies. For standard-size refrigerator-freezers, which account for approximately 70 percent of total annual shipments, approximately 1 percent of shipments meet the efficiencies required at TSL 5. Compared to max-tech, more manufacturers offer standard-size refrigerator-freezer products that meet the required efficiencies, however, many manufacturers do not offer products that meet this level. Of the 22 OEMs offering PC 3 products, three OEMs offer models that meet the efficiency level required. Of the 22 OEMs offering PC 5 products, 14 OEMs offer models that meet the efficiency level required. Of the 11 OEMs offering PC 7 products, only one OEM offers models that meet the efficiency level required.

The manufacturers that do not currently offer models that meet TSL 5 efficiencies would need to develop new product platforms. Updates could include incorporating variable defrost, BLDC evaporator fan motors, and high-efficiency VSCs. Additionally, some product classes could require the use of VIPs. DOE expects manufacturers would likely need to incorporate some VIPs into PC 5 and PC 7 designs, but not to the extent required at max-tech. However, DOE expects manufacturers would need to incorporate the max-tech design options for PC 5A, which includes the use of VIPs for roughly half the cabinet surface (side walls and doors) to meet TSL 5 efficiencies. As discussed in section IV.J.2.c of this document, the inclusion of VIPs in product design necessitates large investments in tooling and significant changes to production plants. Furthermore, given that only 1 percent of current standard-size refrigerator-freezer shipments meet TSL 5 efficiency levels, the manufacturers that are currently able to meet TSL 5 would need to scale up manufacturing capacity of compliant models. DOE anticipates conversion costs as high as $1.40 billion because the majority of product platforms in the industry would require redesign and investment.

The Secretary concludes that at TSL 5 for refrigerators, refrigerator-freezers, and freezers, the benefits of energy savings, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the economic burden on consumers, particularly low-income consumers of side-by-side refrigerator-freezers, and the impacts on manufacturers, including the large potential reduction in INPV and the lack of manufacturers currently offering

standard-size refrigerator-freezer products meeting the efficiency levels required at this TSL. Specifically, only one OEM currently offers any PC 7 models that meet the TSL 5 efficiencies. At TSL 5, 32 percent of low-income PC 7 consumers would experience a net cost and the incremental increase in purchase price of $121.58 may be difficult for low-income homeowners to afford. Consequently, the Secretary has concluded that TSL 5 is not economically justified.

DOE then considered the Recommended TSL (*i.e.,* TSL 4). For representative product classes other than PC 5A, PC 7, and PC 9, this TSL represents the same efficiency levels as TSL 5.[108] Thus, the Recommended TSL represents similar design options as TSL 5, except for PC 5A, PC 7, and PC 9. For PC 7, DOE expects manufacturers would not require the use of VIPs to meet the required efficiency level. For PC 5A, DOE expects manufacturers would require less VIP surface area to meet the required efficiency level. For PC 9, DOE expects manufacturers to implement variable speed compressor systems to meet required standards. DOE estimates that approximately 14 percent of annual shipments across all refrigerator, refrigerator-freezer, and freezer product classes currently meet the efficiencies required. For the Recommended TSL, DOE's analysis utilized the January 31, 2029 (or January 31, 2030, for some product classes) compliance dates specified in the Joint Agreement. The Recommended TSL would save an estimated 5.61 quads of energy, an amount DOE considers significant. Under the Recommended TSL, the NPV of consumer benefit would be $9.04 billion using a discount rate of 7 percent, and $26.98 billion using a discount rate of 3 percent.

The cumulative emissions reductions at the Recommended TSL are 101 Mt of CO_2, 31.6 thousand tons of SO_2, 186 thousand tons of NO_X, 0.22 tons of Hg, 846.5 thousand tons of CH_4, and 0.99 thousand tons of N_2O. The estimated monetary value of the climate benefits from reduced GHG emissions (associated with the average SC–GHG at a 3-percent discount rate) at the Recommended TSL is $5.02 billion. The estimated monetary value of the health benefits from reduced SO_2 and NO_X emissions at the Recommended TSL is $3.45 billion using a 7-percent discount rate and $9.80 billion using a 3-percent discount rate.

Using a 7-percent discount rate for consumer benefits and costs, health benefits from reduced SO_2 and NO_X emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated total NPV at the Recommended TSL is $17.51 billion. Using a 3-percent discount rate for all benefits and costs, the estimated total NPV at the Recommended TSL is $41.80 billion. The estimated total NPV is provided for additional information, however DOE primarily relies upon the NPV of consumer benefits when determining whether a standard level is economically justified.

At the Recommended TSL, for the largest product classes, which are 3, 5, 5A, and 7, there is a life-cycle cost savings of $50.91, $55.23, $133.27, and $142.56 and a payback period of 4.8 years, 5.6 years, 4.1 years, and 1.6 years, respectively. For these product classes, the fraction of customers experiencing a net LCC cost is 28.3 percent, 33.6 percent, 19.8 percent, and 0.5 percent with increases in first cost of $47.67, $62.72, $81.32, and $24.39, respectively. Overall, 24.4 percent of refrigerators, refrigerator-freezers, and freezers consumers would experience a net cost and the average LCC savings are positive for all product classes.

At the Recommended TSL, 9 percent of low-income households with a top-mount or single-door refrigerator-freezer (represented by PC 3 and used by 72 percent of low-income households) and 0.6 percent of low-income households with a side-by-side refrigerator-freezer (represented by PC 7 and used by 19 percent of low-income households) experience a net cost. Additionally, the incremental increase in purchase price is $24.39 for low-income PC 7 homeowners at the Recommended TSL, substantially lower than the incremental increase in purchase price of $121.58 at TSL 5.

At the Recommended TSL, the projected change in INPV ranges from a decrease of $504.4 million to a decrease of $383.5 million, which correspond to decreases of 10.3 percent and 7.8 percent, respectively. DOE estimates that industry must invest $830.3 million comply with standards set at the Recommended TSL. DOE estimates that approximately 14 percent of refrigerator, refrigerator-freezer, and freezer annual shipments meet the Recommended TSL efficiencies.

Compared to TSL 5, more manufacturers offer standard-size refrigerator freezer products that meet the required efficiencies since PC 7 has a lower required efficiency level at the Recommended TSL. For PC 7, which accounts for 11 percent of shipments, three OEMs offer products that meet the efficiency level required. Furthermore, DOE does not expect manufacturers would need to incorporate VIPs into PC 7 designs to meet the efficiencies required at the Recommended TSL. For PC 5 and PC 5A, DOE understands the two product classes often share the same production lines, with shared cabinet architecture and tooling. DOE expects manufacturers would likely need to incorporate some VIPs into PC 5A designs, but not to the extent required at TSL 5 and TSL 6. Thus, for the 10 OEMs that manufacture both PC 5 and PC 5A, DOE expects manufacturers could implement similar cabinet upgrades (*i.e.,* partial VIP) for PC 5 and PC 5A designs to achieve the efficiencies required at this level.

For all TSLs considered in this direct final rule—except for the Recommended TSL—DOE is bound by the 3-year lead time requirements in EPCA when determining compliance dates (*i.e.,* compliance with amended standards required in 2027). For the Recommended TSL, DOE's analysis utilized the January 31, 2029 (or January 31, 2030, for some product classes) compliance dates specified in the Joint Agreement as they were an integral part of the multi-product joint recommendation. These compliance dates provide manufacturers the flexibility to spread capital requirements, engineering resources, and other conversion activities over a longer period of time depending on the individual needs of each manufacturer. Furthermore, these delayed compliance dates provide additional lead time and certainty for suppliers of components that improve efficiency. The Recommended TSL mitigates risks raised by AHAM and multiple manufacturers in response to the February 2023 NOPR regarding the ability for VSC and VIP component suppliers to increase supply of these key components in the 3-year lead time required by EPCA.

After considering the analysis and weighing the benefits and burdens, the Secretary has concluded that a standard set at the Recommended TSL for refrigerators, refrigerator-freezers, and freezers is economically justified. At this TSL, the average LCC savings are positive for all product classes for

[108] For all TSLs except the Recommended TSL, the efficiency levels required for non-representative product classes are the same as the efficiency levels required for the associated directly analyzed product classes. However, as noted in section V.A of this document, the Recommended TSL from the Joint Agreement includes standard levels for some non-representative product classes that differ from their associated representative product class. Thus, in addition to the representative PC 5A, PC 7, and PC 9, the efficiency levels required for non-representative PC 9A–BI and PC 12 at the Recommended TSL also differ from the efficiency levels required at TSL 5.

which an amended standard is considered. An estimated 24.4 percent of all refrigerator, refrigerator-freezer, and freezer consumers experience a net cost. An estimated 9 percent of low-income households with a top-mount or single-door refrigerator-freezer (represented by PC 3 and used by 72 percent of low-income households) and 0.6 percent of low-income households with a side-by-side refrigerator-freezer (represented by PC 7 and used by 19 percent of low-income households), experience a net cost, which is a significantly lower percentage than under TSL 5. DOE notes that for low-income PC 7 consumers, as well as across all PC 7 consumers, the Recommended TSL represents the largest average LCC savings of any TSL. The FFC national energy savings are significant and the NPV of consumer benefits is positive at the Recommended TSL using both a 3-percent and 7-percent discount rate. Notably, the benefits to consumers vastly outweigh the cost to manufacturers. At the Recommended TSL, the NPV of consumer benefits, even measured at the more conservative discount rate of 7 percent is over 17 times higher than the maximum estimated manufacturers' loss in INPV. The standard levels at the Recommended TSL are economically justified even without weighing the estimated monetary value of emissions reductions. When those emissions reductions are included—representing $5.02 billion in climate benefits (associated with the average SC–GHG at a 3-percent discount rate), and $9.80 billion (using a 3-percent discount rate) or $3.45 billion (using a 7-percent discount rate) in health benefits—the rationale becomes stronger still.

As stated, DOE conducts the walk-down analysis to determine the TSL that represents the maximum improvement in energy efficiency that is technologically feasible and economically justified as required under EPCA. DOE notes 72 percent of low-income households have a top-mount refrigerator-freezer (represented by PC 3) and that an estimated 9 percent of low-income PC 3 households experience a net cost at the Recommended TSL, whereas an estimated 6 percent of low-income households with a top-mount refrigerator-freezer experience a net cost at TSL 3. However, the average LCC savings for low-income PC 3 consumers are $22.05 higher at the Recommended TSL than at TSL 3. Further, compared to TSL 3, it is estimated that the Recommended TSL would result in additional FFC national energy savings of 0.9 quads. These additional savings and benefits at the Recommended TSL are significant. DOE considers the impacts to be, as a whole, economically justified at the Recommended TSL.

Although DOE considered amended standard levels for refrigerators, refrigerator-freezers, and freezers by grouping the efficiency levels for each product class into TSLs, DOE evaluates all analyzed efficiency levels in its analysis. In general, the standard level represents the maximum energy savings that does not result in a large percentage of consumers experiencing a net LCC cost. For example, for PC 5, more than half of consumers experience a net cost at EL 3. In the case of PC 7, for which DOE found that a relatively higher percentage of low-income consumers may experience net costs at higher efficiency levels, at the standard level chosen, 0.6 percent of low-income households with side-by-side refrigerator-freezers will experience a potential burden. The ELs at the standard level result in positive LCC savings for all product classes, significantly reduce the number of consumers experiencing a net cost, and reduce the decrease in INPV and conversion costs to the point where DOE has concluded they are economically justified, as discussed for the Recommended TSL in the preceding paragraphs.

Therefore, based on the previous considerations, DOE adopts the energy conservation standards for refrigerators, refrigerator-freezers, and freezers at the Recommended TSL.

While DOE considered each potential TSL under the criteria laid out in 42 U.S.C. 6295(o) as discussed above, DOE notes that the Recommended TSL for refrigerators, refrigerator-freezers, and freezers adopted in this direct final rule is part of a multi-product Joint Agreement covering six rulemakings (refrigerators, refrigerator-freezers, and freezers; miscellaneous refrigeration products; conventional cooking products; residential clothes washers; consumer clothes dryers; and dishwashers). The signatories indicate that the Joint Agreement for the six rulemakings should be considered as a joint statement of recommended standards, to be adopted in its entirety. As discussed in section V.B.2.e of this document, many refrigerator, refrigerator-freezer, and freezer OEMs also manufacture miscellaneous refrigeration products, conventional cooking products, residential clothes washers, consumer clothes dryers, and dishwashers. Rather than requiring compliance with five amended standards in a single year (2027),[109] the negotiated multi-product Joint Agreement staggers the compliance dates for the five amended standards over a 4-year period (2027–2030). In response to the February 2023 NOPR, AHAM and individual manufacturers expressed concerns about the timing of ongoing home appliance rulemakings. Specifically, AHAM commented that the combination of the stringency of DOE's proposals, the short lead-in time required under EPCA to comply with standards, and the overlapping timeframe of multiple standards affecting the same manufacturers represents significant cumulative regulatory burden for the home appliance industry. (AHAM, No. 69 at pp. 20–21) AHAM has submitted similar comments to other ongoing consumer product rulemakings.[110] As AHAM is a key signatory of the Joint Agreement, DOE understands that the compliance dates recommended in the Joint Agreement would help reduce cumulative regulatory burden. These compliance dates help relieve concern on the part of some manufacturers about their ability to allocate sufficient resources to comply with multiple concurrent amended standards, about the need to align compliance dates for products that are typically designed or sold as matched pairs, and about the ability of their suppliers to ramp up production of key components. The Joint Agreement also provides additional years of regulatory certainty for manufacturers and their suppliers while still achieving the maximum improvement in energy efficiency that is technologically feasible and economically justified.

The amended energy conservation standards for refrigerators, refrigerator-freezers, and freezers, which are

[109] The refrigerators, refrigerator-freezers, and freezers (88 FR 12452); consumer conventional cooking products (88 FR 6818); residential clothes washers (88 FR 13520); consumer clothes dryers (87 FR 51734); and dishwashers (88 FR 32514) utilized a 2027 compliance year for analysis at the proposed rule stage. Miscellaneous refrigeration products (88 FR 12452) utilized a 2029 compliance year for the NOPR analysis.

[110] AHAM has submitted written comments regarding cumulative regulatory burden for the other five rulemakings included in the multi-product Joint Agreement. AHAM's written comments on cumulative regulatory burden are available at: *www.regulations.gov/comment/EERE-2020-BT-STD-0039-0031* (pp. 12–15) for miscellaneous refrigeration products; *www.regulations.gov/comment/EERE-2014-BT-STD-0005-2285* (pp. 44–27) for consumer conventional cooking products; *www.regulations.gov/comment/EERE-2017-BT-STD-0014-0464* (pp. 40–44) for residential clothes washers; *www.regulations.gov/comment/EERE-2014-BT-STD-0058-0046* (pp. 12–13) for consumer clothes dryers; and *www.regulations.gov/comment/EERE-2019-BT-STD-0039-0051* (pp. 21–24) for dishwashers.

expressed as kWh/yr, are shown in Table V.48.

TABLE V.48—AMENDED ENERGY CONSERVATION STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
1. Refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	6.79AV + 191.3	0.240av + 191.3.
1A. All-refrigerators—manual defrost	5.77AV + 164.6	0.204av + 164.6.
2. Refrigerator-freezers—partial automatic defrost	(6.79AV + 191.3)*K2	(0.240av + 191.3)*K2.
3. Refrigerator-freezers—automatic defrost with top-mounted freezer	6.86AV + 198.6 + 28I	0.242av + 198.6 + 28I.
3–BI. Built-in refrigerator-freezer—automatic defrost with top-mounted freezer	8.24AV + 238.4 + 28I	0.291av + 238.4 + 28I.
3A. All-refrigerators—automatic defrost	(6.01AV + 171.4)*K3A	(0.212av + 171.4)*K3A.
3A–BI. Built-in All-refrigerators—automatic defrost	(7.22AV + 205.7)*K3ABI	(0.255av + 205.7)*K3ABI.
4. Refrigerator-freezers—automatic defrost with side-mounted freezer	(6.89AV + 241.2)*K4 + 28I	(0.243av + 241.2)*K4 + 28I.
4–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	(8.79AV + 307.4)*K4BI + 28I	(0.310av + 307.4)*K4BI + 28I.
5. Refrigerator-freezers—automatic defrost with bottom-mounted freezer	(7.79AV + 279.0)*K5 + 28I	(0.275av + 279.0)*K5 + 28I.
5–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer.	(8.46AV + 303.2)*K5BI + 28I	(0.299av + 303.2)*K5BI + 28I.
5A. Refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(7.22AV + 327.1)*K5A	(0.255av + 327.1)*K5A.
5A–BI. Built-in refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(8.16AV + 368.4)*K5ABI	(0.288av + 368.4)*K5ABI.
6. Refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service.	7.14AV + 280.0	0.252av + 280.0.
7. Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	(6.92AV + 305.2)*K7	(0.244av + 305.2)*K7.
7–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	(8.82AV + 384.1)*K7BI	(0.311av + 384.1)*K7BI.
8. Upright freezers with manual defrost	5.57AV + 193.7	0.197av + 193.7.
9. Upright freezers with automatic defrost	(7.76AV + 205.5)*K9 + 28I	(0.274av + 205.5)*K9 + 28I.
9–BI. Built-In Upright freezers with automatic defrost	(9.37AV + 247.9)*K9BI + 28I	(0.331av + 247.9)*K9BI + 28I.
10. Chest freezers and all other freezers except compact freezers	7.29AV + 107.8	0.257av + 107.8.
10A. Chest freezers with automatic defrost	10.24AV + 148.1	0.362av + 148.1.
11. Compact refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	7.68AV + 214.5	0.271av + 214.5.
11A. Compact all-refrigerators—manual defrost	6.66AV + 186.2	0.235av + 186.2.
12. Compact refrigerator-freezers—partial automatic defrost	5.02AV + 285.4	0.177av + 285.4.
13. Compact refrigerator-freezers—automatic defrost with top-mounted freezer	10.62AV + 305.3 + 28I	0.375av + 305.3 + 28I.
13A. Compact all-refrigerators—automatic defrost	(7.79AV + 220.4)*K13A	(0.275av + 220.4)*K13A.
14. Compact refrigerator-freezers—automatic defrost with side-mounted freezer.	6.14AV + 411.2 + 28I	0.217av + 411.2 + 28I.
15. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer.	10.62AV + 305.3 + 28I	0.375av + 305.3 + 28I.
16. Compact upright freezers with manual defrost	7.35AV + 191.8	0.260av + 191.8.
17. Compact upright freezers with automatic defrost	9.15AV + 316.7	0.323av + 316.7.
18. Compact chest freezers	7.86AV + 107.8	0.278av + 107.8.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B of subpart B of 10 CFR part 430.
Av = Total adjusted volume, expressed in Liters.
I = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker.
Door Coefficients (*e.g.,* K3A) are as defined in the table below.

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K2	1.0	1.0	$1 + 0.02 * (N_d - 1)$.
K3A	1.10	1.0	1.0.
K3ABI	1.10	1.0	1.0.
K4	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K4BI	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K5	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K5BI	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K5A	1.10	1.06	$1 + 0.02 * (N_d - 3)$.
K5ABI	1.10	1.06	$1 + 0.02 * (N_d - 3)$.
K7	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K7BI	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K9	1.0	1.0	$1 + 0.02 * (N_d - 1)$.

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K9BI	1.0	1.0	1 + 0.02 * (N_d − 1).
K12	1.0	1.0	1 + 0.02 * (N_d − 1).
K13A	1.10	1.0	1.0.

Notes:
[1] N_d is the number of external doors.
[2] The maximum N_d values are 2 for K2 and K12, 3 for K9BI, and 5 for all other K values.

2. Annualized Benefits and Costs of the Adopted Standards

The benefits and costs of the adopted standards can also be expressed in terms of annualized values. The annualized net benefit is (1) the annualized national economic value (expressed in 2022$) of the benefits from operating products that meet the adopted standards (consisting primarily of operating cost savings from using less energy), minus increases in product purchase costs, and (2) the annualized monetary value of the climate and health benefits.

Table V.49 shows the annualized values for consumer refrigerator, refrigerator-freezers, and freezers under the Recommended TSL expressed in 2022$. The results under the primary estimate are as follows.

Using a 7-percent discount rate for consumer benefits and costs and health benefits from reduced NO_X and SO_2 emissions, and the 3-percent discount rate case for climate benefits from reduced GHG emissions, the estimated cost of the standards adopted in this rule is $590.5 million per year in increased equipment costs, while the estimated annual monetized benefits are $1.7 billion in reduced equipment operating costs, $303.8 million in climate benefits, and $410.6 million in health benefits. In this case, the net benefit would amount to $1.8 billion per year.

Using a 3-percent discount rate for all benefits and costs, the estimated cost of the standards is $567.5 million per year in increased equipment costs, while the estimated annual monetized benefits are $2.2 billion in reduced operating costs, $303.8 million in climate benefits, and $592.9 million in health benefits. In this case, the net benefit would amount to $2.5 billion per year.

TABLE V.49—ANNUALIZED BENEFITS AND COSTS OF ADOPTED STANDARDS (THE RECOMMENDED TSL) FOR CONSUMER REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS

	Million 2022$/year		
	Primary estimate	Low-net-benefits estimate	High-net-benefits estimate
3% discount rate:			
Consumer Operating Cost Savings	2,200.5	2,023.9	2,326.6
Climate Benefits*	303.8	291.8	307.9
Health Benefits**	592.9	569.7	600.7
Total Benefits†	3,097.2	2,885.4	3,235.2
Consumer Incremental Product Costs‡	567.5	666.6	547.8
Net Benefits	2,529.6	2,218.8	2,687.4
Change in Producer Cashflow (INPV‡‡)	(49) to (37)	(49) to (37)	(49) to (37)
7% discount rate:			
Consumer Operating Cost Savings	1,667.0	1,541.9	1,758.5
Climate Benefits* (3% discount rate)	303.8	291.8	307.9
Health Benefits**	410.6	395.8	415.7
Total Benefits†	2,381.4	2,229.5	2,482.0
Consumer Incremental Product Costs‡	590.5	677.9	569.6
Net Benefits	1,790.9	1,551.6	1,912.5
Change in Producer Cashflow (INPV‡‡)	(49) to (37)	(49) to (37)	(49) to (37)

Note: This table presents present value (in 2022$) of the costs and benefits associated with refrigerators, refrigerator-freezers, and freezers shipped in 2029–2058 for the product classes listed in Table I.1 and shipped in 2030–2059 for the product classes listed in Table I.2. These results include benefits which accrue after 2056 from the products shipped in 2029–2058 for the product classes listed in Table I.1 and shipped in 2030–2059 for the product classes listed in Table I.2. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the *AEO2023* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental equipment costs reflect a medium decline rate in the Primary Estimate, a low decline rate in the Low Net Benefits Estimate, and a high decline rate in the High Net Benefits Estimate. The methods used to derive projected price trends are explained in section IV.H.3 of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using four different estimates of the global SC–GHG (*see* section IV.L of this document). For presentational purposes of this table, the climate benefits associated with the average SC–GHG at a 3-percent discount rate are shown; however, DOE emphasizes the importance and value of considering the benefits calculated using all four sets of SC–GHG estimates. To monetize the benefits of reducing GHG emissions, this analysis uses the interim estimates presented in the *Technical Support Document: Social Cost of Carbon, Methane.*

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for SO_2 and NO_X) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. *See* section IV.L of this document for more details.

† Total benefits for both the 3-percent and 7-percent cases are presented using the average SC–GHG with 3-percent discount rate, but DOE does not have a single central SC–GHG point estimate.

‡‡ Operating Cost Savings are calculated based on the life-cycle costs analysis and national impact analysis as discussed in detail below. *See* sections IV.F and IV.H of this document. DOE's NIA includes all impacts (both costs and benefits) along the distribution chain beginning with the increased costs to the manufacturer to manufacture the product and ending with the increase in price experienced by the consumer. DOE also separately conducts a detailed analysis on the impacts on manufacturers (the MIA). *See* section IV.J of this document. In the detailed MIA, DOE models manufacturers' pricing decisions based on assumptions regarding investments, conversion costs, cashflow, and margins. The MIA produces a range of impacts, which is the rule's expected impact on the INPV. The change in INPV is the present value of all changes in industry cash flow, including changes in production costs, capital expenditures, and manufacturer profit margins. The annualized change in INPV is calculated using the industry weighted average cost of capital value of 9.1 percent that is estimated in the manufacturer impact analysis (*see* chapter 12 of the direct final rule TSD for a complete description of the industry weighted average cost of capital). For refrigerators, refrigerator-freezers, and freezers, those values are −$48.7 million to −$37.0 million. DOE accounts for that range of likely impacts in analyzing whether a TSL is economically justified. *See* section V.C of this document. DOE is presenting the range of impacts to the INPV under two manufacturer markup scenarios: the Preservation of Gross Margin scenario, which is the manufacturer markup scenario used in the calculation of Consumer Operating Cost Savings in this table, and the Preservation of Operating Profit Markup scenario, where DOE assumed manufacturers would not be able to increase per-unit operating profit in proportion to increases in manufacturer production costs. DOE includes the range of estimated annualized change in INPV in the above table, drawing on the MIA explained further in section IV.J of this document, to provide additional context for assessing the estimated impacts of this direct final rule to society, including potential changes in production and consumption, which is consistent with OMB's Circular A–4 and E.O. 12866. If DOE were to include the INPV into the annualized net benefit calculation for this direct final rule, the annualized net benefits would range from $2,480.9 million to $2,492.6 million at 3-percent discount rate and would range from $1,742.2 million to $1,753.9 million at 7-percent discount rate. Parentheses ( ) indicate negative values.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866, 13563, and 14094

Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011), and amended by E.O. 14094, ''Modernizing Regulatory Review,'' 88 FR 21879 (April 11, 2023), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'') has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this final regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this final regulatory action constitutes a ''significant regulatory action'' within the scope of section 3(f)(1) of E.O. 12866. Accordingly, pursuant to section 6(a)(3)(C) of E.O. 12866, DOE has provided to OIRA an assessment, including the underlying analysis, of benefits and costs anticipated from the final regulatory action, together with, to the extent feasible, a quantification of those costs; and an assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, and an explanation why the planned regulatory action is preferable to the identified potential alternatives. These assessments are summarized in this preamble and further detail can be found in the technical support document for this rulemaking.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IRFA'') and a final regulatory flexibility analysis (''FRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (*www.energy.gov/gc/office-general-counsel*).

DOE is not obligated to prepare a regulatory flexibility analysis for this rulemaking because there is not a requirement to publish a general notice of proposed rulemaking under the Administrative Procedure Act. See 5 U.S.C. 601(2), 603(a). As discussed previously, DOE has determined that the Joint Agreement meets the necessary requirements under EPCA to issue this direct final rule for energy conservation standards for refrigerators, refrigerator-freezers, and freezers under the procedures in 42 U.S.C. 6295(p)(4). DOE notes that the NOPR for energy conservation standards for refrigerators, refrigerator-freezers, and freezers published elsewhere in the **Federal Register** contains an IRFA.

C. Review Under the Paperwork Reduction Act

Manufacturers of consumer refrigerators, refrigerator-freezers, and freezers must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for consumer refrigerators, refrigerator-freezers, and freezers, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including consumer refrigerators, refrigerator-freezers, and freezers. (*See*

generally 10 CFR part 429) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (''NEPA''), DOE has analyzed this rule in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix B, B5.1, because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, none of the exceptions identified in B5.1(b) apply, no extraordinary circumstances exist that require further environmental analysis, and it meets the requirements for application of a categorical exclusion. *See* 10 CFR 1021.410. Therefore, DOE has determined that promulgation of this rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an environmental assessment or an environmental impact statement.

E. Review Under Executive Order 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

In the February 2023 NOPR, DOE tentatively determined that the proposed rule would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. 88 FR 13616. Furthermore, DOE stated that EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule and that States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. *Id.* (*citing* 42 U.S.C. 6297). Accordingly, DOE concluded that no further action was required by E.O. 13132.

The AGs of TN, AL, *et al.* submitted a joint comment that DOE's analysis is woefully deficient. The AGs of TN, AL, *et al.* commented that this determination is incorrect because, in their view, the Proposed Standards have significant federalism implications within the meaning of Executive Order 13132. The AGs of TN, AL, *et al.* go on to state that if the Proposed Standards are promulgated, ''[a]ny State regulation which sets forth procurement standards'' relating to refrigerators, refrigerator-freezers, or freezers, is ''superseded'' unless those ''standards are more stringent than the corresponding Federal energy conservation standards. The AGs of TN, AL, et al. argue that preempting—even in part—State procurement rules is plainly a direct effect on the States and alters the federal-state relationship by directly regulating the States. See Exec. Order No. 13132 § 6(c).'' (The AGs of TN, AL, *et al.,* No. 68 at p. 3) Further, the AGs of TN, *et al.,* argue that section 6(b) of E.O. 13132 applies because states are purchasers of refrigerators, refrigerator-freezers, and freezers; therefore, reliance interests are implicated and subject the states to substantial direct compliance costs. (*Id.* at 2–3)

DOE reiterates that this direct final rule does not have significant federalism implications. DOE has examined this rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and expressly prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this direct final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) Therefore, no further action is required by Executive Order 13132.

Even if DOE were to find otherwise, with regards to the AGs of TN, AL *et al.'s* arguments regarding section 6(c) of E.O. 13132, DOE notes that the AGs of TN, AL *et al.* do not provide any examples of a state procurement rule that conflicts with the standards adopted in this rulemaking and DOE is not aware of any such conflicts. While it is possible that a State may have to revise its procurement standards to reflect the new standards, States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. Absent such information, DOE concludes that no further action would be required by E.O. 13132 even if the Executive order were applicable here. Moreover, assuming the hypothetical preemption alleged by the AGs of TN, AL *et al.* were to present itself, DOE notes that, like all interested parties, states were presented with an opportunity to engage in the rulemaking process early in the development of the proposed rule. Prior to publishing the proposed rulemaking, on November 15, 2019, DOE published and sought public comment on a request for information (''RFI'') to collect data and information to help DOE determine whether any new or amended standards for consumer refrigerators, refrigerator-freezers, and freezers would result in a significant amount of additional energy savings and whether those standards would be technologically feasible and economically justified. 84 FR 62470 (''November 2019 RFI''). DOE then published a notice of public meeting and availability of the preliminary TSD on October 15, 2021, and sought public comment again. (''October 2021 Preliminary Analysis''). 86 FR 57378. DOE then held a public meeting on December 1, 2021, to discuss and receive comments on the preliminary TSD, which was open to the public, including state agencies. As such, states were provided the opportunity for meaningful and substantial input as envisioned by the Executive order.

With regards to the AGs of TN, AL *et al.'s* arguments regarding section 6(b) of E.O. 13132, the potential effect alleged by the AGs of TN, AL, *et al.* is the same

effect experienced by all refrigerator consumers—models manufactured after a specific date must meet revised efficiency standards. This impact does not constitute a ''substantial'' impact as required by the Executive order. Further, contrary to the assertions of the AGs of TN *et al.,* the direct final rule is required by law. As noted previously, where DOE determines that a proposed amended standard is designed to achieve the maximum improvement in energy efficiency and is both technologically feasible and economically justified, it must adopt it. Therefore, section 6(b) is inapplicable. E.O. 13132, section6(b) (applicable to regulation ''that is not required by statute'').

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this direct final rule meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.*

DOE has concluded that this direct final rule may require expenditures of $100 million or more in any one year by the private sector. Such expenditures may include (1) investment in research and development and in capital expenditures by consumer refrigerators, refrigerator-freezers, and freezers manufacturers in the years between the direct final rule and the compliance date for the new standards and (2) incremental additional expenditures by consumers to purchase higher-efficiency consumer refrigerators, refrigerator-freezers, and freezers, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the direct final rule. (2 U.S.C. 1532(c)) The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of this document and the TSD for this direct final rule respond to those requirements.

Under section 205 of UMRA, DOE is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. (2 U.S.C. 1535(a)) DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the rule unless DOE publishes an explanation for doing otherwise, or the selection of such an alternative is inconsistent with law. As required by 42 U.S.C. 6295(m), this direct final rule establishes amended energy conservation standards for consumer refrigerators, refrigerator-freezers, and freezers that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified, as required by sections 6295(o)(2)(A) and 6295(o)(3)(B). A full discussion of the alternatives considered by DOE is presented in chapter 17 of the TSD for this direct final rule.

H. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), DOE has determined that this rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

I. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this direct final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy

Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has concluded that this regulatory action, which sets forth amended energy conservation standards for consumer refrigerators, refrigerator-freezers, and freezers, is not a significant energy action because the standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on this direct final rule.

K. Information Quality

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (''OSTP''), issued its Final Information Quality Bulletin for Peer Review (''the Bulletin''). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer-reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the Bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions.'' 70 FR 2664, 2667.

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and prepared a report describing that peer review.[111] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve DOE's analyses. DOE is in the process of evaluating the resulting report.[112]

L. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that the Office of Information and Regulatory Affairs has determined that this action meets the criteria set forth in 5 U.S.C. 804(2).

M. Materials Incorporated by Reference

The following standards appear in the amendatory text of this document and were previously approved for the locations in which they appear: AS/NZS 4474.1:2007; HRF–1–2019.

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this direct final rule.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on December 28, 2023, by Jeffrey Marootian, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 29, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set forth in the preamble, DOE amends part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Amend appendix A to subpart B of part 430 by:
■ a. In section 1:
■ i. In paragraph (b)(i), removing the text ''5.3(e)'' and adding in its place the text ''5.5''; and
■ ii. Removing the undesignated paragraph immediately following paragraph (b)(ii);
■ b. In section 3, adding in alphabetical order definitions for ''Door-in-door'' and ''Transparent door'';
■ c. In section 5.3:
■ i. Removing paragraphs (a) and (f); and
■ ii. Redesignating paragraphs (b) through (e) as paragraphs (a) through (d); and
■ d. Adding sections 5.4 and 5.5.

The additions read as follows:

Appendix A to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Refrigerators, Refrigerator-Freezers, and Miscellaneous Refrigeration Products

* * * * *

3. * * *

Door-in-door means a set of doors or an outer door and inner drawer for which—

(a) Both doors (or both the door and the drawer) must be opened to provide access to the interior through a single opening;

(b) Gaskets for both doors (or both the door and the drawer) are exposed to external ambient conditions on the outside around the full perimeter of the respective openings; and

(c) The space between the two doors (or between the door and the drawer) achieves temperature levels consistent with the temperature requirements of the interior

[111] The 2007 ''Energy Conservation Standards Rulemaking Peer Review Report'' is available at the following website: *energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0* (last accessed August 2, 2023).

[112] The report is available at *www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.*

compartment to which the door-in-door provides access.

* * * * *

Transparent door means an external fresh food compartment door which meets the following criteria:

(a) The area of the transparent portion of the door is at least 40 percent of the area of the door.

(b) The area of the door is at least 50 percent of the sum of the areas of all the external doors providing access to the fresh food compartments and cooler compartments.

(c) For the purposes of this evaluation, the area of a door is determined as the product of the maximum height and maximum width dimensions of the door, not considering potential extension of flaps used to provide a seal to adjacent doors.

* * * * *

5. * * *

5.4. *Icemaker Energy Use*

(a) For refrigerators and refrigerator-freezers: To demonstrate compliance with the energy conservation standards at § 430.32(a) applicable to products manufactured on or after September 15, 2014, but before the compliance date of any amended standards published after January 1, 2022, IET, expressed in kilowatt-hours per cycle, equals 0.23 for a product with one or more automatic icemakers and otherwise equals 0 (zero). To demonstrate compliance with any amended standards published after January 1, 2022, IET, expressed in kilowatt-hours per cycle, is as defined in section 5.9.2.1 of HRF–1–2019.

(b) For miscellaneous refrigeration products: To demonstrate compliance with the energy conservation standards at § 430.32(aa) applicable to products manufactured on or after October 28, 2019, IET, expressed in kilowatt-hours per cycle, equals 0.23 for a product with one or more automatic icemakers and otherwise equals 0 (zero).

5.5. *Triangulation Method*

If the three-point interpolation method of section 5.2(b) of this appendix is used for setting temperature controls, the average per-cycle energy consumption shall be defined as follows:

$E = E_X + IET$

Where:

E is defined in section 5.9.1.1 of HRF–1–2019;

IET is defined in section 5.4 of this appendix; and

E_X is defined and calculated as described in appendix M, section M4(a) of AS/NZS 4474.1:2007. The target temperatures t_{xA} and t_{xB} defined in section M4(a)(i) of AS/NZS 4474.1:2007 shall be the standardized temperatures defined in section 5.6 of HRF–1–2019.

* * * * *

■ 3. Amend appendix B to subpart B of part 430 by:

■ a. In section 5.3:

■ i. Removing paragraph (a); and

■ ii. Redesignating paragraphs (b) and (c) as paragraphs (a) and (b); and

■ b. Adding section 5.4.

The addition reads as follows:

Appendix B to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Freezers

* * * * *

5. * * *

5.4. *Icemaker Energy Use*

For freezers: To demonstrate compliance with the energy conservation standards at § 430.32(a) applicable to products manufactured on or after September 15, 2014, but before the compliance date of any amended standards published after January 1, 2022, IET, expressed in kilowatt-hours per cycle, equals 0.23 for a product with one or more automatic icemakers and otherwise equals 0 (zero). To demonstrate compliance with any amended standards published after January 1, 2022, IET, expressed in kilowatt-hours per cycle, is as defined in section 5.9.2.1 of HRF–1–2019.

* * * * *

■ 4. Amend § 430.32 by:

■ a. Redesignating table 3 to paragraph (b) and table 4 to paragraph (b)(2) as table 6 to paragraph (b)(1) and table 7 to paragraph (b)(2); and

■ b. Revising paragraph (a).

The revision reads as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(a) *Refrigerators/refrigerator-freezers/freezers.* The standards in this paragraph (a) do not apply to refrigerators and refrigerator-freezers with total refrigerated volume exceeding 39 cubic feet (1104 liters) or freezers with total refrigerated volume exceeding 30 cubic feet (850 liters). The energy standards as determined by the equations of the following table(s) shall be rounded off to the nearest kWh per year. If the equation calculation is halfway between the nearest two kWh per year values, the standard shall be rounded up to the higher of these values.

(1) The following standards apply to products manufactured on or before September 15, 2014, and before the 2029/2030 compliance dates depending on product class (see paragraphs (a)(2) and (3) of this section).

TABLE 1 TO PARAGRAPH (a)(1)

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
1. Refrigerators and refrigerator-freezers with manual defrost	7.99AV + 225.0	0.282av + 225.0.
1A. All-refrigerators—manual defrost	6.79AV + 193.6	0.240av + 193.6.
2. Refrigerator-freezers—partial automatic defrost	7.99AV + 225.0	0.282av + 225.0.
3. Refrigerator-freezers—automatic defrost with top-mounted freezer without an automatic icemaker.	8.07AV + 233.7	0.285av + 233.7.
3–BI. Built-in refrigerator-freezer—automatic defrost with top-mounted freezer without an automatic icemaker.	9.15AV + 264.9	0.323av + 264.9.
3I. Refrigerator-freezers—automatic defrost with top-mounted freezer with an automatic icemaker without through-the-door ice service.	8.07AV + 317.7	0.285av + 317.7.
3I–BI. Built-in refrigerator-freezers—automatic defrost with top-mounted freezer with an automatic icemaker without through-the-door ice service.	9.15AV + 348.9	0.323av + 348.9.
3A. All-refrigerators—automatic defrost	7.07AV + 201.6	0.250av + 201.6.
3A–BI. Built-in All-refrigerators—automatic defrost	8.02AV + 228.5	0.283av + 228.5.
4. Refrigerator-freezers—automatic defrost with side-mounted freezer without an automatic icemaker.	8.51AV + 297.8	0.301av + 297.8.
4–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer without an automatic icemaker.	10.22AV + 357.4	0.361av + 357.4.
4I. Refrigerator-freezers—automatic defrost with side-mounted freezer with an automatic icemaker without through-the-door ice service.	8.51AV + 381.8	0.301av + 381.8.
4I–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer with an automatic icemaker without through-the-door ice service.	10.22AV + 441.4.2	0.361av + 441.4.

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
5. Refrigerator-freezers—automatic defrost with bottom-mounted freezer without an automatic icemaker.	8.85AV + 317.0	0.312av + 317.0.
5–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer without an automatic icemaker.	9.40AV + 336.9	0.332av + 336.9.
5I. Refrigerator-freezers—automatic defrost with bottom-mounted freezer with an automatic icemaker without through-the-door ice service.	8.85AV + 401.0	0.312av + 401.0.
5I–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer with an automatic icemaker without through-the-door ice service.	9.40AV + 420.9	0.332av + 420.9.
5A. Refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	9.25AV + 475.4	0.327av + 475.4.
5A–BI. Built-in refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	9.83AV + 499.9	0.347av + 499.9.
6. Refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service.	8.40AV + 385.4	0.297av + 385.4.
7. Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	8.54AV + 432.8	0.302av + 431.1.
7–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	10.25AV + 502.6	0.362av + 502.6.
8. Upright freezers with manual defrost	5.57AV + 193.7	0.197av + 193.7.
9. Upright freezers with automatic defrost without an automatic icemaker	8.62AV + 228.3	0.305av + 228.3.
9I. Upright freezers with automatic defrost with an automatic icemaker	8.62AV + 312.3	0.305av + 312.3.
9–BI. Built-In Upright freezers with automatic defrost without an automatic icemaker.	9.86AV + 260.9	0.348av + 260.6.
9I–BI. Built-In Upright freezers with automatic defrost with an automatic icemaker.	9.86AV + 344.9	0.348av + 344.9.
10. Chest freezers and all other freezers except compact freezers	7.29AV + 107.8	0.257av + 107.8.
10A. Chest freezers with automatic defrost	10.24AV + 148.1	0.362av + 148.1.
11. Compact refrigerators and refrigerator-freezers with manual defrost	9.03AV + 252.3	0.319av + 252.3.
11A.Compact refrigerators and refrigerator-freezers with manual defrost	7.84AV + 219.1	0.277av + 219.1.
12. Compact refrigerator-freezers—partial automatic defrost	5.91AV + 335.8	0.209av + 335.8.
13. Compact refrigerator-freezers—automatic defrost with top-mounted freezer	11.80AV + 339.2	0.417av + 339.2.
13I. Compact refrigerator-freezers—automatic defrost with top-mounted freezer with an automatic icemaker.	11.80AV + 423.2	0.417av + 423.2.
13A. Compact all-refrigerator—automatic defrost	9.17AV + 259.3	0.324av + 259.3.
14. Compact refrigerator-freezers—automatic defrost with side-mounted freezer.	6.82AV + 456.9	0.241av + 456.9.
14I. Compact refrigerator-freezers—automatic defrost with side-mounted freezer with an automatic icemaker.	6.82AV + 540.9	0.241av + 540.9.
15. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer.	11.80AV + 339.2	0.417av + 339.2.
15I. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer with an automatic icemaker.	11.80AV + 423.2	0.417av + 423.2.
16. Compact upright freezers with manual defrost	8.65AV + 225.7	0.306av + 225.7.
17. Compact upright freezers with automatic defrost	10.17AV + 351.9	0.359av + 351.9.
18. Compact chest freezers	9.25AV + 136.8	0.327av + 136.8.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B to subpart B of this part.
av = Total adjusted volume, expressed in Liters.

(2) The following standards apply to products manufactured on or after January 31, 2029.

TABLE 2 TO PARAGRAPH (a)(2)

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
3–BI. Built-in refrigerator-freezer—automatic defrost with top-mounted freezer	8.24AV + 238.4 + 28I	0.291av + 238.4 + 28I.
3A–BI. Built-in All-refrigerators—automatic defrost	(7.22AV + 205.7)*K3ABI	(0.255av + 205.7)*K3ABI.
4–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	(8.79AV + 307.4)*K4BI + 28I	(0.310av + 307.4)*K4BI + 28I.
5–BI. Built-In Refrigerator-freezers—automatic defrost with bottom-mounted freezer.	(8.65AV + 309.9)*K5BI + 28I	(0.305av + 309.9)*K5BI + 28I.

TABLE 2 TO PARAGRAPH (a)(2)—Continued

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
5A. Refrigerator-freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(7.76AV + 351.9)*K5A	(0.274av + 351.9)*K5A.
5A–BI. Built-in refrigerator–freezer—automatic defrost with bottom-mounted freezer with through-the-door ice service.	(8.21AV + 370.7)*K5ABI	(0.290av + 370.7)*K5ABI.
7–BI. Built-In Refrigerator-freezers—automatic defrost with side-mounted freezer.	(8.82AV + 384.1)*K7BI	(0.311av + 384.1)*K7BI.
8. Upright freezers with manual defrost	5.57AV + 193.7	0.197av + 193.7.
9–BI. Built-In Upright freezers with automatic defrost	(9.37AV + 247.9)*K9BI + 28I	(0.331av + 247.9)*K9BI + 28I.
9A–BI. Built-In Upright freezers with automatic defrost with through-the-door ice service.	9.86AV + 288.9	0.348av + 288.9.
10. Chest freezers and all other freezers except compact freezers	7.29AV + 107.8	0.257av + 107.8.
10A. Chest freezers with automatic defrost	10.24AV + 148.1	0.362av + 148.1.
11. Compact refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	7.68AV + 214.5	0.271av + 214.5.
11A. Compact all-refrigerators—manual defrost	6.66AV + 186.2	0.235av + 186.2.
12. Compact refrigerator-freezers—partial automatic defrost	(5.32AV + 302.2)*K12	(0.188av + 302.2)*K12.
13. Compact refrigerator-freezers—automatic defrost with top-mounted freezer	10.62AV + 305.3 + 28I	0.375av + 305.3 + 28I.
13A. Compact all-refrigerators—automatic defrost	(8.25AV + 233.4)*K13A	(0.291av + 233.4)*K13A.
14. Compact refrigerator-freezers—automatic defrost with side-mounted freezer.	6.14AV + 411.2 + 28I	0.217av + 411.2 + 28I.
15. Compact refrigerator-freezers—automatic defrost with bottom-mounted freezer.	10.62AV + 305.3 + 28I	0.375av + 305.3 + 28I.
16. Compact upright freezers with manual defrost	7.35AV + 191.8	0.260av + 191.8.
17. Compact upright freezers with automatic defrost	9.15AV + 316.7	0.323av + 316.7.
18. Compact chest freezers	7.86AV + 107.8	0.278av + 107.8.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B to subpart B of 10 CFR part 430.
av = Total adjusted volume, expressed in Liters.
I = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker.
Door Coefficients (*e.g.,* K3ABI) are as defined in the following table.

TABLE 3 TO PARAGRAPH (a)(2)

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K3ABI	1.10	1.0	1.0.
K4BI	1.10	1.06	1 + 0.02 * (N_d − 2).
K5BI	1.10	1.06	1 + 0.02 * (N_d − 2).
K5A	1.10	1.06	1 + 0.02 * (N_d − 3).
K5ABI	1.10	1.06	1 + 0.02 * (N_d − 3).
K7BI	1.10	1.06	1 + 0.02 * (N_d − 2).
K9BI	1.0	1.0	1 + 0.02 * (N_d − 1).
K12	1.0	1.0	1 + 0.02 * (N_d − 1).
K13A	1.10	1.0	1.0

Notes:
[1] N_d is the number of external doors.
[2] The maximum N_d values are 2 for K12, 3 for K9BI, and 5 for all other K values.

(3) The following standards apply to products manufactured on or after January 31, 2030.

TABLE 4 TO PARAGRAPH (a)(3)

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
1. Refrigerator-freezers and refrigerators other than all-refrigerators with manual defrost.	6.79AV + 191.3	0.240av + 191.3.
1A. All-refrigerators—manual defrost	5.77AV + 164.6	0.204av + 164.6.

TABLE 4 TO PARAGRAPH (a)(3)—Continued

Product class	Equations for maximum energy use (kWh/yr)	
	Based on AV (ft^3)	Based on av (L)
2. Refrigerator-freezers—partial automatic defrost	(6.79AV + 191.3)*K2	(0.240av + 191.3)*K2.
3. Refrigerator-freezers—automatic defrost with top-mounted freezer	6.86AV + 198.6 + 28I	0.242av + 198.6 + 28I.
3A. All-refrigerators—automatic defrost	(6.01AV + 171.4)*K3A	(0.212av + 171.4)*K3A.
4. Refrigerator-freezers—automatic defrost with side-mounted freezer	(7.28AV + 254.9)*K4 + 28I	(0.257av + 254.9)*K4 + 28I.
5. Refrigerator-freezers—automatic defrost with bottom-mounted freezer	(7.61AV + 272.6)*K5 + 28I	(0.269av + 272.6)*K5 + 28I.
6. Refrigerator-freezers—automatic defrost with top-mounted freezer with through-the-door ice service.	7.14AV + 280.0	0.252av + 280.0.
7. Refrigerator-freezers—automatic defrost with side-mounted freezer with through-the-door ice service.	(7.31AV + 322.5)*K7	(0.258av + 322.5)*K7.
9. Upright freezers with automatic defrost	(7.33AV + 194.1)*K9 + 28I	(0.259av + 194.1)*K9 + 28I.

AV = Total adjusted volume, expressed in ft^3, as determined in appendices A and B to subpart B of this part.
av = Total adjusted volume, expressed in Liters.
I = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker.
Door Coefficients (*e.g.,* K3A) are as defined in the following table.

TABLE 5 TO PARAGRAPH (a)(3)

Door coefficient	Products with a transparent door	Products without a transparent door with a door-in-door	Products without a transparent door or door-in-door with added external doors
K2	1.0	1.0	$1 + 0.02 * (N_d - 1)$.
K3A	1.10	1.0	1.0.
K4	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K5	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K7	1.10	1.06	$1 + 0.02 * (N_d - 2)$.
K9	1.0	1.0	$1 + 0.02 * (N_d - 1)$.

Notes:
[1] N_d is the number of external doors.
[2] The maximum N_d values are 2 for K2, and 5 for all other K values.

* * * * *

[FR Doc. 2023–28978 Filed 1–16–24; 8:45 am]

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Part III

Department of Labor

Employment and Training Administration

29 CFR Parts 29 and 30
National Apprenticeship System Enhancements; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

29 CFR Parts 29 and 30

[Docket No. ETA–2023–0004]

RIN 1205–AC13

National Apprenticeship System Enhancements

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor (DOL or the Department) is proposing issuing this notice of proposed rulemaking (NPRM or proposed rule) to revise the regulations for registered apprenticeship by enhancing worker protections and equity, improving the quality of registered apprenticeship programs, revising the State governance provisions, and more clearly establishing critical pipelines to registered apprenticeship programs, such as registered career and technical education (CTE) apprenticeships. The proposed rule would improve the capacity of the National Apprenticeship System to respond to evolving employer needs, provide workers equitable pathways to good jobs, and increase the system's long-term resilience.

DATES: Interested persons are invited to submit written comments on the proposed rule on or before March 18, 2024.

ADDRESSES: You may send comments, identified by Docket No. ETA–2023–0004 and Regulatory Identification Number (RIN) 1205–AC13, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Search for the above-referenced RIN, open the proposed rule, and follow the on-screen instructions for submitting comments.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking or ''RIN 1205–AC13.''

Please be advised that the Department will post all comments received that relate to this NPRM without changes to *https://www.regulations.gov,* including any personal information provided. The *https://www.regulations.gov* website is the Federal eRulemaking Portal and all comments posted there are available and accessible to the public. Therefore, the Department recommends that commenters remove personal information (either about themselves or others) such as Social Security numbers, personal addresses, telephone numbers, and email addresses included in their comments, as such information may become easily available to the public via the *https://www.regulations.gov* website. It is the responsibility of the commenter to safeguard personal information.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* (search using RIN 1205–AC13 or Docket No. ETA–2023–0004). The Department also will make all the comments it receives available for public inspection by appointment during normal business hours at the Office of Policy Development and Research, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, Room N–5641, Washington, DC 20210. If you need assistance to review the comments, the Department will provide appropriate aids such as readers or print magnifiers. The Department will make copies of this NPRM available, upon request, in large print and electronic file. To schedule an appointment to review the comments or obtain the NPRM in an alternative format or both, contact the Office of Policy Development and Research at 202–693–3700 (this is not a toll-free number). You may also contact this office at the address listed above.

Comments under the Paperwork Reduction Act (PRA): In addition to filing comments on any aspect of this proposed rule with the Department, interested parties may submit comments that concern the information collection (IC) aspects of this NPRM to: Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-ETA, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), Email: *OIRA_submission@omb.eop.gov.*

Docket: Go to the Federal eRulemaking Portal at: *https://www.regulations.gov/document/ETA-2023-0004-0001* for access to the rulemaking docket, including any background documents and the plain-language summary of the proposed rule of not more than 100 words in length required by the Providing Accountability Through Transparency Act of 2023.

FOR FURTHER INFORMATION CONTACT: Michelle Paczynski, Administrator, Office of Policy Development and Research, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, Room N–5641, Washington, DC 20210, Telephone: 202–693–3700 (voice) (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.

SUPPLEMENTARY INFORMATION:

Preamble Table of Contents

I. Acronyms and Abbreviations

AAI American Apprenticeship Initiative
ACA Advisory Committee on Apprenticeship
ARB Administrative Review Board
BLS U.S. Bureau of Labor Statistics
CHIPS Act Creating Helpful Incentives to Produce Semiconductors Act of 2022
COVID–19 coronavirus disease of 2019
CTE career and technical education
DEIA diversity, equity, inclusion, and accessibility
DOL *or* the Department U.S. Department of Labor
E.O. Executive Order
ED Department of Education
EDP Energy Document Portal
EEO equal employment opportunity
ERISA Employee Retirement Income Security Act
ETA Employment and Training Administration
ETP Eligible Training Providers
FTC Federal Trade Commission

FY fiscal year
HR human resources
IC information collection
ICR information collection request
ILO International Labour Organization
IRA Inflation Reduction Act of 2022
IRFA initial regulatory flexibility analysis
IT information technology
LEA local educational agency
NAA National Apprenticeship Act of 1937
NASTAD National Association of State and Territorial Apprenticeship Directors
NCES National Center for Education Statistics
NPRM *or* proposed rule notice of proposed rulemaking
O*NET Occupational Information Network
OA Office of Apprenticeship
OALJ Office of Administrative Law Judges
OIRA Office of Information and Regulatory Affairs
OMB Office of Management and Budget
Perkins Carl D. Perkins Career and Technical Education Act of 2006, as amended by the Strengthening Career and Technical Education for the 21st Century Act
PRA Paperwork Reduction Act of 1995
RAPIDS Registered Apprenticeship Partners Information Data System
RFA Regulatory Flexibility Act
RIA regulatory impact analysis
ROI return on investment
SAA State Apprenticeship Agency
TEGL Training and Employment Guidance Letter
TEN Training and Employment Notice
UMRA Unfunded Mandates Reform Act
VALOR Veterans Apprenticeship and Labor Opportunity Reform Act
WANTO Women in Apprenticeship and Nontraditional Occupations
WIOA Workforce Innovation and Opportunity Act

II. Executive Summary

The Department's current regulations at 29 CFR part 29 addressing labor standards of apprenticeship and the governance of the National Apprenticeship System were last updated in a final rule published on October 29, 2008 (73 FR 64402). In this proposed rule, the Department seeks to strengthen, expand, modernize, and diversify the National Apprenticeship System by enhancing worker protections and equity, improving the quality of registered apprenticeship programs, and revising the State Apprenticeship Agency (SAA) governance provisions so that the National Apprenticeship System is more navigable and responsive to current worker and employer needs.

The proposed rule would enhance the ability of the Employment and Training Administration's (ETA) Office of Apprenticeship (OA) to implement and administer the National Apprenticeship Act of 1937 (NAA), Act of Aug. 16, 1937, 75th Cong., ch. 663, 50 Stat. 664 (codified as amended at 29 U.S.C. 50), including approving apprenticeship programs and standards as a Registration Agency and recognizing SAAs, to protect the safety and welfare of apprentices, and to meet the 21st century skill needs of industry. Central to the expanded role is the ability to promote the value of apprenticeship, advance the benefits of apprenticeship as a diversity, equity, inclusion, and accessibility (DEIA) strategy for program sponsors, maintain National Apprenticeship System data for Registration Agencies, facilitate registered apprenticeship across the United States, and develop partnerships with stakeholders throughout the National Apprenticeship System.

Essential to strengthening, modernizing, expanding, and diversifying the National Apprenticeship System is the advancement of worker protections and equity. The Department's proposal would create more safeguards for apprentices to ensure that they have healthy and safe working and learning environments as well as just and equitable opportunities throughout their participation in a registered apprenticeship program. This emphasis on worker protections and equity for apprentices is founded on the recognition that some populations, such as women and people of color, have historically faced systemic barriers to successfully access, participate in, and complete a registered apprenticeship program. This proposed rule seeks to mitigate barriers and facilitate equal access and greater success for underserved communities, as defined in proposed § 29.2. Additionally, the proposed rule seeks to enhance opportunities for younger workers to safely and equitably participate in registered apprenticeship programs.

Through this proposed rule, the Department is proposing to modernize and standardize the criteria and process for developing quality labor standards for apprenticeship. To maintain the integrity of registered apprenticeship as an industry-driven workforce development model, the Department recognizes that all apprenticeship programs must maintain labor standards that are objective, accountable, flexible and efficient. The Department seeks to fulfill this modernization effort by creating a framework for developing minimum labor standards of apprenticeship that combines the key attributes of the competency- and time-based approaches to on-the-job training into a unitary, coherent training model across all programs. The Department anticipates that modernizing and standardizing the labor standards for all registered apprenticeship programs would support the expansion of registered apprenticeships into new industries and occupations that do not have an established history with registered apprenticeship: programs in these industries new to apprenticeship would benefit from increased avenues to contribute to the development of industry- and occupation-specific training regimens, and from the increased clarity established by the universal baseline standards the Department seeks to apply across all registered programs. In addition, the Department is institutionalizing National Program Standards for Apprenticeship and National Guidelines for Apprenticeship Standards and aligning them with National Occupational Standards for Apprenticeship, a product that would further standardize industry-validated occupational standards for apprenticeship.

The Department's proposal would also create a more objective, proactive, and transparent process for the determination of occupations suitable for registered apprenticeship that balances the flexibility needed to accommodate programs in new and emerging industries while establishing safeguards against adverse impacts to existing, established registered apprenticeship programs. The Department's proposed updates to the suitability process are designed to include flexibilities that would support expansion of the registered apprenticeship model to emergent occupations in non-traditional apprenticeship industries while providing protections against the splintering of existing programs covering occupations previously established as suitable for apprenticeship training (which could have a negative impact on workers' wages and job quality). The Department seeks to reinforce that new occupations suitable for registered apprenticeship meet industry-recognized criteria that support apprentices' ability to access a lifelong career pathway and attain economic mobility. Ensuring that registered apprenticeship programs lead to quality careers and enhance apprentices' economic mobility is one of the Department's guiding principles in overseeing the National Apprenticeship System, grounded in its statutory responsibility to protect the welfare of apprentices and the Administration's priority to promote economic opportunity for underrepresented or underserved populations. To help ensure that apprentices obtain the

requisite skills and competencies for proficiency in an occupation suitable for registered apprenticeship, the Department has also proposed a new requirement in their approved quality labor standards for the assessment of apprentice progress by means of an end-point assessment.

The Department is also proposing to revise the framework for collecting program sponsor and apprentice data to ensure greater accountability, transparency, and equity, and would utilize the information collected to oversee program reviews, improve apprentice demographic data, and establish new program- and system-level metrics and indicators.

The Department has consulted, where appropriate, with the U.S. Department of Education (ED) in the development of the proposed registered CTE apprenticeship model, which seeks to align with secondary and postsecondary State-approved CTE programs, namely those funded by the Carl D. Perkins Career and Technical Education Act of 2006,[1] as amended by the Strengthening Career and Technical Education for the 21st Century Act [2] (as codified at 20 U.S.C. 2301 *et seq.*) (Perkins). This new model would establish specific standards of apprenticeship for students enrolled in high school or in community and technical colleges who seek to continue their education while participating in the labor market, and would provide students opportunities to attain a recognized postsecondary credential, complete college coursework and a registered apprenticeship program, and participate in paid on-the-job learning. This model is intended to result in participating students' enrollment in a postsecondary educational program, an apprenticeship program registered under subpart A, placement into employment, or a combination thereof. The registered CTE apprenticeship regulations as proposed would not govern or otherwise impact the operation of ED's Perkins CTE program, but rather the program would offer State-approved CTE programs as an additional discretionary program, which could provide students the benefits of participation in both CTE and an aligned registered CTE apprenticeship program.

Finally, the Department is proposing to revise State governance requirements for States seeking to be recognized by OA as an SAA State, and for renewing such status. The Department proposes revising the governance process to promote greater uniformity and accountability, including the establishment of a State planning requirement involving the development of a strategic vision and goals to expand and diversify registered apprenticeship, as well as robust data collection and reporting to track the achievement of systemwide goals. Through this proposed revision, the Department also sees an opportunity for States to lead on innovation and partner with intermediaries to create an interconnected ecosystem that can support existing and new industries and career seekers in the National Apprenticeship System.

The Department also proposes to make technical and conforming adjustments to the current text of 29 CFR part 30 (governing equal employment opportunity (EEO) in apprenticeships) as appropriate.

III. Background

A. Introduction to Registered Apprenticeship

For nearly a century, registered apprenticeship has been an effective and successful workforce development model that has helped employers recruit, train, and retain highly proficient, diverse workers in the skilled occupations employers need, and that has provided job seekers with access to high-quality training and stable, well-paying careers. Registered apprenticeship is a structured, industry-driven, flexible workforce training model, and employers and industry stakeholders have updated and customized the model over decades to meet evolving workforce needs and address occupational skill needs that arise as incoming workers seek to establish or enhance successful careers. From the perspective of the apprentice, registered apprenticeship represents an affordable pathway to a high-quality, high-paying career. Apprentices obtain paid work experience and training so that they can sustain themselves and their families while training and preparing for success in their career of interest. Apprentices entering into a registered apprenticeship program share several common indicia: they enter into a paid job from the outset; they receive progressive wage increases reflecting their progress through a training regimen developed by industry stakeholders; they participate in related instruction informing them of the theoretical or academic concepts that underpin the work processes and competencies critical to success in their chosen career; and they ultimately develop a set of portable, in-demand job skills culminating with the awarding of a nationally recognized certificate of completion of a registered apprenticeship that benefit them throughout their careers.

As an earn-and-learn workforce development strategy, registered apprenticeship combines on-the-job training with related (classroom) instruction, blending the practical and theoretical aspects of training for highly skilled occupations. On-the-job training and related instruction are critical, definitional elements of registered apprenticeship that provide practical benefits to both employers and apprentices. Apprentices training in an occupation apply occupational techniques and theoretical concepts throughout their training and, later, throughout their careers, which helps them develop into the productive, skilled, and safety-conscious workers whom employers need. Registered apprenticeship is an effective tool for both providing the training necessary for a worker's success in an occupation, and for measuring an apprentice's developing proficiency in the occupation. Because registered apprenticeship is primarily driven by industry needs, and employers are able to specifically tailor their workforce training regimen to such needs, registered apprenticeship provides assurances to employers that their incoming workforce is prepared and set up for success.

Registered apprenticeship programs are sponsored voluntarily by a wide range of organizations, including individual small to large employers, employer associations, joint labor-management organizations, workforce intermediaries, and educational institutions. These and other stakeholders comprise the National Apprenticeship System, a voluntary system of registered apprenticeship programs and their sponsors, SAAs, and the industry stakeholders that drive the formulation of apprenticeship training regimens that best fit their industry.[3] The National Apprenticeship System is further supported by the experts in workforce development policy that provide advice and counsel to the Department on matters relating to registered apprenticeship. These experts include the Advisory Committee on Apprenticeship (ACA); other workforce development programs that connect job seekers and employers (such as those programs funded through the Workforce Investment Act of 1998,[4] as amended by the Workforce Innovation and

[1] Public Law 109–270, 120 Stat. 683 (2006).

[2] Public Law 115–224, 132 Stat. 1563 (2018).

[3] In registered apprenticeships, such training plans are referred to as ''work process schedules.''

[4] Public Law 105–220, 112 Stat. 936 (1998).

Opportunity Act [5] (as codified at 29 U.S.C. ch. 32) (WIOA)); and educational institutions that prepare students for quality careers.

Apprenticeship is an international workforce development strategy that provides high-quality training for desirable careers in many countries.[6] The Department engages in ongoing consultations and discussions with other national governments, international labor organizations, and other international stakeholders to further inform oversight of the system of registered apprenticeship in the United States. For example, the Department follows and contributes to the deliberations of the International Labour Organization (ILO) and the International Labour Conference that informs the ILO's recommendations and statements on best practices in labor policy (including the elements of quality apprenticeships). In addition, through joint declarations of intent and memoranda of understanding with foreign nations with sophisticated apprenticeship systems (such as with Austria, Germany, and Switzerland), the Department continues to engage with international partners to learn about the elements of successful apprenticeships across the globe, and to explore strategies for applying such lessons so as to improve the overall quality of training provided within the National Apprenticeship System.

Apprentices who complete a registered apprenticeship program receive an industry-recognized credential and a long-lasting economic benefit. Registered apprenticeship provides high-quality on-the-job training and related instruction, while conferring a nationally recognized credential upon successful completion of the program.[7] The success of this workforce development model with respect to apprentice outcomes is clearly validated by the data; for example, 90 percent of apprentices who complete a registered apprenticeship program retain employment with the employer connected to the program, and apprentices who complete such programs earn an average annual salary of $77,000.[8] One study of registered apprenticeship programs in ten States found that the estimated lifetime career earnings of registered apprenticeship participants in those States average $98,718 more than similar individuals who did not participate in a registered apprenticeship program. In the study, apprentices who completed the program in those States on average have lifetime earnings $240,037 greater than similar individuals who did not participate in a registered apprenticeship program.[9] Everyone benefits from enhanced systems to develop skilled workers in high-paying occupations, including job seekers and their families, employers, and communities. Education, industry, and government can work together to support quality training programs, supporting a national economy that provides opportunities for workers and businesses alike.

B. Statutory and Regulatory History of Registered Apprenticeship

The NAA (29 U.S.C. 50) authorizes the Secretary of the Department of Labor (the Secretary) to ''formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging the inclusion thereof in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship, [and] to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship.'' Under this authority, the Department has established the registered apprenticeship program. The Department has set forth labor standards designed to facilitate these statutory directives through its implementing regulations at 29 CFR part 29. Those regulations prescribe minimum quality and content requirements with respect to a program's standards of apprenticeship and its apprenticeship agreements; establish procedures concerning the registration, cancellation, and deregistration of apprenticeship programs; and set forth a mechanism for the recognition of SAAs as Registration Agencies authorized to register and oversee registered apprenticeship programs in a State. A companion regulation, at 29 CFR part 30, also implements the NAA by setting forth minimum EEO requirements that registered apprenticeship programs must follow in order to obtain and maintain registration status. The first version of the labor standards of apprenticeship regulation at 29 CFR part 29 was issued by the Department in 1977 and was subsequently revised in 2008. The part 30 regulations were last updated in a final rule published in the **Federal Register** in December 2016.[10]

Within the Department, the responsibility for administering the requirements of the NAA and its implementing regulations rests with OA. OA oversees the National Apprenticeship System and currently serves as the Registration Agency for registered apprenticeship programs operating in 22 States and Puerto Rico.[11] OA also provides recognition, oversight, and technical assistance on the requirements of 29 CFR parts 29 and 30 to SAAs in the other States, and in the District of Columbia, the Virgin Islands, and Guam. In these ''SAA States,'' the SAA has requested and received recognition from the Department to serve as the entity authorized to register and oversee State and local apprenticeship programs for Federal purposes. In SAA States, SAAs must work closely with OA to implement registered apprenticeship programs consistent with the Federal regulations to maintain their recognition status.

In the 15 years since the current version of 29 CFR part 29 was published, the scope and visibility of registered apprenticeship in the United States has expanded significantly. Since 2008, when the registered apprenticeship regulations were last updated, significant developments in technology, including its capabilities and centrality to business' priorities and Americans' daily lives, have altered the landscape for the primary stakeholders in the apprenticeship system. Historically, registered apprenticeship has been a successful model for the construction industry and for the skilled trades. For example, Federal benefits are tied to the use of apprentices in registered apprenticeship programs on construction projects under the Davis-Bacon and related Acts. The Davis Bacon and Related Acts regulations allow employers on certain construction

[5] Public Law 113–128, 128 Stat. 1425 (2014).

[6] For example, the ILO serves as an international repository of workforce development expertise from around the globe. *See* ILO, ''Apprenticeships,'' *https://www.ilo.org/global/topics/apprenticeships/lang-en/index.htm* (last visited July 20, 2023).

[7] The Certificate of Completion, conferred to apprentices who complete a registered apprenticeship program, represents the universal, nationally recognized credential available in all registered apprenticeship programs. In addition, many registered apprenticeship programs provide interim credentials upon the successful completion of interim trainings related to the development of occupation- or industry-critical job skills, or an occupational credential recognized throughout an industry (*i.e.,* a portable credential).

[8] OA, ''Explore Registered Apprenticeship,'' Aug. 2022, *https://www.apprenticeship.gov/sites/default/files/dol-industry-factsheet-apprenticeship101-v10.pdf.*

[9] Mathematica Policy Research, ''An Effectiveness Assessment and Cost-Benefit Analysis of Registered Apprenticeship in 10 States: Final Report,'' July 25, 2012, *https://wdr.doleta.gov/research/FullText_Documents/ETAOP_2012_10.pdf.*

[10] 81 FR 92026 (Jan 18, 2017) (2016 EEO final rule).

[11] For a list of States and Territories where OA serves as the Registration Agency, see OA, ''About Us,'' *https://www.apprenticeship.gov/about-us/apprenticeship-system* (last visited July 20, 2023).

projects to pay apprentices participating in a registered apprenticeship program at less than the prevailing wage.[12] More recently, because the registered apprenticeship model has shown tangible benefits for both workers and employers in industries beyond the traditional trades, both Federal and State laws are increasingly promoting the utilization of registered apprenticeship for the training and employment of workers.[13] For example, at the Federal level, WIOA promoted the benefits of registered apprenticeship to increase economic opportunities for workers. Registered apprenticeship programs are automatically eligible to be listed as Eligible Training Providers (ETPs) within the Federally funded workforce development system under WIOA,[14] an important signal to job seekers, workforce policy stakeholders, and employers that registered apprenticeship programs offer quality occupational skills training intended to equip workers with the skills local employers are looking for. Additionally, since 2016, the Department has been appropriated specific resources for the purposes of expanding registered apprenticeship programs. Most recently, the Inflation Reduction Act of 2022 (IRA) signed into law by President Biden provided for the first Federal tax credit directly tied to the utilization of apprentices in registered apprenticeship programs on certain clean energy projects. In addition, several agencies funded under the Bipartisan Infrastructure Law and CHIPS and Science Acts, respectively, have prioritized applications that partner with registered apprenticeship programs in certain funding opportunities.[15]

C. Need for the Proposed Rulemaking

Registered apprenticeship is growing and diversifying. It has maintained its status as the ''gold standard'' for workforce development in the construction and skilled trades sectors where registered apprenticeship has been prevalent and successful for decades. In addition, it is increasingly seen as a viable option for employers to develop the incoming workforce, and for job seekers to identify and pursue quality career paths in a wide range of new and emerging industries. In 2009, the year after the last update to the part 29 regulations was finalized, there were 420,140 active apprentices in the United States, participating in 26,622 active programs (of which, 1,456 were new programs started within the previous year).[16] In 2022, there were 599,246 active apprentices participating in 24,400 active programs (of which, 2,343 were new).[17] Registered apprenticeship has proven resilient as well—though the coronavirus disease of 2019 (COVID–19) pandemic caused a 12-percent decrease in new apprentices between fiscal years (FY) 2019 and 2020, the program bounced back with a 9-percent increase in new apprentices in FY21.[18] Still, despite its growth and resiliency, registered apprenticeship is underutilized as a workforce development solution in the United States, where apprentices have constituted a significantly smaller share of the overall workforce than in other countries (such as Australia, Canada, Germany, and the United Kingdom).[19]

Working with stakeholders like the ACA,[20] the Department continues to identify strategies and opportunities to expand registered apprenticeship into new sectors. The Department views registered apprenticeship as an important piece of America's workforce development system and Americans' economic well-being, and is committed to meeting the moment by updating and modernizing the regulations in part 29. Ultimately, the Department's goal in pursuing this rulemaking is to facilitate the evolution of a National Apprenticeship System that maintains the hallmarks of apprenticeship quality developed over the past century, keeps pace with the evolving needs of a growing set of industries, and incorporates flexibilities and system modernizations to facilitate the expansion and growth of registered apprenticeship.

In this proposal to revise the part 29 regulations, the Department seeks to advance several interrelated goals that shape the Department's vision for an improved National Apprenticeship System. Foremost among these goals is the preservation of quality throughout all registered apprenticeship programs, both existing programs and new programs that will enter the system in the coming years. Throughout the proposal, the Department seeks to improve the quality of apprenticeship training and the quality of working conditions for apprentices, and to further promote DEIA principles and goals throughout the National Apprenticeship System. In line with the Department's statutory responsibility to safeguard the welfare of apprentices, the Department is proposing quality improvements throughout the system to improve the protection, safety, and welfare of apprentices, such as proposed prohibitions on non-compete and non-disclosure provisions in apprenticeship agreements between sponsors and apprentices and enhanced protections against unreasonable participation costs for apprentices.

Relatedly, the Department has determined that establishing improved accountability measures throughout the system is a necessary component of maintaining the high level of quality that makes registered apprenticeship such a useful tool for job seekers and employers in the United States. Accordingly, the Department proposes several accountability enhancements throughout this proposal, including a clearer assignment of responsibilities for employers that participate in a registered apprenticeship program (but do not serve as a program sponsor). In line with its goals to maintain quality and improve accountability throughout the National Apprenticeship System, the Department is also proposing

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[12] Wage and Hour Division, ''Fact Sheet #66: The Davis-Bacon and Related Acts (DBRA),'' Mar. 2022, *https://www.dol.gov/agencies/whd/fact-sheets/66-dbra.*

[13] For a list of States that offer tax credits and tuition support for apprentices, see OA, ''State Tax Credits and Tuition Support,'' *https://www.apprenticeship.gov/investments-tax-credits-and-tuition-support/state-tax-credits-and-tuition-support* (last visited July 20, 2023).

[14] Abt. Associates and Urban Institute, ''Challenges and Opportunities for Expanding Registered Apprenticeship with Workforce Innovation and Opportunity Act (WIOA) Title I: Findings from the American Apprenticeship Initiative Evaluation,'' Aug. 2022, *https://wdr.doleta.gov/research/FullText_Documents/ETAOP2022-39_AAI_Brief-WIOA_Final_508_9-2022.pdf.*

[15] DOL, ''The Good Jobs Initiative Impact,'' *https://www.dol.gov/general/good-jobs/gji-impact* (last visited Oct. 2, 2023).

[16] Apprenticeship data by fiscal year is accessible at OA, ''About Apprenticeship,'' *https://www.dol.gov/agencies/eta/apprenticeship/about* (last visited July 20, 2023).

[17] *Ibid.*

[18] *Ibid.*

[19] *See* ''Apprenticeships and their potential in the U.S.,'' Keith Rolland, Federal Reserve Bank of Philadelphia, Winter 2015, *https://www.philadelphiafed.org/community-development/workforce-and-economic-development/apprenticeships-and-their-potential-in-the-us* (citing at footnote 14 a presentation by Professor Robert I. Lerman of the Urban Institute, which noted that apprentices constituted only 0.2% of the U.S. labor force, compared with 2.2% in Canada, 2.7% in Great Britain, and 3.7% in Australia and Germany). *See also* Lerman, ''Proposal 7: Expand Apprenticeship Opportunities in the United States,'' The Hamilton Project of the Brookings Institution, 2015, at p. 3, *https://www.hamiltonproject.org/assets/legacy/files/downloads_and_links/expand_apprenticeship_opportunities_united_states_lerman.pdf.*

[20] Expansion into new and emerging industries was a significant focus of the most recent term of the ACA. The ACA organized a subcommittee entirely focused on such expansion efforts, and workforce development experts from the employer, labor, and public sectors came together to deliberate and deliver recommendations on this topic in the ACA's 2023 Biennial Report. ACA, ''Biennial Report to the Secretary of Labor,'' May 10, 2023, *https://www.apprenticeship.gov/sites/default/files/Final%20ACA%20Biennial%20Report%20-%20May%2010%202023.pdf.*

reforms to the governance structure and the relationship between OA and SAAs, including clarifying the respective roles and duties of SAAs and State Apprenticeship Councils.

In addition to the foregoing proposed enhancements to the registered apprenticeship model, the Department has determined that the core concepts of earn and learn, quality labor standards, and skill development can be expanded to benefit many additional groups, including in-school youth and individuals from underserved communities who have often faced barriers to the job market. The Department proposes to establish regulations for an additional model of apprenticeship that aligns State-approved CTE programs, in particular those funded under the Perkins program, with foundational elements of apprenticeship. This model, which the proposed rule defines as registered CTE apprenticeship, would deliver the industry-specific portions of the paid on-the-job training and related instruction components of registered apprenticeship through a State-approved CTE program. The Department envisions that registered CTE apprenticeship programs would be most accessible and propitious for secondary and postsecondary students, and would generally target individuals at the earliest stages of their career development or who are transitioning into a different career.

Accordingly, the Department's proposed baseline requirements for registered CTE apprenticeship programs would account for this target population and the increased alignment with educational institutions (as compared to registered apprenticeship). The Department's vision for the possible outcomes of registered CTE apprenticeship programs also aligns with the unique considerations of those in the earliest stages of career development—registered CTE apprenticeship programs would place apprentices in employment, a postsecondary educational program, or a registered apprenticeship program under subpart A, potentially with advanced standing or credit to accelerate their progress through the program. This new model would bridge the existing education and workforce development systems to build a skilled talent pipeline.

Lastly, in the Department's view, the National Apprenticeship System and its diverse stakeholders would be better served by a more uniform and nationally applicable approach to system governance. Employers whose operations extend nationwide, or throughout a multistate region, face challenges when engaging with Registration Agencies across the National Apprenticeship System wherein the approach, parameters, and outcomes of such engagement may differ from State to State. Throughout this proposal, the Department seeks to establish a more uniform, national system, including by retaining the ultimate authority and responsibility to make determinations regarding an occupation's suitability for registered apprenticeship training and through the introduction of a State planning process for SAAs to establish transparency and alignment throughout the system. The Department also views the improved collection and analysis of apprenticeship data as a critically important goal of its proposal to update the part 29 regulations. To maximize the benefits of improved data collection for all stakeholders in the National Apprenticeship System, including apprentices, program sponsors, and employers, the Department seeks to establish a truly national and comprehensive database of information about registered apprenticeship programs and apprentices in order to accurately assess the performance and equity of these important workforce development programs.

D. Stakeholder Outreach

The Department has been continuously engaged with apprenticeship stakeholders to pursue improvements and growth throughout the system, and such engagement has been particularly useful in the development of this proposal. The Department has sought advice, recommendations, and guidance from a number of external sources, research, and stakeholder inputs, including:

- The 2022 interim recommendations [21] of the ACA and its 2023 Biennial Report,[22] which incorporates the ACA's 2022 Interim Report recommendations and includes additional guideposts for OA to consider related to registered apprenticeship;
- Virtual Listening Sessions in 2021 coordinated by OA in partnership with various partners and stakeholders to hear perspectives on the current state of the National Apprenticeship System and to gather ideas and suggestions on ways to modernize registered apprenticeship programs; [23]
- National Online Dialogue in 2022, led by OA and launched by ePolicyWorks (entitled ''Advancing the National Apprenticeship System''), which asked participants, including various partners and stakeholders, to describe what they believed to be the optimal implementation of the registered apprenticeship model; [24]
- Virtual Listening Sessions in 2023, coordinated by OA, wherein partners and stakeholders were given the opportunity to share perspectives on the current state of the National Apprenticeship System and to share policy recommendations for ways to strengthen and modernize the system. Questions for these sessions were developed, in part, by reviewing the ACA's 2022 Interim Report;
- The 2023 Quality Apprenticeships Recommendation (ILO Recommendation No. 208), adopted by the 111th International Labour Conference on June 16, 2023, which describes the fundamental attributes of quality apprenticeships;[25] and
- Regular stakeholder engagements related to the expansion of the registered apprenticeship model, including with industry groups, labor unions, worker advocates, State and local workforce partners, education systems, and intermediaries.

Ongoing oversight of the National Apprenticeship System conducted by OA's staff at the national and regional level, including technical assistance and support provided to registered apprenticeship program sponsors, potential sponsors interested in apprenticeship, and other stakeholders, as well as formal reviews of individual programs, internal processes, and apprenticeship's place in national workforce development, has also been an important source of data that underpins this proposal. Analyzing lessons learned from OA's outreach and support provided to potential program sponsors has helped OA better

[21] ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

[22] ACA, ''Biennial Report to the Secretary of Labor,'' May 10, 2023, *https://www.apprenticeship.gov/sites/default/files/Final%20ACA%20Biennial%20Report%20-%20May%2010%202023.pdf.*

[23] OA, ''2021 Apprenticeship Listening Sessions,'' Dec. 2021, *https://www.apprenticeship.gov/sites/default/files/APPROVED%20Listening%20Session%20Report%20%2812-6-22%29%20%28002%29.pdf.*

[24] Entries in the Advancing the National Apprenticeship System dialogue are available at Ideascale Feedback Software, ''Advancing the National Apprenticeship System,'' *https://advancingapprenticeships.ideascale.com/c* (last visited June 26, 2023).

[25] ILO, ''Quality Apprenticeships Recommendation, 2023'' (ILO Recommendation No. 208), June 16, 2023, *https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:4347381.*

understand the misconceptions or barriers that employers perceive as they inquire about or pursue setting up a registered apprenticeship program. The Department considered these data in developing key priorities for the proposed regulation and to advance the Department's goal of expanding registered apprenticeship's footprint in new and emerging industries. Key reforms in this proposal that the Department expects will support this goal include system modernization and the definition and dissemination of new tools and resources to ease the program onboarding process.

OA's role providing oversight of the National Apprenticeship System by conducting reviews of programs, working with Federal, State, and local partners to resolve issues or disputes, and otherwise monitoring stakeholder compliance with the existing regulations, has also been informative and instrumental in developing the enhanced quality elements in this proposed rule. Program and system oversight has influenced OA's identification of the hallmarks of quality registered apprenticeship programs, persistent issues that impact programs, and gaps or weaknesses in the existing regulatory framework. Analyzing these data has informed the development of key quality and accountability aspects of this proposal, including the proposed protections for apprentices against undue costs of participation and restrictions on their labor market mobility and clarifications regarding the appropriate roles and responsibilities of stakeholders within the system (such as clearly articulating the roles and responsibilities of participating employers and clarifications on the appropriate role of State Apprenticeship Councils in system governance).

E. Vision and Goals of This Rulemaking

Overall, outreach and engagement with the National Apprenticeship System's many diverse stakeholders has been a central element of OA's efforts to identify high-level priorities for this proposed update to the part 29 regulations. These priorities reflect OA's consideration, synthesis, and proposed approach to the implementation of the recommendations and priorities arising from engagement with stakeholders holding diverse perspectives based on their backgrounds from different sectors of the economy and roles within the National Apprenticeship System.[26] The resulting NPRM reflects a balance of priorities and perspectives that, in the Department's view, would result in a National Apprenticeship System that is responsive to industry needs, promote and maintain the hallmarks of high-quality apprenticeships, and clearly define and facilitate the roles and responsibilities of stakeholders. The following discusses this NPRM's guiding priorities, including the issues that give rise to each and the Department's proposed approach to addressing those issues.

Expansion With Quality

Stakeholders throughout the National Apprenticeship System, as well as potential stakeholders representing new industries or expressing interest in developing new opportunities for the system's growth, have consistently advised the Department that systemwide modernization is essential for advancing the Department's goal of expanding registered apprenticeship. The current regulations were finalized during an era in which the economy as a whole and the landscape for registered apprenticeship in particular were very different. The Department intends to modernize the regulations to reflect the contemporary era and the expanded potential for registered apprenticeship. The proposed rule would position registered apprenticeship as a mainstream, high-quality postsecondary training strategy that offers a career path across industries and sectors.

First, the scope of business sectors, industries, and occupations that have benefitted and would benefit from registered apprenticeship has expanded, including both the emergence of entirely new industries and occupations (within the IT and education sectors, for example), as well as evolutions within existing industries and occupations. Economic and technological evolution have also greatly impacted the outlook for existing and potential apprentices, including how they are made aware of registered apprenticeship and other workforce training programs, how they access such programs, their options for participation and interaction with such programs, and the scope of careers and job skills they can pursue.

Second, the advent of increased funding opportunities to support the development of registered apprenticeship programs has further expanded registered apprenticeship's potential scope. As Federal and State resources are made available to support the expansion of registered apprenticeship, this is a critical opportunity to strengthen and reinforce the labor standards to affirm the core guarantees of registered apprenticeship for workers and employers in an evolving labor market. Beginning in 2015, the Department began announcing the availability of funding for registered apprenticeship through several different vehicles. This included approximately $175 million to expand apprenticeship into sectors with few apprenticeships and to populations traditionally underrepresented in apprenticeship through AAI,[27] investments to support registered apprenticeship intermediaries focused on specific industries or equity,[28] and provide funding on an annual basis to support States' efforts to expand capacity, increase the number of registered apprentices, and modernize the National Apprenticeship System.[29] Grant funding appropriated for States between 2016 and 2023 was $419,500,000. Over the years, the further funding announced by the Department included over $10 million to support women's participation in registered apprenticeship programs through the Women in Apprenticeship and Nontraditional Occupations (WANTO) grants since 2019,[30] $20 million to support the execution of a collaborative partnership with the American Association of Community Colleges to support the Expanding Community College Apprenticeship initiative in 2019, and $284 million to support expansion of apprenticeships into non-traditional industries in 2019–2020.[31] Competitive rounds of funding have also been awarded to reach other types of organizations. In 2020, the Department announced $42.5 million for Youth Apprenticeship Readiness Grants. In 2022, the Department announced more than $171 million for the Apprenticeship Building America

[26] For example, the ACA comprises equal numbers of representatives from the public, private, and labor sectors. Later in this NPRM, the Department proposes a parallel requirement for the makeup of State Apprenticeship Councils to ensure that these diverse perspectives (and the natural tension thereof) are considered as State Apprenticeship Councils deliberate and offer non-binding advice to SAAs.

[27] See a list of past funding opportunities and awardees at OA, ''Past Grants and Contracts,'' *https://www.apprenticeship.gov/investments-tax-credits-and-tuition-support/past-grants-and-contracts* (last visited July 20, 2023).

[28] *See* OA, ''National Industry and Equity Apprenticeship Intermediaries: Advancing Registered Apprenticeship for Businesses and Workers in the U.S.,'' Jan. 19, 2021, *https://www.apprenticeship.gov/sites/default/files/Industry-and-Equity-Intermediary-Accomplishment-Fact-Sheet.pdf.*

[29] *See* OA, ''State Apprenticeship Expansion,'' *https://www.apprenticeship.gov/investments-tax-credits-and-tuition-support/state-apprenticeship-expansion#awardee_list* (last visited July 20, 2023).

[30] DOL, WANTO Grant Program, *https://www.dol.gov/agencies/wb/grants/wanto* (last visited Oct. 23, 2023).

[31] *See* ''H–1B Skills Training Grants,'' *https://www.dol.gov/agencies/eta/skills-grants/h1-b-skills-training* (last visited July 20, 2023).

grants.[32] The reauthorization of WIOA in 2014 and the reauthorization of Perkins in 2018 (also known as Perkins V) brought additional opportunities to align Federal education and workforce investments with registered apprenticeship programs. Opportunities include State and local workforce development board membership, State and local planning, funding for pre-apprenticeship programs, and funding availability to support WIOA participants' placement in registered apprenticeship programs.[33] The Department anticipates additional investments that align with The Good Jobs Principles, a shared vision of job quality, equity, and worker empowerment published in 2022 by the Department and Department of Commerce.[34] Additionally, the principles have been reflected or referenced in funding opportunities implementing infrastructure investments through the Bipartisan Infrastructure Law and the IRA.

These historic investments in the National Apprenticeship System, along with the new opportunities uncovered by an evolving economy and national workforce model, have introduced a much broader range of registered apprenticeship stakeholders (including existing, newly established, and potential stakeholders) since the regulations were last updated in 2008. Accordingly, the Department has determined that the part 29 regulations must be modified and modernized in order to accommodate the growing set of stakeholders, provide tools and resources to ease their entry into the system, and maximize the impact of the aforementioned investments. In the proposed regulation, the Department introduces and defines the purpose of new products to support the development of new registered apprenticeship programs. These products—National Occupational Standards for Apprenticeship, National Guidelines for Apprenticeship Standards, and National Program Standards for Apprenticeship—would feature ample opportunities for industry to provide input and feedback. They would also leverage the Department's existing and emerging relationships to ensure efforts to expand registered apprenticeship are responsive to the evolving and distinct needs of all industries, including those targeted for expansion.[35]

The Department's vision for a modern system also includes an acceleration of its ongoing efforts to leverage advancements in technology to improve its internal systems and data analysis capabilities; modernize and strengthen the reporting tools available to registered apprenticeship program sponsors, SAAs, and other stakeholders; and move the system's administrative functions fully online. The Department anticipates that such improvements would complement the proposed regulation's introduction of industry-driven tools for onboarding new programs. Keeping pace with evolving industries, technological developments, and emerging opportunities for alignment among national workforce system programs is essential for achieving the Department's goal of expanding registered apprenticeship. It would also help the Department advance opportunities to access the National Apprenticeship System, provide oversight and assistance to new and existing stakeholders, and streamline administrative functions throughout the system.

In line with the Department's prioritization of system modernization in this proposed rule, the Department views the enhanced capacity to collect and analyze data as a key advantage of keeping pace with technological developments. As such, the Department is prioritizing the ongoing development of a modernized and enhanced data collection and analysis framework. Though much of this work occurs outside of the regulatory space, the Department has identified a need to update regulatory requirements around data collection to improve its ability to make data-driven decisions about apprenticeship policy, review and assess registered apprenticeship program performance, and communicate the value of apprenticeship as a viable workforce training model. The Department believes this is an opportunity to orient the National Apprenticeship System around increased performance accountability, transparency, and a focus on outcomes.

In the years since the registered apprenticeship regulations were last updated, the Department has invested resources to improve its processes for the collection of data pertaining to apprenticeship and the secure storage of such data. Such resources were also distributed among States to improve SAAs' data collection and reporting capabilities.[36] The Department has also collaborated with registered apprenticeship programs, industry intermediaries, other government agencies, and other interested stakeholders to better understand the insights and performance benchmarks that can be drawn and applied through targeted analyses of registered apprenticeship data. The lessons learned from these ongoing, collaborative engagements were echoed by the members of the ACA, who provided several recommendations related to data for the Department's consideration. The ACA discussed the value of developing a more national, comprehensive set of data related to registered apprenticeship. Currently, data pertaining to registered apprenticeship are collected in a disparate manner: data collection practices are distinct for SAA States and OA States, and not all States provide data to the Department's primary data repository, Registered Apprenticeship Partners Information Data System (RAPIDS).[37] The ACA also recommended that OA update its data collection and analysis capabilities to improve its ability to glean data-driven insights and make informed policy or oversight decisions based on such insights.[38] To do this, the Department must take steps towards developing a data collection framework that collects uniform data elements on a nationwide basis in order to disaggregate such data

[32] ETA, ''State Apprenticeship Expansion Formula,'' FOA–ETA–23–09, Mar. 17, 2023, *https://www.grants.gov/web/grants/view-opportunity.html?oppId=345785.*

[33] For information regarding how WIOA relates to apprenticeship, see OA, ''Workforce Innovation and Opportunity Act,'' *https://www.apprenticeship.gov/investments-tax-credits-and-tuition-support/workforce-innovation-and-opportunity-act* (last visited July 20, 2023).

[34] *See* DOL, ''The Good Jobs Initiative,'' *https://www.dol.gov/general/good-jobs/principles* (last visited July 20, 2023).

[35] In this proposal, the Department seeks to further clarify the role of industry through the text, including by defining the term ''intermediary'' (used commonly in practice by industries but not defined in the current regulations at part 29) and establishing clear roles for intermediaries in the process to develop National Occupational Standards for Apprenticeship, National Guidelines for Apprenticeship Standards, and National Program Standards for Apprenticeship.

[36] ETA, ''State Apprenticeship Expansion Formula,'' FOA–ETA–23–09, Mar. 17, 2023, *https://www.grants.gov/web/grants/view-opportunity.html?oppId=345785.*

[37] The ACA recommended that OA work with States to encourage full participation in RAPIDS, with the goal of developing a more national and comprehensive data set: ''Generally, encourage those States that do not participate in the RAPIDS system, or participate to a lesser degree than full participant States, to participate in the collection and sharing of apprenticeship data for the benefit of the national dataset (RAPIDS).'' ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, at 16, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

[38] The ACA recommended that OA ''measure and track success through Equity Indices showing the representation of new, active, and completing apprentices from each underserved demographic group in the context of local area, industry, education/skills, and wages/promotions.'' *Id.* at II–10.

in key ways (such as by race and ethnicity, industry, occupation, from a State or national perspective) and assess information that accurately compares program outcomes.[39] The Department is interested in improving its ability to assess accurate, up-to-date registered apprenticeship data related to equitable participation and program outcomes for apprentices, the prevalence and usefulness of interim credentials or other industry-recognized certifications provided to apprentices, and wages earned by apprentices who complete registered apprenticeship programs, among other measures that may offer useful insights to registered apprenticeship program success and opportunities for targeted improvements.

Accordingly, the Department's proposed rule would update requirements regarding the collection and maintenance of data for program stakeholders. The proposed rule also presents new data elements for collection to better understand the apprenticeship landscape and enhance OA's and SAAs' ability to make data-driven decisions and improvements throughout the National Apprenticeship System. Such new data elements would include requiring program sponsors to provide data on the interim credentials or other industry-recognized certifications offered through their programs and requiring that applications for a determination on an occupation's suitability for registered apprenticeship training include information relating to the career wage profile of the subject occupation. Additionally, the Department would collect information from sponsors on pre-apprenticeship program engagement and placement as part of this proposed rule. Proposed reforms to the registered apprenticeship regulations would also prioritize collecting information on both postsecondary academic credit and industry-recognized credentials that apprentices acquire as part of their participation in registered apprenticeship programs, in addition to their acquisition of Certificates of Completion of registered apprenticeship programs. These reforms would allow students, job seekers, and workers to make better informed choices regarding their career needs.

These data elements, along with proposed updates to the part 29 regulations intended to encourage a more uniform and consistent approach to data collection and analysis,[40] would greatly enhance the Department's ability to derive accurate, timely, and consequential insights about registered apprenticeship on a nationwide basis. This would ultimately improve the Department's ability to provide guidance and oversight to stakeholders throughout the National Apprenticeship System.

Accurately assessing the quality of registered apprenticeship programs, and actively pursuing opportunities to improve such quality across all registered apprenticeship programs, remains one of the Department's most important responsibilities related to its oversight of the National Apprenticeship System. Establishing a baseline for registered apprenticeship program quality is one of the most salient and practical functions of the part 29 regulations. While the Department believes that the current regulations have successfully guided the development and expansion of quality registered apprenticeship programs presently in existence, the Department has identified potential improvements to the program quality framework that it is pursuing in this proposed rule. The Department's identification of these quality improvements stems from its ongoing collaborations with industry partners and apprenticeship stakeholders, analysis of the persistent issues that arise as the Department executes program reviews, and feedback from apprentices, program sponsors, and employers participating in registered apprenticeship programs (including both success stories and efforts to review and address complaints related to registered apprenticeship programs).

First, the Department relies on the part 29 regulation's standards of apprenticeship to apply quality standards consistently across all registered apprenticeship programs. Any program seeking registration by the Department for Federal purposes must develop a set of program standards that apply to the specific program and align with the minimum quality standards contained within the part 29 regulations (currently at 29 CFR 29.5). Accordingly, many of the program quality enhancements the Department is pursuing in this proposed regulation would update the proposed section for standards of apprenticeship (at proposed 29 CFR 29.8). Engagement with stakeholders, including the ACA, and review of the Administration's priorities for the Department (such as the Good Jobs Initiative driven by the Administration and led by the Department[41]), has helped the Department identify several areas ripe for improved quality standards for registered apprenticeship. These include ensuring that all registered apprenticeship programs convey competencies and lead to occupational proficiency for apprentices who complete programs (see the Department's proposed consolidation of the apprenticeship training models at proposed 29 CFR 29.8(a)(4)), assurances that determinations on occupations' suitability for registered apprenticeship training consider the career wage profile related to the subject occupation (see the Department's proposed inclusion of wage considerations in occupational suitability determinations at proposed 29 CFR 29.7(b)(2)), and enhanced protections for apprentices against unreasonable training costs and restrictions on their labor market mobility (at proposed 29 CFR 29.9).

Embedding Equity at the Center of Registered Apprenticeship

Advancing equity in registered apprenticeship programs—applicable to program recruitment, participation, treatment during the course of a program, and program outcomes—remains a critical priority for the Department as a whole. The Nation's implementation of an industrial strategy through historic investments in infrastructure,[42] technology,[43] and clean energy[44] together generate tremendous opportunities for good jobs but also challenges for recruiting skilled workers. Engaging workers from underserved communities can be a key strategy for addressing these challenges. In addition, advancing equity in registered apprenticeship is central to the Department's proposed updates to the quality baselines contained in the part 29 regulations. In particular, the Department has identified several opportunities to align the part 29 regulations with the EEO in Apprenticeship regulations at 29 CFR part 30, which were finalized in 2016. The Department seeks to align the

[39] The ACA recommended that OA ''make apprentice demographic data, disaggregated by race, ethnicity, and sex, and separately for each State and for each standard occupation code, public on a dashboard site.'' *Ibid.*

[40] For example, see the Department's discussion of its proposal to make SAA planning and data reporting more consistent through the implementation of State Apprenticeship Plans in the section-by-section analysis of this NPRM for proposed § 29.27.

[41] See information about the Good Jobs Initiative and its impact at DOL, ''The Good Jobs Initiative,'' *https://www.dol.gov/general/good-jobs* (last visited July 20, 2023).

[42] Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429 (2021).

[43] Creating Helpful Incentives to Produce Semiconductors Act of 2022 (CHIPS Act), div. A of Public Law 117–167, 136 Stat. 1366 (2022).

[44] IRA, Public Law 117–169, 136 Stat. 1818 (2022).

proposed updates to 29 CFR part 29 with elements of the 2016 EEO final rule to advance equity in registered apprenticeship programs by requiring sponsors to identify and reduce barriers to enrollment in, and completion of, such programs by individuals from all underserved communities. In furtherance of this effort, the proposed regulation would require all sponsors seeking registration of an apprenticeship program to articulate an equitable, intentional, and achievable strategy for advancing the program's recruitment, hiring, and retention of individuals from underserved communities, including through documented partnerships with pre-apprenticeship or registered CTE apprenticeship programs. In addition, the proposal would continue to require registered apprenticeship programs to adhere to all of the applicable non-discrimination and EEO requirements contained in 29 CFR part 30.

In general, the Department is pursuing greater alignment between the regulations at parts 29 and 30, which were finalized 8 years apart and have not been updated since the EEO regulations were promulgated in 2016. The Department notes that it is not considering substantive changes to 29 CFR part 30 in this proposal, and the proposed amendments to 29 CFR part 30 are limited to the sections and changes necessary to align with the proposed changes in 29 CFR part 29. As a result, the Department is not accepting comments on the substantive content of the regulations at 29 CFR part 30 (beyond the proposal to incorporate the part 30 definitions into part 29 and any technical edits to part 30 necessary to align with proposed changes to part 29). However, the Department encourages the public to submit comments on how to best advance equity in registered apprenticeship as proposed in this NPRM.

The Department understands, based on several decades of oversight of the National Apprenticeship System, that the quality standards and other regulatory requirements are only as strong as the accountability measures that establish roles, responsibilities, and expectations of key stakeholders in the National Apprenticeship System. Where such accountability is unclear or undefined in the part 29 regulations, individuals' or entities' responsibility for preventing or addressing issues, shortcomings, or problematic outcomes related to registered apprenticeship programs can be questioned, contested, or avoided. This leaves apprentices with an unclear path forward and, at times, stuck with an unfavorable outcome. In order to fulfill its statutory obligation to protect apprentices' welfare and well-being, the Department has identified several areas where accountability within the system can be strengthened or clarified. For example, this proposed rule contains provisions intended to ensure that both registered apprenticeship program sponsors and, critically, any employers that have adopted the sponsor's standards of apprenticeship (referred to in the proposed regulation as ''participating employers'') are responsible for adhering to the minimum labor standards stipulated in 29 CFR part 29, as well as the EEO requirements contained in 29 CFR part 30. The proposed rule would also require the sponsors of group programs to both screen and actively monitor participating employers to ensure their compliance with the foregoing regulatory provisions. Such enhanced accountability mechanisms are intended to ensure that apprentices are afforded all of the rights and protections required under the Federal rules pertaining to apprenticeship.

The Department expects that these proposed updates to the part 29 regulation would advance quality, equity, and accountability throughout the National Apprenticeship System. These proposed quality enhancements would benefit both existing registered apprenticeship programs and any new programs entering the system in the coming years. The Department anticipates that apprentices entering the system, along with their parents, guardians, dependent family members, and community members, would benefit from increased confidence in the consistency of quality throughout the system. The Department invites comments from the public on the best ways to advance quality, equity, and accountability throughout the National Apprenticeship System, including reactions to the proposed updates to the part 29 regulations contained in this proposal and any additional suggestions or recommendations for the Department's consideration.

Building a More Consistent and Innovative National Apprenticeship System

In addition to the recommendations to pursue systemwide modernization, better leverage apprenticeship-related data, and promote quality, equity, and accountability in the National Apprenticeship System, stakeholders have consistently advised the Department to consider additional pathways to participating in a registered apprenticeship program and pursuing the apprenticeship model for career preparation and development, particularly for younger students or job seekers. The ACA advanced several recommendations related to career pathways for youth (including those developed by the ACA's dedicated subcommittee for this issue, the Pathways subcommittee). These included recommendations to define what is meant by a ''pre-apprenticeship'' program,[45] invest and encourage participation in workforce readiness and pre-apprenticeship programs,[46] and pursue opportunities for collaboration with other sectors (such as education) to promote awareness and uptake of pre-apprenticeships and registered apprenticeships.[47] The Department is energized by these discussions of the evolving strategies to achieve growth throughout the National Apprenticeship System by identifying and promoting opportunities for younger students or job seekers to prepare for, and eventually enter into, a registered apprenticeship program.

The proposed regulations, in addition to the enhancements to the registered apprenticeship model, would provide a more robust framework for identifying and promoting a system of apprenticeship-related pathways that can lead to sustainable careers. This would include defining pre-apprenticeship models that the Department believes could lead to diverse pathways to registered apprenticeship, with greater assurance that registered apprenticeship would be accessible, particularly for underserved communities. The proposal would also provide career seekers looking to get into registered apprenticeship programs entry points into programs, particularly if they do not currently meet the entry-level requirements for registered

[45] See the ACA's recommendations, arising from multiple subcommittees, that the Department ''Define 'apprenticeship,' 'pre-apprenticeship,' and 'youth apprenticeship''' to ensure programs align with quality metrics. ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, at 13 and 33, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

[46] See the ACA's recommendations that ''Federal and State agencies should invest in quality workforce readiness and pre-apprenticeship programs'' and that the Department encourage employers and registered apprenticeship programs to uplift pre-apprenticeship (*e.g.,* provide conditional offers of registered apprenticeship employment or interviews upon completion of pre-apprenticeship). *Id.* at 36 and II–13.

[47] See the ACA's recommendation to include (1) tools for school counselors and teachers to integrate pre-apprenticeship into curricula and offer students advice on career pathways; (2) resources to connect employers, schools, students, and parents to achieve greater buy-in; and (3) retooling of Apprenticeship.gov to educate public and highlight opportunities. *Id.* at 36.

apprenticeship programs. Pre-apprenticeship programs are designed to equip apprentices with the foundational skills required by registered apprenticeship programs, in order to facilitate the placement of pre-apprenticeship program participants. Therefore, instead of designing a model of registering pre-apprenticeships, the Department believes registered apprenticeship program sponsors would be best positioned to determine the quality of pre-apprenticeship programs. The proposed rule would provide more clarity in the system about the meaning of pre-apprenticeship programs, enable data collection on these programs from sponsors, and promote greater alignment with other Federal workforce investments that may support pre-apprenticeship models.

Additionally, a key proposed reform in this rulemaking would be the development of labor standards for a new model of registered apprenticeship focused on registered CTE apprenticeships. This proposed new model of registered apprenticeship would be consistent with stakeholder recommendations [48] and the Department's ongoing efforts to expand employment and training opportunities for youth. Registered CTE apprenticeship programs would create stronger and more seamless linkages between educational institutions and workforce development programs, and they would expand the registered apprenticeship model to support youth and other individuals entering the workforce through their enrollment in State CTE programs funded by ED's Perkins program. Proposed subpart B is designed to strengthen the ties between individuals in State-approved CTE programs and employment around a quality framework of labor standards. The Department, in coordination with ED, has identified an opportunity to increase job quality and training for youth and other individuals enrolled in State-approved CTE programs to benefit from structured and common basic labor standards. The registered CTE apprenticeship model would build on the key tenets of registered apprenticeship but would have some differences to account for the unique needs of the population it is designed to serve and individuals enrolled in State-approved CTE programs.

National Apprenticeship System Governance and Planning

A key role in implementing the promises of the proposed rule is to ensure the development of a system of governance for key partners and leaders in the National Apprenticeship System, particularly SAAs that have been provided OA's authority to serve as Registration Agencies in their States. As mentioned previously, OA is responsible for establishing a system of recognition and governance of SAAs, which operate as key partners in the National Apprenticeship System. To that end, the Department is seeking to build a more cohesive system and structure that promotes greater consistency and minimum standards for the roles and responsibilities of SAAs through a State planning approach, as well as criteria around SAAs' approval of registered apprenticeship programs for Federal purposes, while simultaneously encouraging strategic planning and innovation in registered apprenticeship models in the States.

With more than 30 States currently recognized or seeking recognition as an SAA State, this proposed rulemaking seeks to modernize and build a State planning framework for the recognition of SAAs that both satisfies the need for procedural reform and encourages innovative strategies and ideas for the expansion and modernization of registered apprenticeship. Accordingly, the proposed rule includes provisions that would carefully delineate the respective roles and responsibilities of OA, SAAs, and State Apprenticeship Councils within the National Apprenticeship System. The proposed rule would also establish a planning process for SAAs to ensure coordination within the National Apprenticeship System in pursuit of apprenticeship expansion and quality, equity, and consistency in experience for sponsors. This State planning process would also ensure that SAAs are maintaining minimum standards of registered apprenticeship that safeguard the safety and welfare of apprentices. Submission of State Apprenticeship Plans would take place on a cyclical basis, thereby allowing OA to ensure sufficient staffing capacity to review plans and provide technical assistance as needed.

The Department anticipates that the National Apprenticeship System under this proposed rule would provide both workers and businesses with high-quality, inclusive, and adaptable training models to build a skilled American workforce for the 21st century across numerous industries. This proposed rule seeks to ensure the expansion of apprenticeship models with high-quality standards to address the evolving needs of the labor market. The Department is proposing §§ 29.1 through 29.6 as applicable to the entire part, while also proposing three unique subparts for this proposed rulemaking. Subpart A would address standards for registered apprenticeship programs, which would update the current section of 29 CFR part 29 regarding the approval of occupations suitable for registered apprenticeship, the registration standards of apprenticeship, apprenticeship agreements, and other requirements related to the development of quality labor standards. Subpart B would address the proposed registered CTE apprenticeship model, including the requirements associated with registering a program under that model. Subpart C would address the Administration and Coordination of the National Apprenticeship System, including the reporting requirements, SAA recognition and planning provisions, and a provision about sharing information to support the integration of registered apprenticeship into other Federal and State laws. The Department welcomes comments throughout this proposed rule, particularly those focused on ideas to promote higher quality and to facilitate expansion to new industries and occupations.

IV. Section-by-Section Discussion of the Proposed Changes

A. Introduction to the Regulations for the National Apprenticeship System Under the National Apprenticeship Act of 1937

Section 29.1—Purpose and Scope

The ''Purpose and scope'' section in the current regulation describes and cites to the Secretary's statutory authority to formulate and promote labor standards for registered apprenticeship programs to safeguard the welfare of apprentices participating in such programs. The Department proposes to remove existing § 29.1(a), which describes and cites to the Department's authority under the NAA, because it is unnecessary to repeat the statutory language in the text of the regulation. The Department has determined that the ''Purpose and scope'' section for 29 CFR part 29 should instead focus on the Department's intent and objectives for the part 29 regulations and the sub-issue areas that follow in the part 29 regulations, all of which would be

[48] For example, see the ACA's recommendation to support promotion, awareness, and uptake of apprenticeship programs among youth, including through tools to integrate pre-apprenticeship elements into educational curricula. ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, at p. 36, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

consistent with the Department's statutory authority.

Proposed 29 CFR 29.1 would largely retain the regulatory text from current 29 CFR 29.1(b), with a few additions to reflect updates to the evolving system of registered apprenticeship programs and priorities to address the expanded role education partners and intermediaries bring in facilitating the connections between employers and labor as described in the NAA. Other proposed additions would cover the Department's role in promoting the expansion of quality registered apprenticeship programs across a wide array of industries, the critical role the Department and Registration Agencies have in ensuring equitable and inclusive opportunities for all American workers, the proposed new registered model for CTE apprenticeship, the collection of data, and the oversight of registered apprenticeship programs.

Section 29.2—Definitions

In 2007, when the Department proposed an update to the part 29 registered apprenticeship regulations in an NPRM, the preamble noted that the Department's proposed updates to the ''Definitions'' section in 29 CFR 29.2 were intended to clarify and redesignate existing definitions and establish new definitions used in the registration of registered apprenticeship programs and in ''ongoing operations of the National Apprenticeship System.'' [49] Since 2008, there have been numerous changes that have impacted the terminology related to the registration of registered apprenticeship programs and the National Apprenticeship System's ongoing operations, including revisions or changes to reflect new understandings or uses of previously defined terms, the introduction of new terminology to reflect the expansion of registered apprenticeship concepts, stakeholders, and strategies, as well as updates that have rendered existing definitions inaccurate, irrelevant, or obsolete.

One important development was the revision to the regulations at 29 CFR part 30, which introduced a set of key defined terms that are relevant and applicable to the regulations at 29 CFR part 29. Having misaligned definitions, as well as two sets of definitions governing OA's regulations, could cause unnecessary confusion and burden for the regulated community and other stakeholders. Accordingly, the Department proposes to set forth all applicable definitions governing 29 CFR parts 29 and 30 at 29 CFR 29.2. This would centralize the definitions governing all aspects of the National Apprenticeship System, thereby better aligning the operation of parts 29 and 30 and eliminating unnecessary duplication and any inadvertent inconsistency. To effectuate this change, the Department proposes to revise 29 CFR 30.2 to state that part 30 incorporates the definitions found at 29 CFR 29.2. The Department invites comment on this organizational change, particularly on its efforts to ensure the regulated community has one section for all of the definitions pertaining to the National Apprenticeship System. The Department requests that any comments on the substance of a proposed definition reference 29 CFR 29.2 rather than 29 CFR 30.2.

Proposed modifications to any definitions currently found at 29 CFR 30.2 as a result of this proposed rulemaking are explained below. The terms currently found at 29 CFR 30.2 that are not identified below as undergoing modification would remain unchanged and would simply be recodified at 29 CFR 29.2. These terms are ''direct threat,'' ''disability,'' ''EEO,'' ''ethnicity,'' ''genetic information,'' ''major life activities,'' ''physical or mental impairment,'' ''qualified applicant or apprentice,'' ''race,'' ''reasonable accommodation,'' ''selection procedure,'' and ''undue hardship.'' The Department is proposing that the definition of ''qualified applicant or apprentice'' include the clarifying clause ''for purposes of part 30.'' This change is proposed to clarify that the definition of ''qualified apprentice'' in this proposed rule would apply only to the part 30 regulations and would not conflict with the definition of ''qualified apprentice'' under the IRA's registered apprenticeship requirements.[50] The term ''qualified apprentice'' would not appear in the part 29 regulations other than in the ''Definitions'' section of the proposed rule and therefore this clarifying clause would have no impact on the requirements of part 29 or part 30. Moreover, the Department views this clarifying clause as important to avoiding potential confusion about the definition of ''qualified apprentice.''

The remainder of this discussion of proposed § 29.2 discusses, in alphabetical order, new, revised, or deleted definitions for part 29 and definitions from part 30 that the Department is proposing to change. In addition to the definitions proposed for deletion and replacement by another definition as described below, the Department proposes deleting the definitions of ''registration of an apprenticeship agreement,'' ''registration of an apprenticeship program,'' and ''State Office'' from the part 29 regulations. While these definitions are proposed for deletion, the concept for ''registration of an apprenticeship agreement'' would be addressed by the proposed ''apprenticeship agreement'' definition and the apprenticeship agreement section in proposed § 29.9. Similarly, while the definition of ''registration of an apprenticeship program'' is proposed for deletion, the concept would be addressed by the proposed ''registered apprenticeship program'' definition and the operative sections at proposed §§ 29.8 and 29.10. Likewise, the Department believes the definition of ''State Apprenticeship Agency'' includes the meaning that a State government agency assumes the roles of an SAA and, therefore, the Department does not believe the term ''State Office'' would have utility under the proposed rule. The Department believes these concepts would be addressed in the modified definitions but welcomes comments as to whether there are reasons to keep these definitions for the regulated community.

Proposed § 29.2 would define terms applicable to all sections of the NPRM unless otherwise stated.

Proposed § 29.2 would retain the existing definition of ''Administrator'' from the existing registered apprenticeship regulations. This term would still refer to the Administrator of OA or any person specifically designated by the Administrator of OA.

Proposed § 29.2 would add a new definition of ''annual completion rate,'' which would be a new program quality measure a Registration Agency would be able to calculate to assist in assessing program quality. This measure would be calculated by identifying all the apprentices who leave a program during a fiscal year as the denominator and the number of those who complete the program as the numerator. This new measure would assist Registration Agencies in seeing if programs are exiting significant numbers of apprentices without graduating them and enable them to use that information as a basis for technical assistance. This measure, unlike the proposed cohort completion rate, would not exclude exiters during the probationary period of the program. This measure would also align with the Department's ETP reporting under WIOA for program completion rates. This measure would

[49] 72 FR 71019 (Dec. 13, 2007) (NPRM and request for comments).

[50] 26 U.S.C. 45(b)(8)(E)(ii); *see* Public Law 117–169 sec. 13101(f)(8)(E)(ii).

be calculated as part of the data requirements of proposed § 29.25 and be subject to program reviews under proposed § 29.19. The Department would consider this measure as being useful for considering any impacts in program design that lead to apprentices not completing their programs once they are apprentices. The Department is interested in any comments on this approach, whether probationary period should be a consideration, as well as any other measures proposed.

Proposed § 29.2 would modify the definition of ''apprentice.'' The proposed modification clarifies that an apprentice, as the term is used in parts 29 and 30, is an individual participating in a program subject to the requirements of 29 CFR parts 29 and 30, rather than an individual participating in any apprenticeship program. The Department would retain language that an apprentice must be a worker at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law, to align with the Fair Labor Standards Act (29 U.S.C. 212) and its implementing regulations (29 CFR part 570), which generally permit bona fide apprentices to perform otherwise prohibited work in nonagricultural employment once they reach the age of 16.

Proposed § 29.2 would modify the definition of ''apprenticeship agreement.'' The proposed modification would stipulate that an apprenticeship agreement must satisfy each of the applicable regulatory requirements contained in proposed § 29.9. The proposed definition also stipulates that such agreements must describe the terms and conditions of the employment and training of the apprentice, and it further clarifies that an apprenticeship agreement may also include the execution of any subsequent contractual provisions or agreements between the apprentice and the program sponsor (or a participating employer) during the remainder of the apprenticeship term.

Proposed § 29.2 would retain the definition for ''apprenticeship committee (committee)'' from the existing regulations.

Proposed § 29.2 would modify the definition of ''cancellation.'' The Department is proposing to modify this definition to reflect that an apprenticeship agreement may be canceled by either the apprentice or the sponsor as discussed in proposed § 29.9. Additionally, the Department is proposing to modify this definition to remove the concept of cancellation of a program because this concept is synonymous with voluntary deregistration of a program. The Department does not see a difference between these two concepts, and so the Department is proposing that cancellation be a term that applies only to apprenticeship agreements, and that voluntary deregistration, as described in proposed § 29.20, to be the appropriate process for programs seeking to end their registration status.

Proposed § 29.2 would add the definition for ''career and technical education (CTE),'' which would be utilized primarily in subpart B, from the existing definition in sec. 3(5) of Perkins.[51] The proposed registered CTE apprenticeship model intends to incorporate Perkins' program elements. To provide consistency and clarity for the regulated community, the Department is aligning the proposed definition of CTE with the definition used in Perkins.

Proposed § 29.2 would add the existing definition of ''career pathway'' from WIOA.[52] The purpose of adding career pathway is to intentionally connect the regulation to the concept of a career pathway that is used in practice across the broader workforce development system and enable the use of shared terminology for practitioners developing opportunities for participants in education and workforce development programs.

Proposed § 29.2 would eliminate the existing definition of ''certification or certificate'' and establish definitions for the different certificates described in part 29. The purpose of establishing standalone definitions for certificates is to minimize confusion and provide clarity for National Apprenticeship System stakeholders on the functional types of documentary evidence that may be provided or used for the purposes of proposed § 29.18, proposed § 29.30, or any other applicable purpose.

Proposed § 29.2 would add a definition for ''Certificate of Completion'' and incorporate the existing language at 29 CFR 29.2 that a Certificate of Completion is a document that establishes that a Registration Agency has determined that an individual has successfully completed a registered apprenticeship program as set forth at proposed § 29.16(d).

Proposed § 29.2 would add a definition for the new term ''certificate of completion of registered CTE apprenticeship.'' A certificate of completion of registered CTE apprenticeship would be a document that establishes that a Registration Agency has determined that an individual has successfully completed a registered CTE apprenticeship program as documented under proposed paragraph (f). The purpose of this new term is to differentiate between the certificate of completion for registered apprenticeship under subpart A and a certificate of completion of registered CTE apprenticeship discussed for the new proposed model of registered CTE apprenticeship under subpart B.

Proposed § 29.2 would add a definition for ''Certificate of Participation'' and define it for the first time as documentation that an apprentice has participated or is participating in a registered apprenticeship program. Examples of a Certificate of Participation could include evidence necessary to document a construction contractor's compliance with the Davis-Bacon and related Acts' registered apprenticeship requirements regarding the payment of prevailing wages to apprentices at 29 CFR part 5 or a verification of an individual's status as an apprentice. Such a certificate would be OA's official method of verifying an apprentice's participation in a registered apprenticeship program.

Proposed § 29.2 would add a definition for ''Certificate of Recognition'' to describe the document provided to indicate that OA has approved a sponsor's National Guidelines for Apprenticeship Standards as described in proposed § 29.15.

Proposed § 29.2 would add a definition for ''Certificate of Registration'' to describe the document provided to indicate that a Registration Agency has registered an apprenticeship program under proposed § 29.10(c).

Proposed § 29.2 would define ''cohort completion rate,'' and this definition would modify the language from the current definition of ''completion rate,'' which covers the percentage of an apprenticeship cohort that receives a Certificate of Completion within 1 year of the projected completion date. The proposed definition of ''cohort completion rate'' describes an apprenticeship cohort as the group of individual apprentices registered to a specific program during a given fiscal year, which is a change from the current language in the current definition of ''completion rate'' that describes it as the group of individual apprentices registered to a specific program during a 1-year timeframe. The term ''cohort completion rate'' is designed to distinguish this concept from the proposed addition of ''annual completion rate.'' This change would provide clarity on the existing practice

[51] Strengthening Career and Technical Education for the 21st Century Act, Public Law 115–224, 132 Stat. 1563 (2018).

[52] 29 U.S.C. 3102(7); WIOA sec. 3(7).

of calculating the cohort completion rate on a fiscal year basis to enable more consistent data reporting. This proposed definition continues to explain, without change, when an apprentice will not be included in the calculation.

Proposed § 29.2 would add a definition for ''collective bargaining agreement'' and define it for the first time in parts 29 or 30 as the written agreement between an employer (or a group of employers) and the bargaining representative(s) of a labor union to which employees of the employer(s) belong that addresses such topics as wages, hours, workplace health and safety, employee benefits, and other terms and conditions of employment. When applicable, collective bargaining agreements inform the development of registered apprenticeship program standards and, typically, govern an employer's participation in a group program. This is a term used often in this proposed rule and the 2008 final rule. The Department believes that it is important for the regulated community to understand what the Department means when it uses this term, particularly for industries not familiar with registered apprenticeship. This proposed term was first used by OA in Bulletin 2010–29.[53] The Department proposes to modify and elaborate upon that definition to more closely align it with the common understanding of collective bargaining agreements. The Department is seeking any comments or proposed modifications to the proposed definition to increase clarification on this term.

Proposed § 29.2 would modify the definition of ''competency'' to describe the attainment of knowledge, skills, and abilities specified in a work process schedule. The Department is removing the terms ''manual, mechanical or technical skills and knowledge'' from the technical definition to be in greater alignment with the Department's understanding of what the attainment of competency means based on competency frameworks, such as the Occupational Information Network (O*NET) system, DOL competency models,[54] and competency-based occupational frameworks,[55] that are used as industry-recognized reference tools in the development of a work process schedule, as specified in proposed § 29.7(b). In addition to knowledge, skills, and abilities, the proposed definition includes the measurable attainment of techniques as a qualifier for the types of hands-on practices, such as the physical use of equipment and tools, associated with on-the-job, industry-based proficiency.

Proposed § 29.2 would add a definition for ''corrective action plan'' to describe the product that must be produced when a State Apprenticeship Plan is not granted full approval by the Department as described in proposed § 29.27 of this part. This plan is designed to provide SAAs with clear actions needing to be taken to be eligible for full approval of the State Apprenticeship Plan.

Proposed § 29.2 would add a definition for ''credential rate'' to explain how to calculate the percentage of registered apprenticeship program completers in a cohort that receive an interim credential, as defined below. This new program performance measure is intended to incentivize the leveraging of recognized postsecondary credentials, including industry-recognized credentials, into a registered apprenticeship program's design. While the Certificate of Completion remains the premier credential obtained for participation in a registered apprenticeship program, this measure would not include Certificates of Completion. This measure would incentivize additional credentials to be included and tracked and would drive greater portability and national recognition for programs and credentials obtained in programs. Programs are not required to offer interim credentials as a requirement for registration; however, the Department considers a measure that tracks this attainment as a key opportunity to enhance data collection and understanding of programs for both apprentices in programs and job seekers considering registered apprenticeship programs. The Department acknowledges that not all industries or sectors may issue interim credentials. For that reason, the Department is not intending this proposed measure to be a sole indicator of program quality. The metric would help OA to understand which programs provide credentials while participating in a program, ultimately leading to a Certificate of Completion. Lastly, similar to the cohort completion rate measure, the Department is proposing to exclude those apprentices whose participation in the program ends during the program's probationary period because apprentices may decide early in a program that they do not wish to pursue the chosen occupation, and OA does not seek to disincentivize programs or add barriers to programs seeking to recruit and accept participants. Additionally, for this measure an apprentice would be unlikely to attain a credential during that time. The Department is open to comments on whether this measure should include those apprentices who leave during the probationary period.

Proposed § 29.2 would add the definition for the new term of ''CTE apprentice.'' CTE apprentices are participants at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law, in a registered CTE apprenticeship program covered by the requirements of subpart B and part 30. The Department is aligning the definition with the definition of ''apprentice'' that is utilized for the purpose of subpart A. As described in the ''apprentice'' definition discussion, the Department is retaining language that an apprentice must be a worker at least 16 years of age, to reflect the general 16-year minimum age requirement for employment under the Fair Labor Standards Act. *See* 29 U.S.C. 203(l). However, the proposed definition explicitly states that the minimum age standard may be higher than 16 years if required by Federal, State, or local law. The Department is generally seeking alignment as much as possible between the terms ''CTE apprentice'' and ''apprentice.'' The primary purpose of this new term is to differentiate the use of the term ''apprentice,'' which is used throughout subpart A to refer to an individual participating in a registered apprenticeship program registered under subpart A of this part. This would help ensure clarity for the regulated community as to which model apprentices are participating in going forward. The proposed definition also provides that a CTE apprentice is not an apprentice for purposes of 29 CFR 4.6(p), 5.2, 5.5(a)(4), and 570.50(b).

Proposed § 29.2 would add a definition for the new term ''CTE apprenticeship agreement.'' A CTE apprenticeship agreement would be a written agreement that complies with the requirements in proposed § 29.24 and that contains the terms and conditions for the employment and

[53] OA, Bulletin 2010–29, ''Amendment to the Revised National Guidelines for Apprenticeship Standards Boilerplates—Individual Non-Joint (INJ), Group Non-Joint (GNJ), Individual Joint (IJ), and Group Joint (GJ) for Federal, State or Local Government Agency Programs,'' Sept. 30, 2010, *https://www.apprenticeship.gov/sites/default/files/bulletins/Bulletin_2010-29a_Amendment_Revised_Boilerplates-Federal_Programs.doc.*

[54] *See* Competency Model Clearinghouse, ''Overview of the Competency Model Clearinghouse,'' *https://www.careeronestop.org/CompetencyModel/GetStarted/overview-of-cmc.aspx* (last visited July 20, 2023).

[55] *See* Urban Institute, ''Competency-Based Occupational Frameworks for Registered Apprenticeship,'' *https://www.urban.org/policy-centers/center-labor-human-services-and-population/projects/competency-based-occupational-frameworks-registered-apprenticeships* (last visited July 20, 2023).

training of the CTE apprentice. The purpose of this new term is to differentiate between the apprenticeship agreement for registered apprenticeship under subpart A and a CTE apprenticeship agreement discussed for the new proposed model of registered CTE apprenticeship under subpart B. As discussed below in the section-by-section analysis for subpart B and the CTE apprenticeship agreement at proposed § 29.24(e), the proposed requirements for the makeup of a CTE apprenticeship agreement largely follow the proposed requirements for apprenticeship agreements for registered apprenticeship at proposed § 29.9, with a few minor differences reflecting the differences between registered apprenticeship and the newly proposed registered CTE apprenticeship model (*e.g.,* a shorter maximum duration for the length of a probationary period under registered CTE apprenticeship).

Proposed § 29.2 would add a definition for the new term ''CTE apprenticeship-related instruction.'' CTE apprenticeship-related instruction would be the organized and systematic form of instruction that provides a CTE apprentice with knowledge of the theoretical and technical subjects related to an approved industry skills framework. CTE apprenticeship-related instruction would be required to be delivered through a State-approved CTE program. A sponsor could prescribe additional coursework, including coursework outside of the program, as part of the CTE apprenticeship-related instruction. Instruction could be given in a classroom, through electronic media, or through other forms of study approved by the State CTE Agency and Registration Agency. The purpose of this new term is to differentiate it from the defined term ''related instruction'' used in subpart A, which does not directly require a State-approved CTE program.

Proposed § 29.2 would add a definition for ''day'' to provide clarity to the regulated community that the usage of the word ''day'' throughout this proposed rule and 29 CFR part 30 means calendar day, and not business day or workday. The Department considers this an important term to include to remove ambiguity where this term is used. When the word ''day'' is used throughout this proposed rule this meaning (*i.e.,* calendar day) is meant.

Proposed § 29.2 would retain the existing definition of ''Department'' from the existing registered apprenticeship regulations. This term would still refer to DOL and is used accordingly throughout this NPRM.

Proposed § 29.2 would add the existing definition of ''direct threat'' in 29 CFR part 30.

Proposed § 29.2 would add the existing definition of ''disability'' in 29 CFR part 30.

Proposed § 29.2 would add the existing definition of ''EEO'' in 29 CFR part 30.

Proposed § 29.2 would modify the definition of ''electronic media'' to remove the examples from the regulatory text because any examples too quickly become outdated due to the rapid pace of technological development. Updated and contemporary examples of electronic media as of the date of this proposal include but are not limited to end-users utilizing a computer or mobile device to: access and interact with an interactive map or database on an accessible web-based platform; download, edit, and transmit digital files of PDFs, images, or project-management tools; participate by using a chat function or providing verbal or non-verbal visual cues in a meeting through a video conferencing platform; and access digital written documents through an enterprise-level document-sharing application.

Proposed § 29.2 would revise the existing definition of ''employer'' to specify that, in relation to apprentices, the employer is the entity that employs an apprentice during the on-the-job training component of the apprenticeship program and provides the apprentice training under an approved set of standards of apprenticeship and apprenticeship agreement. This proposed definition also includes a clarification that it applies to the employment of apprentices for subparts A, B, and C of this part. This is meant to address the employment of apprentices for both registered apprenticeship programs under subpart A and the employment of CTE apprentices under subpart B. For the purposes of subpart C, it would apply to the requirement of reporting from sponsors on employers in the system described in that subpart. The Department uses the term ''employer'' as a general term in the proposed rule as well as a term specific to the employer of apprentices; therefore, the Department proposes clarifying these two uses of the word in the definition. The Department has determined that the existing definition of ''employer,'' when used in reference to employers of apprentices, does not sufficiently describe the employer/apprentice relationship with regard to the provision of the on-the-job training component of the registered apprenticeship program and is required to be in accordance with the program's standards. This proposed definition is meant to ensure that all entities employing an apprentice during the apprentice's time in the registered apprenticeship program understand their role as employers as articulated in the standards of apprenticeship governing the program. The Department thinks that this revision would provide clarity for the regulated community and would assure apprentices that any entities participating as employers in their registered apprenticeship program would understand their role in the apprenticeship program and abide by the on-the-job training requirements and program standards set forth in their apprenticeship agreement.

Proposed § 29.2 would add the existing definition of ''ethnicity'' in 29 CFR part 30.

Proposed § 29.2 would add a definition for ''exit'' for the purpose of calculating certain performance measures such as ''annual completion rate,'' ''cohort completion rate,'' or ''credential rate'' described in proposed § 29.25. Under the proposed definition, an exit is when an apprentice has ended their participation in a registered apprenticeship program. This would include apprentices who have completed a registered apprenticeship program or who have canceled or been canceled from a registered apprenticeship program. The Department proposes including these groups together to ensure it can accurately measure outcomes of all apprentices in a program after their probationary period.

Proposed § 29.2 would revise the definition of ''Federal purposes'' by adding ''registered'' before the term ''apprenticeship'' to align with the changes throughout this proposed rule. This proposed change would clarify that the use of apprenticeship means ''registered apprenticeship'' unless otherwise stated in the proposed rule. The Department notes that the use of the term ''Federal purposes'' throughout this proposed rule is used to characterize apprenticeship registration in the National Apprenticeship System as overseen by OA. Additionally, registration for Federal purposes may convey additional benefits or obligations that arise under Federal laws such as the Davis-Bacon and related Acts, the IRA, and WIOA, among others. This term is meant to capture the authority the Department conveys when registering apprenticeship programs or recognizing SAAs to perform this function.

Proposed § 29.2 would add a definition for the term ''fiscal year.''

Fiscal years are the accounting period of the Federal Government, and while these proposed regulations would not directly impact financial reporting, the Department is proposing the inclusion of this term to be used and commonly understood as a 1-year period covering October 1 of a given calendar year through September 30 of the following calendar year. The corresponding name of the fiscal year is always the calendar year in which the covered period ends. For example, the time period covering October 1, 2022, to September 30, 2023, is fiscal year 2023. The Department is proposing the term be used to set parameters around the ''annual completion rate'' and ''cohort completion rate'' measures defined in this section.

Proposed § 29.2 would add the existing definition of ''genetic information'' in 29 CFR part 30.

Proposed § 29.2 would add a definition for the term ''group program.'' This term, which has been widely used on an informal basis over the years, refers to a program that is sponsored and registered by an organization that develops a set of registered apprenticeship program standards that are adopted on a formal, contractual basis by one or more participating employers (typically pursuant to a collective bargaining agreement or a program standards adoption agreement) in accordance with the program standards developed by the sponsor of the group program.

Proposed § 29.2 would add a definition for the new term ''industry skills framework.'' The purpose of this new term is to establish the concept of an industry skills framework for utilization in the development of an on-the-job training outline, which would be a distinct component of the standards of a registered CTE apprenticeship program under subpart B.

Proposed § 29.2 would add the definition of ''institution of higher education'' from an existing definition in the Higher Education Act of 1965.[56] Proposed § 29.24 in subpart B identifies institutions of higher education as eligible program sponsors of registered CTE apprenticeships. To provide consistency and clarity for the regulated community, the Department is aligning the definition of institution of higher education with the definition used in the Higher Education Act of 1965.

Proposed § 29.2 would modify the definition of ''interim credential'' to specify that an interim credential is a recognized postsecondary credential (*see* proposed definition in § 29.2) and to acknowledge that it is documentation of the significance of an apprentice attaining competency milestones within an occupation suitable for registered apprenticeship training. An interim credential is usually earned as a part of a career pathway, sequence, or progression towards the attainment of more advanced competencies and credentials in that occupation.

This proposed change would bring the definition into alignment with ETA's definition of recognized postsecondary credentials by aligning it with acceptable documentation for measuring credential attainment under WIOA.[57] While interim credentials may be used as documented milestones in the progress toward completion, interim credentials under the proposed definition would be standalone recognized postsecondary credentials, and much like the concept of non-degree credentials, could be bundled or stacked and portable across industries and occupations.[58] Existing § 29.5(b)(16) provides for interim credentials as credentials issued by the Registration Agency, upon request of the appropriate sponsor, as certification of competency. The Department is changing this definition to align with WIOA and focus on the importance of attaining industry-recognized credentials in a program, which the Department considers to be valuable. In this proposed rule, interim credentials could be provided to apprentices by a sponsor, in coordination with a related instruction provider, employer, or industry intermediary, to recognize and document completion of competency attainment, or another form of measurable skill gain, that would be part of a work process schedule in an approved occupation under proposed § 29.8(a)(8).

Proposed § 29.2 would add a new proposed definition for ''intermediary'' to recognize these important stakeholders within the National Apprenticeship System and describe their role within the system. Given intermediaries' current prevalence in apprenticeship and role described in these proposed regulations, the Department wanted to codify the definition to ensure a common understanding of the term. The Department proposes to define ''intermediary'' as an entity that assists in the provision or coordination of a registered apprenticeship program or that otherwise provides support to a registered apprenticeship program. Consistent with current practice within the National Apprenticeship System, such support could include assistance with the important industry-driven aspects of a registered apprenticeship program, including industry vetting of training and related instruction components necessary for proficiency in an occupation; the establishment of networks and partnerships to support registered apprenticeship program development and functionality; and other types of support arising from the intermediary's familiarity with and expertise within an industry. In adding this proposed definition to the registered apprenticeship regulations, the Department also seeks to clarify that intermediaries' appropriate role within the National Apprenticeship System would not include any of the responsibilities reserved for Registration Agencies (*i.e.,* SAAs and OA), such as the responsibility for making final determinations on an occupation's suitability for registered apprenticeship training or final approval of a program's standards. The Department has invested in industry intermediaries [59] to support the expansion of registered apprenticeship programs into high-growth industries to date and to improve equity in these programs, and their role has shown promise in this regard.[60] Such entities to date have included labor organizations, trade organizations, industry experts, and other organizations with experience in registered apprenticeship. The Department is committed to providing a definition for these important stakeholders in the National Apprenticeship System and welcomes comments on this definition to accurately define their role in the system.

Proposed § 29.2 would revise the definition of ''journeyworker'' to simplify the definition and clarify that

[56] 20 U.S.C. 1001 *et seq.*

[57] ETA, Training and Employment Guidance Letter (TEGL) No. 13–16, ''Guidance on Registered Apprenticeship Provisions and Opportunities in the Workforce Innovation and Opportunity Act (WIOA),'' Jan 12, 2017, *https://dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-13-16.*

[58] Rutgers Education and Employment Research Center, ''Non-Degree Credential Quality: A Conceptual Framework to Guide Measurement,'' July 2019, *https://smlr.rutgers.edu/sites/default/files/Documents/Centers/EERC/rutgerseerc_ndcquality_framework_full_paper_final.pdf.*

[59] *See* OA, ''Industry Intermediaries to Expand Registered Apprenticeship Programs,'' *https://www.apprenticeship.gov/investments-tax-credits-and-tuition-support/industry-intermediaries-expand-registered* (last visited July 20, 2023).

[60] *See* OA, ''National Industry and Equity Apprenticeship Intermediaries: Advancing Registered Apprenticeship for Businesses and Workers in the U.S.,'' *https://www.apprenticeship.gov/sites/default/files/Industry-and-Equity-Intermediary-Accomplishment-Fact-Sheet.pdf* (last visited July 20, 2023).

such workers should be experienced in their industry or occupation and proficient in the skills and competencies necessary to be successful in an industry or occupation. Accordingly, the Department proposes to add ''experienced'' before ''worker'' in the existing definition and proposes to replace existing language stating that journeyworkers must have ''attained a level of skill, abilities and competencies recognized within an industry as having mastered the skills and competencies required for the occupation'' with language clarifying that journeyworkers must be ''proficient'' in such skills and competencies. The Department recognizes that the level of experience to gain proficiency would differ among industries and occupations. The Department has determined that the use of the term ''proficient'' is appropriate and uses it throughout the registered apprenticeship regulations because it is a clear and understandable term capturing the extent of an individual's mastery or expertise with respect to critical job skills and competencies necessary for such individuals to transfer their mastery and expertise to apprentices training in a registered apprenticeship program. The Department also acknowledges this term may be used interchangeably in industries with the following terms: mentor, experienced worker, technician, specialist, supervisor, or skilled worker, among other similar terms. The Department is also proposing to add language that a journeyworker may be proficient in an industry or occupation. The Department recognizes that industry expertise may be sufficient to obtain the proficiency necessary for someone to properly oversee and train an apprentice. However, the Department is encouraging commenters to identify if industry proficiency is sufficient for a journeyworker or if occupational proficiency for a journeyworker must be present.

The concept of ''proficiency,'' as defined in proposed at § 29.2, is central to registered apprenticeship and apprentices' success in the careers they are pursuing by enrolling in a registered apprenticeship program. For a journeyworker to effectively provide the on-site instruction, the Department considers it important that the journeyworker has proficiency in the industry or occupation to effectively train the apprentice on-the-job. Consider an electrician or other trades worker who has been called to a residence to complete a job. If the worker is proficient in the job skills and competencies required for their profession, they will be able to complete the task to the satisfaction of the customer and their employer and within a period that allows their employer to make a profit, or otherwise gain a meaningful economic benefit, for the services rendered. Often within the trades, time to complete a task is set by the market, and tradespeople must be able to complete the task within that period to remain competitive. Employers may also need workers to complete multiple tasks or orders within a given timeframe, and workers' proficiency in completing each task or order directly correlates with the employer's bottom line in employing the worker and advertising their available services. Someone who does not possess the level of proficiency to accomplish these tasks safely and efficiently is not someone whom the Department thinks could or should be training and supervising the work of an apprentice. Accordingly, the Department proposes to include the term ''proficiency'' in the definition of ''journeyworker.''

Proposed § 29.2 would add the definition of ''local educational agency (LEA)'' from an existing definition in the Elementary and Secondary Education Act of 1965.[61] Proposed § 29.24 in subpart B identifies LEAs as eligible program sponsors of registered CTE apprenticeships. To provide consistency and clarity for the regulated community, the Department is aligning the definition of LEA with the definition used in the Elementary and Secondary Education Act of 1965.

Proposed § 29.2 would add the definition of ''local registration'' and define it for the first time. The purpose of adding this definition is to formally define a term and concept that is currently used to describe the registration of an apprenticeship program for Federal purposes by a Registration Agency within a particular State. In accordance with proposed § 29.7(a), occupations determined suitable for registered apprenticeship would be eligible for local registration for Federal purposes by a Registration Agency, consistent with the approved work process schedule and related instruction outline. This is designed to indicate the difference between programs registered locally and programs registered nationally. Both methods of registration convey the benefits of registered apprenticeship to a program for Federal purposes; however, national programs are defined separately with separate criteria as discussed in proposed § 29.14. Additionally, local registration pertains to the registered apprenticeship program registration process of a local affiliate that belongs to a national organization that has established templates and program guidelines through National Guidelines for Apprenticeship Standards under proposed § 29.15(c).

Proposed § 29.2 would add the existing definition of ''major life activities'' in 29 CFR part 30.

Proposed § 29.2 would add a definition of ''National Apprenticeship System'' to describe the full scope of stakeholders involved with maintaining and supporting registered apprenticeship in the United States. In this proposed regulation, the Department seeks to describe and regulate a national, comprehensive system to develop, oversee, and promote registered apprenticeship across the country. In addition to the relevant Registration Agencies within the system—the Department's OA and SAAs recognized by OA—employers, labor unions, business organizations, trade and industry groups, educational institutions, intermediaries, and other stakeholders play critical roles in the country's system of registered apprenticeship by establishing robust connections between job seekers, workers, and employers, and equipping the system with capable instructors, trainers, and educators. Throughout this proposal, including the NPRM's preamble and the proposed regulatory text, the Department makes use of the term ''National Apprenticeship System'' where appropriate to describe and refer to the coordinated efforts of the Department and stakeholders in the system of registered apprenticeship. The Department's proposed definition of this term is intended to provide clarity to the regulated community as to which entities are included as registered apprenticeship stakeholders when the Department makes reference to the national system.

Proposed § 29.2 would add the definition of ''National Guidelines for Apprenticeship Standards.'' While National Guidelines for Apprenticeship Standards currently exist as an option, commonly being used as a template of registered apprenticeship program standards, developed by a labor union, trade or industry association, or other organization with national scope, that is recognized by OA and may be adapted for local registration, proposed § 29.15 is new and would establish criteria and a process for the recognition of National Guidelines for Apprenticeship

[61] 20 U.S.C. 8101 *et seq.*

Standards.[62] The Department proposes to add this definition here in conjunction with the proposed addition at § 29.15.

Proposed § 29.2 would add a new definition for ''National Occupational Standards for Apprenticeship'' as part of the Department's effort to define the different products in the system it has made available, or would make available, to support the development of registered apprenticeship programs both in traditional industries and occupations as well as new and emerging industries and occupations where registered apprenticeship is not widespread. The Department's definition of this term would help stakeholders understand the product described at proposed § 29.13 of this part. OA is committed to updating and refining these tools, and the proposed definition for ''National Occupational Standards for Apprenticeship'' lays the groundwork for OA's future development and refinement of this important program onboarding resource.

The related National Guidelines for Apprenticeship Standards and National Program Standards for Apprenticeship would also be nationally applicable but represent different use profiles within the system. The proposed definition for National Guidelines for Apprenticeship Standards describes these as a template of registered apprenticeship program standards that are developed by an entity with national scope (such as a labor union or trade association), recognized by OA, and later adapted for local registration of a registered apprenticeship program. In contrast, the proposed definition for National Program Standards for Apprenticeship states that these are developed by a program sponsor for registration on a nationwide, reciprocal basis by OA. Eventually, the Department envisions that any programs basing their standards on National Guidelines for Apprenticeship Standards or National Program Standards for Apprenticeship would adopt National Occupational Standards for Apprenticeship that are tailored to the specific occupation covered by a registered apprenticeship program. The Department recognizes that the development of National Occupational Standards for Apprenticeship requires a robust process to ensure that they are relevant to industry stakeholders and would only require program sponsors to adopt National Occupational Standards as they become available.

Proposed § 29.2 would add the definition of ''National Program Standards for Apprenticeship'' and define it for the first time. While National Program Standards for Apprenticeship have been in common practice as a set of registered standards of apprenticeship developed and adopted by a program sponsor that are registered on a nationwide, reciprocal basis by OA,[63] proposed § 29.14 is new and would establish criteria and a process for the registration of National Program Standards for Apprenticeship. The Department proposes to add this definition here in conjunction with the proposed addition at § 29.14.

Proposed § 29.2 would add the definition of ''non-compete clause,'' which means a term in the apprenticeship agreement or other agreement between an employer or sponsor and an apprentice that prohibits the apprentice from seeking or accepting employment with another employer during the registered apprenticeship program or registered CTE apprenticeship program.

Proposed § 29.2 would largely retain the existing definition of ''Office of Apprenticeship'' from the registered apprenticeship regulations but would make minor changes to more accurately reflect the designation of responsibility for National Apprenticeship System oversight within DOL. In the proposed update to the definition of ''Office of Apprenticeship (OA),'' the Department proposes to add a reference to the Secretary's designation of National Apprenticeship System oversight to ETA and OA. The Department also proposes to capitalize ''Apprenticeship'' in this updated definition to align with OA's official title.

Proposed § 29.2 would add the definition of ''on-the-job training'' and define the term for the first time. This term is referred to as ''on-the-job learning'' in the current rule. The Department is both proposing a definition for this concept in registered apprenticeship and updating it to ''training'' to align with other workforce development programs, such as those authorized under WIOA. Registered apprenticeship has two essential yet distinct components: related instruction and on-the-job training. While learning is involved in all aspects of apprenticeship, it is important to define on-the-job training as distinct, to explain what programs are required to provide and to mitigate compliance issues about the component of an apprenticeship that requires an apprentice to be paid wages while they are employed and learn an occupation suitable for registered apprenticeship. On-the-job training is an organized and systematic form of training conducted at a workplace or jobsite that is designed to provide the apprentice with the hands-on knowledge, skills, techniques, and competencies that are necessary to achieve proficiency in an occupation determined suitable for registered apprenticeship training. It is a requirement for apprentices in on-the-job training to be paid a wage based on the wage progression schedule in approved program standards or a collective bargaining agreement when apprentices are on the worksite and contributing to an employer's productivity. In contrast, related instruction is an organized and systematic form of instruction designed to provide the apprentice with knowledge of the theoretical and technical subjects related to the apprentice's occupation. Such instruction, unlike on-the-job training, may be given in a classroom, through occupational or industrial courses, or by correspondence courses of equivalent value, electronic media, or other forms of self-study approved by the Registration Agency with a requirement of no less than an average of 144 hours per every 2,000 hours of on-the-job training under proposed § 29.7(b)(4). In contrast, the registered CTE apprenticeship model proposed under subpart B will require a minimum of 540 hours of CTE apprenticeship-related instruction, which encompasses not less than 12 postsecondary credit hours as part of the program.

Proposed § 29.2 would add a definition for the term ''participating employer.'' A participating employer would be an employer that does not assume the role of a program sponsor under the proposed rule, but that has agreed—pursuant to either a collective bargaining agreement establishing a joint committee that sponsors a registered apprenticeship program, or a program standards adoption agreement (defined below) with a sponsor that is reached outside of a collective bargaining process—to adopt the sponsor's standards of apprenticeship and to serve as the employer of record for the apprentices who are enrolled in the sponsor's program. Accordingly, a participating employer would pay wages and provide closely supervised, on-the-job training to the apprentices.

[62] ETA, OA Circular No. 2022–02, ''Guidance—National Guidelines for Apprenticeship Standards,'' Feb. 16, 2022, *https://www.apprenticeship.gov/sites/default/files/bulletins/Circular-2022-02.pdf.*

[63] ETA, OA Circular No. 2022–01, ''Updated Guidance—Minimum National Program Standards for Registered Apprenticeship Programs,'' Feb. 16, 2022, *https://www.apprenticeship.gov/sites/default/files/bulletins/Circular-2022-01.pdf.*

As discussed below, this arrangement is designed to ensure that participating employers would be held accountable for meeting the requirements contained in this part and in 29 CFR part 30.

Proposed § 29.2 would add the existing definition of ''physical or mental impairment'' from 29 CFR part 30.

Proposed § 29.2 would add a definition of ''pre-apprenticeship program'' to the text of 29 CFR part 29. While the EEO in Apprenticeship regulations at 29 CFR 30.2 currently contains a definition of pre-apprenticeship, there is no corresponding definition of that term in the current version of the labor standards of apprenticeship regulation at 29 CFR 29.2. This proposed definition would apply to the usages of the term in both parts 29 and 30 to ensure consistent use in the regulations governing the National Apprenticeship System. The proposed definition retains many aspects of the 29 CFR part 30 definition regarding pre-apprenticeship, but some changes are proposed to more closely align to the definitions of the same term that appear in the WIOA regulations at 20 CFR 681.480 and in the 2023 Quality Apprenticeships Recommendation (ILO Recommendation No. 208).[64] The proposed definition includes elements regarding access to educational and career counseling, supportive services, and opportunities to earn industry-recognized credentials as described in the WIOA definition. The inclusion of this definition in a revised 29 CFR part 29 is relevant because the proposed rule (at 29 CFR 29.25) would authorize the collection of information from registered apprenticeship program sponsors about pre-apprenticeship programs, and the apprentices they recruit from these programs, with which the sponsor has established a written partnership. The Department notes that an individual participating in a pre-apprenticeship program would not be considered an ''apprentice'' covered by these regulations. However, the role the Department has in promoting opportunities for workers and in promoting labor standards includes these critical talent pipelines to registered apprenticeship programs. Therefore, the Department is defining the proposed term here and in doing so recommending criteria that may be utilized by sponsors to accurately report the efficacy of such activities under 29 CFR 29.25. Additionally, it is important for registered apprenticeship programs to partner and form agreements and partnerships with pre-apprenticeship programs to establish a reliable pipeline of apprentices into the program and ensure they are diversifying their recruitment methods to meet EEO requirements in 29 CFR part 30. Pre-apprenticeship models should have an equitable, intentional, and achievable strategy for advancing the program's recruitment, hiring, and retention of individuals from underserved communities, and use the non-discrimination and EEO requirements contained in 29 CFR part 30 as the basis for identifying and eliminating barriers to opportunity in the program. As the Department has invested in pre-apprenticeship program models over the years, it has identified the elements laid out in this definition to be critical to laying a foundation in the broader workforce development community of what elements must be in a pre-apprenticeship program. The Department's experience further suggests that it is necessary to collect more robust information on pre-apprenticeship programs' effectiveness in placing participants as apprentices, as well as to better ascertain a registered apprenticeship program's efforts to meet their outreach and recruitment goals required in 29 CFR part 30. This definition would be necessary for stakeholders to understand how the term is used throughout the proposed regulation, and it also would better align registered apprenticeship and WIOA, with the Department's long-term goal being greater integration between pre-apprenticeship programs and registered apprenticeship programs to benefit career seekers, prospective apprentices, and employers.

Finally, the Department views pre-apprenticeship, registered CTE apprenticeship, and registered apprenticeship collectively as a broader apprenticeship pathways system with additional entry points for career seekers, particularly those from underserved communities, leading to registered apprenticeship. Pre-apprenticeship activities, including other forms of work-based learning such as job shadowing, project-based learning, and internships, may be utilized for CTE students, particularly those younger than 16, to better prepare them for success in registered CTE apprenticeship. Ultimately, in certain situations, an individual could progress from pre-apprenticeship to registered CTE apprenticeship, and then to registered apprenticeship.

Proposed § 29.2 would add the definition of ''proficiency'' and define it for the first time. Proficiency would mean, for purposes of subpart A of this part, the demonstrated, measurable attainment by an apprentice of each of the relevant job skills and competencies that are necessary to perform successfully at the journeyworker level in a given occupation. The purpose for adding the definition, among other things, is to clarify that the attainment of each of the various competencies associated with an occupation culminates in an apprentice's acquisition of overall occupational proficiency in that field.

Proposed § 29.2 would add a new definition for ''program review'' to replace the definition of ''quality assurance assessment,'' which the Department proposes removing, and bring the registered apprenticeship regulations in line with current administrative practices related to OA's oversight of the National Apprenticeship System. OA conducts program reviews to assess whether programs are in full compliance with the registered apprenticeship regulations in parts 29 and 30. The Department has determined that it would benefit the regulated community to include a definition for this important administrative process in the proposed update to the registered apprenticeship regulations so that stakeholders, in particular program sponsors, fully understand what is meant by a program review as that term is used below and as used in any communications or interactions with the Department or SAA. As discussed below, a program review could include technical assistance, which could be provided to a program sponsor as needed to assist the program with achieving full compliance with the regulations.

Proposed § 29.2 would add a definition for the term ''program standards adoption agreement.'' This term would apply to written agreements reached outside of a collective bargaining process between a sponsor that has developed a written set of registered standards of apprenticeship and work processes, and a Participating Employer that has agreed to utilize and adhere to the program sponsor's standards of apprenticeship and work processes for the training of apprentices in its employ.

Proposed § 29.2 would largely retain the definition of ''provisional registration'' from the existing registered apprenticeship regulations with a few minor proposed adjustments. The

[64] ILO, ''Quality Apprenticeships Recommendation, 2023'' (ILO Recommendation No. 208), Conclusion 1(c), June 16, 2023, *https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:4347381.*

proposed definition for ''provisional registration'' would replace ''rescinded'' with ''deregistered'' to align with current administrative practices and the proposed language and process for program registration at proposed § 29.10 because, as discussed below, the Department has determined that ''deregistered'' is a more suitable term to describe the scenario wherein a program that has been granted provisional approval is determined to be out of compliance with the registered apprenticeship regulations following a review by the Registration Agency. The Department is proposing to remove the term ''1-year'' to align with the procedural changes described in proposed § 29.10, which provides for a provisional period covering the first full training cycle of a registered apprenticeship program. In addition to the change described above, the Department proposes to change the cross-reference at the end of the existing definition of ''provisional registration'' to refer to ''this part'' (*i.e.,* the registered apprenticeship regulations at 29 CFR part 29). The Department has determined that it would be beneficial to clarify to the regulated community that provisional registration involves reviews for compliance with the entirety of parts 29 and 30, and not just compliance with the provisions cited in the existing definition (existing 29 CFR 29.3(g) and (h)).

Proposed § 29.2 would add the existing definition of ''qualified applicant or apprentice'' in 29 CFR part 30.

Proposed § 29.2 would add the existing definition of ''race'' in 29 CFR part 30. This definition would have the same meaning as under the Office of Management and Budget's (OMB) Standards for the Classification of Federal Data on Race and Ethnicity, or any successor standards.

Proposed § 29.2 would add the existing definition of ''reasonable accommodation'' in 29 CFR part 30.

Proposed § 29.2 would add the definition of ''reciprocity of registration'' and define it for the first time. While the concept of reciprocity is referenced in existing regulation at § 29.13(b)(7) as a requirement imposed on SAAs, the purpose of adding the definition is to define the concept of reciprocity more clearly as the provision of local registration status by an SAA in that State for a registered apprenticeship program registered by another Registration Agency.

Proposed § 29.2 would add the definition of ''recognized postsecondary credential'' and define it for the first time. The purpose of adding the definition of a recognized postsecondary credential is to clarify what this type of credential is in the National Apprenticeship System and to align with WIOA's definition of this term so that there is a shared definition across programs to assist program sponsors and workforce professionals operating and administering WIOA programs. Recognized postsecondary credentials awarded in a registered apprenticeship program should confer recognition of an apprentice's attainment of measurable technical or industry and occupational skills necessary to advance within an industry and occupation. These technical or industry and occupational skills generally are based on standards developed or endorsed by employers or industry associations. Apprentices may attain more than one recognized postsecondary credential during a program or upon completion. Relatedly, the Department has proposed modifying its definition for interim credential, discussed above, to be those recognized postsecondary credentials obtained during an apprentice's participation in a registered apprenticeship program. For the purposes of registered apprenticeship, the proposed definition of a recognized postsecondary credential includes: an industry-recognized certificate or certification, a Certificate of Completion, which is a requirement for all registered apprenticeship program sponsors, in coordination with a Registration Agency, to administer and provide to an apprentice upon completion of an approved program; a Federal, State, or local license in an occupation suitable for registered apprenticeship where such occupational licensure is required; or an associate or baccalaureate degree. Defining the term for Federal purposes would bring it into better alignment with usage and application as a programmatic outcome under WIOA and Perkins, and it could be used for assessing apprentices' rate of credential attainment for program and system reporting purposes under proposed § 29.25.[65] The Department is encouraging commenters to describe any increased opportunities for alignment with WIOA's credential measure, any comments where there may be challenges to alignment with this measure, and if the Department should continue its role in providing interim credentials strictly for competency attainment.

Proposed § 29.2 would delete the definition of ''apprenticeship program'' that appears in the current version of the labor standards of apprenticeship regulation at 29 CFR 29.2 and replace it with a more comprehensive definition of ''registered apprenticeship program.'' The new definition would stipulate that such apprenticeship programs must be of minimum duration and consist of both a paid on-the-job training component and a related instruction component and be registered by a Registration Agency.

Proposed § 29.2 would add a definition for the new term ''registered CTE apprenticeship program.'' A registered CTE apprenticeship program would be a program registered under subpart B and refers to a model of registered apprenticeship that is a structured integrated education and career training program embedded within a CTE program and includes a paid, on-the-job training component. This program would be distinct from registered apprenticeship programs in subpart A. Such a program would admit students, as CTE apprentices, who have signed a CTE apprenticeship agreement approved by a Registration Agency. Registered CTE apprenticeship programs would be designed to provide curriculum and on-the-job training for industrywide skills and competencies that may be applicable for any number of occupations. However, it should be noted that registered apprenticeship under subpart A would have a requirement of no less than an average of 144 hours per every 2,000 hours of on-the-job training under proposed § 29.7(b)(4). In contrast, the registered CTE apprenticeship model proposed under subpart B would require a minimum of 540 hours of CTE apprenticeship-related instruction, which encompasses not less than 12 postsecondary credit hours. Registered CTE apprenticeship programs would not be a substitute for registered apprenticeship programs under subpart A. Program sponsors of registered CTE apprenticeship would be encouraged to develop standards for use in a registered apprenticeship program under subpart A and meet the requirement of that part, especially where there are programmatic opportunities and a workforce need for alignment.

Proposed § 29.2 would revise the existing definition for ''Registration Agency'' to align with proposed changes to the part 29 regulations. The proposed definition for ''Registration Agency'' largely retains the existing definition but capitalizes ''Agency'' and adds

[65] ETA, Training and Employment Notice (TEN) No. 25–19, ''Understanding Postsecondary Credentials in the Public Workforce System,'' *June 8, 2020, https://www.dol.gov/agencies/eta/advisories/training-and-employment-notice-no-25-19.*

language clarifying that a Registration Agency must be a governmental entity to clarify that these are official government entities with a defined role and mission. The proposed definition also replaces the existing definition's references to ''reviews for compliance'' and ''quality assurance assessments'' with a general reference to ''program reviews'' that encompass assessments for compliance with both 29 CFR parts 29 and 30. In this proposed regulation, the Department proposes to refer to such compliance checks as ''program reviews,'' includes a proposed new definition for the term ''program review,'' and proposes to include a new section at § 29.19 that describes program reviews (*see* proposed § 29.19).

Proposed § 29.2 would retain the existing definition of ''related instruction.'' As discussed above, related instruction would be distinct from ''on-the-job training'' in a registered apprenticeship program.

Proposed § 29.2 would make minor changes to the existing definition for ''Secretary'' intended to clarify DOL's key role in overseeing the National Apprenticeship System. The proposed definition for ''Secretary'' would clarify that the referenced individual is the U.S. Secretary of Labor and would further clarify that ''Secretary'' may also refer to any official of DOL designated by the Secretary to clarify the scope individuals to whom the Secretary's authority may be delegated.

Proposed § 29.2 would add the existing definition for ''selection procedure'' from 29 CFR part 30.

Proposed § 29.2 would modify the definition of ''sponsor'' by expanding the illustrative list of entities that could be a sponsor to include intermediaries, which aligns with current practice. The proposed definition adds ''employer'' to more accurately describe the parties that can be a sponsor. In addition, the proposed definition retains association, committee, or organization that operates a registered apprenticeship program in whose name that program is registered. The proposed definition specifies that, in addition to operating a program, a sponsor also administers a program. The proposed definition also specifies that a Registration Agency is the registration and approval entity.

Proposed § 29.2 would add a new definition for ''Standards of Apprenticeship'' to the list of defined terms in the part 29 regulations. ''Standards of Apprenticeship'' is an important term of art in registered apprenticeship that refers to the organized, written plan containing the terms and conditions of employment, training, and supervision within a given registered apprenticeship program, the requirements of which are discussed in proposed § 29.8 below. The Department's proposed definition for ''Standards of Apprenticeship'' clarifies that these apply to registered apprenticeship programs.

Proposed § 29.2 would modify the definition of ''State'' to align with WIOA. The definition of ''State'' under section (sec.) 3 of WIOA includes the Commonwealth of Puerto Rico explicitly. The Department's proposed definition also utilizes WIOA's definition of ''outlying area'' rather than the existing term ''Territory or possession of the United States.'' Outlying area under WIOA includes American Samoa, Guam, Commonwealth of the Northern Mariana Islands, the Republic of Palau, and the United States Virgin Islands. This proposed alignment is another area where the Department is attempting further integration between apprenticeship and the broader workforce system by recognizing that the outlying areas, which receive funding under title I of WIOA, should be able to make greater use of the National Apprenticeship System to develop a more comprehensive workforce strategy.

Proposed § 29.2 would retain the definition for ''State Apprenticeship Agency'' from the existing regulations with minor adjustments. The proposed definition provides more clarity that only a State government agency or department may seek recognition as an SAA.

Proposed § 29.2 would modify the definition of ''State Apprenticeship Council.'' The previous definition was updated in the 2008 final rule and limited an earlier definition that granted authority to promulgate apprenticeship laws in the event a State Apprenticeship Council was established as a regulatory body. The purpose of the proposed changes to § 29.2 in this proposed rule is to reflect the proposed changes in § 29.26, which would require that State Apprenticeship Councils act solely in an advisory capacity and prohibit an SAA from delegating regulatory or oversight functions to the State Apprenticeship Council.

Proposed § 29.2 would add a definition for ''State Apprenticeship Plan.'' This definition is being added due to its inclusion in proposed § 29.27 as a mandatory submission from a State government agency seeking to obtain or maintain recognition as an SAA. Establishing a definition of ''State Apprenticeship Plan'' is necessary to provide clear differentiation from other required plans in this part and 29 CFR part 30. This definition would also clarify that a plan covers a State government agency's recognition for 4 years as an SAA.

Proposed § 29.2 would add a definition for the term of ''State CTE Agency.'' A State CTE Agency would be a State board designated or created consistent with State law as the sole State government agency responsible for the administration of CTE in the State or for the supervision of the administration of CTE in the State, or another State government agency delegated the authority by such State board to administer Perkins. Under subpart B, the State CTE Agency would have the responsibility to coordinate with a Registration Agency for the coordination of registered CTE apprenticeship programs if a State chooses to register such programs.

Proposed § 29.2 would add the definition of ''supportive services'' and define it for the first time. The purpose of adding the proposed definition is to recognize the types of services provided in current practice by National Apprenticeship System stakeholders and partners that are necessary to enable an individual to participate and succeed in registered apprenticeship programs, as well as registered CTE apprenticeship and pre-apprenticeship programs. The proposed definition is aligned with the existing definition found under sec. 3 of WIOA. Under WIOA, the term ''supportive services'' means services such as transportation, childcare, dependent care, housing, and needs-related payments that are necessary to enable an individual to participate in activities authorized under the Act. The holistic provision of supportive services through cross-system coordination has been found to be beneficial as a programmatic intervention that enables program participants who may face barriers, such as affordable childcare, housing assistance, and reliable transportation, to participate in and complete a pre-apprenticeship or registered apprenticeship program. Supportive services may include, but are not limited to: assistance with transportation; assistance with childcare and dependent care; linkages to community services; assistance with housing; assistance with educational testing; referrals or coverage for physical or mental health care services; assistance with uniforms or other appropriate work attire and work-related tools, including such items as eyeglasses and protective eye gear; assistance with books, fees, school supplies, and other necessary items for students enrolled in college or career readiness, secondary, and

postsecondary education classes; payments and fees for employment and training-related applications, tests, and certifications; needs-related payments; and legal aid services.[66] Several types of National Apprenticeship System stakeholders and partners, including intermediaries and local workforce boards, provide supportive services. Local workforce areas may provide supportive services, in coordination with career or training services or both, consistent with WIOA sec. 134(d)(2) and State and local policies, to participants in a registered apprenticeship program.[67]

Proposed § 29.2 would largely retain the existing definition for ''technical assistance,'' with a minor change to the final clause describing what technical assistance is meant to accomplish. The existing part 29 regulations define ''technical assistance'' as guidance or assistance to further program compliance with the part 29 regulations or guidance provided to an SAA on how to ''remedy nonconformity'' with the regulations. The Department has proposed to replace that language to clarify that ''technical assistance'' refers to any support provided to help an entity—a program sponsor or an SAA—satisfy the requirements of parts 29 and 30. Technical assistance does not only arise out of a problem, or in response to a finding of noncompliance with the registered apprenticeship regulations. Technical assistance is also a proactive activity or resource that can help stakeholders understand and comply with requirements at the outset of setting up a program, during the course of a program when a question arises, or in response to new developments that affect a given program's circumstances. To assist the regulated community with understanding and complying with this proposed regulation, and in accordance with the Department's historical practice, the Department plans to engage in a proactive, comprehensive technical assistance campaign that includes written resources and guides and increased avenues for the provision of customer service, including additional staffing to address individual issues and improved forums or portals for requesting and receiving technical assistance.

Proposed § 29.2 would retain the definition for ''transfer'' from the existing regulations.

Proposed § 29.2 would add a definition of ''underserved communities.'' One of the key goals of this proposed rule is to enhance opportunities to support greater equity in the National Apprenticeship System. The Department is adding this term, as it is used throughout the proposed rule, to ensure SAAs, program sponsors, and other stakeholders have an intentional strategy to recruit from and retain individuals from these communities. The Department's proposed definition is derived from several sources: the Good Jobs Principles; the protected bases in 29 CFR part 30; and populations described in WIOA as potentially needing more services for full access to training and employment. The Department welcomes comments on this proposed definition, as well as recommendations for how to embed strategies for recruiting and retaining apprentices from these communities into the National Apprenticeship System. The Department welcomes comments on this proposed definition, as well as recommendations for how to embed strategies for recruiting and retaining apprentices from these communities into the National Apprenticeship System.

Proposed § 29.2 would add the existing definition of ''undue hardship'' from 29 CFR part 30.

Proposed § 29.2 would add a definition of ''work process schedule.'' The current version of 29 CFR 29.2 does not include a definition of the term ''work process schedule,'' although this term is referenced at current § 29.5(b)(3), as well as in other provisions of the current regulations. This omission would be rectified in proposed § 29.2 of the NPRM so that there is clear understanding of what the regulations mean when they use the term work process schedule. The new definition of the term would clarify that a work process schedule is a training plan that establishes a series of measurable competency benchmarks whose acquisition by the apprentice should lead to occupational proficiency by the conclusion of the apprenticeship term.

Section 29.3—Office of Apprenticeship

This proposed section ''Office of Apprenticeship'' is included to describe the roles and responsibilities of the DOL's OA, which have evolved over time, and is intended to provide clarity to the regulated community on the activities OA performs. OA is the office established in ETA to be the administrative and coordinating entity of the National Apprenticeship System. The Department is adding this section to more accurately describe the role and responsibilities of OA, particularly in light of the changes that have occurred in apprenticeship and in the broader economy that occurred since the publication of the current 29 CFR part 29 in 2008.

In a rapidly changing apprenticeship environment, OA continues to have the responsibility to implement and administer the NAA, including by safeguarding the welfare of apprentices through approving registered apprenticeship programs and standards as a Registration Agency and cooperating with State government agencies by recognizing SAAs. The proposed section also recognizes and describes OA's role and responsibility to lead and coordinate the National Apprenticeship System on national policy efforts, manage any resources provided to support apprenticeship, convene industry to promote the importance of apprenticeship including the advantages of adopting standards of apprenticeship, promote the value of apprenticeship, advocate EEO for apprentices and the benefits of apprenticeship as a DEIA strategy for sponsors, maintain National Apprenticeship System data for OA and SAAs, and provide technical assistance to National Apprenticeship System partners, including sponsors and SAAs. Finally, OA has the role and responsibility to engage with a variety of entities and organizations to develop and facilitate apprenticeship in the United States and develop partnerships with stakeholders throughout the National Apprenticeship System including sponsors, intermediaries, and States.

Proposed § 29.3(a) through (d) describe the administrative duties OA fulfills to formulate and update regulations, issue subregulatory guidance, policies, and procedures in connection with the implementation of the NAA (29 U.S.C. 50), and to register apprenticeship programs and standards that satisfy the requirements of 29 CFR parts 29 and 30. Proposed § 29.3(c) also maintains OA's existing role for granting recognition to SAAs that are established under State laws and regulations, and that also satisfy the requirements that are outlined in proposed § 29.26. These proposed paragraphs also include OA's role in promoting the development of industry-validated standards as part of the suitability determination process

[66] For more on the Department's approach to supportive services, see 20 CFR 680.900 (''What are supportive services for adults and dislocated workers?'') in the WIOA regulations and ETA, TEN No. 12–21, ''Practitioners Guide to Supportive Services,'' Oct. 15, 2021, *https://www.dol.gov/agencies/eta/advisories/training-and-employment-notice-no-12-21.*

[67] ETA, TEGL No. 19–16, ''Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES),'' Mar. 1, 2017, *https://www.dol.gov/agencies/eta/advisories/training-and-employment-guidance-letter-no-19-16.*

described in proposed § 29.7, the development of National Occupational Standards for Apprenticeship described in proposed § 29.10, and industry skills frameworks described in subpart B of this part.

Proposed § 29.3(e) would require OA to maintain National Apprenticeship System data pertaining to apprentices and apprenticeship programs that are registered by either OA or SAAs. The purpose of this provision is to support proposed §§ 29.25 and 29.8 as a modernization effort to facilitate data collection and reporting. OA's operation and management of this data system would make the system more transparent and accountable; promote equitable program outcomes for apprentices; and build capacity to disaggregate demographic, geographic, and industry data to evaluate and assess program quality.

Proposed § 29.3(f) would establish the administrative role of OA to promote DEIA in apprenticeship, including for those from underserved communities. In addition, this provision would include OA's role in enforcing equal opportunity for apprentices and applicants for apprenticeship in registered apprenticeship programs consistent with part 30.

Proposed § 29.3(g) would establish the coordinating role for OA to deliver technical assistance to registered apprenticeship program sponsors, SAAs, companies, Federal agencies, and other key stakeholders in the development of apprenticeship program standards and the operation of apprenticeship programs. The Department also anticipates that under this proposed rule it would provide significant technical assistance to SAAs and sponsors on the data reporting requirements in proposed §§ 29.25 and 29.28, including promoting and training on the practices for the collection and utilization of data. An example of how this coordination role has been operationalized is through the Department's investments in industry intermediaries that work across both OA and SAA States to deliver timely technical assistance. Technical assistance is a critical OA function that provides assistance to employers, education providers, and other stakeholders in program design and in compliance-related matters as well.

Proposed § 29.3(h) would also establish a coordinating role for OA to engage in discussions with relevant stakeholders, including multilateral institutions, businesses, and non-governmental organizations in order to facilitate the development and expansion of apprenticeships in the United States. The purpose of this new provision is to institutionalize longstanding relationships the Department has created with apprenticeship stakeholders across the globe through mechanisms such as the development of memoranda of understanding that promote the exchange of ideas and best practices for expanding registered apprenticeship programs, bolster U.S. efforts to establish new apprenticeship programs, increase awareness of opportunities, and create career pathways for apprentices. This paragraph would also establish a coordinating role for OA to develop partnerships with apprenticeship stakeholders that could facilitate and accelerate the expansion of quality registered apprenticeship programs across the National Apprenticeship System.

Proposed § 29.3(i) would provide OA the flexibility to conduct other activities that support the National Apprenticeship System. This is to account for the wide array of activities that OA may conduct to further the goals of the National Apprenticeship System. Such activities have historically included overseeing registered apprenticeship-related appropriations and investments, an annual National Apprenticeship Week, recognition programs such as Apprenticeship Ambassadors, and many others.

Section 29.4—Relation to Other Laws and Agreements

Proposed § 29.4 would describe how the proposed regulation would relate to other laws and agreements that could apply to the entities covered by this proposed rule. To align with a similar existing provision in part 30, proposed § 29.4(a) makes clear that the provisions set forth in the revised part 29 would not invalidate or supersede any other Federal, State, or local law establishing more protective or stringent minimum labor standards of apprenticeship than those contained in part 29. Similarly, proposed § 29.4(b) stipulates that part 29 would not invalidate any provision in any collective bargaining agreements applicable to a registered apprenticeship program that establishes more protective or stringent minimum labor standards of apprenticeship. The provisions of part 29 establish the minimum requirements or a floor for program standards, and not a ceiling. The Department notes that there are many successful programs that exceed these minimum standards and encourages all programs to do so in support of developing high-quality training programs for apprentices and employers. Where such higher standards are established, this provision would make it clear that they, rather than the requirements of this part, are controlling.

Section 29.5—Severability

The Department proposes to include a severability provision as part of this proposed rule. To the extent that any provision, or any portion of any provision, of 29 CFR part 29 that has been proposed or modified in this proposed rule is declared invalid by a court of competent jurisdiction, the Department intends for all other provisions of this part that are capable of operating in the absence of the specific provision, or portion of such provision, that has been invalidated to remain in effect.

Section 29.6—Transition Provisions

The Department is proposing this section to establish reasonable transition periods to allow for the orderly implementation of the amended regulations. In developing these proposed transition periods, the Department has made a concerted effort to account for the unique needs, circumstances, and potential burdens different stakeholders and regulated entities may face in transitioning their operations, policies, or administrative procedures to come into compliance with the updated regulation. These proposed transition periods balance a reasonable timeline to accommodate current and potential system stakeholders against the need to build a stronger National Apprenticeship System with core quality elements.

The essential quality elements that the Department seeks to realize within the National Apprenticeship System relate to approving occupations with respect to their suitability for registered apprenticeship training, registering apprenticeship programs, approving work process schedules, enhancing worker protections in apprenticeship agreements, and enhancing data and performance reporting and measuring. The Department invites comments on each transition provision, including whether a transition period is necessary, the length of time provided, and whether additional transition provisions should be included. In particular, the Department is interested in comments from the primary parties that would have to come into compliance in the time allotted by these proposed provisions—namely, applicants for suitability determinations, existing and potential program sponsors, labor organizations, Registration Agencies (SAAs), and any other organizations or stakeholder groups that would be impacted (or whose constituencies

would be impacted) by the proposed transition timelines. The Department seeks their input on the reasonableness and feasibility of the proposed transition provisions, their impact on the National Apprenticeship System and efforts to expand registered apprenticeship, and any additional considerations from their valuable perspectives.

Proposed paragraph (a) addresses the implementation of the proposed rule as it pertains to proposed § 29.7 and the updated process for making determinations on occupations' suitability for registered apprenticeship. The provisions at proposed § 29.7 would ultimately pertain to occupations not yet determined suitable prior to the effective date of the proposed regulation (potential occupations), occupations previously recognized as suitable for registered apprenticeship training (formerly, ''apprenticeable'') by the Administrator (OA) under the existing regulatory framework at § 29.4 (existing suitable occupations), and occupations recognized as suitable for registered apprenticeship training by an SAA prior to the effective date of the proposed regulation (SAA-approved occupations). The Department has organized the proposed transition provisions related to proposed § 29.7 around these three categories to promote clarity. In short, if an occupation has not been previously determined to be suitable for registered apprenticeship training prior to the effective date of this proposed regulation, the provisions at proposed § 29.7 would apply within 90 days of the effective date of the final rule. If an occupation has been previously determined to be suitable for registered apprenticeship training prior to the effective date of the regulation, the provisions at proposed § 29.7 would apply 4 years following the effective date of the final rule.

The following table summarizes the proposed transition provisions relating to proposed § 29.7, which would apply to applicants for suitability determinations as described above (as well as sponsors of existing programs utilizing occupations recognized as suitable for registered apprenticeship training prior to the final rule's effective date):

PROPOSED TRANSITION PROVISIONS FOR § 29.7

[Occupations' suitability for registered apprenticeship]

Scenarios	Proposed transition timeline
Potential occupations—occupations not determined suitable for registered apprenticeship training prior to the effective date of the final rule.	90 days following the effective date of the final rule.
Existing suitable occupations—occupations deemed suitable for registered apprenticeship training by the Administrator prior to the effective date of the final rule.	4 years following the effective date of the final rule.
SAA-approved occupations—occupations deemed suitable for registered apprenticeship training by an SAA.	4 years following the effective date of the final rule.

As described in the table above, the Department believes these are the three different scenarios relevant to the proposed transition provisions for proposed § 29.7. Proposed paragraph (a)(1) is for occupations that have not been determined suitable (formerly ''apprenticeable'') as of the effective date of this proposed rule. The Department is proposing that applications for suitability determinations for potential new occupations must reflect the updated requirements in proposed § 29.7 beginning 90 days after the effective date of the final rule, and that during this transition period, the requirements of the existing rule's § 29.4 would remain in effect. The Department seeks to implement the new proposed process for making determinations on occupations' suitability for registered apprenticeship training shortly after the effective date of the final rule, but recognizes that it could be necessary to provide a transition period to accommodate any applications that may have been in process, update systems, develop and issue technical assistance documents, and otherwise leave time for both the regulated community and the Department to prepare for the changes to the updated process.

Proposed paragraph (a)(2) would implement the proposed requirement of § 29.7(a) that occupations may only be determined suitable by the Administrator. Under this transition provision, SAAs that make apprenticeability determinations under the current rule's §§ 29.4 and 29.13 would not be able to make suitability determinations under proposed § 29.7 for Federal purposes upon the effective date of this proposed rule.

Proposed paragraph (a)(3) addresses the transitioning of occupations previously determined apprenticeable under the current regulatory framework at § 29.4. These occupations would be considered suitable for registered apprenticeship by the Administrator until OA reviews the occupation for continued suitability under proposed § 29.7(h), which provides for a 5-year review process of suitable occupations, work process schedules, and related instruction outlines. The Department recognizes the significant undertaking required to review previously approved occupations under current § 29.4 with the criteria under proposed § 29.7, and thus it proposes in § 29.7(h) an ongoing 5-year review process for suitable occupations to maintain their suitability status. The Department intends to avoid and minimize any adverse impacts to established programs associated with the implementation of this proposed rule, and the provisions of proposed § 29.7(h) provide programs with sufficient notice about the timing regarding an update to existing occupations. The Department also intends to develop and disseminate comprehensive technical assistance resources around the updated suitability process and continue to provide responsive, effective customer service to existing and potential stakeholders at the regional, State, and local levels. The Department has decided not to permanently exempt existing occupations beyond the provisions described in proposed § 29.7(h) because the Department wants to ensure a process where all occupations remain updated to the needs of industry to ensure the training of apprentices remains at the highest quality possible. The Department is interested in comments about the length of this transition provision, impacts to current sponsors, and alternatives such as permanently exempting those occupations versus the goal of building a more cohesive National Apprenticeship System with occupations that are approved under a consistent approach as envisioned in this proposed regulation.

Proposed paragraphs (b) and (c) address the implementation of proposed §§ 29.8 through 29.23, which concern proposed standards for registered

apprenticeship programs and other proposed regulatory requirements pertaining to registered apprenticeship programs. For these sections of the proposed regulation, program sponsors would ultimately be responsible for their registered apprenticeship program's compliance with the updated part 29 regulations, consistent with these transition provisions. As with the proposed transition provisions for § 29.7, the Department envisions three different scenarios relevant to the proposed transition provisions for the remainder of proposed subpart A. First, the Department proposes that any new programs that were not registered by the Administrator prior to the effective date of the final rule (potential programs) would need to comply with the updated requirements in subpart A after the effective date of this proposed rule. The Department plans to make available to sponsors an electronic submission process for the submission of registered apprenticeship applications, at which time those sponsors would be expected to comply with the updated submission process. The Department anticipates making this process available as close to the effective date of the proposed rule as possible and communicating the electronic process through subregulatory guidance. Second, the Department proposes that programs registered by the Administrator prior to the effective date of the final rule (existing registered apprenticeship programs) would need to comply with the updated requirements in subpart A within 2 years of the effective date of the final rule.

The following table summarizes the proposed transition provisions relating to the remainder of subpart A:

PROPOSED TRANSITION PROVISIONS FOR SUBPART A

[§§ 29.8 Through 29.23]

Scenarios	Proposed transition timeline
Potential programs—new programs not previously registered by the Administrator prior to the final rule's effective date.	Effective date of the final rule or when OA makes available an electronic submission process to potential sponsors.
Existing registered apprenticeship programs—registered apprenticeship programs previously registered by the Administrator prior to the effective date of the final rule.	2 years following the effective date of the final rule.
SAA-approved registered apprenticeship programs—registered apprenticeship programs previously registered by an SAA prior to the effective date of the final rule.	2 years following the SAA coming into compliance with the final rule; all programs approved by SAAs after the effective date of the final rule must remain in provisional status until the SAA has determined them in compliance with the requirements of their approved State Apprenticeship Plan.

Proposed paragraph (b) provides an immediate effective date for programs not previously registered by the effective date of the final rule for registering programs under subpart A, when an electronic submission process would be available to sponsors. The Department is proposing this to allow OA to provide the necessary supports and technical assistance to potential sponsors relating to the requirements of this proposed rule through an electronic submission process. Such technical assistance could include the development of boilerplate standards of apprenticeship for use by sponsors, webinars on different aspects and requirements of the proposed rule, electronic tools to assist programs, and any other requirements. The Department is interested in any comments on the sufficiency of this time period, including whether this transition period is necessary, whether it is sufficient to allow for OA to develop the necessary supports for potential sponsors while also adhering to the goal of transitioning this provision more quickly (which may impact OA's ability to provide sufficient technical assistance to stakeholders).

Proposed paragraph (c) addresses the transition timeline for programs previously registered by OA to comply with the requirements of this proposed rule. The Department anticipates significant changes would need to be made to program standards, apprenticeship agreements, and other requirements proposed in subpart A. The Department recognizes that established programs could need a longer transition period than new, potential programs, and thus it proposes a 2-year timeline for registered apprenticeship programs in the system prior to the effective date of the final rule to comply with the updated regulation. For example, an established program could need time to complete the training cycle for a cohort of apprentices under its previous standards before moving to update them or could need time to develop questions pertaining to their program in response to subregulatory guidance issued by the Department. The Department is interested in any comments regarding the appropriate length of time to transition previously approved programs to the enhanced quality requirements of this proposed rule taking into account the burden of sponsors and the goals of ensuring the enhancements made in this rulemaking are implemented throughout the National Apprenticeship System.

The Department recognizes that occupations and registered apprenticeship programs established within the National Apprenticeship System prior to the effective date of the final rule would need to consider two different compliance timelines: a longer, 4-year timeline for ensuring their occupation meets the updated suitability requirements at proposed § 29.7, and a 2-year timeline for ensuring their program standards and other program elements align with proposed subpart A. For example, an existing registered apprenticeship program would have to update its program standards within 2 years of the final rule's effective date, and it could also need to gather and report data to the Administrator regarding the subject occupation's typical wage profile within 4 years of the final rule's effective date. The Department anticipates that established programs could need significant time, technical assistance, or other support to align with either the updated standards or suitability requirements. In particular, a competency-based program or a hybrid program (under the existing training model framework) could need significant support in transforming their program's work process schedule to meet the 2,000-hour on-the-job training requirement. The Department plans to extend opportunities to such programs to submit requests for extensions of the transition timeline for good cause, which would also help the Department identify types or trends of technical assistance issues throughout the implementation process. The

Department invites comment, particularly from stakeholders of existing programs, as to the feasibility and reasonableness of the proposed transition timelines, opportunities for requesting extensions for good cause, or any other potential questions or issues with respect to this proposed rule and the proposed transition timelines in this section.

Paragraph (d) proposes transition provisions related to SAAs recognized by the Administrator as of the effective date of the proposed rule, the occupations they have approved as ''apprenticeable'' under the current rule, and the programs they have registered for Federal purposes under the current rule. Proposed paragraph (d) provides that SAAs recognized under the current rule would be recognized until December 31, 2026. The Department anticipates this would provide sufficient time for a State to make the needed changes to transition. State government agencies seeking continued recognition for Federal purposes would need to seek recognition as described in proposed § 29.27 within that timeframe or they would lose their status as recognized SAAs. The Department is interested in comments about the timing and other relevant factors impacting previously recognized SAAs as they work towards complying with the requirements of the proposed rule. The Department is aware that States may need to change their apprenticeship-related laws to address the requirements in this proposed rule and is interested in comments regarding whether the proposed transition timeline provides sufficient time for those laws to be updated and for the recognition requirements of proposed § 29.27 to be fulfilled. The Department has an interest in building greater alignment in the National Apprenticeship System through these proposed regulations but is interested in comments that may address implementation challenges and timing for those States.

Proposed paragraph (d)(1) concerns programs registered by SAAs prior to the approval of a State's State Apprenticeship Plan (discussed in detail in the section-by-section discussion at proposed § 29.27 of this NPRM). Under proposed paragraph (d)(1), SAAs must ensure that such programs' registration is consistent with the applicable elements of an approved State Apprenticeship Plan within 2 years of the date the State Apprenticeship Plan is approved. The Department recognizes that this would be a longer time period for compliance in programs registered by SAAs, because the Department acknowledges that SAAs would need to make changes to their laws to meet the requirements of this proposed rule and because they would be responsible for the registration of programs it would not be fair to hold programs accountable for registration in the State prior to the State making the needed updates to their State laws. The 2 years from approval of the State Apprenticeship Plan would be in alignment with the 2 years the Department proposes providing for programs registered by OA from the approval of this proposed rule. While the Department proposes providing this longer period for programs in SAAs to be compliant with these requirements, proposed paragraph (d)(1) also provides that any program registered after the effective date of the final rule, but before the State Apprenticeship Plan, would remain in provisional status until the program is determined by the SAA to be in compliance with the requirements of its State Apprenticeship Plan, which includes compliant laws with the requirements of proposed §§ 29.26 and 29.27. Paragraph (d)(2) proposes a transition period for occupations that may have been determined ''apprenticeable'' by an SAA, but not by the Administrator. As described below in proposed § 29.7, this proposed rule reserves the role of making determinations regarding occupational suitability for registered apprenticeship training (previously called ''apprenticeability'') role exclusively for the Administrator. The Department is proposing a 4-year period by which those occupations previously approved by SAAs must be approved by the Administrator under proposed § 29.7 in order to continue to be registered for Federal purposes. These timelines, and the relevant members of the regulated community for scenarios involving occupations or registered apprenticeship programs previously deemed suitable, or registered, by SAAs, are clarified in the tables above (see rows for ''SAA-approved occupations'' and ''SAA-approved registered apprenticeship programs'' in the tables above). The Department is interested in comments regarding this transition period, particularly those that weigh the benefits of a more aligned and consistent system against the burden on sponsors or SAAs to submit suitability requests under proposed § 29.7 to continue their registration.

Paragraph (e) proposes that for State government agencies not previously recognized as an SAA by the Administrator, they must seek recognition under proposed § 29.27 upon the effective date of the final rule.

The following table summarizes the proposed transition periods related to SAAs, the occupations they have previously determined suitable for registered apprenticeship training, and the apprenticeship programs they have previously registered.

PROPOSED TRANSITION PROVISIONS FOR SAAS, SAA-APPROVED OCCUPATIONS, AND SAA-REGISTERED APPRENTICESHIP PROGRAMS

Scenarios	Proposed transition timeline
Potential SAAs not previously recognized by the Administrator prior to the effective date of the final rule.	The effective date of the final rule—new SAAs will need to comply with the proposed requirements at § 29.27 to receive recognition as an SAA from the Administrator.
SAAs previously recognized by the Administrator prior to the effective date of the final rule.	Previously recognized SAAs must come into full compliance with the updated regulations at proposed § 29.27 by December 31, 2026.
SAA-approved registered apprenticeship programs—registered apprenticeship programs previously registered by an SAA prior to the effective date of the final rule.	2 years following the SAA coming into compliance with the final rule (2 years following the approval of a State Apprenticeship Plan).
SAA-approved occupations—occupations deemed suitable for registered apprenticeship training by an SAA.	4 years following the effective date of the final rule.

B. Subpart A—Standards for Registered Apprenticeship Programs

Section 29.7—Occupations Suitable for Registered Apprenticeship

The National Apprenticeship System is built on registering apprenticeship programs, and the first step to registering any program is determining whether it involves an occupation that is suitable for registered apprenticeship training. For this reason, determining whether an occupation is suitable for registered apprenticeship training—what OA used to describe as an ''apprenticeable occupation'' determination—is a critical responsibility within the National Apprenticeship System. An occupation's suitability for registered apprenticeship training is inextricably linked with the requirements and purpose of apprenticeship itself. The primary purpose of a registered apprenticeship program is to support industry's needs for hiring and training a skilled and diverse workforce and preparing apprentices for successful careers by producing individuals who are fully proficient in their chosen occupation. The Department believes the criteria established in this section are critical for achieving these goals.

To have a successful career and achieve full proficiency requires a degree of rigor that distinguishes apprenticeship from other forms of training and work-based learning and goes beyond the acquisition of short-term credentials. These consistent factors across a range of industries and occupations also provides an indicator of quality and results for all stakeholders. This is important for building a National Apprenticeship System wherein apprentices receive training and instruction to prepare them for successful, sustainable careers within a quality career path and skills that are portable across an industry.

Determinations of an occupation's suitability for registered apprenticeship training is also a central consideration in the Department's efforts to expand registered apprenticeship to new industries and sectors. The expansion of registered apprenticeship is an ongoing, driving focus for the Department. However, expansion efforts must balance flexibility and quality control to ensure that any potential new programs have room within the regulatory framework to adapt the model to their industry and occupation, while also ensuring that potential apprentices seeking to enter into a program can expect to receive quality training that is transferrable throughout an industry and applicable and beneficial throughout their careers.

Under the current regulatory framework, an occupation is considered suitable for registered apprenticeship training if it meets four distinct criteria set forth at current 29 CFR 29.4. Occupations suitable for registered apprenticeship training (''apprenticeable'' occupation) must: (1) involve job skills customarily acquired through on-the-job training; (2) be ''clearly identifiable and recognizable'' in an industry; (3) involve the progressive acquisition of skills and knowledge which would require at least 2,000 hours of on-the-job training; and (4) require related instruction in addition to the on-the-job training component.

The Department has determined, based on the successful functioning of the National Apprenticeship System, consideration of national and international apprenticeship practices,[68] and input from industries where registered apprenticeship has successfully led to the development of a skilled workforce that meets industries' evolving needs, that a quality registered apprenticeship program must involve at least 1 year of full-time training or its equivalent in the subject occupation. Accordingly, in this revision to the registered apprenticeship regulations at proposed 29 CFR 29.7(b)(4), the Department proposes to retain the existing requirement from 29 CFR 29.4(c) that states ''apprenticeable'' occupations must involve the progressive attainment of skills and knowledge over the course of ''at least 2,000 hours'' of on-the-job training. This time period equates to approximately 1 year of full-time work,[69] and the Department has determined that in order for an occupation to be suitable for registered apprenticeship training and eligible for registration within the National Apprenticeship System, the training regimen for that occupation must meet this minimum duration requirement. The Department views this minimum duration requirement as an important hallmark of a quality registered apprenticeship program that effectively imparts occupational proficiency for apprentices.

As discussed throughout, the Department recognizes the importance of ensuring that apprentices who complete a registered apprenticeship program are proficient in the subject occupation. The 2023 Quality Apprenticeships Recommendation of the ILO advises Member States to consider the scope of competencies required for an occupation, as well as the duration of the apprenticeship term that would be required to impart such competencies, in making determinations about an occupation's suitability for registered apprenticeship training.[70] Based on its experience and in its work with its international peers, the Department views the 2,000-hour minimum duration requirement as an important minimum quality assurance for employers that hire apprentices who have completed registered apprenticeship programs. The Department intends for the National Apprenticeship System to consistently produce cohorts of workers employed in skilled careers that employers are eager to hire, that are competent in the individual job tasks and skills that constitute the full scope of work for an occupation, and that are fully proficient in the covered occupation. Before assigning key aspects of their business operations to new workers, employers must have confidence that they can rely on such workers to perform tasks safely, accurately, efficiently, and in a timely manner such that the work rendered contributes to a profitable enterprise. The Department has determined that the 2,000-hour minimum duration requirement is critical for imparting the necessary safety training, competency development, and strategies for the efficient completion of tasks to apprentices. For example, programs registered for the electrician occupation typically have a time-based requirement for an apprentice to achieve occupational proficiency in no less than 8,000 hours, or approximately 4 years.

In order to become proficient in the subject occupation, apprentices must learn the appropriate safety techniques

[68] Apprenticeships in Canada ordinarily are between 2 and 5 years in duration. *See* Government of Canada, ''How to become an apprentice,'' *https://www.canada.ca/en/services/jobs/training/support-skilled-trades-apprentices/become-apprentice.html* (last updated Mar. 31, 2023). Apprenticeships in Australia are ordinarily between 1 and 4 years in duration. *See* Fair Work Ombudsman of the Australian Government, ''Guide to Starting an Apprenticeship,'' June 2023, at 2, *https://www.fairwork.gov.au/sites/default/files/migration/712/guide-to-starting-an-apprenticeship.pdf.* Apprenticeships in England are ordinarily between 1 and 5 years in duration and cannot be less than 1 year in duration. *See* Andrew Powell, ''Apprenticeships Policy in England,'' House of Commons Library, Jan. 20, 2023, at 10, *https://researchbriefings.files.parliament.uk/documents/SN03052/SN03052.pdf,* as well as the information available at *https://www.gov.uk/employing-an-apprentice* (last visited July 20, 2023).

[69] Based on a 40-hour workweek and 50 weeks of full-time work in a year.

[70] ILO, ''Quality Apprenticeships Recommendation, 2023'' (ILO Recommendation No. 208), Conclusion 9(c), June 16, 2023, *https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:4347381.*

and technical procedures associated with an occupation and must continuously apply such techniques and procedures in order to strike the appropriate balance between safety, accuracy, and efficiency. This learning and continuous application of safety measures, skills, and techniques takes time and resources, and such an investment of time and resources is critical to realizing the benefits of quality apprenticeship training for both employers and workers.

Further, the Department views the 2,000-hour minimum duration requirement as an important protection for apprentices, and in line with the Department's statutory obligation to protect the welfare of apprentices. Such a minimum duration requirement is important for the protection of apprentices' welfare in three important respects—acquiring occupational proficiency on-the-job, ensuring the delivery of adequate and proper safety training to new and inexperienced workers (particularly in higher hazard occupations), and demonstrating success in competency acquisition through supervised on-the-job training. Approximately 1 year of full-time training is necessary to establish a track record of occupational proficiency, demonstrated understanding of safe occupational and workplace practices and techniques, and experience in learning and achieving competencies on-the-job under appropriate supervision. With respect to apprenticeships in hazardous occupations, safety training does not solely involve teaching apprentices the appropriate techniques for the safe and secure operation of a piece of machinery or interaction with a known hazard. In order for apprentices to operate in a safe environment, they must also be trained to recognize the signs of a potential hazard, to be proactive in applying safety measures and precautions, and to be diligent and aware on the job.

Registered apprenticeship is ultimately meant to transform apprentices into full-time, proficient, and highly effective employees. In a registered apprenticeship program, apprentices learn job skills and techniques that are portable within an occupation and across employers hiring for that occupation. Completing a quality registered apprenticeship program should firmly place apprentices on a pathway to a stable, quality career. Conversely, if a training program only prepares an apprentice to enter into employment with a single employer, with little opportunity for vertical or horizontal career mobility, the benefits of the training program are limited for both the trainee and any prospective employer. As with safety training, developing the full set of occupational competencies necessary to become proficient in the occupation (*i.e.,* to transform from an apprentice to a fully proficient skilled worker in the occupation) takes time, continuous practice and application of learned skills, and periodic assessments by program operators to confirm that apprentices are learning all the skills necessary for immediate and future career opportunities. The Department's proposal is ultimately based on its experience operating the National Apprenticeship System and consideration of the minimum program requirements for demonstrated occupational proficiency in other countries with highly sophisticated apprenticeship systems, such as Canada, Switzerland, Germany, the United Kingdom, and Austria.

The Department is interested in any public comments on a minimum duration of the training period for quality registered apprenticeship programs, and whether the longstanding quality hallmark of a 2,000-hour, yearlong training program works well for existing stakeholders, and whether this period should be shorter or longer. In particular, for comments on the 2,000-hour minimum duration requirement, the Department is interested in reviewing data, statistics, and practical examples from existing workforce training programs (including existing registered apprenticeship programs) that illustrate or inform the merits of establishing a minimum duration of training in terms of overall training program quality.

Relatedly, apprentices in most registered apprenticeship programs currently operating within the National Apprenticeship System receive at least 144 hours (on average per year, or per 2,000 hours, of on-the-job training) of related instruction to complement the on-the-job training elements of their program. Such related instruction—also referred to as ''classroom'' learning or by other terms that reflects the academic nature of related instruction in the apprenticeship context—enables apprentices to learn the theoretical concepts that underpin the work performed in the subject occupation and supplements their understanding of the job skills and competencies they acquire through on-the-job training. The Department views related instruction as a critical element of quality registered apprenticeship programs that is essential for the ultimate success of the apprentice in their transformation from an apprentice into a fully proficient worker in the occupation. While 144 hours of related instruction is only a minimum recommendation under the current regulatory framework at 29 CFR 29.5(b)(4), because of its importance to the future success of an apprentice, at proposed § 29.7(b)(4), the Department is proposing to require that an occupation's proposed work process schedule include at least 144 hours of related instruction, on average, per 2,000 hours of on-the-job training, in order for the Department to determine that the occupation is suitable for registered apprenticeship training. For example, under this proposal a submission of an occupation for 4,000 hours of on-the-job training would need to provide a related instruction outline that includes at least 288 hours of related instruction to maintain the 144-hour average requirement. Because this applies at 2,000-hour on-the-job training intervals, a 3,000-hour on-the-job training program would only be required to provide at least 144 related instruction hours.

The Department believes that proposing the establishment of a uniform *minimum requirement* of 144 hours of organized, related instruction in technical subjects related to the covered occupation—rather than merely referencing such a quantitative instructional standard as a recommendation, as the current regulation at 29 CFR 29.5(b)(4) does—accords with the usual instructional standard of 144 hours of related instruction for each year of on-the-job training that is, with very few exceptions, utilized by registered apprenticeship programs across a wide range of occupations in their standards of apprenticeship. The 144-hour related instruction standard posits a scenario where an apprentice attends such classroom instruction for 4 hours per week over the course of a 36-week period (4 x 36 = 144), a period that coincides with the term of instruction in a typical school year calendar. The Department takes the view that it is essential for apprentices to have a broad educational and theoretical component to their training as a foundation of knowledge to help them adapt to changes in the market and to maintain currency with occupation competencies. Hence, the Department believes that the establishment of a uniform 144-hour related instruction requirement would help to ensure that apprentices receive a sufficient number of hours of classroom instruction to supplement and reinforce the practical skills obtained during the on-the-job training component of the apprenticeship,

thereby ensuring the attainment of the requisite occupational competencies at the conclusion of the apprenticeship.

In most instances, program sponsors require that an apprentice fulfill the related instruction component of the apprenticeship during after-work hours. This approach is both realistic and sensible, given that the average age of apprentices in the United States is approximately 29 years old [71]—a considerably older age cohort than is found in the national apprenticeship systems of the European Union, where an average age under the age of 20 is not uncommon.[72] As a practical matter, the prevalence of an older apprenticeship age cohort in the United States means that many such apprentices may be required to balance competing work-life demands, such as holding down a second job or providing parental care for young children. Additionally, while many apprenticeship sponsors pay for or reimburse apprentices for the related instruction component of an apprenticeship, some sponsors may require an apprentice to absorb the costs of such classroom instruction. Because of the widespread prevalence of such outside obligations and economic burdens among older apprentices, the Department believes that the retention of the usual 144-hour quantitative standard for related instruction for each 2,000 hours of on-the-job-training in this proposal would be sensible, and that any significant increase in the duration of such instruction could prove unduly burdensome to those U.S. apprentices who must navigate such challenges.

The Department is interested in comments to this approach, including any alternatives such as a minimum ratio of 144 hours of related instruction per 2,000 that would be applied to the total hours. In the example of a 3,000-hour on-the-job training program, the ratio of 144 related instruction hours to 2,000 hours of on-the-job training would equate to a floor of 216 hours of related instruction. The existing requirement for apprenticeability only requires that there must be related instruction to supplement the on-the-job training, without setting a minimum number of hours.

The Department seeks comments on the inclusion of the related instruction hours as part of the determination of suitability, particularly those that may recommend no criteria be used in the occupational eligibility process and how the Department could still ensure more occupational consistency and integrity in its training of apprentices. The Department is also interested in comments about a minimum average as part of the suitability process, particularly whether to apply it at the 2,000-hour level or if an alternative method of scaling an increase in related instruction consistent with an increase in on-the-job training hours should be considered. In line with the Department's guiding principle to ensure registered apprenticeship programs are responsive to employer needs, the Department is proposing these minimum standards for consideration by the regulated community in this NPRM and is interested in feedback from all apprenticeship stakeholders regarding the proposed minimum standards for occupational suitability in this proposal.

In addition to the minimum standards proposed in this section, an applicant submitting a suitability request could submit an occupation, work process schedule, and related instruction outline that exceeds the minimum standards for the purposes of setting an industry standard for the suitable occupation. For example, an electrician apprenticeship program could submit an occupational request for 8,000 on-the-job training hours as the industry standard at proposed paragraph (c). At proposed § 29.7(d), the Administrator would solicit public comment to assist in evaluating whether submissions meet the requirements of proposed paragraph (c). Additionally, the Administrator could consider other information such as industry or occupational data to assist in making any determinations. An example could include the utilization of the O*NET system,[73] which includes national and localized data. Such requests for comment and information may include an opportunity for industry leaders, programs, and other members of the public to comment on the number of hours proposed for the occupation's industry standard, including feedback that it should be higher. Due to its statutory obligation to protect the welfare of apprentices, the Department's strong view is that programs training apprentices to perform an occupation must meet some minimum parameters related to on-the-job training and related instruction, which may also be higher based on an industry standard for that occupation. Such consistency is important for ensuring that all apprentices attain proficiency in an occupation through their participation in a registered apprenticeship program, an important goal and protection for apprentices within the National Apprenticeship System that ensures they enjoy labor market mobility in their careers (both with employers associated with the program, and other employers hiring workers in that occupation).

The Department recognizes that, in the United States, many jobs do not require a year of paid, full-time, work-based learning, nor a significant investment of time spent providing related instruction to workers. Ultimately, registered apprenticeship training is not suitable for all occupations, including many occupations that are essential for the healthy functioning of the national economy. Because the Department must meet its statutory obligation to protect apprentices' welfare in overseeing the National Apprenticeship System, it must consider programs' potential effectiveness for preparing apprentices to enter into stable, rewarding careers. As such, determining an occupation's suitability for registered apprenticeship training is central and definitional to the registered apprenticeship model and quality assurance throughout the National Apprenticeship System. This more uniform approach to suitability minimizes the possibility that individual programs provide vastly different employment and training experiences. As discussed above, these minimum standards are designed to ensure a minimum framework for determining the suitability of occupations for use in registered apprenticeship programs, acquiring skills and competencies acquired, and the type and amount of related instruction, as well as common expectations on how much on-the-job training is necessary for a typical apprentice to achieve proficiency. Accordingly, the Department proposes to carry forward the existing 2,000-hour minimum duration of on-the-job training requirement criterion for an occupation's suitability for registered apprenticeship training, and to require, rather than recommend, that an occupation provide at least 144 hours of related instruction, on average, per 2,000 hours of on-the-job training.

The Department has further determined that the existing regulatory framework on ''apprenticeability'' needs to be modernized and strengthened in order to preserve and enhance quality, maintain and build both registered apprenticeship program and

[71] Taylor White, ''Young Adults in Registered Apprenticeship: What New Data Can and Cannot Tell Us,'' New America, Sept. 20, 2022, *https://www.newamerica.org/education-policy/edcentral/young-adults-in-registered-apprenticeship-what-new-data-can-and-cannot-tell-us/.*

[72] Briefing Note, ''Apprenticeships for Adults,'' European Centre for the Development of Vocational Training, June 2020, *https://www.cedefop.europa.eu/files/9147_en.pdf.*

[73] DOL, O*NET OnLine, *https://www.onetonline.org/* (last updated Oct. 3, 2023).

occupational consistency, and ensure apprentice mobility throughout a national system of quality apprenticeships. Many employers with multistate or nationwide operations would benefit from a registered apprenticeship program to train their future workforce and address their talent needs. Such employers and apprentices would benefit from a clear, national, uniform set of regulatory parameters related to the identification of occupations that are suitable for registered apprenticeship training. For an employer operating in multiple States or on a nationwide basis, the potential for an occupation to ultimately be determined to be suitable for registered apprenticeship training in one State, but not in another, would present challenges in planning and operations for multistate employers and would dilute the effectiveness of registered apprenticeship in addressing workforce needs. For example, the current approach does not require any showing that a particular occupation is recognized throughout an industry as a stand-alone occupation, nor does it require a general understanding of the skills and time necessary to obtain proficiency. This proposed approach would establish a more uniform process and uniform results, reducing uncertainty, preventing fragmentation of workforce training operations, and enhancing the attractiveness and potential effectiveness of a registered apprenticeship program for a nationwide or multistate employer.

The ACA's 2022 Interim Report included recommendations related to the ''apprenticeability'' framework to complement efforts to expand registered apprenticeship, including a recommendation from the Industry Engagement in New and Emerging Sectors ACA subcommittee for the Department to have sole responsibility for designating occupations as suitable for registered apprenticeship training.[74] The ACA recommended that the criteria for determining an occupation's suitability for registered apprenticeship training should be universal for all potential programs—that is, a potential program sponsor seeking recognition for an occupation in one State should not face a different set of circumstances in seeking to register a program in other States or nationwide. The Department concurs with these recommendations to ensure a truly national system of occupations eligible for registration for Federal purposes based on established, universal criteria, which the Department views as key principles to advance the goals of program transparency, enhanced portability of programs and credentials, equity among programs and participating apprentices, and program quality and integrity. Accordingly, the Department proposes several changes to the process for determining an occupation's suitability for registered apprenticeship, as further discussed below.

Another consideration to guide expansion and quality oversight of the National Apprenticeship System, arising from the Department's ongoing consultations with registered apprenticeship stakeholders, including the ACA and representatives from industries where registered apprenticeship is both new and well-established, is striking the appropriate balance between expansion of the registered apprenticeship model and the impact of any change on established programs. The proposed regulation would set the minimum occupational standard by which an occupation may be determined suitable for registered apprenticeship and provide for the input of industry to set higher minimum standards for on-the-job training at proposed § 29.7(d). The minimum standard exists in the current regulation at 29 CFR 29.4(c), which provides for both the 2,000-hour minimum and that it be in accordance with the ''industry standard for the occupation.'' For example, an established program may have a set of standards of apprenticeship that exceed the minimum 2,000-hour on-the-job training requirements in the existing regulation based on the ''industry standard for the occupation.'' This industry standard is not imposed by OA, but rather is set through the apprenticeship suitability process. In this example, an industry standard for an occupation may be the equivalent of 3 full-time years of training (*e.g.,* 6,000 hours of on-the-job training, well above the minimum requirement of 2,000 hours for a time-based program under the existing regulation). If a new program enters the system in the same occupation and submits standards of apprenticeship that are significantly lower than those associated with the established program, such as only requiring the minimum 2,000 hours of on-the-job training, the established program is not in alignment with the industry standard for the occupation. A departure this significant likely indicates an entirely separate occupation potentially only training in a subset of the skills required or outside of an industry norm for an apprentice to achieve the same degree of proficiency. The Department would have concerns that an existing program's quality standards would be undercut by the introduction of a new, less rigorous program in the same occupation. These concepts about maintaining and enhancing both a minimum floor for any occupation to be eligible for a registered apprenticeship program, and potentially a higher floor based on industry standards, help to ensure greater consistency both in the skill acquisition and occupational proficiency of apprentices. The introduction of a new, less rigorous program also would raise concerns in the marketplace where employers may be competing for talented workers and would also be eligible for potential Federal, State, and local benefits associated with employing apprentices in a registered apprenticeship program. Maintaining and building on both of these concepts is critical to avoid a ''race to the bottom'' and to avoid incentivizing less skilled labor, less safe workplaces, and potentially lower wages for workers in any particular occupation. Ultimately, OA seeks to preserve and enhance the established level of quality for all registered apprenticeship programs in the occupations that have been determined suitable for registered apprenticeship training within the National Apprenticeship System, and to maintain that standard of quality going forward. The ACA framed this potential issue as ''splintering'' and discussed it from two different perspectives—the potential for recognition of an occupation to detract from the successful operation of established programs for very similar occupations, and the ''excessive partitioning'' of an occupation into overly specific job skill sets.

The ACA identified these potential ''splintering'' issues in its 2022 Interim Report,[75] and proposed addressing the issues related to splintering, in part, by leveraging labor data, such as industry data from DOL's O*NET and the DOL's Bureau of Labor Statistics (BLS), to inform expansion efforts. The Department agrees that the issues identified by the ACA are worth considering as it pursues efforts to expand and strengthen the National Apprenticeship System and has determined that updates to strengthen the regulatory framework for determining an occupation's suitability

[74] ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, at 28, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

[75] ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, at 15, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

for registered apprenticeship training are necessary to facilitate expansion efficiently and without adverse impacts to the existing, successful National Apprenticeship System. Accordingly, the Department proposes to create an updated and expanded provision in the part 29 regulations, discussed in further detail below.

Proposed § 29.7 would make several significant changes to update key terminology to more accurately describe this important first step in creating a registered apprenticeship program. The proposal would replace the term ''apprenticeability'' with the term ''suitability,'' and describes the process that OA would use to determine if an occupation is suitable for registered apprenticeship training. Proposed § 29.7 would also implement the ACA's recommendation to avoid ''splintering'' [76] within occupations. The Department believes that the changes to existing § 29.4 would ensure that completing a registered apprenticeship program places apprentices on a pathway to sustainable careers with a fair opportunity for career advancement and economic mobility, discussed in more detail below. The Department also proposes that if no sponsor has registered a program in a given occupation for a number of years, OA may, at its discretion, rescind an existing apprenticeability or suitability determination.

Proposed paragraph (a) explains that an occupation determined to be suitable for registered apprenticeship would be eligible for local registration by any Registration Agency. The reference to local registration is intended to clarify that while a positive suitability determination would be the first step for registration of National Program Standards for Apprenticeship or National Guidelines for Apprenticeship Standards, such registration would require sponsors to satisfy the additional criteria in proposed §§ 29.14 and 29.15 in this part, respectively.

The 2008 final rule did not definitively state whether SAAs have the authority to approve occupations for Federal purposes. This lack of clarity has created several problems, including ambiguity around whether occupations approved by SAAs are eligible for Federal purposes as defined in proposed § 29.2. Some States have delegated apprenticeability (suitability) determinations to non-governmental advisory boards. In addition, there are different applications of the regulatory criteria in approving occupations that create inconsistency in both the identification of industry recognition of an occupation and the minimum quality standards associated with such occupation. This has created planning and operational challenges for national employers seeking to establish workforce training programs through registered apprenticeship in multiple States and complicates the Department's planning and execution of targeted efforts to expand registered apprenticeship's footprint nationwide. To address these issues and clarify who is able to fulfill this key duty, proposed paragraph (a) states that the Administrator would have the sole discretion to determine whether an occupation is suitable for registered apprenticeship. This would apply to States where OA serves as the Registration Agency, as well as States where SAAs serve as Registration Agencies.

In pursuing a national approach to making determinations about an occupation's suitability for registered apprenticeship training, the Department seeks to maximize the impact of Federal benefits (such as the disbursement of investments, the availability of tax credits available under the IRA, prevailing wage considerations for apprentices under the Davis-Bacon and related Acts, resources providing support to apprentices such as WIOA, and uniformity in administrative and oversight practices related to registered apprenticeship) throughout the system. The Department considers it critical that suitability determinations be made by OA to maintain consistency across the National Apprenticeship System so that different States do not make substantially different suitability determinations. In addition, centralized suitability determinations would ensure that they can be made with the benefit of conferring with industry leaders across the country, and, once occupations are deemed suitable for apprenticeship, they could be registered across the country. Moreover, given the role and increasing Federal benefits associated with registration for Federal purposes, OA seeks to avoid situations in which the same occupation would be ineligible for registration in some States but eligible for registration and Federal benefits in other States.

Under this proposed rule, SAAs would be able to submit suitability applications to the Department for determination, including for those occupations they have previously approved but OA has not approved. The Department acknowledges that its decisions could impact receipt of State benefits conferred to employers, organizations, or other apprenticeship stakeholders.[77] Under this proposed rule, the Department would consider any such implications when a State submits suitability applications for previously recognized occupations to OA and would prioritize avoiding any adverse impacts to established programs.

The Department is interested in comments about this approach, or any alternatives, such as whether States should formally have the authority to approve occupations for Federal purposes within their State, or an additional option where an SAA could apply to OA for approval of an occupation for Federal purposes specific to that State. The Department is particularly interested in any comments on how this approach may impact reciprocity with other States or OA, the transferability and portability of a program that is approved for Federal purposes exclusively in that State, and what criteria the Department should consider when approving and implementing the determination that an occupation is suitable for ''Federal purposes'' (as described in § 29.2 of this proposed rule) specific to a State. The Department considered another alternative approach to revising the regulations for making suitability determinations wherein occupations could be approved for Federal purposes as ''regional'' occupations where appropriate (for example, an occupation that is prevalent in a State or region of States, but that otherwise does not have a nationwide footprint), and invites comments on this and all other regulatory alternatives, including transferability, criteria, implementation, or any other alternative approaches to the suitability process.

Proposed paragraph (b) would establish the minimum criteria that must be met for an occupation to be determined to be suitable for registered apprenticeship.

Proposed § 29.7(b)(1) would replace existing § 29.4(b) with the additional clarification that to be suitable for registered apprenticeship, the occupation must be clearly identified and commonly recognized as a *stand-alone and distinct* occupation. The added terms are intended to be

[76] See the recommendation from the ACA's Modernization subcommittee. ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, at 14, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

[77] For example, many States offer tax credits for businesses that hire apprentices from approved registered apprenticeship programs. For a list of such programs by State, see OA, ''State Tax Credits and Tuition Support,'' *https://www.apprenticeship.gov/investments-tax-credits-and-tuition-support/state-tax-credits-and-tuition-support* (last visited July 20, 2023).

responsive to the ACA's Interim Recommendation to avoid ''splintering,'' which the ACA described as occurring when an occupation is too specific or specialized within an occupational subset. This proposal is intended to prevent a favorable suitability determination where an occupation may be clearly identified and commonly recognized yet be so similar to all or parts of an existing occupation that recognizing both occupations could undermine the labor mobility, transferability, and career prospects of apprentices. For example, if a sponsor were to submit a suitability determination request for an occupation that replicates many, but not all, of the work processes in an occupation previously determined to be suitable for registered apprenticeship, the Administrator could determine that the occupation in question is not stand-alone and distinct and thus not suitable for registered apprenticeship. The Department has determined that avoiding the ''splintering'' of occupations into occupational subsets is critical for ensuring that completing apprentices possess portable credentials that are widely recognized by employers in the apprentice's industry. If the occupation were determined to be suitable, then the lesser standard it represents would lead to a less skilled apprentice who would be less able to find and retain the type of work the registered apprenticeship program is designed to provide to apprentices. The Department remains committed to working with industry to inform suitability determinations and invites public comments on the Department's proposed approach to avoid splintering occupations, potential examples of overly specific occupational subsets, or any other elements of the proposed process for making determinations about occupations' suitability for registered apprenticeship training. If OA concludes that a new occupation cannot be recognized as suitable for apprenticeship because of proposed § 29.7(b)(1), OA would inform the applicant of already suitable occupations to facilitate the registration of a program using an already suitable occupation.

Proposed § 29.7(b)(2) is new and would require applicants for a suitability determination to demonstrate that the occupation under consideration leads to a sustainable career. A sustainable career is one that places apprentices who complete their program on a trajectory to a sustainable career, one that provides a fair opportunity for career advancement and economic mobility. This proposed requirement is responsive to the ACA's interim recommendation that wages be taken into consideration in the process of determining which occupations may be suitable for registered apprenticeship. The proposed requirement is not intended to limit the number of programs or apprentices in occupations that have slower-than-average projected growth rates or estimated future job openings. The applicant may also provide supplemental information demonstrating that the occupation is associated with a career ladder or a ''stackable'' set of occupational credentials in that occupation to demonstrate the occupation's opportunity for career advancement and economic mobility.

The Department provides the following scenarios to illustrate the options available to applicants proposing a new occupation for a suitability determination. An applicant could propose a new occupation, such as Technologist I (term of 1 year), that upon completion has a compensation profile for a journeywork of $25,000 per year. An applicant could also propose a new occupation, such as Technologist II (term of 2 years), that has a compensation profile for a journeyworker of $70,000 per year. Finally, an applicant could propose a ''stackable'' apprenticeship model for Technologist II (term of 2 years) but include an interim credential at Year 1 to convey competency at the Technologist I level.

The Department is interested in hearing views on this approach, including perspectives on whether applying a more specific wage standard as part of the suitability determination process is appropriate, or if alternative standards or approaches should be considered, balanced against the goal of expanding apprenticeships models into new industries and building career ladders to higher quality jobs. In addition, the Department invites comments on what criteria should be taken into account to determine whether an occupation leads to sustainable careers.

Proposed § 29.7(b)(3) and (4) would replace existing § 29.4(a) and (c) and would require that a structured registered apprenticeship program provide the skills, techniques, and competencies required to attain proficiency in the occupation. However, proposed § 29.7(b)(3) would remove the qualifier of skills being ''manual, mechanical or technical'' as those terms are linked specifically to skilled trades and are not as broadly applicable to other industries expanding into developing registered apprenticeship models. The requirement that skills attainment be progressive would also be deleted in favor of the requirement of skill acquisition leading to proficiency in the occupation, as would be required by proposed § 29.7(b)(3). Proposed § 29.7(b)(4) would retain the requirement that at least 2,000 hours of on-the-job training be necessary to achieve proficiency in the occupation. As explained above, this 2,000-hour requirement is intended to capture roughly 1 year of full-time on-the-job training. The requirement is intended to distinguish between other forms of work-based learning, such as programs that only support on-the-job training, incumbent worker training, and other shorter certificate programs on the one hand, and proficiency in an occupation that would afford apprentices a lifelong career, on the other. Notably, the 2,000-hour requirement would apply specifically to on-the-job training—work process schedules that would last a calendar year or more but that would not require 2,000 hours of on-the-job training would not satisfy this requirement. The fact that an individual applicant for a suitability determination would require 2,000 hours of on-the-job training would not be dispositive in OA's analysis because OA would look to the number of on-the-job training hours typically required to achieve proficiency in the occupation. In addition, proposed § 29.7(b)(4) would require an industry standard of not less than a minimum average of 144 hours of off-the-job, related instruction for every 2,000 hours of on-the-job training in order to obtain proficiency in the occupation.

Proposed § 29.7(c) is new and explains the information that would be submitted electronically to the Administrator in support of a suitability determination request. The Department believes that specifying the documentation and explanation necessary for the Administrator to reach a new suitability determination would assist applicants who may be unfamiliar with this process.

Proposed § 29.7(c)(1) explains that an applicant for a suitability determination would need to submit sufficient documentation to demonstrate that the elements in proposed § 29.7(b)(1) through (4) are satisfied.

Proposed § 29.7(c)(2) would require that the applicant provide a work process schedule as well as an explanation of how the components of the work process schedule are appropriately structured such that completing apprentices will have achieved proficiency in the occupation. As part of the suitability determination,

the work process schedule associated with the occupation submitted in this section would be the work process schedule in which sponsors must substantially align their standards of apprenticeship under proposed § 29.8.

Proposed § 29.7(c)(3) would require an applicant for a suitability determination to document the number of hours required to achieve proficiency in an occupation. Although the minimum number of hours would always be 2,000 as established by proposed § 29.7(b)(4) above, some occupations could require more than 2,000 hours of on-the-job training to achieve proficiency. For example, an industry standard term might be set at 8,000 hours for certain occupations. If an 8,000-hour term were to be set for an occupation through this process, future sponsors' work process schedules and related instruction outlines would need to substantially align with the work process schedule and related instruction outline approved under proposed § 29.7. If a work process schedule and related instruction outline submitted for registration under proposed § 29.10 do not substantially align, for example because the required hours of on-the-job training are substantially fewer, then a new suitability determination would be required as provided for in proposed § 29.10(b)(1). The Department acknowledges that an industry standard may change over time given changes in technology or other factors, which is addressed through proposed paragraph (h) of this section.

Proposed § 29.7(c)(4) is new and would require a related instruction outline that describes the proposed curriculum. The number of hours of related instruction would need to be at least an average of 144 hours for every 2,000 hours of on-the-job training. The number of related instruction hours would not need to be evenly distributed during the term of the apprenticeship as long as this average were achieved.

Proposed § 29.7(c)(5) is new and would require an applicant for a suitability determination to disclose if there are any interim credentials, recognized postsecondary credentials, or license requirements for an apprentice to obtain during their registered apprenticeship program to work in that occupation. This is important to ensure OA can validate those submissions through a process to ensure programs registered in an approved occupation provide the industry-validated credentials required for the occupation. The Department notes that programs may provide interim credentials to apprentices, which can signify the attainment of industry-recognized competencies; however, under this provision applicants would need to disclose required credentials needed to practice an occupation in a given State. For instance, some occupations, such as a teacher, nurse, or electrician, require a license in every State. This criterion would help provide more clarity to sponsors seeking to register programs regarding what credentials they must offer in a program, as well as what credentials a program may offer to apprentices.

As described earlier, proposed § 29.7(d) explains that the Administrator would solicit public comment for at least 30 days on all occupational suitability determinations. This addition would also ensure feedback from industry leaders is considered, while also allowing for additional registered apprenticeship and industry experts to provide input into the occupational and work process schedule design. The Administrator would render a determination within 90 calendar days from receiving a completed application, though this time period could be extended by notifying the applicant that more time is needed to reach a determination. Proposed § 29.7(d) would also require the Administrator to maintain an up-to-date publicly available list of all occupational determinations related to suitability for registered apprenticeship.

Generally, as a first step in evaluating an application, the Administrator would utilize a standardized process to identify a proposed occupation and determine whether it is already recognized as part of an existing suitable occupation. In practice, the Administrator currently utilizes industry-validated resources to assist in this determination such as the O*NET Program. The O*NET program assists the Administrator in identifying standardized and occupation-specific descriptors, such as core Tasks, and important knowledge, skill, and ability areas, for almost 1,000 occupations covering the entire U.S. economy. As an example of what might occur under this proposed provision, the Administrator could identify an O*NET code for each submission. Next, the Administrator would share the application with industry leaders and solicit feedback. Soliciting feedback from such stakeholders regarding whether an application for a suitability determination satisfies the requirements in proposed § 29.7(b) would assist the Administrator to adjudicate applications and to ensure that the work process schedule and related instruction outline are in accord with industry standards.

Although the Department feels that a process of soliciting feedback from industry leaders has worked well to date, the Department requests comments regarding how it may seek input from a wider distribution of industry leaders, the public, and other stakeholders, or utilize alternative or innovative methods such as analyzing data to assist the Administrator in making suitability determinations. In addition, the Department is interested in comments regarding when it may be appropriate to vary the process (*i.e.,* when it may be most appropriate to consult with the public versus employing data analysis). In particular, the Department wants to ensure that a process of soliciting feedback from industry leaders does not limit the expansion of apprenticeship into new industries where fewer industry leaders familiar with apprenticeship may exist.

Proposed § 29.7(e)(1) through (4) explain the basis by which the Administrator could reach an unfavorable suitability determination. Proposed § 29.7(e)(1) explains that an application for a suitability determination could be rejected if the application were incomplete, meaning that it did not include or address all of the elements in proposed § 29.7(b) or include all of the information required in proposed § 29.7(c).

Proposed § 29.7(e)(2) explains that to be suitable for registered apprenticeship, all of the criteria in proposed § 29.7(b) would need to be satisfied. Ultimately, the discretion as to whether these criteria are satisfied would rest solely with the Administrator for the reasons discussed above.

Proposed § 29.7(e)(3) and (4) are intended to prevent the ''splintering'' of occupations as described above. Proposed § 29.7(e)(3) would prevent the Administrator from recognizing as suitable for registered apprenticeship an occupation if the scope of the apprenticeship training is confined to a narrowly specialized subset of skills and competencies within an established occupation that are not readily transferable between employers in the sector.

Proposed § 29.7(e)(4) would prohibit the Administrator from making a favorable suitability determination where the occupation under adjudication replicates a significant portion of the work processes from another occupation that OA previously approved as suitable for registered apprenticeship training without leading to a more advanced occupation. Thus, for example, if an occupation already considered suitable trains apprentices in

48 competencies and would result in a professional certification, but the Administrator were to receive a suitability determination request for a new occupation that replicates some, but not all, of the 48 competencies and would not result in a professional certification, the Administrator could decline to find the new occupation suitable for registered apprenticeship. The Administrator would consult with industry leaders and stakeholders to inform the determination as to whether an occupation is not suitable for registered apprenticeship due to splintering concerns. The standard supplied in proposed § 29.7(e)(4) is not intended to present an opportunity for a single industry leader or stakeholder to ''veto'' a new occupation, and the Administrator would analyze all feedback received in reaching a determination. If an occupation under consideration replicates a significant portion of the work processes of more than one occupation previously determined to be suitable for registered apprenticeship, the Administrator would analyze the multiple occupations for potential splintering according to the standard in § 29.7(e)(4). The qualifier that a new occupation may replicate a significant number of work processes but lead to a more advanced occupation is intended to facilitate the development of occupations with multiple levels (*i.e.,* Boilermaker I versus Boilermaker II) and stackable credentials.

Proposed § 29.7(f) explains that in the event the Administrator determines that an occupation is not suitable for registered apprenticeship, the Administrator would notify the applicant and provide the Administrator's reasoning. In such cases of a final agency determination, the Administrator would need to publish the final agency determination on an OA public-facing website in compliance with proactive disclosure requirements under the Freedom of Information Act (5 U.S.C. 552 (a)(2)). An applicant could reapply by addressing the issues raised by the Administrator, and the Administrator could, in their discretion, reevaluate such an application and approve the application provided that it meets the criteria for approval.

Proposed § 29.7(g) provides that adjustments to existing suitable occupations, work processes, duration, or other significant adjustments in scope would need to be submitted to and approved by the Administration to remain valid. The Department anticipates that over time occupations could significantly adjust in scope or duration based on the needs of industry, advancements in technology, or other changes. Requiring adjustments to be submitted to the Administrator would help ensure that suitable occupations and work process schedules remain relevant for industry and provide the required training for an occupation.

Proposed § 29.7(h) is new and explains that the Administrator would review existing occupations determined to be suitable for registered apprenticeship on a 5-year cycle. In addition to determining whether the occupation is still suitable for registered apprenticeship, the Administrator would review to ensure that the work process schedule(s) and related instruction outline(s) approved with the prior suitability determination remain consistent with industry standards. In conducting this review, the Administrator would use the process described in § 29.7(d), meaning that the Administrator would seek public comment, input from industry leaders or other stakeholders, and make use of other relevant information to assist with reaching a suitability determination and updating the work processes schedule and related instruction outline. The substantive criteria for determining continued suitability on a 5-year cycle would be the same as outlined in § 29.7(b). If the Administrator determines that previously approved work processes schedules and related instruction outlines require revisions, the Administrator would notify in writing existing programs in the occupation of the need for updates. Existing programs would need to submit updated standards to their Registration Agency that reflect updates before the start of the next training cycle. If an occupation is determined to no longer be suitable for registered apprenticeship, the Administrator would notify any existing programs in writing and the programs would no longer be permitted to register apprentices in the occupation after the conclusion of their current training cycle.

Section 29.8—Standards of Apprenticeship

Proposed § 29.8 describes the minimum standards of apprenticeship that would apply for all apprenticeship programs that are registered by a Registration Agency. The establishment and implementation of robust standards of apprenticeship is essential to ensuring that registered apprenticeship programs deliver consistently high-quality training to apprentices, while also ensuring that apprentices are trained in a safe and accessible workplace environment where they are protected from exploitation and abuse. While the current version of the labor standards of apprenticeship regulation at 29 CFR 29.5 does establish minimum standards of apprenticeship for the conduct of registered programs that address key program components (such as progressively increasing wages, apprentice-to-journeyworker ratios, work process schedules, safety requirements, probationary periods, and advanced standing and credit), the revised regulation would further elaborate and strengthen those minimum standards. As discussed in detail below, the proposed rule would extend the application of such minimum standards of apprenticeship to important topics that are not addressed in the current regulation, such as establishing a cost transparency and reasonableness requirement for registered apprenticeship programs, as well as stipulating that such programs undertake effective measures to ensure that apprentices are free from violence, intimidation, and retaliation in the workplace. Proposed § 29.8 would change the order in which the standards of apprenticeship are listed to assist program sponsors, participating employers, apprentices, and other interested parties in understanding the minimum standards of apprenticeship. Finally, proposed § 29.8 would include additional requirements as a result of statutory changes enacted by Congress. Taken together, the updated standards provisions contained in proposed 29 CFR 29.8 are intended to enhance registered apprenticeship program quality and to safeguard the welfare of apprentices.

Proposed paragraph (a) is based on an existing provision that sets forth that a registered apprenticeship program must have a written set of standards of apprenticeship and outlines what provisions must be included in those standards.

Proposed § 29.8(a)(1), which is based on an existing provision, would require that the standards of apprenticeship contain a provision that establishes the minimum eligibility requirements for entry into the registered apprenticeship program. Proposed § 29.8(a)(1), as with the existing provision, sets forth the minimum starting age for an apprentice of not less than 16 years to reflect the general 16-year minimum age requirement for apprentices to be employed in otherwise prohibited occupations in nonagricultural employment under the Fair Labor Standards Act. *See* 29 U.S.C. 203(l). However, proposed § 29.8(a)(1) would update the provision by explicitly stating that the minimum starting age could be higher than 16 years if required

by Federal, State, or local law. Certain occupations suitable for registered apprenticeship could be subject to Federal or State laws that require a minimum starting age that is higher than 16 years; for example, an electrician's occupation would require individuals to be at least 18 years of age in many circumstances.[78]

Proposed 29 CFR 29.8(a)(2) is not a new requirement for program sponsors. Under the current regulations at 29 CFR 29.5(b)(21), the Department requires program sponsors to include a provision in their program standards that describes the program's method for the selection of apprentices. The current regulations specify that program standards for all registered apprenticeship programs must fully comply with the EEO in Apprenticeship regulations at 29 CFR part 30, and current 29 CFR 29.5(b)(21)—which forms the basis for the language proposed at § 29.8(a)(2) in this NPRM—specifies that selection procedures must conform to the regulations governing the selection of apprentices at current 29 CFR 30.10. The current regulatory text covers selection procedures within a provision that includes other requirements for program sponsors that have EEO elements and corresponding part 30 requirements. The Department has determined that the regulatory community would benefit from the clarity that would arise from separating these elements out into distinct provisions. Accordingly, the Department proposes to relocate a distinct provision covering selection procedures to proposed 29 CFR 29.8(a)(2) and clarifies in this proposed provision that selection procedures must conform to the corresponding requirements at 29 CFR 30.10.

The EEO in Apprenticeship regulations at 29 CFR 30.10 reiterate the part 29 requirement that sponsors must submit selection procedures in the written plan for their program standards, which are submitted to and approved by the Registration Agency. The regulations at 29 CFR 30.10 stipulate that sponsors may use any method or combination of methods for the selection of apprentices, as long as the selection method(s) comply with the Uniform Guidelines on Employee Selection Procedures found at 41 CFR part 60–3, which require an evaluation of the selection procedures' impact on race, sex, and ethnic groups, as well as a demonstration of the business necessity for procedures that result in an adverse impact across any of these demographic groups. The regulations at 29 CFR 30.10 also stipulate that selection procedures be applied uniformly and consistently across all applicants and apprentices, and that the selection procedures must comply with title I of the Americans with Disabilities Act (ADA) and the implementing regulations at 29 CFR part 1630. Finally, the regulations at 29 CFR 30.10 clarify that selection procedures must be facially neutral with respect to race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, and disability. Per the ruling from *Washington* v. *Davis,* 426 U.S. 229 (1976),[79] a decision (or selection procedures, in the case of the apprenticeship regulations at parts 29 and 30) appears facially neutral if it neither creates a ''suspect classification'' nor infringes on a ''fundamental right.'' These regulatory requirements are unchanged by this NPRM, and existing program sponsors in compliance with the existing regulations would not need to make any changes to their current practices with respect to selection procedures and the submission of information about selection procedures to the Registration Agency. Any potential new programs seeking to enter the National Apprenticeship System must comply with the selection procedures regulations at parts 29 and 30, and the Department stands ready to provide subregulatory guidance on these requirements or any other requirements related to the development, submission, and approval of program standards.

Proposed 29 CFR 29.8(a)(3) is a new proposed provision in the program standards section of the part 29 registered apprenticeship regulations, but it corresponds to existing requirements in the part 30 EEO regulations regarding the registered apprenticeship program sponsor's obligation to take affirmative steps to provide EEO in apprenticeship. Proposed paragraph (a)(3) would require program sponsors to include a description of their recruitment area for new apprentices in their program in the written program standards they submit to the Registration Agency. The Department has determined that the benefits of requiring a written statement on recruitment area in the program standards are two-fold: first, as a matter of transparency and access, receiving this information from sponsors would enable OA, SAAs, and other stakeholders to collaborate with program sponsors in outreach and awareness efforts to attract new apprentices to a program. Understanding whether a program is recruiting new participants online, in a given geographic area, or some combination thereof, for example, is useful information for OA, SAAs, and other stakeholders to include in publicizing registered apprenticeship program availability and options for potential apprentices, such as through the Apprenticeship Finder portal on Apprenticeship.gov.

In addition to the benefits related to access and transparency for this proposed addition, the Department has determined that requiring sponsors to report their recruitment area in their program standards would ultimately benefit sponsors in meeting their EEO obligation to engage in universal outreach and recruitment, as required by the existing regulations at 29 CFR 30.3(b). Identifying the recruitment area is a key piece of a program's outreach because the EEO regulations require that sponsors implement measures to ensure outreach and recruitment efforts extend to all people available to potentially participate in a registered apprenticeship program without excluding any person based on race, sex, ethnicity, or disability. Understanding a program's recruitment area is also important for identifying potential partnerships in a given area—these may be local government-funded resources, like one-stop centers or local workforce development boards, private-sector partners looking to support workforce development and locate potential talent for businesses, or community-based organizations or other community non-profit entities that are engaged and active with the local community and its resident. Ultimately, proposed paragraph (a)(3) is not a new requirement for program sponsors, which must identify their recruitment area as part of compliance with the part 30 EEO regulations. The Department has determined that requiring that program sponsors include information about their recruitment area in their program standards would provide transparency on programs' recruitment processes, would improve access to programs for interested apprentices, and would assist programs in meeting their EEO requirements. Examples of the recruitment area could include a range of miles from the location of the sponsor

[78] *See* ETA, TEN No. 31–16, ''Framework on Registered Apprenticeship for HS Students,'' including Attachment 1, ''Guide on Child Labor Laws and Workers' Compensation for Apprentice Minors,'' Jan. 17, 2017, *https://www.dol.gov/agencies/eta/advisories/training-and-employment-notice-no-31-16.*

[79] Thomas B. Henson, ''Proving Discriminatory Intent From a Facially Neutral Decision With A Disproportionate Impact,'' 36 Wash. & Lee L. Rev. 109 (1979), *https://scholarlycommons.law.wlu.edu/wlulr/vol36/iss1/5.*

(*e.g.,* within 100 miles of a city) or a political jurisdiction (*e.g.,* residents of a State or counties). Identifying the program's recruitment area would also help the program identify resources to assist with outreach to a diverse set of prospective apprentices in a given area. OA's Universal Outreach Tool includes contact information for non-profit, State, local, and community organizations, and other resources to assist with targeted outreach.[80] Ultimately, the requirement for programs to divulge their recruitment area is meant to assist programs with recruitment. Programs benefit from diversity within apprentice cohorts due to the variety of experiences and perspectives that diverse communities bring to the table, and the corresponding EEO requirements are intended to assist programs with recruiting valuable candidates and to help connect prospective apprentices with opportunities they might not be aware of but for such active recruitment efforts.

Under the current labor standards of apprenticeship regulation at § 29.5(b)(2), a registered apprenticeship program may adopt one of three alternative approaches to providing apprenticeship training: (1) a ''time-based'' approach, which imputes an apprentice's acquisition of relevant occupational skills through their completion of at least 2,000 hours of on-the-job apprenticeship training; (2) a ''competency-based'' approach, under which a sponsor determines the apprentice's acquisition of relevant occupational skills during the apprenticeship, without specifying the minimum duration of such training; or (3) a ''hybrid'' approach, under which an apprentice acquires skills through a combination of a minimum number of on-the-job training hours and the successful demonstration of occupational competency. In addition, § 29.5(b)(4) of the current regulation stipulates that a program's standards of apprenticeship provide for organized, related instruction in technical subjects related to the occupation, and further states that a minimum of 144 hours of such instruction is recommended for each year of apprenticeship training.

In this proposed rule at § 29.8(a)(4)(i), the Department proposes to eliminate the tripartite on-the-job training approaches established in the current regulation and substitute a streamlined, unitary training approach for use by all registered apprenticeship programs that would combine key features of the current time-based and competency-based approaches to on-the-job training approaches. Proposed § 29.8(a)(4)(i) would establish a uniform minimum term of on-the-job apprenticeship training of not fewer than 2,000 hours in duration to ensure an apprentice's acquisition of proficiency in all of the skills and competencies relevant to an occupation during that apprenticeship term;[81] it would combine this minimum on-the-job durational component with a requirement that the apprenticeship program provide an apprentice with all of the skills and competencies necessary to become proficient in the covered occupation. In effect, the proposed unitary approach to on-the-job training for all apprenticeship programs would resemble the ''hybrid'' approach to apprenticeship training found at 29 CFR 29.5(b)(2)(iii) of the current regulation, one that that measures skill acquisition through a combination of a specified number of hours of on-the-job training and a demonstration of relevant occupational competencies.

The Department recognizes that the minimum apprenticeship term for a particular occupation may be greater than the 2,000-hour threshold in those instances where a longer term of apprenticeship training is the customary industry standard for acquiring technical proficiency within that occupation. Conversely, the Department notes that the proposed minimum 2,000-hour requirement for program duration could be reduced on a case-by-case basis for individual apprentices in instances where an apprentice is granted advanced standing or credit by the program for prior learning or previously acquired skills and experience,[82] or in instances where an apprentice makes accelerated progress in the acquisition of occupational competencies during the course of their apprenticeship (*see* proposed § 29.8(a)(20)).

The adoption of a unitary on-the-job training approach in the standards of apprenticeship would serve to clearly differentiate registered apprenticeship programs from shorter-term, less intensive workforce training approaches (*i.e.,* training programs of less than a year of full-time work in duration), while also expressly linking this minimum durational requirement to a fundamental premise: that all registered apprenticeship programs must impart occupational skills and competencies to the apprentices whom they train, and that apprentices reach proficiency in the occupation when they complete the apprenticeship (this idea was discussed at length in the preamble to proposed § 29.7 above). Combining occupational competency and proficiency outcomes with a uniform minimum durational requirement would address a criticism that the current ''time-based'' approach to apprenticeship training permitted under the current regulation only obligates apprentices to complete a designated quantity of on-the-job ''seat time'' in that program to obtain a Certificate of Completion. Moreover, this proposed reform would prevent sponsors from providing considerably less than 2,000 hours of on-the-job training by utilizing the ''competency-based'' approach. Such a lower durational threshold for competency-based training would be conspicuously at odds with the current 2,000-hour minimum standard required for an occupation to be considered suitable for registered apprenticeship training under the current regulation at 29 CFR 29.4 and in proposed § 29.7. That approach, if used by a program to seek program registration for the Federal benefits associated with such registration but without providing an opportunity for the apprentice to reach proficiency in an occupation through dedicated employment in on-the-job training, would harm the apprentice's ability to learn and benefit from registered apprenticeship.

The notion of linking the minimum duration of an apprenticeship term to the acquisition of key occupational competencies by apprentices received a clear endorsement in the ACA's 2022 Interim Report, which recommended updating the current regulatory framework ''to ensure competency attainment is achieved through all [training] models, while providing certain protections into standards with regard to time in [on-the-job training] to ensure proficiency is obtained, potentially expanding the hybrid model as a long-term goal for quality

[80] OA, ''Outreach Tool,'' *https://www.dol.gov/agencies/eta/apprenticeship/eeo/recruitment/outreach-tool* (last visited July 20, 2023).

[81] As a matter of current administrative practice, OA has ordinarily not registered a set of standards of apprenticeship that have included fewer than 2,000 hours of on-the-job training for apprentices, as the current regulations (at 29 CFR 29.4) do not regard an occupation that requires fewer than 2,000 hours as one that is suitable for apprenticeship training.

[82] The Department notes that the proposed minimum 2,000-hour requirement for program duration could be reduced on a case-by-case basis for individual apprentices in instances where an apprentice is granted advanced standing, receives credit by the program for prior learning or previously acquired skills and experience, or completes a registered CTE apprenticeship or pre-apprenticeship program, or in instances where an apprentice makes accelerated progress in the acquisition of occupational competencies during the course of their apprenticeship (*see* proposed § 29.8(a)(20)).

standards.'' [83] The proposed unitary training approach also would align with the 2023 Quality Apprenticeships Recommendation of the ILO, which advises Member States to establish standards for quality apprenticeships that address, among other things, ''the expected minimum and maximum duration of [an] apprenticeship'',[84] and it also would be fully consistent with another provision of the same ILO recommendation, which advises Member States to take into account ''the duration of the apprenticeship required to acquire [occupational] competencies.'' [85]

The proposed establishment of a 2,000-hour (or 1 year of full-time work equivalent) minimum standard for on-the-job-training would also be consistent with the notion of a minimum duration of on-the-job training for apprenticeship programs that are regulated in G20 nations and other peer countries,[86] including Canada,[87] Australia,[88] the United Kingdom (*i.e.,* England),[89] Switzerland,[90] and Germany.[91] Accordingly, if workers in the United States who complete a registered apprenticeship program are to remain competitive with their counterparts from these other nations, it is imperative that American apprentices receive the same quality and quantity of substantial, sustained, on-the-job apprenticeship training that is offered to similarly situated workers elsewhere.

The advantage of linking a minimum term of on-the-job apprenticeship training to the acquisition of an apprentice's acquisition of occupational proficiency was articulated in a 2012 landmark report prepared for the Government of the United Kingdom (the Richard Review of Apprenticeships) [92] that spurred the enactment of major apprenticeship reforms by the United Kingdom parliament. The review's author, Doug Richard, made the following observations, which the Department believes are both relevant and applicable to registered apprenticeship in the United States:

> [A]pprenticeships must endure. There is real value in an apprenticeship lasting for a year or more. Apprenticeships measured in weeks or months, even if it is enough time to teach the required material and gain the requisite experience, can still fall short. It is as though the apprenticeship experience itself requires time to bed in and for the individual to transform from an apprentice to a skilled worker.[93] . . . [A] minimum duration [of apprenticeship training] should be made mandatory . . . [and] may help guard against instances of poor employer practice and protect the interests of the learner.[94]

The Department expects that ensuring that the on-the-job-training component of a registered apprenticeship program has a sustained duration of at least 2,000 hours would benefit program sponsors, employers, and the economy at large because workers completing such programs would be well-grounded and proficient in the skills and competencies associated with the occupation for which they have received training, thereby enhancing their overall productivity and labor market mobility.[95] [96] To ensure that such a minimum durational requirement could be sustained by apprentices who face structural barriers to registered apprenticeship programs, the proposed regulation contains a provision (at § 29.10(a)(4)) that would require sponsors, as a condition for program registration, to submit a written plan for the equitable recruitment and retention of apprentices. The plan could describe any partnerships that the apprenticeship program will establish with external entities to provide for the delivery of supportive services to apprentices who face such impediments.[97] The Department also believes that the adoption of this proposed unitary approach to apprenticeship training would provide all apprentices, including those from underserved communities, with a more sustained and comprehensive training regimen for acquiring the skills required to attain proficiency in an occupation than the shorter-term ''competency-based'' alternatives that have been proposed by some applicants.

It is also important to note that the longstanding 2,000-hour minimum durational standard in the United States for the on-the-job training component of an apprenticeship that is expressed in the current regulation actually predates the enactment of the NAA. The standard was established, pursuant to the labor standards-setting authority contained in the National Industrial Recovery Act of 1933, under President Franklin D. Roosevelt's Executive Order (E.O.) 6750–C (June 27, 1934); the same presidential directive also established the Federal Committee on Apprenticeship Training (the forerunner of today's ACA) to advise the Secretary on apprenticeship-related matters. Pursuant to that executive order, the Secretary issued ''General Regulation No. 1'' on August 14, 1934, which

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[83] ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, at 14, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

[84] ILO, ''Quality Apprenticeships Recommendation, 2023'' (ILO Recommendation No. 208), Conclusion 10(g), June 16, 2023, *https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:4347381.*

[85] ILO, ''Quality Apprenticeships Recommendation, 2023'' (ILO Recommendation No. 208), Conclusion 9(c), June 16, 2023, *https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:4347381.*

[86] ILO, ''Overview of Apprenticeship Systems and Issues: ILO Contribution to the G20 Task Force on Employment,'' Nov. 2012, at 5 (*see* Table 2, ''Regulated apprenticeship and youth unemployment in selected G20 countries'').

[87] Apprenticeships in Canada ordinarily are between 2 and 5 years on duration. *See* Government of Canada, ''How to become an apprentice,'' *https://www.canada.ca/en/services/jobs/training/support-skilled-trades-apprentices/become-apprentice.html* (last updated Mar. 31, 2023).

[88] Apprenticeships in Australia are ordinarily between 1 and 4 years in duration. *See* Fair Work Ombudsman of the Australian Government, ''Guide to Starting an Apprenticeship,'' June 2023, at 2, *https://www.fairwork.gov.au/sites/default/files/migration/712/guide-to-starting-an-apprenticeship.pdf.*

[89] Apprenticeships in England are ordinarily between 1 and 5 years in duration and cannot be less than 1 year in duration. *See* Andrew Powell, ''Apprenticeships Policy in England,'' House of Commons Library, Jan. 20, 2023, at 10, *https://researchbriefings.files.parliament.uk/documents/SN03052/SN03052.pdf,* as well the information on the following website: *https://www.gov.uk/employing-an-apprentice.*

[90] Apprenticeships in Switzerland are ordinarily between 1 and 2 years in duration. *See* SwissInfo, ''Apprenticeships and high school,'' *https://www.swissinfo.ch/eng/politics/apprenticeship-system/43796482* (last visited July 20, 2023).

[91] Apprenticeships in Germany are ordinarily between 2 and 3.5 years in duration. *See* Fazit Communication GmbH, ''Dual vocational training,'' *https://www.tatsachen-ueber-deutschland.de/en/working-germany/dual-vocational-training* (last visited July 20, 2023).

[92] Doug Richard, ''The Richard Review of Apprenticeships: Main Report,'' Nov. 2012, *https://www.gov.uk/government/publications/the-richard-review-of-apprenticeships.*

[93] Doug Richard, ''The Richard Review of Apprenticeships: Call For Evidence,'' June 2012, at 10, *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/34708/richard-review-full.pdf.*

[94] *Id.* at 90.

[95] *See* Beth Stackpole, ''Practical Ways to Tackle Manufacturing's Labor Crunch,'' Massachusetts Institute of Technology Sloan School of Management, May 16, 2022, *https://mitsloan.mit.edu/ideas-made-to-matter/practical-ways-to-tackle-manufacturings-labor-crunch.*

[96] *See* Beth Stackpole, ''How to Make 'Work of the Future' Work for Everyone,'' Massachusetts Institute of Technology Sloan School of Management, Apr. 26, 2022, *https://mitsloan.mit.edu/ideas-made-to-matter/how-to-make-work-future-work-everyone.*

[97] *See* Gregory Ferenstein, ''Job Training Programs Are Rarely Flexible Enough to Succeed,'' Brookings Institution, Sept. 16, 2019, *https://www.brookings.edu/blog/techtank/2019/09/16/jobs-training-programs-are-rarely-flexible-enough-to-succeed.*

directed the Federal Committee on Apprenticeship Training to promulgate standards of apprenticeship consisting of not fewer than 2,000 hours of on-the-job training and not fewer than 144 hours of ''group instructions in general and technical subjects.'' [98] There has been almost 90 years of successful implementation of this 2,000 hour minimum on-the-job training durational standard at the Federal level, and this standard has been accepted over the years and across all industries as a key attribute of a high-quality apprenticeship program.

The proposed rule at § 29.8(a)(4)(ii) also would modify the current regulatory provision that appears at 29 CFR 29.5(b)(4) by expressly requiring, rather than recommending, that registered apprenticeship programs provide to apprentices a minimum average of 144 hours of related instruction in technical subjects relevant to the occupation for every 2,000 hours of on-the-job training provided by the program. As discussed above, the related instruction portion of the program is necessary to complement the on-the-job training by providing an apprentice with a sufficient amount of classroom learning that conveys key foundational and theoretical concepts that an apprentice needs to acquire in order to obtain full proficiency in the occupation covered by the program. In this connection, the Department invites comment from the public on whether the proposed 144-hour minimum durational requirement for related instruction is sufficient, or whether it should be raised to a higher amount, given that several Western nations (such as Canada,[99] Austria,[100] and England [101] (in the case of English apprentices who work more than 30 hours a week)) stipulate that at least 20 percent of the apprentice's paid hours, over the usual minimum duration of a 1-year apprenticeship, have to be spent on off-the-job training (which would correspond to a 400-hour minimum durational requirement for related instruction for U.S. apprenticeships of 2,000 hours in duration). Commenters who advocate a higher minimum threshold for related instruction than the one set forth in this proposal should also provide their opinion regarding whether such a revised requirement should be phased in over time.

The Department is also interested in any alternative suggestions from commenters, particularly as the Department is looking to align education systems more closely with registered apprenticeship, on whether a topic such as semester or trimester hours should be considered. Based on analysis by ED, 30 in-class or ''clock'' hours equates to 1 semester hour of academic credit.[102] The 144-hour standard would approximately equate to 4 semester or trimester hours, plus an additional 24 clock hours.

The Department is proposing flexibility for program sponsors in how they would count the number of hours related to this requirement. Sponsors may utilize contact hours, credit hours, a conversion of credit to clock hours, or any combination. The Department is interested in any comments related to ensuring and calculating the total number of hours of related instruction for programs. The Department considers this to be an appropriate minimum amount because additional related instruction such as safety training, EEO training, anti-harassment training, and other sponsor or employer specific related instruction is likely necessary to successfully supplement the on-the-job training portion of the registered apprenticeship program. The Department believes that a minimum number of hours should be required but is open to comments on these alternative amounts or on whether a minimum amount should be established by occupation, and if so, how such occupation specific standards should be established.

Proposed § 29.8(a)(5) would require that the program's occupation(s), work process schedules, and related instruction outline(s) be included in the standards of apprenticeship. The submission by a registered apprenticeship program of the occupation and work process schedule is currently required under the existing regulation at 29 CFR 29.5(a)(3). However, the proposed revised standards of apprenticeship would also expressly require the submission of a related instruction outline so that a Registration Agency would have a clear understanding of the breadth and quality of such an off-the-job curriculum, and its relevance to providing an apprentice with the theoretical knowledge needed to attain full proficiency in an occupation. The Department notes that a sponsor could submit standards for multiple occupations as part of their submission, and if so, would need to submit work process schedules and related instruction outlines for every occupation for which it is seeking program registration.

Proposed § 29.8(a)(6) would add a new requirement that the standards of apprenticeship must include the related instruction provider and the instructional methods used to deliver related instruction. Currently, there is not a provision for including the related instruction provider or the instructional methods used to deliver related instruction in the development and subsequent approval of standards of apprenticeship. However, information about the related instruction provider and types of methods to deliver instruction is collected during program registration through Section I of the ETA 671 Form. Currently § 29.5(b)(4) requires standards of apprenticeship to include a ''[p]rovision for organized, related instruction in technical subjects related to the occupation'' and provides examples of how the instruction in technical subjects may be delivered. Permissible instructional methods include in-person classroom instruction; occupational or industry courses; electronic media, such as delivery via web-based instructional platforms; or other appropriate instructional methods that are approved by the Registration Agency. The proposed requirement for including this new information in standards of apprenticeship would create a record of the instructional methods utilized by the program to deliver related instruction to apprentices, thus providing the Department with a better picture of the types and prevalence of the different instructional modes and methods used by programs generally.

Proposed § 29.8(a)(7) is new and would create a requirement that the standards of apprenticeship include an attestation to document in writing that the qualifications and experience of the trainers and instructors providing the on-the-job training and related instruction to apprentices satisfy the

[98] Lucius Q.C. Lamar, ''History of General Exemptions,'' National Recovery Administration, Division of Review, Mar. 1936, at 36–37, *https://www.govinfo.gov/content/pkg/GOVPUB-Y3_N21_8-07cbfa706293e70fe6faff2cd615eb3d/pdf/GOVPUB-Y3_N21_8-07cbfa706293e70fe6faff2cd615eb3d.pdf.*

[99] *See* Government of Canada, ''How to become an apprentice,'' *https://www.canada.ca/en/services/jobs/training/support-skilled-trades-apprentices/become-apprentice.html* (last updated Mar. 31, 2023).

[100] *See* Federal Ministry of Labour and Economy, ''Apprenticeship training procedure (vocational training, apprenticeship diploma),'' Feb. 24, 2023, *https://www.oesterreich.gv.at/en/themen/bildung_und_neue_medien/lehre/Seite.333400.html.*

[101] *See* Andrew Powell, ''Apprenticeships Policy in England,'' House of Commons Library, Jan. 20, 2023, at 10, *https://researchbriefings.files.parliament.uk/documents/SN03052/SN03052.pdf.*

[102] *See* Federal Student Aid, ''Implementation of updated clock-to-credit conversion regulations,'' May 25, 2021, *https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-05-25/implementation-updated-clock-credit-conversion-regulations-ea-id-general-21-34.*

requirements in proposed § 29.12. The proposed requirement in this section would be an acknowledgment in the standards that the requirements of proposed § 29.12 are being met. The Department believes it is important that the standards of apprenticeship include this requirement so that programs can ensure they meet these requirements and submit it as part of their application in the standards in proposed § 29.10.

Proposed § 29.8(a)(8) is new and would create a requirement that the standards of apprenticeship include a description of interim credentials (including recognized postsecondary credentials), qualification, or credit received by an apprentice during the term or upon the completion of the registered apprenticeship program. The Department proposes this new requirement to provide increased transparency to the apprentice who, with this description, would be better able to understand the credentials and credit that they would receive because of participating in the apprenticeship program. Proposed § 29.8(a)(8)(i), which is based on an existing requirement, would require that the description include any interim credentials issued to an apprentice during the term of the registered apprenticeship program. Proposed § 29.8(a)(8)(ii) would require that the description include any industry-portable occupational qualification, license, credential, or certification that the apprentice receives, or may be eligible to receive, upon completion of the registered apprenticeship program. The Department is interested in collecting this information because it is aware that some programs do provide this information, and the potential benefits to apprentices as result of the attainment of these credentials means that the Department should begin collecting more information from program sponsors on this development. The Department is interested in any comments on this new requirement to collect more information about credentials and other measures as part of the registration process.

Proposed § 29.8(a)(8)(iii) would recognize that some registered apprenticeship programs may be operated by, or in partnership with, educational institutions that provide postsecondary credit.[103] Accordingly, this provision would require that the description include any postsecondary credit that an apprentice receives, or may be eligible to receive, upon completion of the related instruction or on-the-job training components of the registered apprenticeship program. The Department notes that there would not be a requirement to provide additional credentials or postsecondary credit in a registered apprenticeship program; however, it acknowledges that many programs do provide this already, and is requiring this to be included in the standards to support the welfare of apprentices by providing them key information about the credentials and credit they would obtain as part of their participation in a registered apprenticeship program.

Proposed § 29.8(a)(9) would create a new, separate provision that would require a statement in the standards of apprenticeship of whether time the apprentice spends in the related instruction component of the apprenticeship training would be counted as hours worked, and if so, what the wage rate and any fringe benefits would be for those hours. This requirement would serve as a safeguard to ensure that sponsors consider the payment of wages for related instruction and to provide notice to the apprentices of whether paid related instruction is a part of the registered apprenticeship program's standards. In considering whether related instruction would be paid, sponsors must comply with any Federal, State, or local legal requirements regarding the payment of wages for training time, including, but not limited to, the Fair Labor Standards Act and its implementing regulations. In addition, regardless of any legal obligations to pay for related instruction time, sponsors may choose to do so for the benefit of the apprentices.

Proposed § 29.8(a)(10) would be a new requirement for sponsors to set forth a process for regularly assessing and providing feedback to the apprentice regarding the apprentice's acquisition of job-related knowledge, skills, and competencies during the on-the-job training component of the apprenticeship. It would expand upon the requirement in existing § 29.5(b)(6) of periodic review and evaluation of the apprentice's performance on the job by requiring that a process for regular assessment of knowledge, skills, and competencies be set forth in the standards and that such feedback be shared with the apprentice. The Department notes the importance that feedback provided would be inclusive and structured in a way that would be accessible to all apprentices, including those with disabilities. This provision is intended to complement proposed § 29.8(a)(4), which would set forth the minimum term for the registered apprenticeship program sufficient for an apprentice to attain proficiency in the occupation, and proposed § 29.10(a)(1), which would require a sponsor to include in the submission for program registration the work process schedule and related instruction outline, by coupling the time requirements of the overall apprenticeship term, and work process schedule within such apprenticeship term, with a process for regular assessments. A clear process for regular assessment throughout the term of the apprenticeship, using the work process schedule and the term of the apprenticeship to measure progress, would ensure that the apprentice is achieving competencies and advancing throughout the registered apprenticeship program in accordance with the program standards. Additionally, a process for regular feedback would ensure ongoing dialogue regarding the performance of the apprentice and their progress through the program, as measured against the work process schedule and the term of the apprenticeship as set forth in the performance standards. Finally, to the extent that the progressive wage is measured by certain competencies achieved (rather than a set schedule per the terms of a collective bargaining agreement, for example), a process for regular assessment and feedback would ensure that the apprentice is on track for the wage progression set forth in the program standards and the apprenticeship agreement.

This proposed paragraph also provides that in instances in which an apprentice attains such occupational skills and competencies at an accelerated pace, the program may grant advanced standing to such an individual pursuant to proposed § 29.8(a)(20). This would allow flexibility for high performing apprentices who progress through their apprenticeship at an accelerated rate to gain advanced standing or credit and an increased wage commensurate with such progression. In this way, there would be flexibility for the sponsor to adapt to the progress of apprentices throughout the registered apprenticeship program and allow for acceleration where appropriate. The Department anticipates that such individual apprentices, may be able to complete their apprenticeship terms with fewer hours of on-the-job training or related instruction than the minimum standard established under the proposed rule at § 29.8(a)(4). Because of

[103] ED, Office of Career, Technical, and Adult Education, ''Opportunities for Connecting Secondary Career and Technical Education (CTE) Students and Apprenticeship Programs,'' June 2017, *https://careertech.org/resource/connecting-secondary-cte-and-apprenticeships.*

the requirement around the attainment of competencies that lead to occupational proficiency, and the requirement that apprentices be continuously assessed on their progress, it is critical that programs establish clear methods to assess the progress of all apprentices and to accurately identify and credit those apprentices who are progressing at an accelerated pace.

Proposed § 29.8(a)(11) would address the utilization of end-point assessments the program uses to determine if an apprentice is fully proficient in the occupation and eligible to complete their registered apprenticeship program. Proposed § 29.16 would require stipulating the administration of an end-point assessment to apprentices at the conclusion of their apprenticeship term and proposed § 29.18 would require the maintenance of appropriate apprentice progress records by the sponsor or participating employer. As explained more fully at proposed § 29.16, an end-point assessment would serve to validate that the apprentice was successful in acquiring the skills and competencies necessary for proficiency in the covered occupation. The Department notes the importance of structuring end-point assessments in a manner that is inclusive to all apprentices, including those with disabilities. The requirement in this section would be an acknowledgment in the standards that the requirements of § 29.16 are being met. The Department believes it is important that the standards of apprenticeship include this requirement so that the process is clear to anyone reviewing the program standards.

Proposed § 29.8(a)(12) would retain language from the 2008 final rule at § 29.5(b)(8), which stipulates the provision of a probationary period that is ''reasonable'' and does not exceed 25 percent of the length of the program, or 1 year, whichever is shorter.

Proposed § 29.8(a)(13) is new and would require that the standards of apprenticeship include a statement that the registered apprenticeship program will be conducted in accordance with all applicable Federal, State, or local laws. The Department proposes to add this requirement to emphasize that the apprenticeship programs registered under this part must ensure apprentice safety and welfare. Program sponsors are responsible for ensuring their programs meet the requirements for apprentices to legally work in the occupation in which they are doing on-the-job training, such as if there are State licenses required to perform the work. In instances where the sponsor is not operating in accordance with all applicable law, they could be subject to deregistration proceedings for noncompliance with their program standards.

Proposed § 29.8(a)(14) is new and would require that the standards of apprenticeship include a statement that apprentices participating in an apprenticeship program registered under this part are entitled to the same worker allowances, rights, and protections, afforded by applicable Federal, State, or local laws, to which similarly situated, non-apprentice employees would be entitled. Such worker allowances, rights, and protections could include, but would not be limited to, family and medical leave; workers' compensation; and health and retirement plan benefits. The Department proposes to add this requirement in furtherance of its goal to ensure that these minimum standards of apprenticeship protect apprentice safety and welfare, while noting that it would not require that apprentices receive allowances, rights, and protections that similarly situated non-apprentices would not also be entitled to receive. The Department anticipates that adding this requirement would also provide apprentices with information about the allowances, rights, and protections to which they may be entitled, increasing transparency, and allowing potential apprentices to make an informed choice regarding a specific program.

Proposed § 29.8(a)(15) would expand upon an existing requirement and make changes to further emphasize the Department's commitment to ensuring apprentice safety and welfare. Specifically, proposed § 29.8(a)(15) would require that the standards of apprenticeship include an attestation that the program sponsor will provide adequate, safe, and accessible facilities for the training and supervision of apprentices. Additionally, sponsors should provide any documentation, where available, to support their attestation, such as any OSHA or other relevant certifications. The Department acknowledges that not all sponsors may have such certifications at the time of program registration, or they may not be relevant to all sponsors. However, this information could assist the Department in ascertaining a program's ability to meet this requirement. The Department proposes to change the existing requirement by requiring that the attestation include that the program sponsor will provide accessible facilities (including for individuals with disabilities), aligning with the Department's broader goal that apprenticeship programs registered under this part are career pathways available to everyone. For example, to ensure facilities are accessible, programs should ensure bathrooms and changing facilities, including for provision of lactation, should be close to sites where work and training is taking place. Additionally, such attestations and documentation for safety would need to ensure that personal protective equipment is available to apprentices and fits appropriately according to each apprentice's size and body type. The Department adds that the attestation also would require that the facilities be compliant with all applicable Federal, State, and local laws, including, but not limited to, disability, occupational safety, and occupational health laws.

Proposed § 29.8(a)(16) would create a new requirement that the standards of apprenticeship include an attestation that the program sponsor will provide adequate, industry-recognized safety training for apprentices in both the on-the-job training and related instruction components of the registered apprenticeship program. This proposed change would expand upon the existing requirement at 29 CFR 29.5(b)(9) that addresses safety training in the standards of apprenticeship. This expanded requirement would further the goal of ensuring apprentice safety and welfare. Proposed § 29.8(a)(16) would require that safety training provided to apprentices be tailored to mitigate the potential workplace hazards that may be encountered in the covered occupation. For example, the standards of apprenticeship for registered apprenticeship programs in the electrician occupation would need to include an attestation that the program sponsor will provide adequate, industry-recognized safety training that addresses potential workplace hazards encountered specifically by electricians.

Proposed § 29.8(a)(17) would require the written standards to include wages and fringe benefits that the apprentice will receive during the registered apprenticeship program. The current regulation at 29 CFR 29.5(b)(5) stipulates the payment of a progressively increasing schedule of wages to be paid to the apprentice with the skill required, and the entry wage may not be less than the Fair Labor Standards Act minimum wage, where applicable, unless a higher wage is required by other applicable Federal law (such as the Davis-Bacon and related Acts), State law, respective regulations, or by collective bargaining agreement.

In the proposed rule at § 29.8(a)(17), the Department proposes to add the requirement that fringe benefits provided to the apprentice also be articulated in the program standards.

The phrase ''fringe benefits'' is intended to convey the generally understood meaning of providing benefits as a part of overall compensation, such as health insurance and contributions to retirement plans. For registered apprenticeship programs subject to the Davis-Bacon and related Acts and the McNamara-O'Hara Service Contract Act, the more specific requirements of the Acts, including those relating to fringe benefits, apply in addition to the proposed requirements of this section. The Department views the proposed addition of ''fringe benefits'' as strengthening the standards by providing clarity and transparency around the fringe benefits provided to apprentices.

The Department also proposes to retain the requirement of a minimum wage floor at the outset of the apprenticeship and a graduated schedule of progressively increasing wages for apprentices during the remainder of the apprenticeship term. However, the proposed § 29.8(a)(17) would stipulate that the graduated schedule of wages paid to an apprentice would increase over the balance of the apprenticeship term to reflect the apprentice's progressive acquisition of occupational skills and competencies.[104]

BASIC REQUIREMENTS FOR THE PROPOSED WAGE STANDARD IN REGISTERED APPRENTICESHIP

[Sample program with the minimum required 2,000-hour duration, and with a journeyworker wage of $20.00/hour]

Initial Apprentice Wage Entry–3 months	Intermediate Step 1 3 months–6 months	Intermediate Step 2 6 months–9 months	Final Apprentice Wage 9 months–completion (1 year)
$7.25	$10.00	$12.50	$15.00

This table reflects the basic requirements of the proposed wage standard for registered apprenticeship. Under the proposed wage standard, wages for apprentices would need to (1) be at least at or above the Federal, State, or local minimum wage (in this example, the initial wage is the Federal minimum wage of $7.25); (2) include at least one wage progression (in this example, there are intermediate steps reflecting wage increase after 3 and 6 months); and (3) be at least 75% of the typical journeyworker wage after the final wage progression (in this example, the apprentice's final wage, paid through months 9 through 12 of the program, is $15.00/hour, 75% of the journeyworker wage of $20.00/hour).

The Department also proposes that the graduated schedule of increasing apprentice wages paid by an employer include at least one incremental wage step increase between the entry wage and the final wage step during the first 2,000 hours of the apprenticeship term, with additional wage step increments scheduled at reasonable intervals for program terms of longer duration designed to support apprentices' progression and success throughout their apprenticeship. This proposed language is intended to require a thoughtful approach to wage progression in instances in which there is no governing collective bargaining agreement, such that adequate consideration is given to recognizing and compensating an apprentice's progress through the program. In addition, the Department proposes that the wages provision stipulate that the apprentice's final wage step in the program must be not less than 75 percent of the usual journeyworker wage paid by the employer for that occupation, except in instances where the scheduled progression of apprentice wages is stipulated by other applicable Federal, State, or local laws, such as those governing the payment of prevailing wages, or by the terms of an applicable collective bargaining agreement. This final requirement would be especially relevant for programs of longer duration where the apprentice may have spent several years with the employer and where it is more likely that the apprentice would be doing similarly skilled work as journeyworkers and should therefore be paid commensurate with that experience. The Department notes that Florida and Delaware have established similar standards for the final wage step paid to an apprentice for registered apprenticeship programs operating in those States, pegging that terminal wage to a percentage of the established wage paid to journeyworkers by an employer.[105]

This revised wage provision is intended to protect apprentices from receiving low and relatively flat wages over the course of the apprenticeship term. Taken together, the enhanced wage provisions contained at proposed § 29.8(a)(17) are intended to place apprentices on a more secure career pathway, to enable apprentices to support themselves during an apprenticeship, and to provide skilled and productive apprentices with a positive incentive for completing the training program. The Department invites comments on these provisions to bolster the registered apprenticeship progressive wage requirements and is interested in the feasibility of this approach across industries. The Department believes that most programs already provide progressive wages consistent with these requirements but invites comments on a way to ensure continuous progressive wages with competency attainment against the needs for flexibility for industry regarding wage increases.

In addition to these proposed wage progression revisions, the Department reminds sponsors that, consistent with the requirements of 29 CFR part 30, the wages paid by a sponsor or a participating employer to an apprentice must not discriminate against such persons on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, age (40 or older), genetic information, or disability. In addition, the Department reminds both registered apprenticeship program sponsors and participating employers that apprentices who meet the definition of an employee under either the Internal Revenue Code or the Fair Labor Standards Act—which they will in virtually every instance—must not be misclassified by such sponsors or employers as independent contractors.

Proposed § 29.8(a)(18) would address program costs and expenses incurred by apprentices. The current regulations do not address or place any limitations upon the costs, fees, or expenses that an apprentice may be obligated to assume

[104] This proposal is aligned with Conclusion 16(a) of the 2023 Quality Apprenticeships Recommendation of the ILO, which recommends that apprentices ''receive adequate remuneration . . . which may be increased at different stages of the apprenticeship to reflect the progressive acquisition of occupational competencies.'' ILO, ''Quality Apprenticeships Recommendation, 2023'' (ILO Recommendation No. 208), Conclusion 16(a), June 16, 2023, *https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:4347381.*

[105] *See* Florida Administrative Code, Chapter 6A–23.004(2)(e)(5), which utilizes the minimum standard of 75 percent of the established journeyworker wage for the final wage step of the apprenticeship term, and Delaware Administrative Code, title 19, chapter 1101, sec. 6.2.7.3, which utilizes the minimum standards of 85 percent of the established journeyworker wage for the final wage step of the apprenticeship term.

in connection with their on-the-job training or related instruction. As some individual apprentices lack economic bargaining power relative to their potential sponsors and employers, the absence of regulatory language governing program costs in the existing rule has the potential to undermine the welfare of apprentices by exposing such persons to a heightened risk of financial exploitation. For instance, there is currently no obligation placed upon sponsors or employers in the current regulation to disclose to potential apprentices, in advance of their enrollment, the nature and amount of any costs, fees, or expenses that those individuals may incur in connection with their participation in the program. Moreover, there is no requirement in the current rule stipulating that only program costs that are both necessary and reasonable may be charged to a participating apprentice. The Department is aware of circumstances where apprentices in certain programs have been confronted with exorbitant costs for training, related instruction, and other fees that have subjected them to financial hardship and personal indebtedness. Such costs have sometimes also prevented apprentices from either completing their apprenticeship training, or from enrolling in the apprenticeship program in the first place.

To address these concerns, the proposed § 29.8(a)(18) would establish cost transparency and reasonableness provisions as part of a program's standards of apprenticeship, requiring a sponsor or a participating employer to include in the program standards the nature and amount of any unreimbursed costs, expenses, or fees that the apprentice may incur for participating in the program (such as for equipment, supplies, on-the-job training, related instruction, books, tuition, or assessment fees). This provision would further stipulate that such unreimbursed costs, expenses, or fees could be assessed by a sponsor or participating employer only if they are necessary and reasonable, do not impose substantial or inequitable barriers to program enrollment or completion by an apprentice, and are compliant with all applicable Federal, State, and local wage laws and regulations, including but not limited to the Fair Labor Standards Act, the Davis-Bacon and related Acts, the McNamara-O'Hara Service Contract Act, and their implementing regulations. In instances where a program sponsor or a participating employer engages an outside party or educational institution (such as a community college) to provide related instruction to apprentices enrolled in the program, such sponsor or employer should ensure that the terms as articulated in the standards are complied with and that the costs of such instruction do not impose financial burdens of a magnitude that could jeopardize such a person's ability to participate in or complete the registered apprenticeship program.

This new regulatory provision would empower potential apprentices by providing them with the fundamental consumer protection of having complete program cost information disclosed to them prior to their participation in the program. In addition, this provision would serve to protect enrolled apprentices from possible financial exploitation or abuse by prohibiting the imposition of unnecessary or unreasonable costs by program sponsors or participating employers during the course of the apprenticeship term. The Department thinks that the inclusion of a cost transparency and reasonableness provision in the standards of apprenticeship would help to advance DEIA in registered apprenticeship programs by reducing or eliminating barriers to program access and completion by individuals from underserved communities and populations. The Department believes mitigation and removal of such financial barriers is essential if registered apprenticeship is to fulfill its potential as an effective vehicle for enabling persons from underserved communities and population to achieve economic mobility.

The Department is cognizant of the fact that, despite its proven capacity to provide a skilled and talented workforce, a registered apprenticeship program nevertheless requires a significant investment of time and funds by a sponsor or an employer to achieve its desired outcomes. To mitigate such training costs, many sponsors and employers have formed effective partnerships with labor unions, intermediaries, educational institutions, trade and industry associations, and other organizations to create efficiencies of scale that can reduce the costs of delivering on-the-job training and related instruction to apprentices. In addition, sponsors and employers may qualify to receive Federal or State apprenticeship grants, tax credits, or other resources that may help to offset such training costs. The utilization of such partnerships and grant opportunities by sponsors and employers to defray training costs can also serve to minimize the imposition of such costs upon apprentices, many of whom may not be able to sustain such a financial burden. The Department encourages sponsors to partner with organizations that can provide resources in their communities to mitigate any costs passed on to apprentices, which may include tuition, supportive services, or other assistance.

The Department is also interested in receiving comments on the impact of costs borne by apprentices that relate to the up-front purchase of equipment and supplies essential to their work or required by the sponsors or participating employers, but that have not been not paid for by such sponsors or participating employers; in addition, the Department is interested in receiving comments on the impact of any deferred payments required of apprentices that relate to the costs of maintaining such essential equipment and supplies. In addition, the Department is interested in receiving comments as to whether the ''necessary and reasonable'' standard for evaluating unreimbursed costs in this provision should be modified to establish a more precise, mathematical formula for ascertaining cost reasonableness (such as a threshold value as a percentage share of wages), or whether the more flexible standard proposed in this provision is more appropriate and administratively feasible.

Proposed § 29.8(a)(19) would update and reformat an existing requirement that is addressed in § 29.5(b)(7), regarding the ratio of apprentices to journeyworkers. The intended purpose of this ratio requirement is to further the Department's goal of ensuring the safety and welfare of apprentices, while on the job, via an established ratio of apprentices to journeyworkers. Proposed § 29.8(a)(19)(i) would specify that the sponsor's ratio must be approved by a Registration Agency, consistent with the proper safety, health, supervision, and training of the apprentice. This requirement would center apprentice safety and welfare as the main considerations in the establishment of the specific numeric ratio for a registered apprenticeship program. To ensure that the ratio is consistent with the proper safety, health, supervision, and training of the apprentice, program sponsors and the reviewing Registration Agency should consider factors that could endanger the welfare of an apprentice who is participating in the program, such as risk of exposure to hazardous working conditions and risk of serious bodily injury or death while on the job.

One such consideration to help protect the safety and welfare of

apprentices is ensuring a proper apprentice-to-journeyworker ratio in industry sectors with a high rate of fatal work-related injuries. High-hazard industries, empirically defined with data compiled by BLS, may be subject to a heightened level of scrutiny with respect to their utilization beyond an apprentice-to-journeyworker ratio of one-to-one (1:1).[106] Industries that have been identified as high-hazard industries have an average fatal work injury rate exceeding 5 deaths per 100,000 full-time equivalent workers over the 3 most recent calendar years for which such statistics are available and include such industry sectors as: construction; transportation and warehousing; mining, quarrying, and oil and gas extraction; and agriculture, forestry, fishing, and hunting. Less hazardous industries or occupations in other (non-high-hazard) industries may not require as much scrutiny and may be able to use expanded ratios, but each ratio would be reviewed and considered on a case-by-case basis.

The Department is adding ''health'' to the list of factors for establishing a numeric ratio. Health and safety go hand in hand, and the Department thinks that apprentices should have proper supervision and training when they participate in on-the-job training at worksites that may expose them to toxic materials or harmful physical agents. This change would ensure that program sponsors, employers, and Registration Agencies are aware of and consider potential health risks for apprentices at worksites, and that an appropriate numeric ratio of apprentice-to-journeyworkers is used to allow for the necessary training and supervision to mitigate potential material impairment of health or functional capacity of an apprentice who may be exposed to toxic materials or harmful substances while on the job.

The Department notes that it has not included ''continuity of employment'' in the factors. ''Continuity of employment'' was previously listed with additional factors, such as ''proper supervision, training, and safety,'' in establishing a numeric ratio of apprentices-to-journeyworkers under 29 CFR 29.5(b)(7). The Department understands that the term has been carried forward from previous rulemaking and may have numerous operational meanings as a term of use; however, the Department no longer thinks that it is relevant to an assessment of whether a particular ratio is appropriate—that is, whether a particular ratio will further the safety of the apprentice. Accordingly, the Department is proposing to remove it as a factor. However, the Department is interested in comments as to what and how ''continuity of employment'' could or should mean in the context of ratios and providing a safe workplace and any rationales for continuing to have that language or alternative language to address the proper ratio factors.

In practice, a ratio of one apprentice to one journeyworker has been the norm for programs; however, as registered apprenticeship has expanded into new industries the Department has considered expanded ratios particularly in industries where there is a reduced safety risk (for example, a job primarily in an office setting).

While apprentice safety is the focus of the proposed requirement, there would also be flexibility provided to sponsors in setting the specific numeric ratio. Proposed § 29.8(a)(19)(ii) would specify that sponsors must use a ratio that is consistent with the provisions of any applicable collective bargaining agreements, as well as any applicable Federal and State laws governing ratios of apprentices to journeyworkers, and specific and clearly described as to its application to a particular workforce, workplace, job site, department, or plant. The Department recognizes that a one-size-fits-all approach would not be feasible with respect to ratios and that ratios could differ depending upon the specific industry or occupation in which the registered apprenticeship program is taking place. The Department also recognizes that a specific numeric ratio of a registered apprenticeship program could be set in an applicable collective bargaining agreement or by applicable Federal and State laws. Ultimately, each program must have a ratio specific to that program that is designed to protect the safety of its apprentices consistent with the considerations described and discussed above. The Department is seeking comments on these longstanding criteria, particularly to ensure how the ratios are applied in both emerging and traditional industries.

Proposed § 29.8(a)(20) would change an existing requirement concerning the granting of advanced standing, credit, and an increased wage to an apprentice. The proposed provision would require that the standards of apprenticeship grant advanced standing, credit, and an increased wage to an apprentice when appropriate, and in such circumstances would instruct sponsors to include a process by which they would reduce the usual term of on-the-job training or related instruction. This change would recognize that the reduction of the usual term of on-the-job training or related instruction could be appropriate in two scenarios: (1) where an apprentice comes to a program with prior qualifications that warrant the reduction of the usual term of on-the-job training or related instruction; and (2) where an apprentice demonstrates expedited progress while in a registered apprenticeship program that warrants the reduction of the usual term of on-the-job training or related instruction. Proposed § 29.8(a)(20)(i) would require that the established process be fair, transparent, and objective in identifying, assessing, and documenting an apprentice's prior learning or experience as well as any accelerated progress made by an apprentice.[107] Proposed § 29.8(a)(20)(ii) would require that the process must result in advanced standing, credit, and an increased wage that is commensurate with any progression granted because of the apprentice's prior qualifications or accelerated progress. The Department encourages the use and development of appropriate methods of applying advanced standing. Examples of advanced standing because of an apprentice's prior qualifications could include prior experience and training related to military service for veterans joining a registered apprenticeship program, an apprentice's completion of a pre-apprenticeship program which has a documented partnership with the registered apprenticeship sponsor, as well as an individual's completion of a registered CTE apprenticeship program under subpart B. In addition to advanced standing for prior experience, the Department notes that the feature of accelerating apprentices for their achievements during a program was a feature of the competency-based model of registered apprenticeship under the current rule, which the Department is proposing to remove as a separate model. The Department's proposal seeks to combine the benefits of competency attainment from the competency-based

[106] ETA, OA Circular No. 2021–02, ''Guidelines for Reviewing Apprentice to Journeyworker Ratio Requests,'' Jan. 12, 2021, *https://www.apprenticeship.gov/sites/default/files/bulletins/Circular%25202021-02%2520FINAL%25201.12.21.doc.*

[107] Proposed § 29.8(a)(20) aligns with the 2023 Quality Apprenticeships Recommendation of the ILO at Conclusion 10(h), which advises Member States to establish apprenticeship standards that describe ''the extent to which the expected duration of the apprenticeship may be reduced on the basis of prior learning or progress made during the apprenticeship.'' ILO, ''Quality Apprenticeships Recommendation, 2023'' (ILO Recommendation No. 208), Conclusion 10(h), June 16, 2023, *https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:4347381.*

model with minimum employment duration requirements for on-the-job training. This proposal would allow sponsors the flexibility to advance apprentices, and for apprentices to receive commensurate advancement in wages, based on their prior experience. This proposal would help to ensure sponsors continue to have some of the main flexibility components of the competency-based approach, with key quality enhancements where the Registration Agency could review to ensure apprentices are progressed fairly and such processes are equitable and objective.

The Department's proposed method of requiring a minimum amount of on-the-job training hours while allowing advanced standing based on existing competency would be similar to the current ''hybrid'' model and provide the right balance of training participants to an industry standard and duration, while recognizing the unique skill and competency progressions of apprentices. This provision would also ensure that an apprentice does not have an abbreviated on-the-job training experience in the program if circumstances do not warrant it, so that a program is not graduating apprentices from their program before they have completed their training and demonstrate the requisite proficiency.

Proposed § 29.8(a)(21) would update an existing requirement concerning the transfer of apprentices. The changes made by proposed § 29.8(a)(21) would be non-substantive and seek to increase clarity by explicitly stating that the standards of apprenticeship must include a provision addressing the transfer of apprentices. The substantive elements of existing § 29.5(b)(13)(i) through (iii), which require that a transferring apprentice be provided a transcript of related instruction and on-the-job learning, transfer to the same occupation, and sign a new apprenticeship agreement when the transfer occurs, would remain unchanged in proposed § 29.8(a)(21).

Proposed 29 CFR 29.8(a)(22) would build upon the existing regulations at 29 CFR 29.5(b)(23) and add a reference to participating employers. The Department has determined that the maintenance of apprenticeship records by all parties involved with operating or participating in a registered apprenticeship program is critical to achieving the Department's goal of collecting and analyzing high-quality data to enhance its ability to oversee, analyze, and improve registered apprenticeship and the National Apprenticeship System. Information about an apprentice's interactions with an employer participating in their registered apprenticeship program, such as whether the apprentice was ultimately hired, any interim credentials earned by the apprentice that would certify them to complete job tasks for an employer, the apprentice's wage upon hire, and other important data, is vital for achieving the Department's data and information goals. Adding participating employers here would allow the Department to collect more important data on the utilization of registered apprenticeship programs by employers.

In addition to adding participating employers to the maintenance of records requirement, the Department proposes to replace the existing language of 29 CFR 29.5(b)(23) covering recordkeeping requirements that ''may be required by the Office of Apprenticeship or recognized State Apprenticeship Agency and other applicable law'' with a cross-reference to the proposed recordkeeping provisions set forth in this NPRM at proposed § 29.18. As described below, the Department has determined that enhancements to the recordkeeping requirements for registered apprenticeship are essential for the development of a comprehensive, national dataset on apprenticeship, for garnering data-driven insights about the National Apprenticeship System, and for making data-driven decisions to improve the National Apprenticeship System. The change made here would clarify that program sponsors and participating employers must maintain the records specified in proposed § 29.18 for five years.

Proposed § 29.8(a)(23) would address a program's adherence to EEO Requirements. The proposed § 29.8(a)(23) would replicate the requirement currently at § 29.5(b)(21), which stipulates that the standards of apprenticeship must include a statement that the program must be conducted, operated, and administered in conformity with 29 CFR part 30, as amended, or, if applicable, an approved State EEO plan.

Proposed § 29.8(a)(24) would address maintaining a safe and inclusive workplace. The proposed § 29.8(a)(24) would obligate program sponsors and participating employers to promote and maintain a safe and inclusive workplace environment that is free from violence, harassment, intimidation, and retaliation against apprentices. The requirement to maintain such a workplace environment would include an obligation to develop and implement procedures to ensure that its apprentices are not harassed and the program is free from intimidation and retaliation. The inclusion of this provision in the standards of apprenticeship would serve to supplement and reinforce the retained non-discrimination and EEO requirement at proposed § 29.8(a)(23) and is intended to make it clear that any such conduct or actions directed against apprentices is completely unacceptable.[108] As with other instances of noncompliance with the standards of apprenticeship, any failure to abide by this requirement could be grounds for a Registration Agency to impose sanctions against any program sponsor or participating employer that fails to take immediate and effective action to remedy the situation. Such sanctions could include the initiation of deregistration proceedings and referral to law enforcement agencies, as appropriate. The inclusion of a prohibition on intimidation and retaliation against apprentices in this provision of the standards of apprenticeship is intended to deter sponsors and participating employers from enabling or tolerating a climate of fear in the workplace that might deter apprentices from reporting instances of misconduct by supervisors, journeyworkers, or colleagues (including instances of sexual assault), or alternatively, from joining a labor union or engaging in organizing activities.

Proposed § 29.8(a)(25) is new and is being added to ensure compliance with a related Federal law. Proposed § 29.8(a)(25) would require, for those apprenticeship programs registered on or after September 22, 2020, that the standards of apprenticeship include an attestation that the program sponsor will provide each of the written assurances as required under sec. 2(b)(1) of the Support for Veterans in Effective Apprenticeships Act of 2019 (Pub. L. 116–134, 134 Stat. 277, 29 U.S.C. 50c). The Department has previously implemented these provisions through its information collection requests (ICRs) under OMB Control Number 1205–0223; however, as this is a statutory requirement the Department considers it important to include in the operative regulatory text.

Proposed § 29.8(a)(26) would carry forward an existing requirement that the

[108] Proposed § 29.8(a)(23) and (24) are consistent with the content of Conclusion 22 of the ILO's 2023 Quality Apprenticeships Recommendation, which advises that Member States ''should take effective measures to prevent and eliminate any discrimination, violence and harassment and exploitation against apprentices.'' ILO, ''Quality Apprenticeships Recommendation, 2023'' (ILO Recommendation No. 208), Conclusion 22, June 16, 2023, *https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:4347381.*

standards of apprenticeship identify the contact information of the individual with authority in the program to receive, process, and make disposition of complaints. The Department is proposing to make an email address a requirement, whereas the current rule only says, ''if appropriate.''

Proposed § 29.8(b) would address a gap in the existing minimum standards of apprenticeship by creating a new requirement with respect to group programs and participating employers. Currently, employers can participate in a group program, and these employers often sign an agreement (commonly referred to as an employer acceptance agreement), or participate via a collective bargaining agreement, with a joint labor-management group program sponsor. This agreement seeks to ensure that the participating employer will abide by the minimum standards of apprenticeship, but the existence of such an agreement is not currently required. This lack of requirement means that the sponsor is not formally required to ensure that the employer is abiding by the terms of the standards of apprenticeship and apprenticeship agreement, and therefore limits the Registration Agency's ability to hold the sponsor responsible. The lack of accountability may allow harm caused to apprentices to go unaddressed, or at least make it harder to address and remedy.

This rulemaking proposes a new § 29.11, Program Standards Adoption Agreement, which would outline the requirements of such agreements signed by participating employers. Proposed § 29.8(b) would synchronize the minimum standards of apprenticeship with proposed § 29.11, creating a corresponding requirement on group program sponsors to ensure that the minimum standards of apprenticeship include an attestation from each participating employer, which is required prior to the employer being admitted to the program. Proposed § 29.8(b)(1) would require the attestation include that a participating employer will abide by the requirements in parts 29 and 30.

Proposed § 29.8(b)(1) would require group program sponsors to ascertain, via the attestation, whether a participating employer has violated any applicable laws governing workplace practices or conduct, and actions taken to remedy any violation. This disclosure would not prevent a program from being registered or from allowing the sponsor to enter into an agreement with the participating employer; however, the Department, in safeguarding the welfare of apprentices, considers it important that a Registration Agency know of these instances as part of its program oversight role. If an entity fails to disclose such violations, then, as with any materially false, fictitious, or fraudulent statement or representation knowingly and willfully to the Federal Government, a referral to the Department of Justice for a potential violation of 18 U.S.C. § 1001 would be necessary.

Proposed § 29.8(b)(3) would require group program sponsors to monitor participating employers for their compliance with the minimum standards of apprenticeship and other requirements contained in parts 29 and 30. The Department has determined that creating this requirement would help address a gap in existing requirements with respect to group programs and participating employers. Through this requirement, the Department anticipates furthering apprentice safety and welfare by adding a check on the actions of the participating employer and providing a mechanism for the Registration Agency to hold the sponsor accountable. These safeguards would promote compliance with the terms of the standards of apprenticeship and apprenticeship agreement. While not an explicit requirement, group program sponsors may need to dedicate staff as coordinators to ensure all the program partners and employers are coordinated and connected in the delivery of the registered apprenticeship program.

Section 29.9—Apprenticeship Agreements

As discussed above, one of the principles informing the development of this proposed regulation is the desire to increase transparency and accountability throughout the National Apprenticeship System. The apprenticeship agreement between registered apprenticeship program sponsors and apprentices joining their programs is critical to allowing the apprentice to understand their rights and obligations. The apprenticeship agreement is the agreement that governs the relationship between the apprentice and the sponsor (and employers, where applicable) regarding the terms and conditions of the registered apprenticeship program. A potential apprentice seeking to join a program should have access to as much information as possible to help them make such an important career decision, including any costs associated with participating in or completing the program, the types of training and instruction they can expect to receive, what will be expected of them in order to complete the program, and what completion of the program will mean for their near- and longer-term career development.

The agreement also serves as an assurance to the potential apprentice, as well as the Department and any other entities with a role in overseeing a program, that the program sponsor will abide by the terms and conditions of the registered apprenticeship program as laid out in the agreement. As an important tool for achieving optimal transparency and accountability within the National Apprenticeship System, the apprenticeship agreement is central to registered apprenticeship and thus represents an important piece of the Department's focus in proposing strengthened transparency, accountability, and worker protections in the part 29 regulations.

The current regulatory provisions governing the apprenticeship agreement are at 29 CFR 29.7. The Department proposes to move that provision to § 29.9, retaining and reorganizing many of the existing provisions and adding further measures to strengthen transparency, accountability, and worker protections within the National Apprenticeship System.

The apprenticeship agreement is intended to clearly encompass all fundamental aspects of the terms and conditions of the registered apprenticeship program, as described in the requirements below, and cannot be modified or altered by a subsequent agreement that contravenes the requirements of this part.

Proposed § 29.9(a) would require that all apprenticeship programs registered by a Registration Agency develop and establish a written apprenticeship agreement that contains the terms and conditions of the employment and training of the apprentice, and that such agreement must be signed by the parties prior to the start of the apprenticeship term. Proposed § 29.9(a) incorporates existing text currently at § 29.7 that establishes the requirement for an apprenticeship agreement setting forth the terms and conditions of the employment and training of the apprentice and existing text at § 29.7(a) requiring the signatures of the relevant parties. It would further require the signature of a participating employer in a group program that has adopted the sponsor's standards of apprenticeship through a program standards adoption agreement. This is to ensure that the participating employer understands the terms and conditions of the apprentice's employment and training and can be held accountable by the apprentice or a Registration Agency for any violations of the terms and conditions of the

agreement. This requirement would be specific to participating employers in group programs with a standards adoption agreement. Further, this paragraph would clarify that the agreement must be signed prior to the start of the apprenticeship term. This clarification would add a temporal requirement to the apprenticeship agreement in that it must be agreed to by the parties prior to the start of the apprenticeship. This would be consistent with the intent of the apprenticeship agreement to set forth the terms of the apprentice's training and employment, would ensure that there is a valid operative agreement governing the relationship of the parties at the start of the program, and would allow the apprentice to review and understand the terms of the program before joining the program.

Proposed section 29.9(b) contains a new requirement that, prior to signing the apprenticeship agreement, an apprentice who has been admitted to the apprenticeship program must be furnished by the program sponsor with a copy of both the proposed apprenticeship agreement and the program's standards of apprenticeship, and must also be provided with a reasonable opportunity to inspect and review the content of those documents. Proposed section 29.9(b) also stipulates that, after the apprenticeship agreement has been signed by the apprentice, the sponsor, and any other relevant parties, the sponsor must transmit or deliver to the apprentice a copy of the executed apprenticeship agreement and the program's standards of apprenticeship not later than the starting date of the apprenticeship. The Department takes the view that this disclosure provision is necessary to ensure that apprentices are made fully aware of the terms and conditions of their employment before entering into an apprenticeship agreement with the sponsor or participating employer and beginning their work as an apprentice. The inclusion of this disclosure requirement is also a recognition that apprenticeship agreements entered into between apprentices and sponsors or participating employers often involve a significant imbalance of bargaining power between the contracting parties, and that apprentices are thus more susceptible to entering into an apprenticeship agreement without an understanding of the terms of the contract or, in some circumstances, as a result of coercion, deception, and other forms of procedural unconscionability. The Department further believes that adherence to this disclosure requirement should help to ensure that the apprenticeship agreement is procedurally lawful, and that the apprentice has entered into the agreement freely, voluntarily, and with a reasonable opportunity to review its terms and understand its meaning. The Department has refrained from establishing in proposed § 29.9(b) a uniform, minimum duration of time that would constitute ''a reasonable opportunity to inspect and review the content'' of the apprenticeship agreement and the program's standards of apprenticeship; in this connection, the Department has abstained from specifying such a quantitative requirement in order to provide program sponsors with some measure of flexibility in determining what would constitute an appropriate period of time for an apprentice to review the documents, based upon a given set of facts and circumstances. However, the Department invites comments on whether the establishment of a specified minimum duration of time for an apprentice to review these documents would be appropriate in this rulemaking, and, if so, what that duration of time should be.

The Department understands that the proposed requirement to include the standards of apprenticeship in the apprenticeship agreement may appear to be duplicative, as such standards include similar provisions such as the progressive wage schedule and associated program costs. However, it is important to include the standards in the agreement to make compliance with the standards part of the contract between the apprentice, program sponsor, and participating employer. Moreover, because the standards could be incorporated by reference, the apprenticeship agreement would not need to repeat verbatim the content of the standards, but rather would only need to provide the information described in paragraphs (c)(1) through (3). The proposed requirement to give the apprentice both the signed apprenticeship agreement and the program standards accompanies the requirement in proposed § 29.9(c)(4) to incorporate the program standards into the apprenticeship agreement either directly or by reference and would expand upon the current apprenticeship agreement requirement to incorporate by reference the standards of apprenticeship.

Proposed § 29.9(c) would contain the minimum requirements of the apprenticeship agreement. It would incorporate many of the current requirements in § 29.7. As discussed above, existing § 29.7(a) would now be a part of proposed § 29.9(a).

Proposed § 29.9(c)(1) would require apprentice contact information and identifying information for the apprentice, including the apprentice's date of birth and, on a voluntary basis, their Social Security number. Both the date of birth and the voluntary provision of the apprentice's Social Security number are in the current requirement at § 29.27(b). Proposed § 29.9(c)(1) would also require that the apprentice's contact information be provided. This would be consistent with current practice and necessary for the administration of the apprenticeship program and registration of the agreement. Apprentices may not be denied program entry or subjected to any adverse action taken by a program sponsor if an apprentice refuses to disclose their Social Security number.

Proposed § 29.9(c)(2) would require that the apprenticeship agreement contain the contact information for the Registration Agency, the program sponsor, and the participating employer(s). This requirement would be similar to the existing requirement in § 29.7(c), with the addition of the contact information for any participating employers that are signatories to the agreement at the time the apprenticeship agreement is signed. However, the apprenticeship agreement would not need to be modified or re-signed if any participating employers join the registered apprenticeship program after the apprenticeship agreement is signed because those participating employers agree to comply with the existing program standards and are bound by the program adoption agreement to employ apprentices based on the terms of the apprenticeship agreement. The Department is proposing this while mindful of the potential burden of re-signing apprenticeship agreements for each program standards adoption agreement that an apprentice may be employed by. The Department is interested in any comments on this proposed flexibility, or any comments recommending a requirement that the agreements be re-signed as a transparency feature for an apprentice.

Proposed § 29.9(c)(3) would incorporate the existing requirements in § 29.7 to include the occupation in which the apprentice is to be trained as well as the associated work process schedule and related instruction outline.

Proposed § 29.9(c)(4) would require that the program's standards of apprenticeship be incorporated into the apprenticeship agreement either directly or by reference. This requirement is in

current §§ 29.5(b)(11) and 29.7(i) and would be carried forward in this proposal.

Proposed § 29.9(c)(5) is new and would require that the apprenticeship agreement contain a description of the respective roles, duties, and responsibilities of the parties to the apprenticeship agreement. This description would need to include the responsibility of sponsors and any participating employers to provide information to apprentices about their rights and protections under Federal, State, and local laws, including their right to file complaints with the applicable Registration Agency. This proposed provision would capture an important element of the apprenticeship agreement—that the parties have clearly defined roles and responsibilities—and would emphasize that a particularly important responsibility of the sponsors and employers is to ensure that apprentices are aware of their rights under the apprenticeship agreement and applicable laws. This proposed provision would also align with the 2023 Quality Apprenticeships Recommendation of the ILO, specifically Conclusion 18(a), which advises that Member States should ensure that an apprenticeship agreement ''clearly defines the parties' respective roles, rights and obligations.'' [109] Explicitly requiring that the agreement include information about their rights and the complaint filing process would better protect the apprentice by easily allowing them to exercise their rights if necessary. In light of the Department's mandate to protect the welfare of apprentices, the Department thinks this is an important safeguard.

Proposed § 29.9(c)(6) would require that the agreement contain the dates of the registered apprenticeship program, including the beginning date and expected duration of the apprenticeship program, the beginning date of the on-the-job training, and the duration of any probationary period of the apprenticeship program. This would incorporate requirements in existing § 29.7(d) and (h) regarding dates, expected duration of the apprenticeship, and the length of the probationary period. By requiring disclosure of the start date of the program and start date of the on-the-job training portion of the program apprentices would have more complete information and expectations of when they will begin the paid on-the-job training portion of the program. In addition to these key dates, the apprenticeship agreement would also inform the apprentice of the expected duration of the registered apprenticeship program in addition to the duration of any probationary period.

Proposed § 29.9(c)(7) would require a detailed statement of the entry wage, subsequent graduated scale of increasing wages to be paid to the apprentice over the term of the apprenticeship, the journeyworker wage, and any fringe benefits. This requirement would incorporate the existing requirement in § 29.7(g) but would add the requirement that the wages correspond to specific periods of time: an entry wage, a graduated scale of wages that correspond to the apprentice's attainment of occupational skills and competencies throughout the registered apprenticeship program, and the journeyworker wage that the apprentice can expect to receive upon their successful completion of the apprenticeship. This added requirement in the apprenticeship agreement would align with the program standards requirements for a graduated schedule of increasing wages, from entry wage to journeyworker wage, in proposed § 29.8(a)(17)(B) and is intended to provide explicit notice to the apprentice of the expected cadence of wage increases that corresponds to the acquisition of specific occupational skills and competencies. It would also give notice to the apprentice of fringe benefits provided as a part of the registered apprenticeship program.

Proposed § 29.9(c)(8) would require that the apprenticeship agreement disclose the expected minimum number of hours that are allocated by the program to the on-the-job training component and the related instruction component during the apprenticeship term. In practice, because progress in the program is measured through both time in on-the-job training and competency attainment, this may include an approximate range of hours from the minimum to a maximum number of on-the-job training hours to obtain proficiency in the occupation. This proposed provision would replace existing § 29.7(e) and align with the program standards requirement in proposed § 29.8(a)(4) regarding the minimum duration of the on-the-job training and related instruction components of the registered apprenticeship program.

Proposed § 29.9(c)(9) would be a new requirement for the apprenticeship agreement to include a description of the methods used during the course of the apprenticeship to measure progress on competency attainment and the program's end-point assessment. The Department emphasizes here that the methods should be inclusive and accessible to all apprentices, including those with disabilities and others from underserved communities. This proposed requirement would add transparency to the apprenticeship agreement regarding the assessment and evaluation of apprentices, both on a continuous basis throughout the apprenticeship and at the end of the registered apprenticeship program. It corresponds to the new requirements at proposed § 29.8(a)(10) and (11) regarding regular and end-point assessments in the program standards of apprenticeship. As with many other requirements, the Department thinks that adding this information into the apprenticeship agreement would ensure transparency to the apprentice, who would have a better understanding of the program they are joining, what will be expected of them, and, in this case, how they will be assessed.

Proposed § 29.9(c)(10) would be a new requirement that the apprenticeship agreement include a description of any supportive services that may be available to the apprentice including childcare, transportation, equipment, tools, or any other supportive service provided by the sponsor or a partnering organization. This proposal would provide transparency to the apprentice of any supports they may receive during their participation in the program. Such supports may be arranged through partner organizations or in coordination with the workforce development system.

Proposed § 29.9(c)(11) would be a new requirement that the apprenticeship agreement disclose the nature and amount of any unreimbursed costs, expenses, or fees that the apprentice may incur during their participation in the registered apprenticeship program. This corresponds with the proposed § 29.8(a)(18) requirements in the standards of apprenticeship regarding disclosure and conditions of any unreimbursed costs, expenses, or fees incurred by the apprentice during the registered apprenticeship program. The Department discussed above its reasons for requiring this information in the program standards. This proposed addition here would give the apprentice explicit notice of such costs, expenses, or fees so that they have necessary and relevant information regarding their wages and costs during the registered apprenticeship program and can plan accordingly. It would also ensure

[109] ILO, ''Quality Apprenticeships Recommendation, 2023'' (ILO Recommendation No. 208), Conclusion 18(a), June 16, 2023, *https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:4347381.*

transparency to assist in protecting the apprentice from hidden or arbitrary costs, fees, or expenses.

Proposed § 29.9(c)(12) would be a new requirement that the apprenticeship agreement must describe any recognized postsecondary credits, credentials, and occupational qualifications that the apprentice will receive or be eligible to receive upon successful program completion, as well as a description of any additional conditions or requirements that the apprentice must fulfill to satisfy any applicable Federal, State, or local qualification and licensure requirements to engage in the occupation. This proposed inclusion in the apprenticeship agreement corresponds with the proposed standard at § 29.8(a)(8) to include a description of any interim credentials, occupational qualifications, licenses, credentials, or certification, or postsecondary credit that an apprentice may receive or be eligible to receive upon successful completion of the registered apprenticeship program. This provision would provide notice to the apprentice of expected outcomes throughout and at the conclusion of the registered apprenticeship program and would allow the apprentice to understand the full benefits of the apprenticeship program.

Proposed § 29.9(c)(13) would require a statement in the agreement that the parties will adhere to the applicable requirements of 29 CFR part 30 as amended and, where applicable, an approved State EEO plan. This would replace the requirement in § 29.7(j) to include an equal opportunity statement with a statement instead regarding adherence to part 30 and any applicable State EEO plan. This proposed change is meant to explicitly reference the requirements in part 30 in their entirety to not only avoid duplication but also clarify that the expectation is for sponsors and employers to adhere to all applicable requirements.

Proposed § 29.9(c)(14) would require a statement addressing whether the apprentice is paid wages and any fringe benefits during the related instruction component of the program and, if so, what the wage rate and fringe benefits are, and whether the related instruction is provided during work hours. This requirement would be similar to the existing requirement in § 29.7(g) that the apprenticeship agreement specify whether related instruction is compensated; however, it would more precisely require that the apprenticeship agreement address both any wages (*i.e.,* not some other form of compensation) and fringe benefits and whether related instruction occurs during work hours. This would provide notice to the apprentice of whether to expect related instruction to occur on their own time and, regardless of when related instruction takes place, whether it is paid and at what rate. As discussed in proposed § 29.8(a)(9), sponsors must consider, as a part of their programs' standards of apprenticeship, whether to pay wages for related instruction. Since registered apprenticeship is an ''earn-and-learn'' model, this provision would provide transparency to the apprentice about when wages will be received, what wages will be received, and during what component(s) of the program. This provision would also make transparent a schedule of paid and unpaid time an apprentice is expected to be present to fulfill learning and worksite productivity objectives when attending related instruction and on-the-job training. Making this information available to apprentices for transparency purposes would provide apprentices with the necessary information to make financial decisions, seek out resources or supportive services through a program sponsor to attend related instruction or compensate costs incurred, and manage time to accommodate responsibilities, such as providing care to family members.

Proposed § 29.9(c)(15) would be the existing requirement in § 29.7 that the apprenticeship agreement include the contact information of the appropriate party to address complaints within the program. As discussed below, in addition to filing complaints with the program, apprentices may make complaints to a Registration Agency consistent with proposed § 29.17, and information on how to do so would need to be included in the apprentice agreement as required by proposed § 29.9(c)(5).

Proposed § 29.9(c)(16) is new and would require the apprenticeship agreement to contain a description of the processes and procedures that the sponsor will utilize to grant advanced standing or credit to apprentices. The processes and procedures in the apprenticeship agreement would need to be the same as in the sponsor's approved standards. This proposed provision would ensure that apprentices are aware of the processes and procedures in place for receiving advanced standing before the apprentice signs the apprenticeship agreement.

Proposed § 29.9(d) is new and would prevent sponsors and participating employers from including in the apprenticeship agreement or otherwise imposing on apprentices a non-compete provision or similar provision that would restrict an apprentice's labor market mobility and limit competition among employers. Proposed § 29.9(d) would include a prohibition on any provisions restricting the apprentice's ability to seek or accept employment with another employer prior to the completion of the registered apprenticeship program. The substance of a non-compete provision may vary between employers and jurisdictions, but the general purpose of a non-compete provision is to restrict the ability of a worker to compete with their current employer for some specified period of time, often in a specified geographic area.[110] [111] Non-compete provisions undermine workers' mobility and rights, and the proposal to restrict them is meant to further protect the safety and welfare of apprentices and to promote competition for labor services. The Department has tentatively determined that where a non-compete provision seeks to restrict the apprentice's labor market mobility, including prior to the completion of the registered apprenticeship program, the inclusion of a non-compete provision is impermissible because it harms the apprentice by preventing them from finding or accepting employment. Moreover, the use of non-compete provisions by program sponsors or participating employers in the sponsor's program can substantially undermine a key purpose of registered apprenticeships, which is to provide a worker with marketable and portable occupational skills when the apprenticeship has concluded.

At the turn of this century, the use of non-compete provisions in employment contracts was typically concentrated within higher paying occupations requiring advanced levels of education; today, however, such restrictive employment covenants have increasingly been utilized by employers for workers entering jobs in occupations that pay considerably less.[112] Moreover,

[110] U.S. Department of the Treasury, Office of Economic Policy, ''Non-compete Contracts: Economic Effects and Policy Implications,'' Mar. 2016, *https://home.treasury.gov/system/files/226/Non_Compete_Contracts_Econimic_Effects_and_Policy_Implications_MAR2016.pdf.*

[111] U.S. Department of the Treasury, ''The State of Labor Market Competition,'' Mar. 7, 2022, *https://home.treasury.gov/system/files/136/State-of-Labor-Market-Competition-2022.pdf.*

[112] *See ibid.* Note: Non-compete provisions are common among workers who report lower rates of trade secret possession: 15 percent of workers without a 4-year college degree are subject to non-compete provisions, and 14 percent of workers earning less than $40,000 are subject to non-compete provisions. This is true even though workers without 4-year degrees are half as likely to possess trade secrets as those with 4-year degrees,

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when such contractual provisions are enforced, they have been shown to harm lower income workers in particular by undermining employment opportunities that can provide greater economic stability and mobility.[113] A number of States have prohibitions on non-compete provisions that disproportionately impact workers who are paid an hourly wage,[114] make equal or less than an hourly wage of $15 ($31,200 annually),[115] or work for technology businesses.[116] Safeguarding the ability for an apprentice to traverse the labor market with employable skills and competencies attained while in a registered apprenticeship program has several benefits that accrue to apprentices and the communities where they live and work. Prohibiting such restrictions on apprentices' labor market mobility enables them to pursue the broadest possible scope of employment opportunities, and also benefits the communities where apprentices live and work.

Prohibiting the inclusion of a non-compete provision in the apprenticeship agreement would align with the Department's broader goal of ensuring good jobs, increased earnings for workers, and competition among employers. A Federal Trade Commission (FTC) proposal that would ban non-compete provisions more broadly in the American economy estimated a potential increase in workers' earnings by nearly $300 billion per year.[117] Though the Department's proposal has a more limited reach than the FTC's proposal, a review of that agency's estimates suggests that restricting non-compete provisions in the Department's proposal would lead to an increase in apprentice earnings. While the Department's proposal fundamentally is designed to help workers ensure their labor is mobile, the Department believes such a ban on non-compete provisions could ultimately benefit sponsors and employers as well since they would have access to a greater pool of qualified workers. The Department is also interested in comments on how the proposal to restrict non-compete provisions would impact employers in the National Apprenticeship System.

Proposed § 29.9(e) would prevent including in the apprenticeship agreement or otherwise imposing on apprentices a non-disclosure provision that would have the effect of preventing the worker from working in the same field after the conclusion of the worker's employment with the employer, or that would restrict an apprentice's ability to file a complaint with a Registration Agency or other governmental body concerning possible violations of this part or of 29 CFR part 30. Non-disclosure provisions, more acutely, can have the effect of silencing workers if and when they experience harassment, discrimination, or violations of worker rights.[118] This provision would serve to promote accountability by ensuring that all apprentices can file complaints concerning harassment and discrimination in the workplace.

Non-disclosure provisions, like non-compete provisions, vary in substance, but they share a common purpose in seeking to prevent disclosure of information designated as confidential by the agreement.[119] The Department notes that this proposed prohibition on non-disclosure provisions would apply to all circumstances in which a non-disclosure provision would effectively prevent the worker from working in the same field or effectively restrict the worker from filing a complaint alleging a violation of the workers' rights. Regardless of the intent of the non-disclosure provision, if it would have such an effect, then it would be prohibited. Notwithstanding these restrictions, however, a sponsor or participating employer may include a non-disclosure provision that relates to the protection of the sponsor's or participating employer's confidential business information or trade secrets, such as in the IT industry where an employee could otherwise disclose their programming source codes. This provision intends to protect an apprentice's future job prospects while also recognizing the need of businesses to safeguard confidential business information.

Proposed § 29.9(f) would require the program sponsor to submit a copy of the executed apprenticeship agreement for each apprentice registered to the program's Registration Agency within 30 days of execution. This change, which would be a reduction in time from the 45 days currently required, is being proposed as part of a broader change to require more expedited reporting to OA from 45 days to 30 days, which the Department thinks is reasonable given the advancements in technology available to sponsors and the ability to use RAPIDS, which provides for these submissions electronically. In proposing this change, the Department expects sponsors to take active steps to provide all appropriate information required in the agreement. Agreements submitted with incomplete or inaccurate information would not be deemed to have met this requirement. Further, in situations in which a sponsor submits an apprenticeship agreement that covers multiple apprentices and contains a list of signatories, the sponsor would need to provide the updated list of signatories to the apprenticeship agreement within 30 days.

Proposed § 29.9(g) is based on an existing requirement that the apprenticeship agreement may be cancelled during the probationary period specified in the agreement by either party without cause and would modify the current provision relating to this topic found in the existing regulation at § 29.7(h)(1). As discussed below, the current language in § 29.7(h)(1) regarding written notice to the Registration Agency would be relocated to proposed § 29.25(a)(2).

Proposed § 29.9(h) states that after the probationary period of the apprenticeship concludes, the apprenticeship agreement: (1) may be cancelled at the request of the apprentice at any time; or (2) may be

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and workers earning less than $40,000 possess trade secrets at less than half the rate of their higher earning counterparts.

[113] Ayesha Bell Hardaway, ''The Paradox of the Right to Contract: Noncompete Agreements as Thirteenth Amendment Violations,'' 39 Seattle U. L. Rev. (2016), 957, 959, *https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=2334&context=sulr.*

[114] Nevada AB276 (2017) prohibits a non-compete provision from applying to an employee who is paid solely on an hourly wage basis, exclusive of any tips or gratuities.

[115] Maryland SB 328 (2019) makes null and void any non-compete or conflict of interest provision in an employment contract that restricts the ability of an employee who earns equal to or less than $15 per hour or $31,200 annually to enter into employment with a new employer or to become self-employed in the same or similar business.

[116] Hawaii HB 1090 (2015) prohibits non-compete provisions among employees of technology businesses.

[117] Federal Trade Commission, ''FTC Proposes Rule to Ban Noncompete Clauses, Which Hurt Workers and Harm Competition,'' Jan. 5, 2023, *https://www.ftc.gov/news-events/news/press-releases/2023/01/ftc-proposes-rule-ban-noncompete-clauses-which-hurt-workers-harm-competition.*

[118] One in three women has faced sexual harassment in the workplace during her career, and an estimated 87 to 94 percent of those who experience sexual harassment never file a formal complaint; additionally, sexual harassment in the workplace forces many women to leave their occupation or industry or pass up opportunities for advancement. *See* Select Task Force on the Study of Harassment in the Workplace, ''Report of Co-Chairs Chai R. Feldblum & Victoria A. Lipnic,'' June 2016, *https://www.eeoc.gov/select-task-force-study-harassment-workplace.*

[119] Rachel Arnow-Richman, Gretchen Carlson, Orly Lobel, Julie Roginsky, Jodi Short, and Evan Starr, ''Supporting Market Accountability, Workplace Equity, and Fair Competition by Reining in Non-Disclosure Agreements,'' Federal of American Scientists, Jan. 31, 2022, *https://www.dayoneproject.org/ideas/supporting-market-accountability-workplace-equity-and-fair-competition-by-reining-in-non-disclosure-agreements.*

suspended or cancelled by the program sponsor only for good cause, and after reasonable opportunity for corrective action. When terminating an agreement, the sponsor would need to provide written notice to the apprentice explaining the cause for the termination and provide written notice to the Registration Agency of the termination. These requirements would incorporate the existing requirements in § 29.7(h)(2) with minor rewording that would not change the substance of the requirement. Examples of good cause could include misconduct, a violation of a sponsor's policies, or continuous and documented poor performance. The Department is interested in comments that can provide clarity for the Department and regulated community on what a ''good cause'' cancellation by the sponsor should entail. These requirements would incorporate the existing requirements in § 29.8(a)(12) with minor rewording that would not change the substance of the requirement. This provision would ensure that the apprentice is aware of their right to cancel the apprenticeship agreement at any time and that the apprentice is notified of and given a chance to address any concerns or issues raised by the sponsor about the apprentice's performance or conduct. It would also require that sponsors provide written notice explaining the decision to cancel the apprenticeship agreement, which would mean the termination of the apprentice's participation in the registered apprenticeship program. As is currently required, the sponsor would also need to provide written notice to the Registration Agency of the cancellation of the apprenticeship agreement and termination of the apprentice from the registered apprenticeship program so that they are aware of the matter and can take any action they think may be appropriate.

Section 29.10—Program Registration

The ''Program registration'' section would incorporate requirements from existing §§ 29.3 and 29.6 for program registration and the provisional registration of new programs while adding further provisions containing the requirements for a prospective program sponsor's application for apprenticeship program registration and the process for determination, provisional and permanent registration, and ongoing program compliance. Provisions in this section would describe the required contents of the application, such as the inclusion of a work process schedule that has been developed for an occupation suitable for registered apprenticeship as determined by the Administrator. This section would describe new requirements that a prospective program sponsor must include in their application, such as a written plan of recruitment sources, information on a potential program's financial capacity for program sustainability, and disclosure of violations and actions taken to correct violations. Requirements for applications described in this section would also include a written acknowledgement of whether or not the program would participate in partnership through such mechanisms as a collective bargaining agreement and how the program sponsor intends to align with 29 CFR part 30 requirements. A Registration Agency's determination process and subsequent issuance of a Certificate of Registration for provisional approval if requirements are met would be described in this section. This section would also include the requirements for permanent approval along with the necessary compliance measures for programs to meet 29 CFR parts 29 and 30 requirements and maintain at least one apprentice with a given timeframe.

Proposed § 29.10(a) would contain the requirements for submitting an application for registration of a new apprenticeship program. The Department anticipates electronic submission of applications, which would lead to a more efficient process, increased timeliness of reviews, and improved technical assistance. The Department has successfully launched a web-based platform called Standards Builder,[120] which has also been leveraged by SAAs. Current regulations do not require that standards be submitted electronically and this proposed rule would change that by mandating electronic submission. The Department anticipates that requiring submissions electronically would result in better customer service, enable technical assistance to be provided electronically and instantly, and could yield more responsive approvals of programs that meet the requirements of this part and part 30. The Department anticipates continuing to expand and refine its development of web-based tools to assist in the registration process, and requiring electronic submissions would allow OA to focus its efforts more on providing sponsors technical assistance than on reviewing and providing feedback through nonelectronic means.

Proposed § 29.10(a)(1) through (3) would require a prospective program sponsor to submit: (1) the work process schedule and related instruction outline that is consistent with an occupation deemed suitable for registered apprenticeship by the Administrator, set forth in proposed § 29.7; (2) the standards of apprenticeship for the proposed program, set forth in proposed § 29.8; and (3) the apprenticeship agreement for the registered apprenticeship program, set forth in proposed § 29.9.

Proposed § 29.10(a)(1) would explicitly require that the occupation has been determined suitable for registered apprenticeship. OA maintains a list and sample work process schedules of occupations suitable for registered apprenticeship, which is available at OA's Occupation Finder Tool.[121] If the sponsor is submitting a program that is in an occupation that has not been deemed suitable for registered apprenticeship, the sponsor would need to request a suitability determination in accordance with the process in proposed § 29.7. This is a fundamental first step for any program registration: if the occupation has not been deemed suitable for registered apprenticeship, then the prospective program is not eligible for registration. The proposal would also require the submission of a work process schedule and related instruction outline that is consistent with an occupation deemed suitable for registered apprenticeship by the Administrator so that a Registration Agency can assess the alignment of the work process schedule and related instruction with the occupation in which the apprentice is training, per proposed § 29.10(b)(1) described below. The Department notes that a sponsor may submit standards for multiple occupations as part of their submission, and if so, would need to submit work process schedules and related instruction outlines for every occupation for which it is seeking program registration. There would be no prohibition on a sponsor submitting an application for registration under this section along with a request for a suitability determination under 29 CFR 29.7. However, because suitability is a threshold requirement for approval of the standards, OA would not review the proposed standards until the suitability determination has been approved. The

[120] OA, ''Standards Builder,'' *https://www.apprenticeship.gov/employers/registered-apprenticeship-program/register/standards-builder* (last visited July 20, 2023).

[121] OA, ''Explore Approved Occupations for Registered Apprenticeship,'' *https://www.apprenticeship.gov/apprenticeship-occupations* (last visited July 20, 2023).

Department notes that often during a suitability process, changes may be required to ensure the occupation meets the requirements of industry described in proposed § 29.7, which would in turn require changes to the application. Submitting the suitability request for review before the standards would be the more efficient approach.

Proposed § 29.10(a)(4) is a new provision that would require a prospective program sponsor to submit a written plan for the equitable recruitment and retention of apprentices, including those from underserved communities. This provision is intended to ensure that all registered apprenticeship programs, including those that are not subject to the affirmative action requirements of 29 CFR part 30, develop and implement intentional and achievable strategies for optimizing apprenticeship program participation by individuals who face persistent structural or environmental barriers to program entry or retention, such as persons from underserved communities. For example, a sponsor's plan could detail how it intends to leverage local partnerships with third-party entities such as intermediaries, State or local workforce development boards, one-stop centers, pre-apprenticeship programs, educational institutions, labor unions, community-based organizations, or regional economic development bodies to facilitate access to a suite of supportive services for its apprentices, such as the provision of childcare services, and transportation. The provision of supportive services to individuals from underserved communities often plays a critical role in enabling such persons to enroll in, and complete, a registered apprenticeship program, thereby optimizing the recruitment and retention of a talented and motivated cadre of apprentices who reflect the demographic composition of the community in which the sponsor operates.

Potential program sponsors may utilize technical assistance from Registration Agency field representatives in helping to identify potential community or intermediary partnerships. Potential program sponsors are strongly encouraged to develop effective partnerships with educational and workforce intermediary organizations to form the foundation of a coherent strategy for the equitable recruitment and retention of apprentices. In particular, the formation of close partnerships between registered apprenticeship programs and local pre-apprenticeship programs can be an effective vehicle for optimizing sponsor access to untapped pools of talent, as many of the participants in pre-apprenticeship programs are drawn from underserved communities. Partnerships with one-stop centers, workforce boards, and community organizations can also be particularly advantageous for those program sponsors with limited financial resources, as such networks can provide sponsors with a cost-effective strategy for gaining access to supportive services provided by such third parties. Local partnerships with intermediary organizations can also assist sponsors in advancing equity goals by providing access to funding sources that can alleviate the cost burdens typically associated with the operation of a registered apprenticeship program (such as for tuition, books, supplies, and equipment); these costs often pose barriers to program entry and retention for individuals, particularly those from underserved communities, when they are passed along to such persons by apprenticeship programs with limited resources.

Proposed § 29.10(a)(5) is a new provision that would require that a prospective program sponsor submit information showing that it possesses and can maintain the financial capacity and other resources necessary to operate the proposed program on a sustained basis. For example, the prospective program sponsor may submit a narrative explaining its financial capacity to operate a program, in particular its ability to ensure pay to apprentices over a sustained period. In instances where employers are sponsors, they could demonstrate this by identifying their intent to hire and train apprentices in the program, and through the wages they pay apprentices. Additionally, this provision would be particularly useful for programs where the employers are not the sponsors of programs, and the payment to apprentices would be made through a group program with participating employers. Among other considerations, this provision is intended to protect against the proliferation of registered apprenticeship programs that are initially set up and financed through a grant program but lack the financial resources, consistent funding streams, or both that would be necessary to maintain a registered apprenticeship program over an extended period beyond the life cycle of a grant.

The Department anticipates that the submission of a forward-looking narrative around the sponsor or sponsor organization's financial planning, funding streams, and overall financial solvency would satisfy the financial integrity provision at proposed § 29.10(a)(5). The Department primarily wants to see some discussion in the application about how the sponsor or sponsor's organization intends to operate and sustain itself, whether it is an employer sponsor that is ensuring it has the necessary in-house infrastructure or partnerships, a community college sponsor ensuring it has the sufficient commitment of employers and resources to provide related instruction, or other entities such as intermediary sponsors indicating they have the necessary programmatic infrastructure and resources to maintain the programmatic requirements. Given its role in protecting the safety and welfare of apprentices, the Department envisions this requirement to ensure the sponsor is intentional in its commitment and securing of resources for the employment and training of apprentices in a registered apprenticeship program. The Department is interested in public comments on the value and feasibility of this proposed financial integrity provision, as well as additional examples or suggestions regarding the information sponsors may submit to demonstrate financial solvency.

The purpose of this provision is to ensure that prospective program sponsors are financially solvent and can maintain financial integrity, transparency, and accountability to sustain program operations. In particular, if the program anticipates relying on grants or other resources, such as WIOA, to fund some of the program operations, it would be expected to disclose this information. Workforce investments, such as investments in industry intermediaries, have shown promise in expanding registered apprenticeship models to new industries; however, many of these investments are designed to assist in starting a program. Over the long term, programs should not need to rely on grant funds for their day-to-day operations.

Proposed § 29.10(a)(6) is a new provision that would require a prospective program sponsor to submit with their application a disclosure in writing of all instances where a Federal, State, or local government agency has issued a final agency determination that the prospective sponsor (or any of its officers or employees) has violated any applicable laws pertaining to occupational safety and health, fair labor standards (including wage and hour requirements), financial mismanagement or abuse, EEO, protections for employees against harassment or assault, or other

applicable laws governing workplace practices or conduct; such disclosure would need to include a description of the violation(s), as well as the actions taken by the prospective sponsor to remedy the violation(s). This requirement would further the Department's mission in safeguarding the welfare of apprentices because a prospective sponsor's violations of laws governing workplace practices or conduct is relevant to a determination that the prospective sponsor is able to provide a safe training environment for apprentices and to a determination that the prospective sponsor will abide by the terms of the program standards and apprenticeship agreement, including payment of the required wages and benefits. The Department notes that any information submitted by a prospective sponsor in response to this requirement would be considered in the Administrator's review of an application and could provide sufficient grounds for denial of registration by the Department. The Department would use this information as part of its evaluation in determining whether a prospective program sponsor meets the standards for program registration.

Proposed § 29.10(a)(7) would incorporate an existing requirement at § 29.3(j) about union participation. It would divide the requirement at § 29.3(j) into two parts and make non-substantive edits to the first part. The proposed provision would require the sponsor to include union participation provisions in the application where the apprentice(s) in the program would be a part of a collective bargaining unit and would incorporate existing language at current § 29.3(j) regarding collective bargaining agreements. It would be divided into two parts: one relating to programs in which the union participates in the operation of the registered apprenticeship program and one relating to programs in which there is no union participation in the operation of the apprenticeship program. Section 29.10(a)(7)(i) would provide that in instances where a registered apprenticeship program is proposed for registration by a sponsor, employer, or employers' association and the standards of apprenticeship, collective bargaining agreement, or other instrument provides for participation by a labor union in any manner in the operation of the substantive matters of the apprenticeship program (and where such participation is exercised), written acknowledgement of union agreement or lack of objection to the registration is required. Section 29.10(a)(7)(ii) would provide that where no such participation is evidenced and practiced, the sponsor, employer, or employers' association must simultaneously furnish to an existing union, which is the collective bargaining agent of the employees to be trained, a copy of its application for registration and of the apprenticeship program. The Registration Agency would need to provide for receipt of union comments, if any, within 45 days before final action on the application for registration or approval. Both proposed § 29.10(a)(7)(i) and (ii) are existing requirements in § 29.3(j) and function to provide appropriate participation of the union that represents the prospective apprentices' collective bargaining unit.

Proposed § 29.10(a)(8) would require sponsors to submit to the Registration Agency a description of the immediate steps it will undertake to implement the requirements of 29 CFR 30.3(b). This description would need to, at a minimum: identify the individual(s) responsible for overseeing the sponsor's EEO obligations; identify how the EEO pledge will be published, publicized, and available to apprentices; describe the planned schedule for EEO related orientation and information sessions; provide the list and contact information of current recruitment resources that will generate referrals and describe procedures to address anti-harassment training and procedures for handling complaints about harassment and intimidation. These part 30 elements would be required in the application because they must be implemented at the time of program registration, and Registration Agencies are expected to evaluate applications to determine whether they include sufficient information that these elements will be met at the time of registration.

Proposed § 29.10(b) states that a complete electronic application for registration of an apprenticeship program that includes all of the requirements of proposed § 29.10(a) would be reviewed within 90 calendar days by the Registration Agency. An application would need to be complete in order to start the 90-day review period for a decision on the application. Paragraphs (b)(1) through (8) would describe how the application will be reviewed and what determinations the Registration Agency must make in reviewing the application. These determinations would correspond to the materials submitted by the sponsor in support of their application for program registration. All eight requirements would need to be met to receive approval for program registration. The Department has made notable strides to provide sponsors with the opportunity to access the registration process electronically both through the provision and release of boilerplate standards of apprenticeship, which have eased the process of assembling compliant standards, as well as the launch of OA's Standards Builder tool, which allows potential sponsors to begin the registration process online.[122] The Department will continue enhancing these resources to ensure sponsors have a clear and navigable process to registering their programs with OA.

Proposed § 29.10(b)(1) would require a determination from the Administrator that the occupation covered by the proposed program is suitable for registered apprenticeship training pursuant to proposed 29 CFR 29.7. This would be a step taken by the Registration Agency to verify that the occupation of the proposed program is suitable for registered apprenticeship. If the occupation has not been determined to be suitable for registered apprenticeship, then the Registration Agency may not approve the application. As discussed in proposed § 29.10(a)(1), the sponsor should verify that the occupation has been deemed suitable for registered apprenticeship or should obtain such a determination prior to or at the time of applying for program registration under this part. Proposed § 29.10(b)(1) would further clarify that the Administrator may in their sole discretion determine whether the work process schedule submitted for registration under proposed § 29.10(a) substantially aligns with those previously approved work process schedules such that the occupation in question needs to be determined to be suitable under proposed § 29.7. A suitability determination under proposed § 29.7(a) would always be made consistent with the work process schedule and related instruction outline submitted in support of the suitability determination request. Even if an application for registration is submitted for an occupation previously determined to be suitable for registered apprenticeship, the Administrator could need to make a new suitability determination if the work process schedule and related instruction outline submitted for registration differ significantly from the work process schedule and related instruction outline previously approved under § 29.7. In other words, the Administrator would

[122] OA, ''Standards Builder,'' *https://www.apprenticeship.gov/employers/registered-apprenticeship-program/register/standards-builder* (last visited July 20, 2023).

never be constrained by a sponsor's representation as to what occupation a work process schedule represents. If the Administrator determines that a suitability determination is necessary, the 90-day period for OA to review an application would not start until the suitability determination is complete. The Department is interested in any comments regarding the appropriate amount of discretion SAAs that serve as the Registration Agency for Federal purposes should have to ensure a submission substantially aligns with an approved occupation.

Proposed § 29.10(b)(2) would require a determination that the work process schedule proposed for that occupation provides training in the specific skills and competencies associated with the approved occupation as required by proposed § 29.7.

Proposed § 29.10(b)(3) would require a determination that the applicant's work process schedule and related instruction outline would provide an apprentice with a portable set of occupational skills and competencies that are readily transferable between employers within the same industry or sector as required by proposed § 29.7.

Proposed § 29.10(b)(4) would require a determination that the standards of apprenticeship submitted are consistent with the requirements of proposed § 29.8.

Proposed § 29.10(b)(5) would require a determination that the apprenticeship agreement adheres to the requirements of proposed § 29.9.

Proposed § 29.10(b)(6) would require a determination that the sponsor possesses the financial capacity and other resources necessary to operate the proposed program.

Proposed § 29.10(b)(7) would require a determination that the types of misconduct or violations of law acknowledged by the applicant pursuant to proposed § 29.10(a)(6) have been satisfactorily addressed and cured by the applicant, and therefore would not pose a significant ongoing risk to the welfare of apprentices who elect to enroll in the program.

Proposed § 29.10(b)(8) would require a determination that the union participation requirements of paragraph (a)(7) are satisfied, if applicable. The Registration Agency would review the documents submitted verifying the required union engagement as outlined in proposed § 29.10(a)(7) and determine whether the requirements have been met.

Proposed § 29.10(b)(9) would require a determination that the sponsor's submission of their written plan for the equitable recruitment and retention of apprentices is satisfactory and that they have included a satisfactory description of how they will implement, upon registration, each of the EEO requirements in proposed § 29.10(a)(8).

Proposed § 29.10(c) describes the potential outcomes of the Registration Agency's review of the apprenticeship program application. It states that applications for new programs that the Registration Agency determines meet the required standards for program registration would be given a Certificate of Registration and provided provisional registration. It further provides that in instances where a Registration Agency declines to register a program, the Registration Agency would provide a written explanation of the reasons why it determined the application does not meet the requirements of this subpart, and how any deficiencies could be cured, to the applicant. Finally, it provides that applicants denied approval could resubmit consistent with the requirements of this subpart. The written notice of denial by the Registration Agency should contain adequate explanation for the sponsor to understand why the application was denied and any specific instructions for resubmitting an application with new or supplemental information.

Proposed § 29.10(d) provides additional explanation of provisional registration and review of provisionally registered programs for permanent registration. The purpose of the provisional status for new programs is to establish the relationship between the program sponsor and Registration Agency and ensure that new program sponsors fully understand and are willing to take action on requirements for compliance, that program sponsors can request and access technical assistance from a Registration Agency, and that program sponsors make necessary changes to their program during the expected timeframe to build and sustain an effective and successful program that is compliant. This provisional status would also serve to protect apprentices in newer programs until they have established that they are operating in accordance with Registration Agency approval and to ensure that any necessary corrections are made at an early stage by programs. It would require the Registration Agency to review all provisionally registered programs for compliance with the requirements of this part and of 29 CFR part 30 within 2 years of the program's registration date or at the end of the first training cycle, whichever is sooner. This means that provisionally registered programs with a duration of less than 2 years would be reviewed at the end of their training cycle, rather than at the 2-year mark. The proposed change from a review after the first year, as currently provided in § 29.3(h), to a review at either the end of the full training cycle or the 2-year mark, whichever is sooner, would allow sufficient time for programs of longer durations to progress through their programs prior to being subject to an initial review and also would eliminate a need for two-part review for programs with full training cycles that are longer than 1 year but shorter (or equal to) 2 years. This would allow for programmatic efficiencies both for the Registration Agency and the registered apprenticeship program sponsor. It would also coincide with the requirement in 29 CFR 30.4(e) to have an initial written affirmative action plan completed within 2 years of program registration.

Proposed § 29.10(d)(1) describes the two possible scenarios after a Registration Agency approves an application. If the provisionally registered program has completed its first full training cycle, then it would be granted permanent registration. If the provisionally registered program has not completed its first training cycle, then it would continue to be provisionally approved until it receives its subsequent program review at the end of the first full training cycle. Proposed § 29.10(d)(2) provides that if a program is not found to be operating in compliance with the requirements of this part and part 30, it would be subject to the deregistration procedures at proposed § 29.20. It is important to note here that proposed § 29.20(a) would allow a Registration Agency to provide technical assistance to a program such that it can continue to operate subject to additional oversight, so a provisionally registered program that is found to be noncompliant may receive technical assistance and enhanced oversight prior to formal deregistration actions being taken. Finally, proposed § 29.10(d)(3) provides that programs that receive permanent registration would be subject to subsequent program reviews by Registration Agencies as provided in proposed § 29.19.

Proposed § 29.10(e) is a new provision that would incorporate the requirement in existing § 29.6(a) that every registered apprenticeship program must have at least one apprentice and would add to this requirement by providing that the failure to comply could result in deregistration proceedings. Specifically, proposed § 29.19(e) states that if a registered apprenticeship program does not have at least one apprentice enrolled and participating in the apprenticeship program and registered with the

Registration Agency, the Registration Agency could initiate deregistration proceedings as described in proposed § 29.20. Proposed § 29.10(e) would incorporate the language in § 29.6(a)(1) and (2) that the requirement to have at least one apprentice does not apply during the following periods of time, which may not exceed 1 year: (1) between the date when a program is registered and the date of registration for its first apprentice(s); or (2) between the date that a program graduates an apprentice and the date of registration for the next apprentice(s) in the program.

This proposed requirement is primarily administrative in nature and is intended to underscore that registered apprenticeship programs must have apprentices participating in their programs in order to remain registered or else risk deregistration. Such a requirement is also administratively appropriate to address those limited instances where a newly registered apprenticeship program uses that registration to qualify for the Department's Eligible Training Provider List and receive Federal WIOA funds but fails to actually enroll any apprentices. This proposed requirement, however, is not intended to create undue burdens for new programs that are just beginning to register apprentices or smaller programs that may have gaps between the graduation of one apprentice and the start date of another, and it would allow for a 1-year grace period under these circumstances. The Department also notes that programs deregistered for having zero apprentices could reregister with a Registration Agency when they anticipate utilizing their program again, if it meets the requirements of this part and part 30. The Department is interested in comments as to whether a ''latency'' period of more than 1 year of no apprentice enrollment by a program would be a more appropriate grace period, such as in instances where an economic downturn may impact apprenticeship hiring. The Department is also interested in any comments that can address scenarios where programs have apprentices but do not successfully graduate or convert them. While the Department is proposing two different completion rate metrics (annual and cohort), it is interested in any comments that may address this scenario to ensure programs are seeking to graduate apprentices and not just to access benefits available for Federal purposes such as those available under 29 CFR part 5.

Proposed § 29.10(f) would update an existing requirement in § 29.5(b)(18) concerning modifications to standards of apprenticeship. It would provide that any sponsor proposals for modification(s) or change(s) to standards of apprenticeship or certified National Guidelines for Apprenticeship Standards for a registered program must be submitted to the Registration Agency. It would also provide that the Registration Agency must make a determination on whether such submissions are consistent with the requirements of this part and 29 CFR part 30, and if so, will approve such submissions within 90 calendar days from the date of receipt of a complete submission. Finally, it would provide that, if approved, the modification(s) or change(s) will be recorded and acknowledged within 90 calendar days of approval as an amendment to such program, and if not approved, the sponsor must be notified of the disapproval and the reasons therefore and provided the appropriate technical assistance. This language would clarify the process for reviewing and approving or denying modifications or changes to approved standards.

Section 29.11—Program Standards Adoption Agreement

Proposed § 29.11 would prescribe the content and operational requirements for a written program standards adoption agreement, as defined in proposed § 29.2, between a sponsor and a participating employer that is reached outside of a collective bargaining process. Agreements between the non-union sponsors of a registered apprenticeship program and an individual employer that elects to participate in that sponsor's program are not uncommon, but there is currently no mechanism in place to ensure participating employers' accountability for compliance with the program's standards and apprenticeship agreement and no mechanism to hold sponsors accountable for the actions of the entities with whom they partner. The Department believes that the inclusion of a regulatory provision expressly obligating participating employers to comply with the sponsor's standards of apprenticeship and to adhere to the requirements contained in 29 CFR parts 29 and 30 would serve to bolster registered apprenticeship program accountability and integrity and protect the safety and welfare of apprentices. Because a participating employer in a sponsor's group program is typically the entity that employs and pays wages to the apprentices enrolled in that program, and that also typically provides close on-the-job direct supervision and training to such individuals, it follows that such employers should be contractually obligated to adhere to the same standards of apprenticeship and regulatory obligations as the sponsor of the program. This would ensure that apprentices are protected and receive the full benefit of the program.

Specifically, proposed § 29.11(a) would require that the terms and conditions of a program standards adoption agreement include the requirements that a participating employer will: (1) adopt and comply with the sponsor's registered standards of apprenticeship; (2) comply with all other applicable requirements in this part; and (3) cooperate with, and provide assistance to, the program sponsor to meet the program sponsor's obligations under this part and 29 CFR part 30, including by providing any apprenticeship-related data and records necessary to assess compliance with these regulatory provisions. These requirements would operate in tandem to ensure that the employers of apprentices clearly understand their obligations to comply with the sponsor's registered standards of apprenticeship, comply with the applicable requirements in 29 CFR parts 29 and 30, and assist in any review or compliance efforts concerning such compliance, including providing any information necessary to assess compliance. Program sponsors would need to ensure that these requirements are clearly articulated in every program standards adoption agreement and that participating employers understand their obligations under these requirements. This requirement is modeled after the existing practice of an ''Employer Acceptance Agreement,'' for which a template exists currently in Appendix D of OA's boilerplate standards of apprenticeship in Bulletin 2022–17.[123]

Proposed § 29.11(b) would require transmission of the program standards adoption agreement to the Registration Agency within 30 days of the execution of the agreement. This would be necessary for the Registration Agency to verify compliance with this subpart as well as provide assurance that employers understand their obligations and responsibilities as employers of apprentices in registered apprenticeship programs and to allow the Registration Agency to engage in more comprehensive oversight of the program.

[123] OA, Bulletin 2022–17, ''Modifications to the Boilerplate Standards of Apprenticeship,'' Nov. 19, 2021, *https://www.apprenticeship.gov/sites/default/files/bulletins/Bulletin-2022-17_0.docx.*

Proposed § 29.11(c) would provide the process for the suspension or cancellation of a program standards adoption agreement. As described below, a participating employer could cancel the agreement by providing 30-day written notice to the sponsor, and a sponsor could cancel or suspend the agreement if the participating employer violates the terms of the program standards adoption agreement relating to proposed § 29.11(a)(1) through (3).

Proposed § 29.11(1) provides that the agreement could be cancelled by the participating employer upon providing 30 days written notice to the sponsor. The Department anticipates that a participating employer that decides to cancel the agreement would not have apprentices in their employment at the time of the cancellation, meaning that prior to cancellation, the employer's apprentices were converted into regular employees, ended their on-the-job training with the employer, or were otherwise placed by the sponsor with a different participating employer.

Proposed § 29.11(c)(2) provides that the agreement would be suspended or cancelled by the program sponsor if the program sponsor determines that the participating employer failed to satisfy the requirements of the program standards adoption agreement's mandatory provisions described in proposed § 29.11(a). The sponsor would be responsible for determining compliance with the program standards adoption agreement and cancellation or suspension of such agreement if there were noncompliance by the participating employer.

Proposed § 29.11(c)(2)(i) through (iii) discuss the process that sponsors would follow to suspend or cancel the program standards adoption agreement.

Proposed § 29.11(c)(2)(i) would require the program sponsor to provide written notice of any suspension or cancellation to the participating employer, all apprentices affected by the suspension or cancellation, and to the applicable Registration Agency. It would also specify that the notice must explain the reason for the suspension or cancellation. The purpose of this proposed provision is to ensure that adequate written notice is provided to everyone affected by a cancellation or suspension of a program standards adoption agreement and the reason for the suspension or cancellation.

Proposed § 29.11(c)(2)(ii) provides that if the suspension or cancellation results in an interruption or cessation of training for apprentices, the program sponsor would need to make a reasonable effort to place such individuals with another of the sponsor's participating employers or a different registered apprenticeship program in the same occupation. The purpose of this proposed provision is to ensure that any apprentices whose programs are affected by such cancellation or suspension are placed with either another employer or another registered apprenticeship program, to the extent possible. Registration Agencies could provide technical assistance upon request if the sponsor encounters challenges to placing apprentices with other employers or programs.

Proposed § 29.11(c)(2)(iii) provides that in instances where a program sponsor fails to suspend or cancel a program standards adoption agreement as required by this paragraph, the Registration Agency could initiate deregistration proceedings against the sponsor pursuant to proposed § 29.20. This proposed provision is intended to both signal to the sponsor the importance of monitoring compliance with program standards adoption agreements and to emphasize that neglecting to do so risks deregistration per the procedures in proposed § 29.20.

Section 29.12—Qualifications of Apprentice Trainers and Providers of Related Instruction

In registered apprenticeship, trainers and instructors play a pivotal role in the realization of the benefits of the system's earn-and-learn framework. The quality of the source material and resources underpinning training and instruction in registered apprenticeship programs is vital, but in order for such material to take hold among apprentices learning about an occupation, the individuals providing training and instruction must be knowledgeable experts in their field, must be skilled in instructional competencies, and must be willing and able to take a lead role in establishing a safe and welcoming environment conducive to learning for apprentices of all backgrounds.

The current regulatory framework for registered apprenticeship does not establish any baseline qualifications for apprentice trainers. The Department has determined that establishing such a baseline in regulation would benefit all existing and potential registered apprenticeship programs and apprentices by promoting quality and transparency within the National Apprenticeship System. Potential program sponsors of new registered apprenticeship programs would benefit from regulatory provisions that clarify the baseline elements of quality trainers and instructors in apprenticeship. Ultimately, the Department proposes to include a provision on trainer and instructor quality to ensure that all programs recognize the importance of trainer and instructor quality, to encourage programs to take steps to keep trainers and instructors up-to-date on emerging techniques and technologies, and to promote transparency for potential apprentices, who would understand the qualifications of those they are receiving training from and that any trainers and instructors in any registered apprenticeship program will meet baseline quality standards.

Proposed § 29.12 is a new provision stipulating proposed requirements for the qualifications of individuals designated to provide training and related instruction to apprentices. For apprentices, training and learning while on the job is a core, definitional element of registered apprenticeship. Trainers and instructors (traditionally referred to as ''journeyworkers'' in the apprenticeship context, and used here in the proposed regulatory text to align with the journeyworker-to-apprentice ratio requirements discussed above in this NPRM) hold the key to the benefits of apprenticeship for all stakeholders: apprentices benefit from such training and learning by developing in-demand skills and becoming proficient in job tasks that are central to the careers they are pursuing, and employers benefit from a capable workforce that can deliver a quality work product. As such, the Department has determined that trainer and instructor (journeyworker) quality is central to the success of registered apprenticeship and proposes to include a new section in the registered apprenticeship regulations at 29 CFR 29.12 to outline the attributes, qualifications, and experiential requirements necessary to ensure all training and learning in registered apprenticeship is high in quality.

Proposed § 29.12(a) would require that all sponsors and participating employers in the National Apprenticeship System must ensure that journeyworkers providing on-the-job training meet the quality requirements that follow in paragraphs (a)(1) through (6). The proposed regulatory text would clarify that the proposed quality requirements at paragraphs (a)(1) through (6) are minimum requirements, and the Department expects that most registered apprenticeship programs or their participating employers already employ journeyworkers whose qualifications meet and exceed these proposed minimum requirements.

The first proposed minimum requirement at proposed 29 CFR

29.12(a)(1) states that apprentice trainers or providers of related instruction would need to possess a mastery of the relevant job skills, techniques, and relevant competencies of the occupation. Apprentices participating in a quality registered apprenticeship program are on a pathway to become proficient in all the relevant job skills, techniques, and competencies in the occupation for which they are training, and the quality of the training they receive during their program is the single most critical success factor for achieving such proficiency. Employers need workers who can perform critical job tasks competently and proficiently, especially in trades or occupations where time to complete a job task is critical to the employee and employer's bottom line (such as an electrician who must be able to complete complex job tasks accurately and efficiently within a certain timeframe). In order for apprentices to become proficient in the critical job tasks for an occupation, the training and instruction they receive during their registered apprenticeship program must be provided by trainers and instructors who are not only proficient in the tasks themselves, but who possess a mastery of these skills, techniques, and competencies such that they can impart their mastery on to the apprentices training in their registered apprenticeship program.

Proposed § 29.12(a)(2) would further require that journeyworkers stay up to date on the latest advances in technology, technical knowledge, new and emerging techniques, and evolving job skills necessary to maintain their proficiency and mastery in an occupation. Emerging technologies, technical and mechanical refinements to machinery and equipment, the proliferation of digital and online tools, platforms, and capabilities, and developments in the modern workspace and the emergence of remote work [124] all carry meaningful implications for workforce training and development. The Department has determined that introducing regulatory requirements for journeyworkers providing training to maintain their proficiency is essential for ensuring that such developments are reflected throughout the National Apprenticeship System. Continuous learning and upskilling for journeyworkers providing training and instruction in registered apprenticeship programs would be critical for ensuring the journeyworker retains a mastery as required by proposed paragraph (a)(1) and for ensuring the skills and techniques apprentices are learning throughout their program are relevant and up to date.

Proposed § 29.12(a)(3) through (5) discuss the proposed requirements for journeyworkers' capabilities as instructors, communicators, and evaluators. In addition to possessing a mastery of the relevant job skills and techniques for their occupation and keeping up to date on their mastery and proficiency, journeyworkers would need to be effective communicators to ensure their mastery is passed on to the apprentices training in their programs. Proposed paragraph (a)(3) would require that journeyworkers be effective communicators capable of transmitting and demonstrating any specialized knowledge, job skills, techniques, or processes necessary for achieving proficiency in an occupation.

Paragraph (a)(4) would cover another critical aspect of instruction and training: journeyworkers' ability to evaluate apprentices' progress and performance fairly and objectively throughout the term of a registered apprenticeship program, including the ability to evaluate apprentices' progress in attaining competencies during on-the-job training. The Department views the fair and transparent evaluation of apprentices throughout a program as a critical element for registered apprenticeship program success, because such evaluation is essential for understanding if apprentices have learned all they need to during their program and are assured that they are emerging from the programs with a valuable set of transferrable skills for their careers. Fair, transparent, and effective evaluation is also an important equity consideration, and in line with its goal of advancing equity in the National Apprenticeship System with this proposed regulation, the Department seeks to embed such qualities in the evaluations provided by apprentice trainers through the proposed minimum trainer qualification requirement at proposed paragraph (a)(4). This proposed minimum trainer qualification requirement is intended to protect apprentices from diverse backgrounds against unequal treatment in evaluation, to establish a baseline of equitable and objective evaluation for all apprentices in a program, and to ensure that apprentices from diverse backgrounds receive training from, and are evaluated by, qualified and experienced trainers.[125] It would also require that a trainer is able to assess the attainment of competencies acquired by apprentices during their on-the-job training. This would include the ability to assess whether apprentices are meeting the appropriate targets at each stage of the program. Under the Department's proposed approach, all apprentices would be advanced through programs by their successful attainment of competencies acquired over a minimum duration of time on-the-job. A trainer's ability to assess and recognize when an apprentice has reached a level of competency so as to be proficient in it is vital to the operation of a registered apprenticeship program. This ability to assess competency attainment is also vital in programs that accelerate an apprentice's time in the program based on the rapid attainment of proficiency in competencies, because acceleration should only take place when an apprentice is proficient and not just to move quickly through a program. A core tenet of registered apprenticeship is journeyworkers' mastery of the job skills within their occupation, and journeyworkers are therefore in the best position to evaluate whether an apprentice has achieved the occupational proficiency that all registered apprenticeship programs should confer upon participating apprentices.

Proposed § 29.12(a)(5) would concern apprentice trainers' role in establishing practical connections between the conceptual and theoretical knowledge apprentices attain through related instruction and their implications and applications for the covered occupation. Such connections may clarify how to perform a job-related task successfully, explain a task or sub-task's importance to successful, safe, and efficient performance within the occupation, or otherwise provide apprentices with theoretical context and broader understanding of the tasks they must perform in the occupation. The Department has determined that apprentices benefit from developing a clear understanding of why they are required to participate in the related

[124] For example, the COVID–19 pandemic has resulted in a major shift towards remote work throughout the United States workforce. *See* Kim Parker, Juliana Menasce Horowitz, and Rachel Minkin, ''COVID–19 Pandemic Continues to Reshape Work in America,'' Pew Research Center, Feb. 16, 2022, *https://www.pewresearch.org/social-trends/2022/02/16/covid-19-pandemic-continues-to-reshape-work-in-america.*

[125] Proposed paragraph (a)(4) aligns with other Federal government agencies' efforts to establish equitable access to qualified and skilled educators and instructors. For example, in 2014, ED launched the ''Excellent Educators for All Initiative'' requiring States to submit plans to ensure ''poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers.'' Westat, ''Equitable Access to Excellent Educators: An Analysis of States' Educator Equity Plans,'' 2016, *https://www2.ed.gov/programs/titleiparta/equitable/titleiiequityanalysis1031.pdf.*

instruction element of registered apprenticeship, and that apprentices' primary trainers—journeyworkers—must play an essential role in developing such understanding among the apprentices they train.

Finally, proposed § 29.12(b) would require that journeyworkers fulfill their important role in ensuring apprentices are receiving training in a safe and inclusive work environment that supports the effective development of apprentices from all backgrounds. Studies, research, and evaluations applying the DEIA lens to analyzing the roles of trainers, instructors, mentors, and others in positions of authority indicate that such individuals are in a unique position to shape the learning and professional environments in which they are operating, including the creation of an inclusive environment where everyone feels represented, supported, empowered to speak up, and protected from harassment, intimidation, or retaliation. OA's fact sheet on advancing DEIA in registered apprenticeship, designed to inform registered apprenticeship stakeholders on the key elements and benefits of robust DEIA protocols in registered apprenticeship programs, discusses the importance of inclusive leaders in establishing workplace culture and the role of mentors in building networks to help apprentices from diverse backgrounds develop positive connections with their place of work.[126] OA has also established partnerships with advocacy organizations to harness the expertise of stakeholders in workforce development to develop and produce guidance on promising practices for inclusive workplaces. Research, guidance, and frameworks developed by these organizations also point to the importance and benefits of advancing DEIA in registered apprenticeship, including through the incorporation of authentic program participant voices, training and instruction that is accessible and representative of diverse participants in a program, and quality mentorship.[127] Quality mentorship is particularly important for youth in educational and training environments, further supporting the Department's proposal to include minimum requirements for the journeyworker role in establishing inclusive workplace environments as the Department seeks to advance opportunities for increased youth participation in quality registered apprenticeship programs.[128]

Proposed paragraph (b) would also reiterate that trainers in registered apprenticeship programs must also have completed all anti-harassment trainings required in the part 30 regulations, which is not a new requirement for program sponsors. Additionally, the Department is proposing that the trainer should not have a record of substantiated noncompliance with the EEO requirements to ensure that trainers are fully inclusive of the EEO in apprenticeship requirements and that apprentices are protected from trainers unwilling to incorporate these requirements. The Department has determined that including the maintenance of a safe and inclusive working and learning environment is equally important as the anti-harassment training requirements for ensuring apprentices are supported and protected by the trainers guiding their professional development during their apprenticeship.[129] Such an environment is important for the quality of the experience of apprentices in the program, which in turn impacts programs' ability to retain apprentices, and positive feedback and messaging about the quality, safety, and inclusiveness of a work environment may also have positive impacts on registered apprenticeship programs' ability to attract new apprentices. Though not a requirement, the Department does encourage the adoption of DEIA training for trainers as a best practice and encourages comments on the advantages of embedding DEIA training into registered apprenticeship programs.

Proposed § 29.12(c)(1) and (2) would concern providers of related instruction and the minimum requirements such individuals must possess in the registered apprenticeship context. These proposed paragraphs would relocate much of the existing regulatory text in the Standards of Apprenticeship section of the regulation at 29 CFR 29.5(b)(4)(i) and (ii) with minor adjustments and are not new requirements for registered apprenticeship programs. Proposed paragraph (c)(1) would require that providers of related instruction must either be faculty members or instructors at an accredited postsecondary institution or meet the State's certification requirements for CTE instructors in the State where the apprenticeship program is registered. The Department proposes to add to the existing regulatory text on this topic, found in the existing regulation at 29 CFR 29.5(b)(4)(i), by clarifying that providers of related instruction who serve as a faculty member or instructor at an accredited postsecondary institution would meet the proposed requirement at § 29.12(c)(1). The Department also proposes to retain the language from the existing regulation at § 29.5(b)(4)(i) stating that a subject-matter expert, such as a journeyworker, may also provide related instruction to apprentices. Many registered apprenticeship programs rely on their journeyworker assets to provide such instruction because such individuals possess a mastery of the occupation that enables them to select the related instruction curricula most appropriate for a worker's success in the occupation. The Department has determined it is important to maintain this flexibility in the proposed rule and is including that language in proposed § 29.12(c)(1).

The Department has determined that it is prudent to maintain these requirements because the quality of the related instruction components of registered apprenticeship programs depends on the qualities and capabilities of the instructor, including their capabilities as an educator and their ability to communicate complex subject matter. The certification requirements at proposed paragraph (c)(1) are intended to ensure that instructors are capable and effective teachers, which the Department views as a unique skill that transcends the occupation-specific aspects for any registered apprenticeship program.

Proposed paragraph (c)(2) is not a new requirement and leverages the existing regulatory language at 29 CFR 29.5(b)(4)(ii). The Department proposes to maintain the existing requirement that instructors possess skills in teaching techniques for different audiences, including adult learning styles. Apprentices in a given registered apprenticeship program may come from a variety of backgrounds, and many are adult workers seeking to retrain or upskill in a different career or occupational sector. As with journeyworkers providing on-the-job training, providers of related instruction

[126] OA, ''Scaling Diversity, Equity, Inclusion and Accessibility (DEIA) in Registered Apprenticeship,'' *https://www.apprenticeship.gov/sites/default/files/DOL_DEIAFactsheet_v2.pdf* (last visited July 20, 2023).

[127] Vanessa Bennett, Maria Cabiya, Myriam Sullivan, and Deborah Kobes, ''JFF's Program Design Framework for Diversity, Equity, Inclusion, and Accessibility in Registered Apprenticeship,'' Center for Apprenticeship & Work-Based Learning, *https://info.jff.org/apprenticeshipdeia-framework* (last visited July 20, 2023).

[128] Urban Institute, ''Mentoring Matters: The Role of Mentoring in Registered Apprenticeship Programs for Youth,'' Nov. 8, 2021, *https://www.urban.org/events/mentoring-matters-role-mentoring-registered-apprenticeship-programs-youth.*

[129] *See, e.g.,* Alexia Fernandez Campbell and Claire Molloy, ''Attacked Behind the Wheel,'' The Center for Public Integrity, Dec. 11. 2022, *https://publicintegrity.org/labor/female-drivers-attacked-behind-the-wheel/.*

must understand the unique characteristics and needs of adult learners and must be able to apply appropriate instructional techniques to ensure apprentices of all backgrounds—including adult learners—receive and understand the instructional components within their registered apprenticeship program.

While the Department expects that training and related instruction providers in most registered apprenticeship programs either will already meet these proposed minimum qualification requirements or will have clear options available to ensure they meet these proposed requirements (through existing partnerships, industry certification programs, learning certification programs, or others), the Department is committed to providing technical assistance to programs to streamline registered apprenticeship programs' compliance with this proposed section. In addition, the Department will commit to promoting the development of mentorships, templates for trainer and instructor assessment, and a system-wide network of stakeholders (currently contemplated as an ''Registered Apprenticeship Academy'') to facilitate mentoring and trainer development, create a critical feedback loop, and otherwise provide support for programs and the trainers and instructors who are so critical to the registered apprenticeship program and apprentices success profile.[130]

Section 29.13—Development of National Occupational Standards for Apprenticeship

Proposed 29 CFR 29.13 is a new proposed section of the part 29 regulations that would describe the development and intended use of National Occupational Standards for Apprenticeship. Accelerated expansion of the National Apprenticeship System is one of the Department's primary goals in the development of this proposal, and OA views the continued development of National Occupational Standards for Apprenticeship as an important tool for achieving that goal. National Occupational Standards for Apprenticeship are industry-validated standards that are national in scope and can be used to accelerate the development of a registered apprenticeship program. National Occupational Standards for Apprenticeship are intended to be an off-the-shelf resource for potential programs seeking to establish a registered apprenticeship program in an occupation that is national in scope and suitable for registered apprenticeship, and they would enable potential sponsors to quickly develop a set of standards of apprenticeship particular to their proposed program that aligns with the apprenticeship training standards for the occupation as advanced by stakeholders and experts in their industry.

The Department has received feedback from stakeholders, including the members of the 2021–2023 term of the ACA, that potential registered apprenticeship program sponsors need robust tools, templates, and other resources to assist sponsors in meeting the required steps for setting up a new registered apprenticeship program. The Department agrees with this feedback, captured in several recommendations from the ACA's 2022 Interim Report, and will continue to work with industry stakeholders to develop such tools.[131] For National Occupational Standards for Apprenticeship, OA will work with industry stakeholders to identify the training needs of particular occupations, ensure national applicability of those training needs, and develop products (such as sample work process schedules) based on those needs consistent with the occupational suitability provisions of 29 CFR 29.7. Sponsors utilizing National Occupational Standards for Apprenticeship would be able to accelerate the development of their programs based on their utilization of these comprehensive standards, which could accelerate the review of their registration on a national basis either as National Program Standards for Apprenticeship or as National Guidelines for Apprenticeship Standards, consistent with proposed §§ 29.14 and 29.15 of this part.

With regard to these standards, the Department envisions its role as being a convener of national stakeholders that would take the initiative in the development of such occupational standards across a given industry. OA's vision for National Occupational Standards for Apprenticeship is to convene industry leaders for their expertise and input on the development of such standards. Engagement with industry leaders will ensure that occupational competencies needed for apprentices to be fully proficient in an occupation are industry-recognized. In addition, OA will seek public comment on the National Occupational Standards for Apprenticeship in the Administrator's determination process. OA anticipates that industry leaders and other stakeholders will have ample opportunity to provide comprehensive input to inform these new products.

The purpose of National Occupational Standards for Apprenticeship is to ensure that registered apprenticeship programs continually adapt to meet quality training needs of industry, and that programs that leverage these standards can ensure that they are training apprentices utilizing a nationally recognized approach. As occupations, technology, and the overall economy evolve, National Occupational Standards for Apprenticeship may need to be updated or revised, underscoring the importance of OA's continuous engagement with industry stakeholders and leaders. The Department recognizes that such industry stakeholders will be the first to know about changes to technology or business needs that would necessitate an update to the training standards for an occupation and intends to rely on those stakeholders to bring forth suggested changes to established National Occupational Standards for Apprenticeship for registered apprenticeship programs within their industry. The Department will be responsive to such industry suggestions and will work with stakeholders to update, vet, and re-establish National Occupational Standards for Apprenticeship as needed. The Department further invites comments on the most effective ways to keep pace with evolving industry needs and their implications for established templates for National Occupational Standards for Apprenticeship.

[130] Encouraging the inclusion of mentorships in registered apprenticeship programs aligns with the 2023 Quality Apprenticeships Recommendation of the ILO at Conclusion 25(o). ILO, ''Quality Apprenticeships Recommendation, 2023'' (ILO Recommendation No. 208), Conclusion 25(o), June 16, 2023, *https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:4347381.*

[131] ACA recommendations on this topic from its 2022 Interim Report include:

- Identify opportunities for more standardization across the registered apprenticeship system while preserving necessary flexibilities to ensure the registered apprenticeship model is adaptable to different industry and regional needs.
- Provide detailed guidance so that State-level or employer/sponsor-level stakeholders know exactly where they need to go and what they need to do to register a program, obtain answers to questions, pursue funding opportunities, and whether there are templates or other guidance to get them started.
- Create a toolkit/resource to communicate this information and refine apprenticeship referral processes, support provided to apprentices, etc.
- Leverage existing tools for onboarding, such as the Standards Builder (*https://www.apprenticeship.gov/employers/registered-apprenticeship-program/register/standards-builder*) and the Apprenticeship Playbook (*https://www.apprenticeship.gov/sites/default/files/playbook.pdf*), and develop additional requirements guides as needed.

ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

While the procedure for receiving approval for an occupation in proposed § 29.7 does have a process for industry vetting, that process would be more reactive to the first entity that proposes a work process schedule for an occupation. The process for the development of National Occupational Standards for Apprenticeship would not be designed as a first-come, first-served approach to registered apprenticeship training. Instead, it would be based on intentional, proactive, nationwide, and industry-validated curriculum for on-the-job training and related instruction, including relevant interim credentials and industry-validated end-point assessments that can be responsive to emerging labor force needs. The section would provide the criteria that the Administrator will use in reviewing National Occupational Standards for Apprenticeship for approval. The criteria listed in the section would include the suitability of an occupation for registered apprenticeship under proposed § 29.7 and an industry-validated work process schedule. Additional criteria described in this section would include proposed standards that have a nationally applicable, industry-validated curriculum framework for the provision of related instruction and the methods for conducting ongoing evaluations of apprentices successfully attaining the skills and competencies under such frameworks. As such, proposed § 29.13 is new and sets forth a discretionary process by which the Administrator would develop and approve National Occupational Standards for Apprenticeship. The Department proposes the development of National Occupational Standards for Apprenticeship as a driver of system quality and a resource for easing a sponsor's access to the National Apprenticeship System by making these standards publicly available to be utilized by sponsors and employers. These would be required as they are developed to ensure greater quality and industry support for programs with a national scope as described in proposed §§ 29.14 and 29.15 to a common set of high-quality standards.

Proposed paragraph (a) describes the purpose of the proposed National Occupational Standards for Apprenticeship. The Department, in developing National Occupational Standards for Apprenticeship, intends to drive the growth of high-quality registered apprenticeship programs across a wide range of sectors and occupations deemed suitable for registered apprenticeship training under proposed § 29.7. The Department, aligning with broader administration goals, has specific interest in using National Occupational Standards for Apprenticeship to increase registered apprenticeship programs in emerging and high-growth occupations; in occupations and sectors where apprenticeship programs are not currently widespread; and in occupations and sectors that the Administration has deemed critical to maintaining or enhancing the manufacturing capacity, critical infrastructure, public health and safety, supply chain resilience, environmental protection, renewable energy resources, educational and cultural advancement, or economic and national security of the United States. Expansion of the registered apprenticeship model into new and emerging industries would also align with recommendations and guidance provided by national apprenticeship stakeholders. For example, multiple subcommittees of the ACA, including a subcommittee entirely devoted to this area (the Industry Engagement in New and Emerging Sectors subcommittee), recommended that OA target new and emerging sectors for registered apprenticeship expansion.[132]

Proposed paragraph (b) describes the criteria by which the Administrator would review and approve proposed National Occupational Standards for Apprenticeship. As noted previously, the Administrator and OA continually engage with industry representatives, labor unions, workforce development experts, and other relevant stakeholders to keep abreast of evolving industry needs and priorities and updates or changes to work processes and job skills necessary for successful job performance in an occupation or industry. Such ongoing engagement ensures that National Occupational Standards for Apprenticeship remain current and are also supported and relevant for industry, that any registered apprenticeship programs informed by such National Occupational Standards for Apprenticeship are responsive to and in alignment with industry needs and priorities, and that the workers entering into such industries are prepared for success based on the factors and standards applicable to a particular industry. Apprenticeship stakeholders in the ACA have identified the need to develop, maintain, and update template occupational standards in service of multiple goals, including system alignment and easing the onboarding of new programs, and OA intends to implement such a process for the development of National Occupational Standards for Apprenticeship to achieve these goals based on the criteria in (b)(1) through (4).[133]

Proposed § 29.13(b)(1) would require that the National Occupational Standards for Apprenticeship must be for an occupation that has been determined suitable for registered apprenticeship training by the Administrator, pursuant to proposed § 29.7. National Occupational Standards for Apprenticeship are ultimately intended as a resource to help set up new registered apprenticeship programs in their associated occupations, and to help registered apprenticeship programs providing apprenticeship training for an occupation stay up to date on the evolving needs of industry. In order for National Occupational Standards for Apprenticeship to be useful and relevant within the National Apprenticeship System, they must be tied to an occupation that has been deemed suitable for registered apprenticeship training. These products would inform the development of National Guidelines for Apprenticeship Standards and National Program Standards for Apprenticeship, all of which would be tools for onboarding new registered apprenticeship programs. As such, the national standards frameworks discussed in this proposal would all relate to an occupation deemed suitable for registered apprenticeship training.

Proposed § 29.13(b)(2) would require that the work process schedule framework associated with the occupation be documented as nationally applicable. In order to make National Occupational Standards for Apprenticeship a useful resource for setting up programs covering an occupation that is national in scope, OA would work with industry and other relevant stakeholders to determine if the occupation's proposed work process schedule is workable and applicable

[132] ACA recommendations on this topic from its 2022 Interim Report include:

- Accelerate registered apprenticeship deployment in growing industries and sectors, while ensuring curricula are responsive to industry needs, and templates and requirements are compatible with and flexible for different kinds of jobs and industries.
- Continue expansion of industry intermediary contracts targeting new and emerging sectors, which have been effective engines to target incentives.

Ibid.

[133] For example, the ACA recommended that DOL ''should develop a plan and the necessary infrastructure to move toward a system for developing, classifying, and updating occupational training standards in [registered apprenticeship].'' *Ibid.*

nationwide (and not just in regional or local settings). The proposed requirement seeks to ensure that the National Occupational Standards for Apprenticeship, as confirmed by the associated industry in which the standards are being developed, further the growth and establishment of registered apprenticeship programs that can meet the training needs of an occupation on a national level.

Proposed § 29.13(b)(3) would require that the National Occupational Standards for Apprenticeship include a curriculum framework for related instruction. As with proposed § 29.13(b)(2), this proposed requirement seeks to ensure that the National Occupational Standards for Apprenticeship are documented or endorsed by relevant stakeholders for the occupation for which the standards are being developed. This approach to curriculum development would further the growth and establishment of registered apprenticeship programs, on a national scope, that provide apprentices with the necessary related instruction for the subject occupation. OA also intends for curricula in National Occupational Standards for Apprenticeship to remain up to date, in line with the ACA's recommendation to update standards to reflect emerging technologies, work processes, or economic trends affecting an occupation.[134]

Proposed § 29.13(b)(4) would require the inclusion of methods to evaluate apprentice progress throughout the registered apprenticeship program, including the development of an appropriate end-point assessment. This proposed requirement seeks to ensure that the National Occupational Standards for Apprenticeship are documented as relevant for the occupation and provide a framework for the methods to assess the attainment of the skills and competencies required under the work process schedule framework. As with the other requirements in this proposed provision, these methods would need to be nationally applicable and validated by industry. This provision would build on the Department's goals to elevate registered apprenticeship program quality and establish greater accountability measures in the National Apprenticeship System's governing regulations by requiring that programs develop transparent, accountable assessments to evaluate apprentices' attainment of proficiency in an occupation. In the Department's view, this proposed new requirement for registered apprenticeship programs also represents an opportunity to further engage with industry to refine registered apprenticeship programs' responsiveness to industry needs. The Department expects that industry stakeholders and leaders will be instrumental in the development and refinement of rigorous, nationally applicable methods for assessing apprentices' attainment of proficiency in occupations. In addition to the assurances that the successful completion of an end-point assessment would provide for employers hiring apprentices, this new requirement could also be leveraged by program sponsors to analyze their program's overall effectiveness and implement continuous improvements in program design.

Proposed § 29.13(c) explains the proposed process for approving National Occupational Standards for Apprenticeship. Once the Administrator has developed National Occupational Standards for Apprenticeship for an occupation, OA would seek public comment on the standards to include a nationally applicable end-point assessment. This process of seeking public comment is intended to ensure that the finalized National Occupational Standards for Apprenticeship are industry-vetted and will lead to occupational proficiency anywhere in the country. To ensure that OA receives sufficient feedback from industry leaders, OA may specifically invite industry leaders to submit public comments. Public comments would be accepted for at least 30 calendar days, and the National Occupational Standards for Apprenticeship in question would be finalized within 90 calendar days from the opening of the public comment period, though this time period may be extended at the discretion of the Administrator. The Administrator may also consider data and other relevant information to assist in evaluating whether the requirements in proposed § 29.13(b) are satisfied, such as O*NET data. Finally, proposed § 29.13(c) provides that the Administrator will maintain an up-to-date list of all National Occupational Standards for Apprenticeship.

The Department is interested in any comments about the proposed development of National Occupational Standards for Apprenticeship and their potential benefit to potential sponsors or current sponsors in providing support on some of the upfront challenges with starting a registered apprenticeship program for an occupation, identifying high-quality apprenticeship curriculum, development of end-point assessments, and in turn implementing it at a program level. The Department is also interested in any comments about the proposed criteria by which it would evaluate proposed National Occupational Standards for Apprenticeship, including comments regarding any additional or different criteria that would assist in meeting the needs of employers or in successfully training apprentices.

Section 29.14—National Program Standards for Apprenticeship

The ''National Program Standards for Apprenticeship'' section describes the criteria for establishing National Program Standards for Apprenticeship, the scope and reciprocity of registration, and alignment with the National Occupational Standards for Apprenticeship. The concept of National Program Standards for Apprenticeship has been developed by OA through subregulatory guidance.[135] Recent Federal legislation in the Veterans Apprenticeship and Labor Opportunity Reform (VALOR) Act has leveraged its use to expedite the approval of programs for the Department of Veterans Affairs Education Benefits, such as the GI Bill. National Program Standards for Apprenticeship are an administrative procedure; the Administrator has to register a program nationally if the program operates on a national basis, allowing the program to operate in every State without seeking further registration from OA or an SAA.[136] In creating National Program Standards for Apprenticeship, the Department seeks to drive system alignment and apprenticeship expansion on a national scale. The Department anticipates that this process will ensure that registered apprenticeship programs established on a national scale will adhere to a common set of industry-validated standards and enable apprentices who participate in these programs to receive a uniform training experience regardless of where it takes place. Proposed § 29.14 sets forth the process by which sponsors could establish registered apprenticeship programs on a national basis. The criteria for National Program Standards for Apprenticeship that would be established in this section

[134] ''Update and enhance standards and guidance to reflect new and emerging technologies (including any updates to existing or emerging Standards Builder boilerplates/templates).'' *Ibid.*

[135] ETA, OA Circular No. 2022–01, ''Updated Guidance—Minimum National Program Standards for Registered Apprenticeship Programs,'' Feb. 16, 2022, *https://www.apprenticeship.gov/sites/default/files/bulletins/Circular-2022-01.pdf.*

[136] OA, ''Hire Veterans,'' *https://www.apprenticeship.gov/employers/hire-veterans* (last visited July 20, 2023).

would require that prospective sponsors seeking approval must provide apprenticeship training for occupations that are not ordinarily subject to licensing requirements; be national or multistate in design, suitability, and scope; and satisfy the applicable requirements of this part and 29 CFR part 30. This section would establish the Administrator as the approving entity as well as the reciprocity of registration for SAAs to provide reciprocal registration for approved programs. This section also describes the proposed requirement for National Program Standards for Apprenticeship to align with National Occupational Standards for Apprenticeship under proposed § 29.13.

Proposed paragraph (a) would establish the criteria that National Program Standards for Apprenticeship must meet to be registered by the Administrator.

Proposed § 29.14(a)(1) would explain that National Program Standards for Apprenticeship must be for training in an occupation not ordinarily subject to Federal, State, or local licensing requirements. The Department recognizes that the existence of Federal, State, or local licensing requirements impedes the ability of a registered apprenticeship program to operate with a uniform set of standards nationally. For an occupation with licensing requirements that differ across jurisdictions, the training and related instruction necessary to prepare an apprentice for that occupation would not be adequately addressed by National Program Standards for Apprenticeship that aim to provide a uniform standards and training experience regardless of where the program is taking place. Accordingly, the Department has determined that National Program Standards for Apprenticeship would be appropriate for occupations not subject to differing licensing requirements.

Proposed § 29.14(a)(2), in alignment with the Department's broader goal of driving system alignment and apprenticeship expansion on a national scale, would require that National Program Standards for Apprenticeship must be national or multistate in their design, suitability, and scope. The Department recognizes that there are multiple ways in which a program may be national or multistate in design, suitability, and scope. For instance, a program sponsor may be a national or multistate employer with business operations in multiple States. In addition, a program sponsor may be an international or transnational company with business operations in multiple States as well as in different countries. Also, a sponsor may be a national organization that has only one physical location in a single State but is affiliated with multiple employers that operate in multiple States.

Proposed § 29.14(a)(3) explains that any National Program Standards for Apprenticeship would need to meet the requirements in proposed parts 29 and 30.

Proposed paragraph (b) explains that upon demonstration that the National Program Standards for Apprenticeship meet the established criteria set forth in proposed paragraph (a), the Administrator would register the standards on a nationwide basis for Federal purposes. The Administrator would endeavor to render a determination on whether to approve and register a set of National Program Standards for Apprenticeship within 90 days of their receipt from an applicant, consistent with proposed § 29.8. If the Administrator were to decline to register the standards, the Administrator would provide a written explanation explaining the decision.

Proposed paragraph (c) explains how National Program Standards for Apprenticeship would be treated by SAAs. In furtherance of the goal of driving system alignment and apprenticeship expansion on a national scale, SAAs would be required to reciprocally approve and register programs registered via National Program Standards for Apprenticeship.

Proposed paragraph (d) would explain that National Program Standards for Apprenticeship must use any existing National Occupational Standards for Apprenticeship that have been approved under proposed § 29.13. This requirement would only apply if a sponsor is seeking registration of National Program Standards for Apprenticeship in an occupation for which the Administrator has already approved National Occupational Standards for Apprenticeship. For those occupations where National Occupational Standards for Apprenticeship currently exist, a program sponsor seeking registration of its National Program Standards for Apprenticeship would need to use such National Occupational Standards. The Department further clarifies that a program could pursue registration using National Program Standards for Apprenticeship if there is no established set of National Occupational Standards for Apprenticeship for the subject occupation. The existing National Program Standards for Apprenticeship are already in use within the National Apprenticeship System and were last updated and outlined in the Department's OA Circular No. 2022–01.[137] National Program Standards for Apprenticeship are meant to assist a national organization or employer set up a high-quality apprenticeship training program with a nationally applicable set of standards. Under the existing system, programs that use the existing National Program Standards for Apprenticeship and operate a program on a multistate or nationwide basis do not need to register their apprenticeship program in each of the States in which it operates. Proposed paragraph (d) would provide that when a set of National Occupational Standards for Apprenticeship has been vetted by industry and approved by the Administrator for an occupation, National Program Standards for Apprenticeship for a registered apprenticeship program in the occupation must align with the established National Occupational Standards. This requirement to utilize approved National Occupational Standards for Apprenticeship, where they exist, would be included to make sure that National Program Standards for Apprenticeship align with approved National Occupational Standards for Apprenticeship, which the Department thinks will further its goal of driving system alignment by ensuring that all National Program Standards for Apprenticeship, in a given occupation, adhere to a common set of industry-validated standards. In addition, greater utilization would support the National Apprenticeship System modernization efforts to enhance the quality of programs and create greater efficiency in the development and registration of programs.

Programs registered with National Program Standards for Apprenticeship may receive certain benefits, such as reduced reporting requirements to Registration Agencies, VALOR Act eligibility, and registration status for Federal purposes, so the need to ensure high-quality programs is vital. The Department is interested in any comments on this approach given the increased Federal benefits associated with this model, the quality expectations of a program operating with this designation, and any potential burdens with following a National Occupational Standard approach. The

[137] ETA, OA Circular No. 2022–01, ''Updated Guidance—Minimum National Program Standards for Registered Apprenticeship Programs,'' Feb. 16, 2022, *https://www.apprenticeship.gov/sites/default/files/bulletins/Circular-2022-01.pdf*. Note this circular's statement that it ''supersedes and replaces OA Circular 2018–01,'' reflecting that OA has been developing and refining tools for national organizations, employers, or both to set up and operate quality apprenticeship training programs on a nationwide basis for several years.

Department notes that while National Occupational Standards for Apprenticeship are approved as the industry consensus apprenticeship-related training curriculum for an occupation, an entity seeking approval of National Program Standards for Apprenticeship may make minor modifications to the National Occupational Standards based on the needs of the sponsor provided that the submitted National Program Standards substantially align with the National Occupational Standards. Examples of modifications that would be acceptable include any additions of sponsor or employer-specific training in addition to what is in the approved framework, the addition of competencies or on-the-job training hours to achieve those competencies or both, and the addition of any additional or academic-credit-bearing related instruction. The Department is interested in any comments as to what the Department should identify as acceptable deviations that substantially align without undermining the occupation or quality of the standards.

Section 29.15—National Guidelines for Apprenticeship Standards

Proposed § 29.15, the ''National Guidelines for Apprenticeship Standards'' section is new and describes the proposed criteria for approval of National Guidelines for Apprenticeship Standards, the Certificate of Recognition, local registration requirement, the criteria for resubmission, and required alignment with the National Occupational Standards for Apprenticeship. National Guidelines for Apprenticeship Standards are a template of standards of apprenticeship that are registered nationally and adopted locally. They would allow local affiliates of national organizations or an employer with locations in multiple States to efficiently adapt recognized guidelines for local registration of program standards. Since National Guidelines for Apprenticeship Standards are intended to be adapted for local registration by local affiliates of national organizations or an employer with a national presence with locations in multiple States, the establishment of a uniform process to recognize such standards would drive system alignment by ensuring locally registered programs adhere to a common set of industry-validated standards.

Unlike National Program Standards for Apprenticeship, which can be registered once nationwide, National Guidelines for Apprenticeship Standards are a customizable template for registered apprenticeship program standards. They would provide a nationally certified—but locally registered—framework for occupational standards, while also preserving programmatic flexibility to account for local needs and requirements. For example, potential program sponsors with nationally designed apprenticeship program standards that cover certain occupations that are subject to extensive State licensing requirements may be more appropriately served by obtaining National Guidelines for Apprenticeship Standards certification for their program and then registering each program utilizing such standards on a State-by-State basis; this is because the National Guidelines for Apprenticeship Standards model would allow the template standards developed by the sponsor to be modified to account for these additional State law requirements and then registered in those States. In addition, the National Guidelines for Apprenticeship Standards approach may be more suitable for organizations with national scope, including labor organizations as well as trade and industry associations, that wish to provide State or local affiliates of their organizations with the option to adapt a set of nationally designed apprenticeship program standards to meet local conditions and register such programs on a State-by-State basis. Similarly, the National Guidelines for Apprenticeship Standards, with its ability to adapt to local labor market needs, may be more suitable for workforce intermediary program sponsors that only intend to provide related instruction in connection with a registered apprenticeship program.

Adoption of National Guidelines for Apprenticeship Standards often provides an expedited pathway for a local affiliate to register an apprenticeship program and provides program flexibility to accommodate local industry and regional economy needs. Proposed § 29.15(c) provides for State or local affiliates of a national organization to use the proposed National Guidelines for Apprenticeship Standards as a template for their specific standards of apprenticeship that are submitted to the applicable Registration Agency, including SAAs, for registration of individual programs. By using a template that has already been registered, the sponsor would be able to more easily meet the requirements for registration locally. For those occupations where National Occupational Standards for Apprenticeship currently exist, a program sponsor seeking certification of its National Guidelines for Apprenticeship Standards would need to use such National Occupational Standards. If a sponsor is seeking certification of National Guidelines for Apprenticeship Standards in an occupation for which the Administrator has already approved National Occupational Standards for Apprenticeship pursuant to proposed § 29.13, the sponsor would need to use those approved National Occupational Standards.[138]

The criteria for National Guidelines for Apprenticeship Standards established in this section would require that guidelines submitted by organizations must be national in their applicability and scope with respect to the covered occupation; be suitable for either adoption or adaptation by State or local affiliates of the program sponsor; and satisfy the applicable requirements of this part and 29 CFR part 30. This section would grant the Administrator sole approval authority. This section would also describe the requirement for State and local affiliates to register a program in accordance with proposed § 29.10 and the requirement for National Guidelines for Apprenticeship Standards to align with National Occupational Standards for Apprenticeship under proposed § 29.13.

National Guidelines for Apprenticeship Standards are a concept that exists in the National Apprenticeship System pursuant to the current § 29.3(h)(1), and they have been further recognized in previously issued subregulatory guidance.[139] The Department has seen significant success in their use, particularly in certain occupations and industries such as construction where there are national and local organizations affiliated with each other; the national organization is responsible for maintaining the core criteria and elements of the templates; and the local affiliates of the national organization locally register with a Registration Agency. Their use, and the elevation of them as a tool in this proposed regulation, would ensure this vital concept can drive apprenticeship expansion.

Proposed paragraph (a) would establish the criteria that National Guidelines for Apprenticeship Standards must meet to be recognized by the Administrator.

[138] The Department clarifies that programs can still use National Guidelines for Apprenticeship Standards if there is not an established set of National Occupational Standards for Apprenticeship for the subject occupation (see below).

[139] ETA, OA Circular No. 2022–02, ''Guidance—National Guidelines for Apprenticeship Standards,'' Feb. 16, 2022, *https://www.apprenticeship.gov/sites/default/files/bulletins/Circular-2022-02.pdf.*

Proposed § 29.15(a)(1) would explain that National Guidelines for Apprenticeship Standards must be national in their applicability and with respect to the covered occupation. The Department recognizes that there are multiple ways in which an organization may demonstrate that their standards are national in applicability and scope. For example, an organization seeking recognition of National Guidelines for Apprenticeship Standards may demonstrate that they have a national presence with local affiliates in different States, or by demonstrating that they have a presence in multiple States, even if the organization is concentrated regionally. The Department has proposed this criterion because the intent of National Guidelines for Apprenticeship Standards is to create an adaptable template of standards that can be tailored to meet regional labor market requirements. For example, an occupation suitable for registered apprenticeship may need to be adjusted to align with local conditions or requirements such as the terms of a collective bargaining agreement, or applicable State and local laws and regulations such as occupational licensing or ratio requirements.

Proposed § 29.15(a)(2) would explain that National Guidelines for Apprenticeship Standards must be suitable for use by State or local affiliates of the program sponsor. National Guidelines for Apprenticeship Standards are a template intended for adaptation, customization, and ultimately, registration at the local level. Accordingly, the Department proposes this requirement to ensure that National Guidelines for Apprenticeship Standards would be designed for this intended purpose.

Proposed § 29.15(a)(3) would explain that, as with any program standards, National Program Standards for Apprenticeship must meet the requirements in proposed parts 29 and 30.

Proposed paragraph (b) would explain that upon demonstration that the National Guidelines for Apprenticeship Standards meet the established criteria set forth in proposed paragraph (a), the Administrator will recognize the standards. If the Administrator declines to recognize the standards, the Administrator would provide a written explanation explaining the decision. The Administrator would be solely responsible for the recognition of National Guidelines for Apprenticeship Standards and would seek to review these submissions within 90 days of receipt, consistent with the Administrator's goal to review National Program Standards for Apprenticeship submissions within 90 days of receipt.

Proposed paragraph (c) would explain the process by which State or local affiliates of the organization receiving recognition of National Guidelines for Apprenticeship Standards may seek registration of an individual program. National Guidelines for Apprenticeship Standards are a template intended to be adapted or adopted for local registration. Accordingly, the Department provides in proposed paragraph (c) that State or local affiliates of a national organization may use the National Guidelines for Apprenticeship Standards as a template for their specific standards of apprenticeship that are submitted to the applicable Registration Agency, including SAAs, for registration of individual programs. National Guidelines for Apprenticeship Standards may be adjusted for the purposes of local registration to meet State or local requirements such as ratios, safety, occupational licensing requirements, different wage scales, and contact information. The Department is interested in any comments about other acceptable adjustments between the certified National Guidelines for Apprenticeship Standards and the locally registered standards.

Proposed paragraph (d) would explain when National Guidelines for Apprenticeship Standards must be resubmitted for approval by the Administrator. The Department recognizes that organizations may amend the content of National Guidelines for Apprenticeship Standards based on changes to an occupation's training needs, the needs of its State and local affiliates, or other reasons. The Department also recognizes that a periodic review can help ensure that National Guidelines for Apprenticeship Standards continue to meet the training needs of apprentices and to meet the industry-validated standards for a specific occupation. Accordingly, proposed paragraph (d) would require that National Guidelines for Apprenticeship Standards must be resubmitted for approval upon amendment to the standards or at least every 5 years, from the date that the standards are originally approved. The Department is proposing 5 years to align with the general requirement that program reviews occur every 5 years. Generally, the program review period has been an opportunity for programs to update their standards to ensure they continue to meet the requirements of 29 CFR parts 29 and 30, and are current with any changes to approved occupations, new laws, regulations, or subregulatory guidance. There is no similar requirement currently for sponsors of National Guidelines for Apprenticeship Standards to update their standards, which leads to inconsistencies between the local registrations and National Guidelines for Apprenticeship Standards. This proposal would require a certification timetable. The Department is interested in any comments about this concept or any different timeframes it should consider.

Proposed paragraph (e) would explain that National Guidelines for Apprenticeship Standards must use any existing National Occupational Standards for Apprenticeship that have been approved under proposed § 29.13. This requirement would only apply if a sponsor is seeking registration of National Guidelines for Apprenticeship Standards in an occupation for which the Administrator has already approved National Occupational Standards for Apprenticeship. To define and communicate the purpose and intended use of National Occupational Standards for Apprenticeship, National Program Standards for Apprenticeship, and National Guidelines for Apprenticeship Standards, the Department clarifies that programs can pursue registration using National Guidelines for Apprenticeship Standards in scenarios where National Occupational Standards have not been developed. National Guidelines for Apprenticeship Standards are an existing tool for potential registered apprenticeship stakeholders to utilize, and their use and parameters were outlined in the Department's OA Circular No. 2022–02.[140] National Guidelines for Apprenticeship Standards have been used by national organizations seeking to establish registered apprenticeship programs amongst their local affiliates and can be adjusted based on local workforce needs or conditions. The Department expects that the proposed National Guidelines for Apprenticeship Standards would continue to be used for this purpose, including when there is no established set of National Occupational Standards for Apprenticeship. However, when National Occupational Standards for Apprenticeship have been developed and approved for an occupation (with substantial industry vetting and review and approval by the Administrator), the Department seeks to align any National Guidelines for Apprenticeship Standards within that occupation with the established National Occupational Standards.

The Department anticipates that aligning National Guidelines for

[140] *Ibid.*

Apprenticeship Standards with approved National Occupational Standards for Apprenticeship would further its goal of driving system alignment by ensuring that all National Guidelines for Apprenticeship Standards, in a given occupation, adhere to a common set of industry-validated standards. The Department notes that while National Occupational Standards for Apprenticeship are approved as the industry consensus apprenticeship-related training curriculum for an occupation, there may be some minor modifications to the National Occupational Standards based on the needs of the sponsor. Deviations from the National Occupational Standards for Apprenticeship would be allowed, but the Administrator would ensure that submissions of National Guidelines for Apprenticeship Standards substantially align with the National Occupational Standards. In addition to the examples mentioned in paragraph (c) above, additional examples of modifications that would be acceptable include any additions of sponsor or employer-specific training in addition to what is in the approved framework, the addition of competencies or on-the-job training hours to achieve those competencies or both, and the addition of any additional or academic-credit-bearing related instruction. The Department is interested in any comments as to what they recommend are acceptable deviations that still substantially align with National Occupational Standards for Apprenticeship for that occupation without undermining the occupation or quality of the standards.

Section 29.16—End-Point Assessment and Certificate of Program Completion

Proposed § 29.16 would require registered apprenticeship programs to administer an end-point assessment at the conclusion of the apprenticeship term to establish the apprentice's successful attainment of all of the knowledge, skills, and competencies associated with the occupation. The purpose of this new requirement is to provide objective confirmation that the apprentice has acquired all of the skills and competencies required to be proficient in the occupation covered by the program. A rigorous end-point assessment at the conclusion of the apprenticeship is essential to give employers in an industry or sector confidence that the worker can perform successfully in the occupation in which they have been trained, and possess a set of relevant skills that are transferrable within that industry. The absence of an end-point assessment requirement in the current apprenticeship regulation means that individual apprenticeship program sponsors can adopt widely differing methods of assessing apprentice performance, which means that other employers within an industry or sector cannot be sure whether a graduating apprentice has really ''made the grade'' for proficiency in the occupation. The end-point assessment should be the culminating activity of the apprenticeship, and an apprentice should only be awarded a Certificate of Completion upon successful completion of the assessment. The Department takes the view that any additional burdens that this new requirement may impose on program sponsors would be outweighed by the significant practical benefits that would accrue to both employers and apprentices on account of a more uniform and rigorous standard for assessing and confirming the competencies acquired by apprentices. The proposed introduction of an end-point assessment requirement for apprenticeship programs is also consistent with the Department's goal of developing a highly skilled American workforce that is capable, agile, and competitive at both the domestic and international level.

Throughout the course of a registered apprenticeship program, apprentices will learn how to perform critical job tasks, understand and apply theoretical concepts, and continuously develop a set of core competencies for the occupation for which they are receiving apprenticeship training. Developing occupational competencies is important for apprentices' ability to adequately complete the discrete set of tasks necessary to accomplish a job task they would be assigned in the occupation after their apprenticeship training. In order to fully realize the benefits of the high-quality training and instruction of a registered apprenticeship program for both apprentices and their employers, apprenticeship programs should implement effective training protocols and accurate assessments to ensure apprentices are not only competent in the discrete job tasks for an occupation, but also proficient in the occupation overall. This includes assessing the apprentice's ability to perform the task(s) safely and accurately (competently), as well as timely and efficiently. Businesses often need their workforce to complete work to the satisfaction of their customers within a timeframe that makes it worthwhile (*i.e.,* profitable) for the business to assign tasks to their workers. For example, an electrician may need to complete work within a set timeframe to ensure that the hourly charge to the customer, the hourly wages paid to the electrician, and the other costs of completing the work (*e.g.,* equipment maintenance, travel costs), all add up to a profitable endeavor. Or a business may depend on fitting as many customer orders as possible into a certain timeframe (*e.g.,* a day, a week) to offset costs and turn a profit. The Department proposes to add end-point assessments to the registered apprenticeship model to encourage programs to consider this important apprenticeship outcome—the proficiency of the workforce in an occupation—and develop a program that results in a highly trained, proficient workforce. The Department expects that end-point assessments will ultimately benefit individual employers or sponsors as well as the quality, skill, and readiness of the occupational workforce throughout a given sector.

Apprentices who successfully complete the assessment would be able to demonstrate to employers throughout an industry or sector that they are proficient in their occupation, and that their skills are transferrable between employers in the relevant sector. The successful completion of an end-point assessment would benefit apprentices by improving their employability and labor mobility and would add value to the Certificate of Completion earned by the apprentice. The assessment, which the sponsor develops according to the parameters of their program, could involve a practical, hands-on application of the apprentice's acquired skills to the completion of a project or the solution of a problem; alternatively, it may involve both a practical component and a written component that assesses the acquisition of occupation-relevant theoretical knowledge by the apprentice. Other methods would be allowed under this approach and may simply take the form of an individual meeting, such as a performance review, to assess and provide feedback on the apprentice's proficiency.

Several nations with well-regarded apprenticeship systems require an apprentice to complete an end-point assessment at the conclusion of their apprenticeship training; among these nations are Canada, England, Germany, Switzerland, and Austria. These assessments utilize nationally applicable standards in evaluating the apprentice's proficiency in an occupation. The Department expects that the end-point assessment requirement would lend greater credibility and value to the apprenticeship credential, and potential

employers might have greater confidence in the capabilities of apprentices who have passed such an examination at the conclusion of their training. In Canada, for example, the Red Seal Program has established such final assessments in dozens of skilled trades, and the passage of a Red Seal examination provides employers with an assurance that the passing apprentice is proficient in an occupation. In addition, apprenticeship stakeholders in the United States, such as the ACA, have discussed the importance of conferring proficiency in apprenticeship training.[141] The ACA's 2022 Interim Report also contained a recommendation to review international workforce training and apprenticeship models to understand best practices and identify potential enhancements to the U.S. system. The Department thinks that an end-point assessment is a way for an apprentice to demonstrate proficiency (as suggested by the ACA), and to do so in a manner that has worked in other countries.

Proposed § 29.16(a) would establish the requirement of an end-point assessment requirement for all programs to ensure that they measure an apprentice's attainment of occupational skills, knowledge, and competencies necessary to determine proficiency in an occupation. The Department recognizes that end-point assessments developed and administered by a given program's operators may result in an assessment that is more relevant to the training and instruction provided through the program. However, the Department also recognizes the value of assessments performed by independent organizations or third parties to reduce any undue bias and incorporate ideas from outside partners. The Department invites public comment about the value and feasibility of end-point assessments generally, as well as whether such assessments should be performed by independent or third parties or by those operating a program and delivering on-the-job training or related instruction.

Proposed § 29.16(b) would provide that an apprentice must be entitled to at least one additional opportunity to complete an end-point assessment if they do not pass on the first attempt. This is intended to ensure apprentices are entitled to a fair opportunity to pass the assessment if their first attempt to do so is not successful, and that the end-point assessment does not operate as an inequitable significant barrier to program completion and journeyworker entry, such as for apprentices with disabilities. The Department is interested in any comments on if there should be a limit to the number of opportunities an apprentice may have to complete the assessment, balancing the burden of performing multiple assessments against the importance of providing opportunities for apprentices to demonstrate proficiency.

Proposed § 29.16(c) would include a provision that ensures an apprentice's end-point assessment includes an appropriate reasonable accommodation, if requested prior to the administration of the assessment. This proposed provision is intended to ensure that registered apprenticeship programs are fully accessible to job seekers, including those with disabilities that may require reasonable accommodations. The ACA's DEIA subcommittee recommended OA take steps to identify and assess any barriers to accessing or completing a registered apprenticeship program, and the Department agrees that programs should make reasonable accommodations when appropriate.[142]

Proposed § 29.16(d) would provide that individuals who successfully complete the on-the-job training and related instruction requirements of a program and pass an end-point assessment are eligible for a Certificate of Completion from the appropriate Registration Agency.

As proposed, this section would not require that sponsors use a specific type of assessment, given the unique needs of different industries and occupations. However, the Department sees an opportunity for greater standardization of tools, such as an end-point assessment, by engaging industry and sponsors alike through the development and subsequent approval process of National Occupational Standards for Apprenticeship. The Department invites comments on whether the final rule should expressly require that all end-point assessments administered by sponsors should objectively measure the apprentice's acquisition of the relevant knowledge, skills, and competencies necessary to demonstrate proficiency in the occupation covered by the program, or if the proposed rule should remain silent and leave it to sponsors to establish what they think is an appropriate assessment. The Department is particularly interested in comments around any burdens or challenges with this approach, the extent to which programs have already adopted an end-point assessment as a means for measuring attainment, and the value of strengthening those requirements.

In addition, the Department invites commenters to discuss whether the final rule should expressly require that end-point assessments should only be administered by qualified and objective examiners who have not previously provided either on-the-job training or related instruction to the apprentice during the apprenticeship term. Finally, the Department invites commenters to opine on whether the final rule should permit sponsors to utilize third-party examinations as the program's end-point assessment in instances where: (1) an independent certification body within a particular industry or sector offers a nationally recognized examination that incorporates uniform, industry-recognized quality standards to objectively measure and validate the attainment of the relevant knowledge, skills, and competencies for the occupation(s) covered by the registered apprenticeship program; or (2) the occupation covered by the apprenticeship program is one that requires the passing of a State-mandated and administered examination to receive a license or certificate enabling qualified individuals to perform work in that occupation within a particular jurisdiction.

Section 29.17—Complaints

Complaints or expressions of concern about a program are critical for transparency into the daily operation of a registered apprenticeship program, an apprenticeship program's adherence to the labor and quality standards throughout the parts 29 and 30 regulations, and ultimately, the protection of apprentices' welfare and well-being. Apprentices are vulnerable to retaliation or other negative outcomes if their ability to speak up confidentially and securely is curtailed or compromised. Apprentices must be afforded opportunities to file complaints if they are subjected to unsafe or unfair conditions. The Department believes that the existing complaints process in part 29 should be retained and proposes enhancements to the complaints policy and additional procedures to investigate complaints, protect complainants, and improve transparency and accountability throughout the National

[141] Recommended principle: Competency must be obtained under any of these three models; include standards around time in on-the-job training to ensure proficiency. ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, at 14, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

[142] Specifically, the ACA recommended that DOL should gather new data on registered apprenticeship programs' and apprentices' needs through formal, representative surveys, including understanding barriers to completion and long-term career pathways. CA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, at 9, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

Apprenticeship System. Proposed § 29.17 would also allow for non-apprentices to file complaints so long as the complaint arises under a registered apprenticeship agreement or alleges a violation of this part.

Proposed § 29.17 would carry forward much of existing § 29.12 with a few notable changes. Proposed § 29.17(e) would establish more robust and detailed procedures for investigating complaints and would afford anonymity to complainants, to the extent practicable, as explained below.

Proposed § 29.17(a) would carry forward existing § 29.12(a) verbatim.

Proposed § 29.17(b) would carry forward much of existing § 29.12(b), which allows apprentices not covered by a collective bargaining agreement to submit a complaint to the Registration Agency when a controversy or difference arises under an apprenticeship agreement. Two changes in proposed § 29.17(b) would permit but not require that disputes be resolved locally before a complaint is submitted to the Registration Agency. OA anticipates that most complaints will be resolved most efficiently and effectively by the program sponsor. However, the proposed change to § 29.17(b) recognizes that there should be an avenue for complaints to be filed directly with the Registration Agency, such as if the matter complained of is particularly egregious or if the complainant wishes to remain anonymous. Complainants who wish to remain anonymous would need to file their complaints directly with the Registration Agency. Under proposed § 29.17(b), a Registration Agency would still be prohibited from resolving a complaint covered by a collective bargaining agreement. Upon receiving a complaint relating to a union program, OA would be able to ask the sponsor, participating employer, complainant, or union representatives whether the complaint is covered by a collective bargaining agreement. OA would also be able to request a copy of the collective bargaining agreement. Proposed § 29.17(b) would also clarify that a complaint must either arise under an apprenticeship agreement or allege a violation of this part. Minor stylistic changes were also incorporated into proposed § 29.17(b) for clarity.

Proposed § 29.17(c) would revise the content of the first sentence of existing 29 CFR 29.12(c) and would establish a deadline to file a complaint within 300 calendar days after the conclusion of the events that gave rise to the dispute or the alleged violation of this part. In the case of an alleged continuing violation of this part, the 300-day period would begin on the day when the violation ceases. However, to accommodate extenuating circumstances that an apprentice might face, the Registration Agency would be able to extend the filing time upon a showing of good cause. For example, the granting of an extension for good cause could arise where the complainant only became aware of the alleged violation at a point in time more than 300 days after the alleged occurrence of the alleged event, or such an extension might be granted in instances where an apprentice missed the 300-calendar-day deadline because of an illness or an injury that prevented them from filing a timely complaint. This proposed time period aligns with the complaint timeline under 29 CFR part 30 and is designed to allow apprentices sufficient time to file a complaint with the Registration Agency. The Department is also proposing a period of 300 days to file a complaint in recognition of the important quality control function that complaints and complaint investigations serve.

Proposed § 29.17(d)(1) is new and would require that the complaint include a means of contacting the complainant or the authorized representative. Requiring the complaint to contain a means for contacting the complainant or authorized representative, but not identifying information such as a name or physical address, is intended to facilitate the submission of anonymous complaints while also allowing the Registration Agency to contact the complainant or representative as part of their review of the complaint. The requirement in existing § 29.12(c) that complaints be signed would not be carried forward in this proposed rule to facilitate the submission of anonymous complaints.

Proposed § 29.17(d)(2) is new and would require that the complaint include the identity of the individual or entity that is alleged to be responsible for the conduct giving rise to the complaint to facilitate the Registration Agency's investigation of any complaint.

Proposed § 29.17(d)(3) incorporates language in existing § 29.12(c) with minor clarifying changes. As proposed, it would require a short description of the events, facts, or circumstances giving rise to the complaint, including a discussion of when the events giving rise to the complaint took place.

Proposed § 29.17(e) is new and would explain the process by which the Registration Agency will investigate a complaint. It would require that the Registration Agency proceed expeditiously to investigate complaints. The proposed requirement that investigation of complaints be conducted expeditiously is intended to require Registration Agencies to resolve complaints, whenever possible, before impacted apprentices complete the program so that the apprentice can benefit from any action necessary to address the matter. However, the Department invites comments as to whether it is either feasible or appropriate to establish a uniform ceiling in this proposed rulemaking on the number of days allotted to a Registration Agency to complete the investigation of a complaint.

Proposed § 29.17(e)(1)(i) would require the Registration Agency to provide written notice that the complaint was received. Initially, only the complainant and the authorized representative, if any, would receive notice of the complaint.

Proposed § 29.17(e)(1)(ii) would require the Registration Agency to investigate complete complaints.

Proposed § 29.17(e)(1)(iii) would require the Registration Agency to complete a thorough investigation of the complaint. Documentation in the complaint file should include the complaint itself, a rebuttal statement from the respondent (if provided), interview statements, copies of pertinent documents as appropriate, and a narrative report of findings. Proposed § 29.17(e)(1)(iii) is intended to require Registration Agencies to compile a robust complaint investigation file, especially where the complaint was filed with the Registration Agency in the first instance. A robust file is needed to ensure that an adequate investigation was completed, to facilitate further review, and to facilitate referral to other government agencies or the initiation of a program review, if warranted. Although Registration Agencies would collect names and contact information of witnesses, Registration Agencies should protect such identifying information consistent with privacy laws, including the Freedom of Information Act, including withholding information where appropriate.

Proposed § 29.17(e)(1)(iv) would require the Registration Agency to provide a written notification of its findings to the complainant and respondent at the conclusion of the investigation.

Proposed § 29.17(e)(2) is new and would require the Registration Agency to protect the identity of the complainant to the extent practicable. If a complainant expresses a desire to remain anonymous, the complaint would need to be filed with the Registration Agency in the first instance, and the Registration Agency would need

to take reasonable steps to protect the identity of the complainant, such as not naming the complainant in interviews or in response to inquiries from the sponsor or respondent. Nevertheless, many complaint identities may be deduced by the respondent, sponsor, or employer because the complaint relates to a workplace-specific dispute or because of the relatively small number of apprentices in the program. Where complaints are filed anonymously, the Department anticipates that the assigned investigator and the complainant will confer early in the complaint investigation process and as needed thereafter to discuss what steps may be taken to investigate the complaint without compromising the anonymity of the complainant. As discussed below, proposed § 29.17(i) would incorporate an anti-retaliation provision designed to protect complainants from adverse actions for filing a complaint, which is meant to mitigate a complainant's concern and foster the filing of complaints and the complainant's cooperation.

Proposed § 29.17(e)(3) explains that if at the conclusion of a complaint investigation, the Registration Agency determines that a violation of part 29 or the apprenticeship agreement occurred, the Registration Agency would attempt to resolve the violation as quickly as possible, generally through technical assistance, initiating a program review, or the initiation of deregistration proceedings.

Proposed § 29.17(f) would carry forward existing § 29.12(e), which states that no part of existing § 29.12 precludes apprentices from pursuing alternative avenues of relief authorized under Federal, State, or local law.

Proposed § 29.17(g) would carry forward existing § 29.12(f) but clarify that, for an SAA to utilize a complaint review procedure that differs from the one provided here, the complaint review procedure would need to first be approved by the Administrator as part of the process described in proposed § 29.27.

Proposed § 29.17(h) is new and would establish anti-retaliation protections under part 29 by adapting language from part 30. This provision would prohibit a broad range of adverse actions, including intimidation, threats, coercion, retaliation, and discrimination. The provision would protect a broad range of protected activities, including filing a complaint, opposing a practice prohibited by this part or an apprenticeship agreement, furnishing information, or exercising any rights or privileges afforded under this part or an apprenticeship agreement. Notably, anti-retaliation complaints cannot be filed anonymously because Registration Agencies must always reveal the identity of the complainant to seek a remedy.

Proposed § 29.17(i) would speak to consequences for sponsors that fail to prevent or remedy retaliation as defined in paragraph (h), including retaliation by a participating employer in the sponsor's program. The presumptive remedy for sponsors found to have retaliated in violation of § 29.17(h) would be to make the apprentice whole. If, for example, an apprentice is terminated from a program for filing a complaint, the presumptive remedy would be for the apprentice to be reinstated to the same step in the registered apprenticeship program with back pay plus interest. OA also may pursue a remedy for violations of § 29.17(h) by limiting the responsibilities of the individual responsible for misconduct such as removing the individual from interactions with the complainant, to the extent practicable. Regardless of what the appropriate remedy would be, sponsors that fail to remedy retaliation may be subject to deregistration under § 29.20(a).

Section 29.18—Recordkeeping by Registered Programs

Recordkeeping is an essential and fundamental requirement in documenting compliance with the requirements of this rulemaking. Under this proposed rule, programs would need to maintain records for the purposes of demonstrating compliance to a Registration Agency as part of a program review and assisting a Registration Agency in conducting a complaint investigation. Programs would also need to maintain sources of data or information used to report to the Registration Agency. The Department thinks that these proposed requirements balance the needs of sponsors, employers, and Registration Agencies to conduct effective monitoring and oversight of program compliance with the burden of maintaining the required records. The Department is interested in any comments on whether the Department should add or subtract records from this proposed section.

Proposed § 29.18 is a new section that would expand upon the recordkeeping requirement that is in current § 29.5(b)(23) and detail the categories of records that sponsors and any participating employers are expected to maintain. Proposed § 29.18 would describe the general recordkeeping requirement with respect to specific records, the requirement to maintain records for a specific period of time, the requirement to allow the Registration Agency access to the records, and the format of such records. The section would mirror some of the recordkeeping requirements of 29 CFR 30.12 in order to create uniform requirements for recordkeeping for registered apprenticeship programs.

Proposed § 29.18(a) would state the general obligation of the program sponsor, and any participating employer, to maintain any records that the Registration Agency considers necessary to determine whether the sponsor has complied or is complying with the requirements of this part and any applicable Federal or State laws. It would further list in paragraphs (a)(1) and (2) the specific categories of documents that are required to be maintained.

Proposed § 29.18(a)(1) would require that records be maintained concerning employment decisions, such as the hiring or placement, promotion, demotion, transfer, layoff, termination, right of return from layoff, and rehiring of apprentices. These are typically employment records maintained in the ordinary course of business. The Department considers these records paramount for a sponsor to maintain since they relate to a foundational requirement of registered apprenticeship programs, the employment of apprentices. Effective oversight of the program would not be possible without such records.

Proposed § 29.18(a)(2) would require that records be maintained related to the operation of the registered apprenticeship program, including but not limited to the specific requirements in paragraphs (a)(1)(i) through (x).

Proposed § 29.18(a)(2)(i) would require the maintenance of records containing information related to the qualification, recruitment, employment, and training of apprentices, such as the apprenticeship program standards, apprenticeship agreements, completion records, cancellation and suspension records, and program review files. This provision would complement proposed § 29.18(a)(1) in that it would require maintaining records specific to the operation of the apprenticeship training program in addition to the requirements of proposed § 29.19(a)(1) regarding the individual employment decisions concerning each apprentice. These records are necessary to ensure the program is operating in compliance with proposed §§ 29.8 through 29.10.

Proposed § 29.18(a)(2)(ii) would require maintaining records pertaining to each apprentice's performance and

progress in both the on-the-job training and related instruction components of the registered apprenticeship program, as well as records related to the apprentice end-point assessments. These recordkeeping requirements would also be referenced in the proposed program standards at § 29.8(a)(10) and (11). The records are important to demonstrate the apprentice's progress during the apprenticeship and at the end-point assessment. They are related to other important aspects of the apprenticeship, such as work process schedules and wage progression, and help document the key quality criteria in this proposed rule regarding regular assessments of competency. Because competency attainment enables apprentices to progress through an apprenticeship, records as to how competency attainment is measured are critical for a sponsor to retain and have available.

Proposed § 29.18(a)(2)(iii) would require maintaining records pertaining to an apprentice's attainment of an interim credential as part of the program, postsecondary academic credit, or other interim milestones attained during the course of an apprentice's participation in the program, if available. The Department acknowledges that not all programs may provide interim credentials or postsecondary academic credit; however, those that do would need to maintain records of their provision to apprentices. One quality metric proposed in this NPRM relates to credential attainment, and maintaining records associated with those credentials would be required. The Department has proposed a requirement in this proposed rule to have sponsors disclose any interim credentials an apprentice receives in the program. Credentials are both a key source for documenting apprentice progression and success in a program and represent an additional, tangible benefit for apprentices in the program. This proposed rule does not propose interim credentials or academic credit be provided, but because it would ask that they be disclosed, it is vital that the Department can validate this information from the sponsor's records if needed.

Proposed § 29.18(a)(2)(iv) would require maintaining records for each apprentice regarding the number of hours of on-the-job training, the number of hours of related instruction, the total number of hours worked, and the wages and fringe benefits paid for all hours. This is an integral part of the standards of apprenticeship and apprenticeship agreement, and these records are necessary to demonstrate compliance with both.

Proposed § 29.18(a)(2)(v) would require that records be maintained, including personnel records, applicable to any non-EEO complaints filed with the Registration Agency pursuant to proposed § 29.17.

Proposed § 29.18(a)(2)(vi) would require that all records be maintained related to the safety record of the sponsor and all participating employers in the sponsor's program, where applicable, including records relating to any safety and health training provided to apprentices, incident logs required to be maintained under applicable Federal or State occupational safety and health laws, and current worker's compensation documentation.

Proposed § 29.18(a)(2)(vii) would require maintaining any records required to be maintained by a program sponsor under 29 CFR part 30.

Proposed § 29.18(a)(2)(viii) would require maintaining any records required to be maintained under title 38, United States Code, in order for veterans and other individuals eligible for educational assistance under such title to use such assistance for enrollment in registered apprenticeship programs.

Proposed § 29.18(a)(2)(ix) would require maintaining records demonstrating program compliance with registered apprenticeship requirements to meet Federal purposes as defined in this part. This could include documents maintained for purposes of compliance with registered apprenticeship requirements in Federal grants such as WIOA, the IRA, the Davis-Bacon and related Acts, and any Federal purposes.

Proposed § 29.18(b) is a new requirement in part 29 but would use the language in part 30 at § 30.12(d) regarding maintenance of records to provide some uniformity to the recordkeeping requirements across both sections. Proposed § 29.18(b) would provide that the records required by this part and any other information relevant to compliance with these regulations must be maintained by a program sponsor (or any participating employer, if applicable) for 5 years from the date of the making of the record or the personnel action involved, whichever occurs later. The 5-year timeframe would be consistent with the recordkeeping requirement in 29 CFR 30.12 and align with the 5-year program review requirement in proposed § 29.19. This provision would also provide that failure to preserve complete and accurate records (as would be required by paragraph (a) of this section) constitutes noncompliance with this part that could lead to OA initiating deregistration proceedings. This language would be similar to the language in § 30.12(d).

Proposed § 29.18(c) would provide that the program sponsor (and any participating employer) must allow the Registration Agency access to the records described in paragraph (a) of this section upon request for the purpose of conducting program reviews and investigating complaints arising under part 29; such program reviews and investigations may involve the inspecting and copying of books, accounts, records (including electronic records), and any other material the Registration Agency deems relevant to the review or investigation and pertinent to compliance with this part. It would also provide that, upon request, the program sponsor (and any participating employer) must provide the Registration Agency information about all format(s), including specific electronic formats, in which its records and other information are available. Finally, it would clarify that information obtained in this manner will be used only in connection with the administration of this part or other applicable laws. Proposed § 29.18(c) would adopt language similar to the part 30 recordkeeping requirements at § 30.12(f) but specific to records related to program reviews and investigations under part 29. This access provision is important for the Registration Agency to conduct program reviews and investigate complaints arising under part 29.

Proposed § 29.18(d) is a new requirement. It would acknowledge that forms, records, and any other documents used and maintained by the program sponsor (and any participating employer) in the administration of this part may exist in paper or electronic form or a combination thereof. It would also specify that, regardless of the medium, these records must be available and accessible as required under paragraph (c) of this section for oversight and compliance purposes.

Section 29.19—Program Reviews

The Department's ability to conduct comprehensive reviews of the apprenticeship programs it registers and oversees is the linchpin for the quality standards, worker protections, and transparency and accountability measures discussed throughout this NPRM's preamble and envisioned in the Department's proposed update to the part 29 regulations. Establishing a clear, transparent, and fair process for such reviews in the part 29 regulations is critical for all stakeholders within the

system, including the governmental entities overseeing programs, the designers and operators of registered apprenticeship programs, and the apprentices who participate in apprenticeship programs. While program reviews are essential for giving the Department the tools necessary to enforce the part 29 regulations and fulfill its statutory mandate to protect the welfare and well-being of apprentices, these reviews are also opportunities for programs to identify and address issues or discrepancies in service of program improvement. The proposed process for program reviews aligns with the Department's current practice of allowing programs time to address issues internally and request guidance and assistance from the Department or other stakeholders. Programs should view program reviews as a useful opportunity for program assessment and the identification of near- and long-term steps towards improvements in program quality.

To provide clarity for the regulated community, the Department has decided to propose a new section of the part 29 regulations to encapsulate all elements of the program review process, which is referenced in several places throughout the existing parts 29 and 30 regulations. For example, 29 CFR 29.5(b)(21), in the existing regulation's section on program standards, states that programs must affirm compliance with the part 30 EEO regulations, and § 29.6(b)(1)(ii) refers to EEO compliance reviews as a responsibility of Registration Agencies. Under the Department's proposed regulation, EEO compliance reviews, quality assurance assessments, and other oversight activities would be covered by this new section, now collectively referred to as ''program reviews,'' which would clarify the scope of Registration Agency review of programs' compliance with the entirety of the regulations at parts 29 and 30. In addition to this reorganization and consolidation of the program review provisions in the existing regulation, the Department is proposing various enhancements to the program review process to increase transparency and accountability in the system in service of maintaining and improving program quality throughout the system.

Proposed § 29.19(a) would explain that once a program's registration is made permanent, the applicable Registration Agency must conduct a program review at least every 5 years, though more frequent reviews are permitted based on capacity. This timeframe aligns with the current rule, wherein new registered apprenticeship programs enter into an initial, ''provisional'' status upon registration, and are reviewed approximately 1 year after the registration date. Provided that the program is operating in accordance with the standards approved by the Registration Agency, the program then moves out of ''provisional'' status and continues operating as a registered apprenticeship program. Such programs are then reviewed once every 5 years, with more frequent reviews occurring depending on specific circumstances.[143] This timeframe further aligns with other timelines in the existing regulations governing registered apprenticeship, such as the requirement that programs undergo a compliance review ''no less frequently than every 5 years'' at 29 CFR 29.3(h) and the 5-year recordkeeping requirement in the EEO regulations at 29 CFR 30.18(b).

Proposed paragraph (a) would further clarify that the Registration Agency will include a review of any participating employers in a sponsor's program during such program reviews, in line with the proposal's overall goal of establishing and maintaining accountability throughout the National Apprenticeship System. Throughout the proposal, the Department seeks to establish accountability measures to monitor, assess, and address participating employers' compliance with the proposed registered apprenticeship regulations, and has proposed changes to the existing registered apprenticeship regulations to require participating employers' compliance where appropriate. Proposed § 29.19(a) would establish the necessary connection between participating employers and the Registration Agency's primary oversight mechanism—program reviews—to establish such accountability.

Proposed § 29.19(b) would require the Registration Agency to conduct a review of a program if it receives credible information that a program, participating employer, or other registered apprenticeship stakeholder is not operating in compliance with the program's accepted program standards or any other requirements set forth in this part or 29 CFR part 30. Such credible information or allegations could be received through any means including, but not limited to, complaints, referrals, or news stories. Proposed § 29.19(b) would also require a Registration Agency to conduct program reviews at the request of the Administrator. The Administrator may request that a Registration Agency conduct program reviews because the Administrator has received credible information that a program is not operating in conformance with its registered standards, part 29 or part 30, because the Administrator disagrees with a Registration Agency as to whether credible information of potential noncompliance exists, or for any other reason the Administrator determines a review is warranted.

Proposed § 29.19(c) would clarify that Registration Agencies may consider all information and data that are pertinent to the purpose of the review in reaching a determination at the conclusion of the review. Registration Agencies would need to consider the program's performance under § 29.25(b). This provision would ensure that program performance is included as part of a program review and can ensure that technical assistance related to program performance is provided to sponsors.

Proposed § 29.19(d) would require sponsors and participating employers to cooperate with requests for interviews and documentation from the Registration Agency. This proposed paragraph would further clarify that sponsors and participating employers may never impede the Registration Agency's ability to interview prospective, current, or former apprentices because such interviews are essential to conducting a program review. Registration Agencies would be entitled to draw adverse inferences in the event that a sponsor or participating employer declines to answer questions, gives evasive answers, or fails to produce records that the sponsor or participating employer is required to maintain pursuant to proposed § 29.18. This section is intended to make program reviews by Registration Agencies as efficient and effective as possible.

Proposed § 29.19(e) explains what would happen at the conclusion of a program review. At the conclusion of a program review, the Registration Agency would need to provide its Notice of Program Review Findings to the sponsor using the contact information listed in the registered standards. The Department is proposing to notify the sponsor using the most recent contact information provided in the standards because it assumes that the sponsor has provided the most up-to-date, accurate contact information with its standards, because the Department should be able to rely on the sponsor's representation that it can

[143] Circumstances that may trigger more frequent reviews include, for example, a program's reported outcomes are consistently falling short of expectations or requirements, and whether serious, unaddressed complaints related to the program, recognized as legitimate by reviewers, consistently arise.

effectively receive communication via that contact information, and because the registered standards require a sponsor to designate a point of contact to receive complaints.

Paragraphs (e)(1) though (4) would detail what must be contained in a Notice of Program Review Findings, including a summary of any noncompliance identified, a concise explanation as to how the noncompliance may be cured, an explanation that the sponsor has to develop a compliance action plan as described in paragraph (f), and a statement that an enforcement action may be taken if compliance is not achieved within an established timeframe. The Department thinks that the information required here is sufficient to make the sponsor aware of the Registration Agency's concerns and steps needed to address areas of noncompliance.

Proposed § 29.19(f) would describe the steps that the sponsor must take when it receives a notice pursuant to paragraph (e) as well as the further actions that the Registration Agency may take in response.

Proposed § 29.19(f)(1) would explain that where a Notice of Program Review Findings details one or more areas of noncompliance, the sponsor is afforded 45 calendar days from the date of notification to either rebut the findings or submit a compliance action plan. The Department notes that 29 CFR 30.15 affords sponsors 30 days to implement a compliance action plan. In proposed § 29.19(f)(1), the time period would be extended from 30 to 45 days to ensure that the time period is not shorter than that referenced in § 30.15. The 45-calendar-day period may be extended once by the Registration Agency for up to 45 additional days for good cause. Good cause to extend the period may be present if, for example, the sponsor recently implemented staffing changes that would alter the personnel responsible for rebutting the findings or developing a compliance action plan. The determination as to whether the findings are appropriately rebutted would be entirely within the discretion of the Registration Agency.

Proposed § 29.19(f)(2) would detail the minimum requirements that must be included in a compliance action plan. A compliance action plan would need to make a specific commitment in writing to correct or remediate identified deficiency(ies) and area(s) of noncompliance, specify actions that will be taken to remedy each deficiency, specify a timeline, and provide the name of the individual responsible for correcting each deficiency. Proposed § 29.19(f)(2) would also explain that if a sponsor submits a rebuttal to the Notice of Program Review Findings that in the discretion of the Registration Agency does not rebut the Findings, the sponsor is afforded 45 calendar days from receipt of the final notice to submit a compliance action plan for approval. The compliance action plan should include: (1) a written commitment to correct or remediate any deficiencies and areas of noncompliance that have been identified by a Registration Agency; (2) the precise actions a program sponsor will take for each deficiency identified; (3) the time period within which a program sponsor will remedy each deficiency that has been cited and any corresponding program changes implemented to correct each cited deficiency; and (4) the name of the individual or individuals responsible for correcting each deficiency.

Proposed § 29.19(g) explains the menu of options that would be available to Registration Agencies upon receiving and reviewing a compliance action plan. Proposed paragraph (g)(1) states that a Registration Agency could approve the compliance action plan, determine that the sponsor is in compliance, and terminate the program review process. This first option is more likely to be selected upon receipt of a particularly robust compliance action plan. A program sponsor charged with developing a compliance action plan would need to take steps to implement that plan in accordance with the requirements of the regulation, even in instances where the formal program process has been completed.

Proposed paragraph (g)(2) states that a Registration Agency could approve the compliance action plan but continue the program review process until the compliance action plan is appropriately implemented. This second option may be more appropriate where the Registration Agency determines that continued monitoring may be necessary to ensure appropriate implementation of the compliance action plan. For example, a sponsor could submit, and the Registration Agency could approve, a compliance action plan that details the sponsor's plan to register its first apprentice. However, the Registration Agency may elect to wait until the sponsor in fact registers its first apprentice before making the determination that the compliance action plan is appropriately implemented and the sponsor is in compliance.

Proposed paragraph (g)(3) states that a Registration Agency could reject the compliance action plan and proceed with deregistration according to proposed § 29.20. A Registration Agency may elect to work with the sponsor to revise a compliance action plan that had been rejected instead of proceeding with deregistration.

Section 29.20—Deregistration of a Registered Program

Proposed § 29.20 would substantially revise the existing provisions regarding deregistration of a registered apprenticeship program found at 29 CFR 29.8 of the current regulation. Under the current 29 CFR 29.8, the Department is afforded no administrative tools, sanctions, or alternatives short of initiating formal deregistration proceedings in instances where a program is not being conducted, operated, or administered in accordance with the program's registered provisions or the requirements of 29 CFR part 29. This administrative inflexibility stands in sharp contrast to the more graduated EEO in apprenticeship enforcement provisions found at 29 CFR 30.15, which permit the Department to work with a program sponsor to rectify areas of noncompliance with the EEO regulatory requirements of 29 CFR part 30 through the pursuit of an intermediate administrative step: the development of a limited-time compliance action plan that identifies and rectifies a program's operational deficiencies. Accordingly, to better align and harmonize the enforcement structures in 29 CFR parts 29 and 30, the Department has proposed substantially replicating the compliance action plan procedural mechanism currently found at 29 CFR 30.15 and incorporating it into the proposed program review process outlined at § 29.19(f) and (g) of this proposed regulation (see above). Should a sponsor fail to develop a compliance action plan that satisfies the Department's requirements, however, formal deregistration proceedings may then be initiated by the Department as a last resort under this proposed § 29.20, which the Department has proposed be significantly updated to improve procedural clarity and efficiency. Proposed § 29.20(a) would replace the undesignated introductory paragraph in existing § 29.8 and eliminate ambiguous references to ''deregistration proceedings'' in favor of outlining the process step by step. The first step would be to notify a sponsor or a participating employer of the specific violations of parts 29 or 30 that were identified as a result of a program review, complaint investigation, or ''any other basis.'' The reference to ''any other basis'' is intended to capture the

multitude of less common methods by which a Registration Agency could learn of a violation of parts 29 or 30, such as through the news or by referral from another government agency. However, where a news story or referral from another government agency may benefit from additional investigation, the Registration Agency may elect to initiate a program review to gather additional facts. Proposed § 29.20(a) proposes a new reference to ''participating employer'' to clarify that a participating employer can be offered technical assistance by a Registration Agency if suspected not to be operating in accordance with parts 29 or 30. Ultimately, however, because a participating employer is not a sponsor, it would be up to the sponsor to suspend the participating employer from the program. The addition of a reference to ''participating employer'' is further intended to clarify that a sponsor may ultimately be deregistered when a participating employer that has adopted the sponsor's standards is not operating in accordance with those standards or parts 29 or 30. The notice provided under proposed § 29.20(a) would in practice be very similar to the Notice of Program Review Findings under proposed § 29.19(f)(1) in that both notices would identify an area of noncompliance on the part of the sponsor and the remedial action that would be taken by the Registration Agency as a result. However, a Notice of Program Review Findings would always afford a sponsor the opportunity to submit a compliance action plan whereas a notice under proposed § 29.20(a) may reference a wider array of options, including notifying the sponsor that the program is deregistered.

Proposed § 29.20(a)(1) through (4) are new and detail a proposed menu of options available to a Registration Agency upon making a determination that a violation of this part occurred. A Registration Agency could proceed with any single option or multiple options concurrently if the Registration Agency thinks such action is necessary to address the noncompliance, these include

(1) offering the sponsor or participating employer technical assistance to promote compliance;

(2) requiring the sponsor to submit a compliance action plan pursuant to § 29.19(f);

(3) suspending the sponsor's right to register new apprentices for a specified time period; or

(4) deregistering the program pursuant to paragraph § 29.20(b) of this section.

Proposed § 29.20(a)(1) would be an option to provide technical assistance to the sponsor. This option may be selected where there is a clear misunderstanding of the regulatory requirements on the part of the sponsor and technical assistance may support a timely remedy to the violation.

Proposed § 29.20(a)(2) would be an option to require that the sponsor submit a compliance action plan that meets the requirements of proposed § 29.19(f)(2). This option may be selected where the noncompliance was discovered outside of the program review process.

Proposed § 29.20(a)(3) would be an option to suspend the sponsor's right to register apprentices for a set period of time. This option may be appropriate where there is a concern about the safety of apprentices in the program.

Finally, proposed § 29.20(a)(4) would be an option to deregister the program for cause pursuant to proposed § 29.20(b). Proceeding to deregistration may be appropriate if the sponsor was already afforded an opportunity to submit a compliance action plan and the plan was rejected, in the case of particularly egregious violations, or where the program has failed to respond to the Registration Agency.

Proposed § 29.20(b) would substantially streamline existing § 29.8(b). It would remove references to persistent and significant failure to perform successfully and other enumerated bases for deregistration and would instead implement a standard for deregistration by which any program not operated in accordance with parts 29 or 30 could be deregistered if the sponsor fails to correct the violations or fails to receive approval of a compliance action plan and implement that compliance action plan within the required timeframes. The determination as to whether a compliance action plan is approvable and whether an approved compliance action plan is being appropriately implemented would be at the sole discretion of the Registration Agency. Proposed § 29.20(b) would eliminate references to ''reasonable cause to deregister,'' which in existing § 29.8(b)(5) serves as the point at which an appeal of the Registration Agency's decision must be taken. By requiring a sponsor to appeal deregistration before a final agency determination as to deregistration has issued, current § 29.8 requires appeals to be taken before they are ripe. Proposed § 29.20(b) would correct this problem by making a Notice of Deregistration the point after which a sponsor may either request a review by the Administrator or, in certain cases, request a hearing before the Office of Administrative Law Judges (OALJ).

Proposed § 29.20(c) would carry forward much of existing § 29.8(a). References to cancellation are proposed to be struck to avoid confusion with the cancellation of apprenticeship agreements. The proposed paragraph would clarify that the Registration Agency will deregister a program upon receipt of a written request, in contrast with the existing text that says a Registration Agency may do so. This change would reflect the reality that OA will always deregister a program upon the request of the sponsor.

Proposed § 29.20(d) is new and would establish the process by which the Administrator will review the Registration Agency's Notice of Deregistration. In summary, this provision would establish a three-step process of review when a Notice of Deregistration is issued by an SAA: (1) Informal Resolution (by the Administrator); (2) Appeal (to OALJ); and Appeal (to ARB). The Department is proposing the addition of this review process for two reasons. First, the Department believes that where the deregistration decision was made by an SAA, the Administrator should review the SAA's deregistration decision so that any novel issues relating to this part, part 30, or the National Apprenticeship System are resolved by the Administrator in the first instance, as opposed to the OALJ. Accordingly, where the Notice of Deregistration was issued by an SAA, this review process would be a required step before requesting a hearing before the OALJ. Where the Notice of Deregistration was issued by the Administrator, this review process would not be necessary before a request for a hearing is requested. Second, the Department is proposing the process in § 29.20(d) to minimize the Departmental resources that must be used to deregister programs that become unresponsive, even after multiple attempts by the Registration Agency to contact the sponsor, or where the sponsor fails to register at least one apprentice. Accordingly, where the Notice of Deregistration states the basis for deregistration as a failure to respond to multiple attempts from the Registration Agency to contact the sponsor or a failure to register at least one apprentice, or both, the outcome of this review process would serve as the final agency determination of the Department regarding deregistration. The Administrator shall publish a notice of final agency determination on an OA public-facing website in compliance with proactive disclosure requirements under the FOIA (5 U.S.C. 552 (a)(2)).

Paragraph (d)(1) would explain how a former sponsor may request review from the Administrator. Requests would need to be submitted electronically and in writing within 30 calendar days from the date of the Notice of Deregistration. The request would not need to be made in any particular format, but the request itself would need to provide any and all relevant facts or documentation that exist as of the time of the request. It would be entirely the obligation of the former sponsor to provide any arguments, facts, and documents in an understandable manner as part of the request for review. The Administrator would take into consideration the totality of the request and supporting documentation presented and render the Administrator's final decision.

Paragraph (d)(2) would address deregistrations where an SAA is the Registration Agency. In these situations, the request for review would need to be sent to the Registration Agency and the Administrator simultaneously such that the Administrator and the SAA are provided with identical copies of the request and all supporting documentation. The SAA would then have 15 calendar days to provide the Administrator with a record containing the pertinent facts underlying the SAA's deregistration determination. The Administrator could request additional information from the sponsor, the Registration Agency, or both, though the Administrator would not be required to do so.

Paragraph (d)(3) would explain that if OA is the Registration Agency, OA will compile for the Administrator's review all relevant information already in OA's possession or already submitted by the former sponsor, and may request additional information from the former sponsor, though OA is not obligated to do so.

Paragraph (d)(4) would explain that the Administrator will issue a final decision that explains the basis for the decision as quickly as practicable after receiving all information necessary for the Administrator to make a decision. While the Administrator would work as quickly as possible, the Department has not included a required timeframe because the facts and issues in specific cases may require more or less time to make a decision and, therefore, a uniform timeframe may inadvertently require the Administrator take less time than necessary to fully consider a request for reconsideration.

Paragraphs (d)(5) and (6) would explain that except where the basis for deregistration is a failure to respond to multiple attempts from the Registration Agency to contact the sponsor or a failure to register at least one apprentice, or both, the former sponsor may still request a hearing before the OALJ within 15 calendar days of receipt of the Administrator's final decision. Where the former sponsor does not request a hearing within 15 calendar days, or where the basis for deregistration is a failure to respond or a failure to register at least one apprentice, the Administrator's final decision would be the Department's final agency action and the OALJ would not have jurisdiction to consider an appeal. The Department's intent in proposing to preclude the OALJ from hearing appeals based on a failure to respond or a failure to register at least one apprentice is to limit the expenditure of Departmental resources on disputes that are typically very straightforward and easily resolved by engagement with the Registration Agency. The Department's intent is to encourage sponsors of such programs to work with the Registration Agency before deregistration to address the lack of responsiveness or failure to register an apprentice through the provision of technical assistance or an action plan. If the cause of the deregistration stems from the program's lack of commitment to operating an apprenticeship training program, the Department thinks that it is better for the broader apprenticeship system to deregister such programs expeditiously. In addition, because these problems are readily resolved, sponsors may always seek reinstatement of their program under proposed § 29.22 once the issue that gave rise to the failure to respond or failure to register an apprentice is resolved.

Proposed § 29.20(e) would address the process for requesting a hearing before the OALJ and would streamline existing § 29.8(b)(6) through (8). Proposed paragraph (e)(1) would explain that all requests for hearings must be sent to the OALJ. It would further note that where an SAA is the Registration Agency, the former sponsor has 15 calendar days from the date of the Administrator's final decision to request a hearing. Where an SAA deregistered the program, the Department is proposing to require the former sponsor to request review by the Administrator first to ensure that any novel or incorrect interpretations of parts 29 or 30 are not decided in the first instance by the OALJ. As OA is the Department's subject-matter expert on apprenticeship, the Department thinks it most appropriate that OA should always be afforded the opportunity to review a deregistration decision by an SAA before the OALJ or the Administrative Review Board (ARB) render the final agency decision for the Department. As noted above, this would allow OA to provide input on any novel issues relating to this part, part 30, or the National Apprenticeship System that are present in the matter.

Proposed paragraph (e)(2) would explain that a request for a hearing must simultaneously be furnished to the Administrator (*see https://www.dol.gov/agencies/eta/apprenticeship* for contact information), and the Associate Solicitor for Employment and Training Legal Services (*see https://www.dol.gov/agencies/sol/divisions/employment-training-legal-services* for contact information). The paragraph would further explain that the Administrator will promptly compile and submit to the OALJ the administrative file containing the documentation relied on by the Administrator in reaching the Administrator's final decision or the Notice of Deregistration, as applicable.

Proposed paragraph (e)(3) would explain that hearings would be conducted per proposed § 29.21.

Section 29.21—Hearings on Deregistration

Proposed § 29.21 would carry forward much of current § 29.10. However, existing § 29.10(a), which currently requires the Administrator to request a hearing from the OALJ, would be deleted entirely and replaced with the process described above. The Department determined that the current process outlined in § 29.10(a) is inefficient and that the appealing party's notice is sufficient.

Proposed § 29.21(a)(1) and (2) would carry forward existing § 29.10(b)(1) and (2) verbatim. In addition, the proposed rule would add paragraphs (a)(3), to clarify that the request for a hearing is not a complaint to which an answer is required, and (a)(4), to clarify that limited pre-hearing motions and discovery may be permitted at the discretion of the assigned Administrative Law Judge. The clarification in paragraph (a)(3) that no answer to a request for hearing would be required is intended to supplement the OALJ regulations at 29 CFR part 18 and capture the reality that an Administrative Law Judge assigned to a deregistration hearing will receive a comprehensive administrative file from the Administrator, which should render a separate answer unnecessary. The clarification in paragraph (a)(4) is intended to allow for limited discovery, though the Department anticipates that in most instances the case will be able to be decided on the record without further discovery.

Proposed § 29.21(b) would carry forward existing § 29.10(c) with the only additions being added citations to the ARB's recently promulgated Rules of Practice and Procedure and the inclusion of a standard of review for the OALJ. The Department proposes to clarify that the arbitrary and capricious standard of review applies because it is regularly used in administrative adjudications reviewing final agency determinations. The arbitrary and capricious standard of review would require the Administrative Law Judge to uphold the Administrator's decision unless it is shown by the sponsor to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

Section 29.22—Reinstatement of Program Registration

Proposed § 29.22 is new and would explain that an apprenticeship program that is deregistered may have its registration reinstated if the prospective sponsor submits adequate evidence that the program is operating in compliance with parts 29 and 30. Although a former sponsor would normally be able to reapply for registration, this section would establish a parallel process by which a former sponsor with an active but unregistered program could submit evidence in support of having its registration reinstated. The Department envisions that this process would address situations where a former sponsor's deregistered standards are in conformance with parts 29 and 30 but where the former sponsor was deregistered for not operating its program in conformance with the standards, with part 29, or with part 30. For example, a sponsor could be deregistered for failure to register a single apprentice, but post-deregistration provide the Registration Agency with evidence of registering at least one apprentice as well as an adequate explanation for not doing so previously; the determination as to what constitutes adequate evidence lies exclusively with the Registration Agency.

Section 29.23—Exemptions

Proposed § 29.23 would permit the Administrator to entertain requests for exemptions from any or all of the provisions contained in subpart A of 29 CFR part 29. Such requests would be required to be made in writing and transmitted to the Administrator and would also be required to contain a statement of the reasons supporting the request. The Administrator would only grant an exemption for good cause. Good cause may be found in instances where the sponsor demonstrates to the Administrator that the granting of the exemption will expand or support the safety and welfare of apprentices. The Department would not grant an exemption that would reduce or minimize the protections afforded apprentices under this proposed regulation. The Department is interested in any comments regarding criteria the Department could use to establish when good cause may be found.

This proposed exemption provision would be similar to the existing exemption allowance contained in 29 CFR 30.19 of the EEO in Apprenticeship regulations, except that SAAs would be excluded from involvement in the consideration or issuance of exemptions under proposed § 29.23, and the Administrator would retain the full and exclusive authority to evaluate and grant exemptions from the provisions of subpart A of 29 CFR part 29.

The Department also wishes to note that the proposed exemption provision would not apply to any of the regulatory provisions contained in either subpart B or subpart C of the revised 29 CFR part 29. The Department is proposing this to ensure the exemptions are solely based on labor standards requirements. The Department would consider comments on exemptions for subpart B for potential sponsors of registered CTE apprenticeship. The Department is not proposing an exemption authority for subpart C because that subpart addresses the collection of apprenticeship data, which as described below is a key priority of this rulemaking to ensure a comprehensive data set on registered apprenticeship programs. Subpart C also governs the SAAs; the Department is not proposing any exemptions regarding their individual governance, in an effort to build a more cohesive system. While the Department may consider individual program level exemptions on labor standards, given the Department's goal of building a National Apprenticeship System, the elements of subpart C are not being proposed to be eligible for exemption.

C. Subpart B—Career and Technical Education Apprenticeship

The Department has long heard from National Apprenticeship System stakeholders that creating additional apprenticeship opportunities would expand the benefits of apprenticeship and maximize its workforce development potential, particularly for individuals who are in the early stages of career development, such as students in high school and postsecondary students who are actively taking steps to begin their future careers and assessing the postsecondary opportunities available to them. It also would be a beneficial model for businesses looking to expand their talent pipelines, including businesses that participate in registered apprenticeship programs under subpart A. Registered apprenticeship has been a successful workforce development tool for job seekers for decades, and the Department recognizes that many of the occupational training and professional development elements of registered apprenticeship would be valuable for the subset of the population who are enrolled in high school and in community and technical colleges and are taking steps to improve their career opportunities. However, the existing National Apprenticeship System has had very limited participation from high-school-aged youth. In FY 2022, only 1.2 percent of active apprentices, or 7,643 apprentices, in registered apprenticeship programs were 16–18 years old.[144] Most youth ages 16–18 are in high school, and these years are critical for helping students understand and make informed choices for their education and career paths, particularly for youth who do immediately enter postsecondary education.[145]

More broadly, the Department is concerned about the persistent decline in youth labor force participation, as well as an unemployment rate more than twice as high as the national average, for those individuals aged 16 to 24 years old. The summer labor force participation rate for 16- to 24-year-olds was 60.2 percent in July 2023, down from 61.8 percent in July 2019.[146] Youth labor force participation has been trending downward since reaching a high of 77.5 percent in July 1989 due to a number of factors, such as lack of training and work experience, transportation and access to work sites, and the lasting impact of labor market disruptions during and following economic downturns.[147] While some individuals aged 16 to 24 years old may be attending some type of education or

[144] OA, ''Data and Statistics,'' *https://www.apprenticeship.gov/data-and-statistics* (last updated June 16, 2023).

[145] OA, ''Data and Statistics,'' *https://www.apprenticeship.gov/data-and-statistics* (last updated June 16, 2023).

[146] BLS, The Economics Daily, Aug. 29, 2023, *https://www.bls.gov/opub/ted/2023/60-2-percent-of-youth-participated-in-the-labor-force-in-july-2023.htm* (last visited Oct. 5, 2023).

[147] Note: After peaking at 77.5 percent in July 1989, the rate trended downward then ranged between 60.0 to 60.6 percent during 2012 to 2018. Congressional Research Service, ''Youth and The Labor Force: Background and Trends,'' Aug. 20, 2018, *https://crsreports.congress.gov/product/pdf/R/R42519.*

training and forgoing employment, research indicates these factors may also underlie why the unemployment rate for this population, those who are actively looking for work but are unemployed, is more than twice as high as the national average. This population's unemployment rate (ages 16–24) remains well above the national average based on the BLS ''Employment and Unemployment Among Youth Summary,'' published in August 2023, which showed the July 2023 unemployment rate for youth was 8.7 percent,[148] compared to 3.5 percent overall at the same time. Ongoing declines in labor force participation and disparities in unemployment may create long-term challenges for those individuals in this population who seek job opportunities that provide economic mobility and may disrupt the development of a skilled workforce needed to address demographic shifts and sustain U.S. economic competitiveness. The Department recognizes the need to engage and support school-aged individuals and adult learners who are seeking to enter a career pathway and utilize an earn-and-learn model such as registered apprenticeship, which will help to increase labor force participation and close the gap in unemployment rates relative to the rest of the working population.

Nationally, Perkins CTE programs enroll roughly 8.3 million secondary students and 3.5 million postsecondary students,[149] and they are open for enrollment by students looking to attain industry-recognized competencies and skills, a recognized postsecondary credential, and work-based learning experiences. Additionally, the inclusion of CTE programs within the current registered apprenticeship model has provided a promising opportunity to bridge education and workforce development. After working and consulting with registered apprenticeship stakeholders, workforce development analysts and experts, and Federal partners at ED, the Department is proposing a new and emergent type of registered apprenticeship—registered CTE apprenticeship—modeled on the most relevant elements of traditional registered apprenticeship but with key distinguishing features to accommodate students in high school and postsecondary education.

This proposed registered CTE apprenticeship model seeks to strengthen the connection with secondary and postsecondary education programs by bringing together the core concepts of registered apprenticeship and CTE, and working to ensure that strong State-level coordination exists to manage the program. To this end, the Department has proposed the registered CTE apprenticeship program be delivered through a Perkins-eligible recipient's CTE program because Perkins already provides a high-quality framework for apprenticeship-related instruction and can capture economies of scale in matching students interested and involved in CTE with registered apprenticeship. Perkins-eligible recipients may choose to become CTE apprenticeship sponsors to expand and enhance their Perkins CTE program with high-quality on-the-job experience for their students, culminating in a credential that would enhance CTE students' prospects to transition to employment, registered apprenticeship under subpart A, or postsecondary education. The proposed regulation and registered CTE apprenticeship program would not impact the independence and function of ED's Perkins program or that of Perkins grantees and subgrantees. That is, the proposed subpart would only apply to States that develop a written agreement between their State CTE Agency and a Registration Agency, States that wish to become Registration Agencies, and States and CTE programs that wish to become registered CTE apprenticeship sponsors as recognized by DOL. Further, ED's implementation and oversight of the Perkins CTE program would be unaffected. In addition, though the regulations propose that the State CTE Agency (*i.e.,* the agency with authority to oversee Perkins) is a required partner, the regulations would not alter the existing authorities of the State CTE Agency for implementation and oversight of Perkins.

The proposed requirements for registered CTE apprenticeship's labor standards, program registration, and program administration would largely reflect the labor standards, program registration, and program administration requirements for registered apprenticeship, with some distinctions and differences as explained in this NPRM's preamble for subpart B. Many of the proposed requirements are already common practice in high-quality CTE programs and related work-based learning programs. The primary distinctions between these two types of registered apprenticeship programs, under subparts A and B, would be: (1) the required use of industry skills frameworks to support CTE apprenticeship-related instruction and provide direction for on-the-job training; (2) different hours thresholds for related instruction and on-the-job training; (3) different eligibility requirements for who may serve as program sponsors; and (4) student outcomes focused on post-completion career pathways. The Department proposes to center registered CTE apprenticeship programs around industry skills frameworks (rather than the occupational basis of most registered apprenticeship programs). Industry skills frameworks more broadly encompass the range of career options available to high school and college students by integrating industry-recognized competencies and skills. Registered CTE apprenticeship programs would be guided by an approved industry skills framework and delivered through a Perkins-eligible recipient's CTE program and paid on-the-job training.[150]

In addition, the registered CTE apprenticeship model would place a greater emphasis on the related instruction element of registered apprenticeship, and proposes to involve a higher amount of required time spent in related instruction (CTE apprenticeship-related instruction) with postsecondary credit hours and a lesser amount of on-the-job training, compared to the proposed program in subpart A. For registered CTE apprenticeship, the Department proposes a minimum of 540 hours of required CTE apprenticeship-related instruction, which encompasses not less than 12 postsecondary credit hours as part of the program. The proposed 540 hours of CTE apprenticeship-related instruction and 900 hours of on-the-job training could occur while a student is enrolled in high school, or while a student is enrolled in postsecondary education, or the program could be structured to span high school and postsecondary education.

For secondary school systems, the registered CTE apprenticeship model may expand opportunities for students

[148] BLS, Economic News Release, ''Employment and Unemployment Among Youth Summary,'' Aug. 16, 2023, *https://www.bls.gov/news.release/youth.nr0.htm.*

[149] ED, Perkins Collaborative Resource Network, ''National Summary,'' *https://cte.ed.gov/profiles/national-summary* (last visited Sept. 8, 2023).

[150] The Perkins statute safeguards local control over instructional content, academic standards and assessments, curricula, and programs of instruction. 20 U.S.C. 2306a(a). Accordingly, the regulations proposed would only impact and control DOL CTE apprenticeship programs and would not create any rules governing the operation of Perkins programs. Nothing in this proposed regulation would mandate, direct, or control a State's, local educational agency's, eligible Perkins recipient's, or school's specific instructional content, academic standards and assessments, curricula, or program of study.

to pursue postsecondary coursework, create opportunities to earn recognized postsecondary credentials that students earn in CTE programs, including a nationally recognized certificate of completion of registered CTE apprenticeship, and expand work-based learning to include paid on-the-job training with designed wage increases, and support the alignment of CTE programs to registered apprenticeship programs under subpart A, in addition to postsecondary credential and degree programs.

For postsecondary institutions the registered CTE apprenticeship model may create opportunities to develop additional employer-driven educational programs, particularly in programs where clinical experiences and similar models may not exist, and where students would benefit from paid on-the-job training offered alongside or included as part of a postsecondary credential and/or degree program. Registered CTE apprenticeship may also help postsecondary institutions to create education programs that bridge their workforce and degree programs within their institution, potentially creating opportunities for students to access federal student aid to support their participation in the program, in addition to creating opportunities to embed an apprenticeship program within a degree program, and expand programs that are offered as an ETP under WIOA.

For regions that are seeking to create or have already established strong linkages between their secondary education system and community and technical college system, registered CTE apprenticeship can be structured to bridge these two education systems, ensuring that students graduate high school, transition into postsecondary education with at least 12 postsecondary credit hours, earn a recognized postsecondary credential, and have strong pathways to continue their education while simultaneously participating in the workforce and receiving progressive wage increases. Registered CTE apprenticeship may also help these communities to better position employers as co-owners of their education and workforce systems, support paid on-the-job learning and other forms of Federal and State financial aid that may be available, to help to offset their education costs, provide additional student mentorship, and leverage additional support from community-based organizations to provide wraparound or other student services.

In contrast, for registered apprenticeship under subpart A, the Department is proposing 144 hours of related instruction for every 2,000 hours of on-the-job training. The higher amount of CTE apprenticeship-related instruction is proposed to ensure that CTE apprentices have the requisite number of hours to successfully complete a program and academic requirements for graduation. The lower amount of on-the-job training hours is proposed to ensure that CTE apprentices receive the technical, hands-on opportunities to demonstrate their progress and attainment of industry-recognized competencies and skills while also ensuring that CTE apprentices work an age-appropriate number of hours while attending school. Specifically, researchers have consistently found that there are negative academic outcomes for students who work intensively (*e.g.,* more than 20 hours) during high school. For example, one study that examined the impact of employment on academic performance and behavioral outcomes (*e.g.,* effort, truancy, misbehavior, and suspensions) of students in 8th, 10th, and 12th grade found that intensive work in high school, defined as working more than 20 hours per week, was associated with lower grade point averages, lower school effort, and greater frequencies of misbehavior. Those who worked more limited hours (20 hours or less per week) increased their odds of obtaining a bachelor's degree and exhibited no differences in high school academic or behavioral outcomes than those who did not work at all.[151]

Standards of registered CTE apprenticeship would be based on approved industry skills frameworks and delivered through CTE programs and paid on-the-job training that must be completed by a CTE apprentice to receive a certificate of completion of registered CTE apprenticeship. Completing a registered CTE apprenticeship program would provide a CTE apprentice with industrywide skills and competencies, a recognized postsecondary credential(s) and at least 12 transferable postsecondary credit hours, which would enable CTE apprentices to enroll in a postsecondary educational program, enroll in a registered apprenticeship under subpart A, potentially with advanced standing, or continue employment.

While the new model of registered CTE apprenticeship is designed to align with Perkins CTE programs, CTE apprenticeship programs under this proposal also would have the option to design programs that meet the registration requirements of subpart A, particularly in CTE program areas that are more occupationally based. In doing so, secondary and postsecondary institutions may choose to build onto their existing registered apprenticeship programs to create additional opportunities for learners or they may wish to connect registered apprenticeship programs that are developed under subparts A and B to create stackable instructional models. For secondary and postsecondary institutions that already support registered apprenticeship programs under subpart A, the development of registered CTE apprenticeship programs may help to create new pathways into registered apprenticeship, may support diversity, equity, inclusion, and accessibility efforts, and may create opportunities to engage existing or new employers to expand their partnership in new or different occupations and industries.

Registered CTE apprenticeship would be an additional model designed to specifically align labor standards with State-approved CTE programs and, where appropriate, State or locally developed educational curriculum, where it may not always be feasible under subpart A and, in doing so, would provide multiple postsecondary pathways for CTE students and employment, and may include opportunities for CTE students to earn advanced standing in registered apprenticeship under subpart A. Registered CTE apprenticeship would retain most of the key elements of the registered apprenticeship model as set forth in proposed subpart A, with some differences or adjustments based on the unique characteristics of the population registered CTE apprenticeship will serve—namely, high school and college students—including, among other considerations, their age and typical experience, their courseload, schedule, and stage of career development or transition into a new career. As proposed, the Department envisions some key adjustments to the registered apprenticeship model for registered CTE apprenticeship. The Department considered using exemptions proposed under subpart A to accommodate this program design, but determined that the requirement for Registration Agency coordination with State CTE Agencies is an essential element of this proposal and could not be implemented through use of exemptions under subpart A. In addition, programs are not exempt from the establishment and implementation

[151] Jeremy Staff et al., ''Adolescent work intensity, school performance, and academic engagement,'' Sociology of Education, 83(3), 183–200 (July 2010), *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2926992/.*

of robust standards of registered CTE apprenticeship. Such standards are essential to ensuring that registered CTE apprenticeship programs deliver consistently high-quality education and training, while also ensuring that CTE apprentices are trained in a safe and accessible workplace environment where they are protected from exploitation and abuse.

The Department coordinated and sought consultation with ED in developing the proposed regulations for registered CTE apprenticeship. In addition, this new model is informed by existing and ongoing efforts to develop youth and registered apprenticeship models that incorporate CTE.[152] In coordination with ED, the Department will seek to provide technical assistance to States and local stakeholders as needed to implement this new model.

The Department has also taken into consideration the recommendations from the ACA to expand apprenticeship opportunities that offer postsecondary credit and the ability to advance along a career pathway for in-school youth and other individuals.[153] The registered apprenticeship model has been highly successful, as described throughout this rulemaking, in successfully training individuals outside of the current secondary and postsecondary education systems. However, it has not been able to systematically align with CTE programs and employment opportunities for those students who may have difficulty meeting the minimum eligibility requirements for entering into a registered apprenticeship program under subpart A.

The Department recognizes that previous efforts to create and strengthen articulation between secondary and postsecondary institutions have had positive effects for the populations targeted by this proposal. From fall 2019 to fall 2021, 586,000 fewer recent high school graduates were enrolled in community college compared with 277,000 fewer older adults, a troubling trend as students of all ages enter or re-enter the labor market without the necessary education and training for economic success. However, during this same time, dual enrollment, a hallmark of successful CTE programs and youth apprenticeship models that incorporate CTE, continued to grow with high school students accounting for one in five community college students.[154] The impact of obtaining postsecondary education is profound: for all demographic groups by gender and race, the labor force participation rate increases by 4.4 percent and the unemployment rate decreases by 0.5 percent for high school graduates with some college compared to those who graduated high school but have no college.[155] In addition, data from the High School Longitudinal Study of 2009 indicate that, 3 years after completing high school, public high school graduates who were not enrolled in a postsecondary credential program and who had earned 3.00 or more CTE credits during high school had a lower unemployment rate than their peers who earned fewer CTE credits.[156] Additionally, at the secondary level students who concentrate [157] in a CTE program have a 96.2 percent 4-year graduation rate in the aggregate and greater than 90 percent for all students subgroups disaggregated by gender, race, ethnicity, and special populations with the exception of youth in foster care (86.7 percent) and youth who are single parents (89.3 percent),[158] which are closer to the national average of 87 percent.[159] By incorporating the benefits of strong academic and technical preparation and established articulation between secondary and postsecondary credits, which is found in high-quality CTE programs, along with establishing quality labor standards for the paid work-based learning component for students in the registered CTE apprenticeship program, the Department anticipates this model will be successful in establishing a strong skills-based foundation with quality work experience to jumpstart CTE apprentices' careers, while also ensuring that students continue to meet core educational milestones.

The Department believes a unique model of quality labor standards, based on the success of registered apprenticeship, that is designed for individuals in secondary or postsecondary education can help students have successful careers and can benefit employers in developing a skilled workforce. This model, in conjunction with an existing infrastructure that supports the capacity and expertise to administer and provide quality CTE curricula and program offerings, could help to close a widening divide and ensure all learners and workers who face labor market disparities have greater opportunities for economic mobility. These quality labor standards while participating in education activities can be especially beneficial for youth and other individuals starting their careers by ensuring they are receiving and applying industry-validated skills and competencies in a paid work setting.

Section 29.24—Registration of Career and Technical Education Apprenticeship Programs

Proposed § 29.24 would create the regulatory structure for registered CTE apprenticeship programs to meet the following core requirements: coordination between a Registration Agency and State CTE Agency; program standards and the requirement that they be registered with a Registration Agency; alignment of competencies obtained through on-the-job training outlined in approved industry skills frameworks that provide CTE apprentices with industry-recognized skills and competencies; CTE apprenticeship-related instruction component of the standards delivered through a CTE program; program sponsor eligibility and requirements for LEA, institutions of higher education, State CTE Agencies, or designated intermediaries; partnership

[152] Joseph B. Fuller et al., The Project on Workforce, Harvard University, ''The Options Multiplier: Decoding the CareerWise Youth Apprenticeship Journey,'' Nov. 14, 2022, *https://www.hbs.edu/faculty/Pages/item.aspx?num=63353.*

[153] *See* ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.* ACA recommendations on this topic include to coordinate with ED and education institutions to promote the provision of academic credit for apprenticeship training or tuition reimbursement and to enhance high school-level apprenticeships with credit given for direct entry into formal registered apprenticeship programs.

[154] John Fink, ''What Happened to Community College Enrollment During the First Years of the Pandemic? It Depends on the Students' Age,'' Jan. 9, 2023, *https://cccrc.tc.columbia.edu/easyblog/what-happened-to-community-college-enrollment-depends-students-age.html.*

[155] BLS, Labor Force Statistics from the Current Population Survey, ''Employment status of the civilian noninstitutional population 25 years and over by educational attainment, sex, race, and Hispanic or Latino ethnicity,'' *https://www.bls.gov/cps/cpsaat07.htm* (last updated Jan. 25, 2023).

[156] National Center for Education Statistics, ''Data Point: Labor Market Outcomes for High School Career and Technical Education Participants: 2016,'' Apr. 2020, *https://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2020060.*

[157] In Perkins, the term ''CTE concentrator'' means: (1) at the secondary school level, a student served by an eligible recipient who has completed at least two courses in a single career and technical education program or program of study; and (2) at the postsecondary level, a student enrolled in an eligible recipient who has either earned at least 12 credits within a career and technical education program or program of study or completed such a program if the program encompasses fewer than 12 credits or the equivalent in total (Perkins sec. 3(12)). This means that once a student completes two courses in a single CTE program of study, they are counted as a CTE concentrator.

[158] ED, Perkins Collaborative Resource Network, ''National Summary,'' *https://cte.ed.gov/pcrn/profile/national/performance/2021/population/1s1/met/secondary/race* (last visited Oct. 23, 2023).

[159] National Center for Education Statistics, ''Fast Facts, High School Graduation Rates,'' *https://nces.ed.gov/fastfacts/display.asp?id=805* (last visited Oct. 23, 2023).

requirements and coordination with employers and intermediaries; and CTE apprenticeship agreements. This is a new and emerging model that is intended to integrate labor standards and industrywide skills and competencies into CTE programs and would support the development of a talent pipeline to meet current and future employer workforce needs. The Department is interested in comments regarding these proposed core requirements, which are described herein, including any recommendations regarding different or additional requirements and any information that can substantiate those recommendations.

29.24(a) Required coordination

Proposed § 29.24(a)(1) would establish the requirement for a Registration Agency, whether it is OA or the SAA, and the State CTE Agency to coordinate on the administration of Registered CTE apprenticeship programs in each State. The purpose of this requirement is to facilitate a flexible framework between the Registration Agency, which would have the responsibility for approving standards of registered CTE apprenticeship, and the State CTE Agency, which has the existing responsibility to oversee Perkins CTE programs within respective States and approved CTE programs. Areas of coordination include the process of program approvals, program reviews, data collection, and compliance activities established within this part. The purpose of coordinating administrative responsibilities is to ensure that both parties work cooperatively to support registered CTE apprenticeship program sponsors, such as LEAs, institutions of higher education, and their designated intermediaries, in the coordination of registered CTE apprenticeship programs while ensuring that such programs meet the requirements of this part. Most importantly, coordination is necessary to ensure the welfare of CTE apprentices, many of whom are likely to be high school and community college students who will be transitioning into a postsecondary educational program, a registered apprenticeship program under subpart A, or other employment following the completion of the registered CTE apprenticeship. Coordination to engage industry and business is integral to the success of all registered apprenticeship programs, especially a new model that would provide career readiness and exploration through paid on-the-job training for students in State-approved CTE programs. A State CTE Agency and Registration Agency are encouraged to coordinate industry engagement, provide services to business and employers, promote CTE apprenticeships, and provide technical assistance on developing program standards.

While high school youth can currently participate in registered apprenticeship programs under subpart A, this new model would provide an opportunity for secondary and postsecondary schools to engage with the National Apprenticeship System and work with education administrators, instructors, and practitioners to utilize and leverage their institutional expertise in developing and structuring CTE related instruction and paid on-the-job training. The Department understands that the State CTE Agency would have the statutory responsibility for a number of requirements under this part. If the proposed rule is adopted as drafted, it would be incumbent on States to develop the proper coordination to ensure that the welfare of CTE apprentices and administrative oversight by each party meet all existing Federal and State statutory and regulatory requirements. The Department notes that nothing in this proposed rule is intended to alter the existing authorities of the State CTE Agency for oversight of Perkins and the Registration Agency for oversight of any registered apprenticeship program. The Department is interested in comments on how Registration Agencies and State CTE Agencies should develop the necessary coordination, what elements should be included in the coordination process, and what challenges and barriers may exist that would require technical assistance or additional subregulatory guidance.

Proposed § 29.24(a)(2) would establish the requirement for the State CTE Agency and Registration Agency to enter into a written agreement for the statewide coordination and operation of registered CTE apprenticeship programs. The written agreement should describe the roles and responsibilities of each agency that has programmatic and administrative responsibilities throughout this part. The Department recognizes that States can develop various agreements, such as memoranda of understanding, interagency agreements, and other types of written agreements, that establish roles and responsibilities for the purposes of aligning State resources, administrative infrastructure, and program accountability. States should have maximum flexibility in developing such written agreements, but the requirement to have a written agreement is designed to ensure that a formal understanding about roles and responsibilities has been agreed upon. The Department is interested in comments about whether there should be additional guidance on what should be included in a written agreement. The Department is also interested in comments about existing coordination mechanisms for the establishment of written coordination agreements between a Registration Agency and State CTE Agency that might be incorporated into SAA State Apprenticeship Plan efforts described below and in subpart C to facilitate program oversight and fulfill administrative requirements, such as program review processes and data sharing agreements.

§ 29.24(b) Approval of Industry Skills Framework

Proposed § 29.24(b) would establish industry skills frameworks as a distinct requirement and component of registered CTE apprenticeship that would be required to be included in registered CTE apprenticeship program standards. An industry skills framework describes industrywide competencies and skills that are foundational to any number of career pathways within an industry or industry sector for which the framework has been developed. Industry skills frameworks would provide the basis for assessing competency and skill attainment of CTE apprentices in the on-the-job training component of a registered CTE apprenticeship. They also would be the framework whereby high-quality labor standards can be applied and integrated into the registered CTE apprenticeship model. In conjunction with CTE apprenticeship-related instruction, industry skills frameworks would enable the programmatic outcomes of placement into employment, a postsecondary educational program, or a registered apprenticeship program under subpart A.

Industry skills frameworks are similar in concept to the National Occupational Standards for Apprenticeship detailed in proposed § 29.13 but are different in that they focus on industrywide competencies, whereas National Occupational Standards focus on occupational proficiency. Industry skills frameworks are foundational industrywide skills and competencies that enable access to a career pathway and are the essential ''building blocks'' for greater occupational proficiency. Similar to National Occupational Standards for Apprenticeship, the Administrator would oversee the development of and updates to industry

skills frameworks. As part of the proposed approval process, the Administrator would ensure that such frameworks are industry validated, rigorously developed, and portable. Industry skills frameworks should be designed to incorporate foundational skills and competencies, such as employability skills or workplace competencies, that are accepted industrywide and, in combination with technical skills, are applicable to real-world workplace tasks and activities. Industry skills frameworks comprehend skills and competencies that are portable across a number of occupations within the industry. As such, registered CTE apprenticeship programs would provide an opportunity for CTE apprentices to discover occupations that would be included within any one industry skills framework.

Industry skills frameworks can be the foundational component for developing both standards of registered CTE apprenticeship and a work process schedule for greater occupational proficiency if a potential program sponsor endeavors to operate both models of registered apprenticeship under subparts A and B. Industry skills frameworks are not, however, a replacement for a work process schedule in the determination of an occupation suitable for registered apprenticeship under proposed § 29.7 in subpart A or a framework that is a substitute for National Occupational Standards for Apprenticeship under proposed § 29.13 in subpart A. The Department notes that creating a broad industry skills and competency foundation as a starting point in program development for registered CTE apprenticeship programs as opposed one that ultimately requires to proficiency in a specific occupation is one of the key departures from the registered apprenticeship model under subpart A. However, the Department envisions the industry skills framework can be complementary in helping students get skills and competencies that can be built into registered apprenticeship programs under subpart A. These proposed industry skills frameworks establish the floor for student skill development, allowing programs to build on top of this foundation to create programmatic opportunities for greater specificity as to the skills and competencies that would lead toward occupational proficiency, including opportunities for alignment to registered apprenticeship programs under subpart A where appropriate. Proposed § 29.24(b)(1) describes the criteria that must be met before the Administrator will approve an industry skills framework for use in a registered CTE apprenticeship program.

Proposed § 29.24(b)(1)(i) would establish the requirement for an industry skills framework to include a structure for the development of professional behaviors, workplace competencies, and academic competencies required by an industry. Examples of professional behaviors include but are not limited to reliability, initiative, interpersonal skills, and adaptability; academic competencies might include the ability to effectively read and write, problem-solve, and think critically; and workplace competencies might include collaboration and teamwork, oral and written communication, and customer service.

Proposed § 29.24(b)(1)(ii) would establish the requirement that industry skills frameworks are validated, widely recognized, and nationally applicable in the industry to which the framework is intended to apply. Industry skills frameworks recognize that many skills and competencies are cross-cutting, across industries and sectors, and provide a strong foundation for greater technical proficiency applied toward learning an occupation or across an occupational cluster. To the extent that industry skills frameworks align with CTE Career Clusters and the process by which State and local advisory councils address workforce needs by providing recommendations on CTE programmatic alignment, the Department is interested in comments that explore this interconnection and alignment to create greater feedback on the development of industry skills frameworks and their required use in standards of registered CTE apprenticeship.[160] The Department envisions leveraging the proposed process for establishing National Occupational Standards for Apprenticeship (see § 29.13 in subpart A of this proposal) to develop industry skills frameworks. The Department anticipates that the initial process for developing industry skills frameworks would engage a broad set of industry stakeholders.

Proposed § 29.24(b)(1)(iii) would require that the skills and competencies specified within the on-the-job training outline be obtained by a CTE apprentice through the attainment of at least 900 hours of on-the-job training over the course of the program, as explained below. The 900 hours may be spread across multiple years; however, the Department does consider a minimum requirement of on-the-job training hours to be an important requirement of the registered CTE apprenticeship model to ensure CTE apprentices are obtaining employment in the program, at a sufficient length, in order to obtain industrywide or industry-sector technical competencies.[161]

Proposed § 29.24(b)(1)(iv) would establish the requirement that an industry skills framework align with an approved CTE program so that the employment component of the registered CTE apprenticeship is providing the appropriate practical on-the-job training supported by the CTE apprenticeship-related instruction. In this connection to the National Apprenticeship System, registered CTE apprenticeship programs with approved industry skills frameworks will align with the National Career Clusters® Framework Perkins Career Clusters published by Advance CTE and associated CTE programs. The Department is interested in comments that address potential alignment and implementation to create systematic cohesion and seamless transitions for CTE apprentices to successfully participate, progress through, and complete a registered CTE apprenticeship.

Proposed § 29.24(b)(1)(v) would establish the requirement that industry skills frameworks detail the industry-validated methods for ongoing evaluations to assess an apprentice's attainment of a competency to make sure that CTE apprentices are regularly evaluated as they progress through the registered CTE apprenticeship. As explained in the preamble for subpart A's proposed § 29.16, the Department views regular evaluations of apprentices in registered apprenticeship programs as a central element of program design that verifies whether or not programs are meeting apprenticeship's foundational goal of preparing apprentices for their future careers. The Department notes

[160] The National Career Clusters® Framework serves as an organizing tool for CTE programs, curriculum design and instruction. There are 16 Career Clusters in the National Career Clusters Framework, representing 79 career pathways to help learners navigate their way to greater success in college and career. The framework also functions as a useful guide in developing programs of study bridging secondary and postsecondary systems and for creating individual student plans of study for a complete range of career options. As such, it helps learners discover their interests and their passions, and empowers them to choose the educational pathway that can lead to success in high school, college, and career. More information, including crosswalks with DOL's O*Net occupational codes can be found here: *https://careertech.org/career-clusters.*

[161] *See* DOL, ''Building Blocks Model,'' *https://www.careeronestop.org/CompetencyModel/competency-models/building-blocks-model.aspx* (last visited July 20, 2023).

that student skill demonstrations and evaluation currently exist in high-quality CTE programs. Programs must perform assessments or evaluations to verify that apprentices have learned and retained the job skills, knowledge of theoretical concepts that underpin successful performance of such skills, and professional behaviors that will make them successful in their careers.

At proposed § 29.24(b)(1)(v), the Department proposes to include regular evaluations as a required element of registered CTE apprenticeship, and as with the proposed assessment framework for registered apprenticeship in subpart A, would leave all aspects of the design of such assessments up to registered CTE apprenticeship program sponsors. The Department expects that industry stakeholders, educational and workforce development experts, and other leaders will be instrumental in developing frameworks for the evaluation of CTE apprentices in registered CTE apprenticeship programs, and that individual programs would tailor such frameworks to the specific elements and needs of their program, course of study, and CTE apprentice population.

For registered CTE apprenticeship, such evaluations will be important, but should take a different form than the more robust evaluation and end-point assessment framework proposed in this rulemaking for registered apprenticeship programs (at proposed § 29.16). In the Department's view, registered CTE apprenticeship programs would not need to confer occupational proficiency for all participants. Registered CTE apprenticeship programs may serve more secondary and postsecondary student apprentices than registered apprenticeship programs under subpart A and would benefit such apprentices by introducing them to career options and ideas, developing professional behaviors, and conferring occupational competencies that will aid them in their efforts to find and retain meaningful careers and pursue higher levels of education. The Department does not view the attainment of occupational proficiency as an appropriate baseline requirement for registered CTE apprenticeship programs, because the unique design of this model focuses more on foundational industry skills than on occupational proficiency, which the Department has determined requires more on-the-job training hours to achieve, as described in subpart A. However, the Department notes that some registered CTE apprenticeship programs and registered apprenticeship programs under subpart A should align to support student learning progression through both programs, and in doing so will blend industry skills frameworks with established occupational work process schedules or National Occupational Standards for Apprenticeship under subpart A to support student mastery of both models.

The Department invites public comments on the proposed requirement to regularly assess CTE apprentices' progress at proposed § 29.24(b)(1)(v), including the differences between the minimum requirements for evaluating apprentices across registered apprenticeship and registered CTE apprenticeship. The Department notes that there are already existing assessments being utilized by many high quality CTE programs; however, the Department is seeking comments as to whether an industry-recognized end-point assessment for registered CTE apprenticeship would strengthen the relevance of the skills and competencies attained and maximize the likelihood that students seeking to directly enter high-quality careers will be able to do so. The Department is generally interested in comments regarding ideas and approaches to strengthen the connection between registered CTE apprenticeship programs and the labor market, and specifically whether the inclusion of an end-point assessment requirement would strengthen this connection.

Proposed § 29.24(b)(2) would establish the requirement for the Administrator to solicit public feedback, including from industry in evaluating suitability of industry skills frameworks. The purpose of this proposed provision is to ensure the Administrator would be able to engage the public and industry leaders, such as industry associations, large, medium, and small employers, labor unions and, to the extent feasible, State and local CTE advisory council industry membership, to ensure that industry skills frameworks are continuously updated to reflect the changing needs of industry for which a skills framework has been developed. Such a process, along with the requirement of 30 days of public comment would ensure the opportunity for robust feedback on the applicability of standards to industry and ensure standards are of the highest quality and relevance. Additionally, to ensure transparency OA would maintain a publicly accessible link to the approved industry skills frameworks as well as any that were not approved. Lastly, this provision provides that the Administrator may also use relevant industry data or information to validate the relevance of industry skills frameworks. Such resources may include the O*NET database, industry and occupational data from BLS and other federal agencies, as well as other data and information available to ensure industry skills frameworks are aligned with the needs of their respective industries.

The Department recognizes that for a potential program sponsor looking to develop a registered CTE apprenticeship program, an industry skills framework must first be developed and approved by the Administrator. The Department also recognizes that as a new model of registered apprenticeship, implementation will require a reasonable timeframe to develop processes through subregulatory guidance, a written agreement for the coordination between a Registration Agency and State CTE Agency, registered CTE apprenticeship programs, and approved industry skills frameworks. The Department anticipates a robust process for the development of industry skills frameworks will be required to ensure that industry, across both the National Apprenticeship System stakeholder and Perkins communities, are engaged and invited to participate in such frameworks. State CTE Agencies will be important leaders in these conversations and State CTE standards may provide a foundation for some industry skills frameworks. This process will also help the Department determine in which industries such industry skills frameworks must first be developed, the number of industry skills frameworks, and their alignment and application with other frameworks. Until the frameworks are developed and approved, a registered CTE apprenticeship program sponsor will not be able to properly develop and align their on-the-job training outlines with the approved industry skills framework required in this section.

§ 29.24(c) Standards of Registered CTE Apprenticeship

Proposed § 29.24(c) would describe the minimum standards of registered CTE apprenticeship that all registered CTE apprenticeship programs must include to be registered by a Registration Agency. The establishment and implementation of robust standards of registered CTE apprenticeship is essential to ensuring that registered CTE apprenticeship programs deliver consistently high-quality education and training to registered CTE apprentices, while also ensuring that CTE apprentices are trained in a safe and accessible workplace environment where they are protected from exploitation and abuse. Standards of

registered CTE apprenticeship largely would follow the labor standards of apprenticeship under subpart A that elaborate and strengthen the current standards of apprenticeship for the conduct of registered apprenticeship programs that address key program components, such as progressively increasing wages, apprentice-to-journeyworker ratios, safety requirements, advanced standing and credit, cost transparency, and effective measures to ensure that apprentices are free from violence, intimidation, and retaliation in the workplace. These are the core requirements that help ensure that apprentices receive high-quality training in a safe, healthy environment.

Registered CTE apprenticeship program standards would differ from the standards set forth in subpart A by incorporating key concepts such as industry skills frameworks that inform the outline for the on-the-job training component, CTE apprenticeship-related instruction that utilize State-approved CTE programs for the curriculum of non-duplicative coursework, the requirement that standards include the awarding of at least 12 postsecondary credit hours leading to a recognized postsecondary credential attainment, and which may include advanced standing in registered apprenticeship programs under subpart A, and how such standards will enable CTE apprentices to enroll in postsecondary educational programs, engage in employment, or both. The Department's intention in creating the Registered CTE apprenticeship model with quality labor standards in conjunction with CTE apprenticeship-related instruction is to enable the foundation for sustained academic success within the program and beyond program completion, provide the opportunity for continuous skill and competency attainment that will enable greater proficiency in a job as students enter the labor market, and ensure the program is able to fulfill the Department's mission to safeguard the welfare of apprentices, which includes CTE apprentices. Similar to proposed § 29.8, proposed § 29.24(c) would ensure program sponsors, participating employers, registered CTE apprentices, and other interested parties understand the minimum standards of registered CTE apprenticeship and seek to provide apprentices the necessary skills and competencies for lifelong labor market success. Given the unique partnerships required at the State level and the incorporation of State-approved CTE programs embedded into the CTE apprenticeship-related instruction, the Department is not proposing a National Program Standards for Apprenticeship registration framework for registered CTE apprenticeship.[162] The Department considers local registration as defined in proposed § 29.2 as the appropriate method for registering CTE apprenticeship programs.

Proposed § 29.24(c)(1) would establish the requirement for program sponsors to include an on-the-job training outline that aligns with an approved industry skills framework in standards for registered CTE apprenticeship. The Department envisions industry skills frameworks to be the guiding framework for program sponsors to use in determining the appropriate work activities that lead to proficiency of skills and competencies that a CTE apprentice would attain in a paid, on-the-job training work experience. Industry skills frameworks would be inclusive of all the requisite skills and competencies that an industry would both recognize and find valuable for employment in a number of occupations that are predominantly found within a single industry or across an industry sector. Such on-the-job training outlines aligned to industry skills frameworks would provide measurable proficiency in the attainment of industry-recognized skills and competencies. Registration Agencies would have the discretion to determine whether a proposed on-the-job training outline submitted by a sponsor aligns with an approved industry skills framework approved by the Administrator. The Department acknowledges the need for a balance and customization of on-the-job training outlines with the goal of ensuring programs are providing competencies on the job in a way that is industry validated to ensure CTE apprentices have recognized work experience and are set up for career success in occupations throughout the respective industry.

Proposed § 29.24(c)(2) would establish the requirement for program sponsors of a registered CTE apprenticeship to include a description of the CTE apprenticeship-related instruction that must, at a minimum, include a State-approved CTE program and have a duration of at least 540 hours. The Department proposes a minimum of 540 hours of CTE apprenticeship-related instruction to earn a certificate of completion of registered CTE apprenticeship which would allow the CTE apprentice to concentrate in a postsecondary CTE program, as applicable, complete a recognized postsecondary credential and earn and receive at least 12 postsecondary credit hours towards a recognized postsecondary credential or degree, while also providing flexibility for eligible program sponsors to determine the appropriate number of hours above this requirement based on State and local CTE programs and the development of career pathway programs that connect registered CTE apprenticeship programs with additional postsecondary education opportunities.

The Department proposes a minimum of 540 hours of CTE apprenticeship-related instruction to earn a certificate of completion of registered CTE apprenticeship because 540 hours would provide a CTE apprentice the opportunity to complete foundational coursework and more advanced coursework necessary to demonstrate success in postsecondary education, pursue registered apprenticeship under subpart A, and to seek further employment.

Related to the 540 hour minimum requirement for CTE apprenticeship-related instruction, the Department is proposing that CTE apprentices must receive a minimum of 12 postsecondary credit hours as part of their program. The Department intends for the use of the term ''credit hour'' to align with the definition under the Higher Education Act of 1965 and its implementing regulations, as amended.[163] The Department notes that each postsecondary credit hour translates to approximately 30 clock hours.[164] Generally, 12 postsecondary credit hours should comprise approximately 360 clock hours of the required 540 hour minimum for CTE apprenticeship-related instruction. However, the Department notes that postsecondary credit hours may also be acquired as part of the on-the-job training component of the program, that when combined with credit hours earned during the CTE apprenticeship-related

[162] As previously stated, these proposed regulations would govern the proposed DOL CTE apprenticeship program; they would not govern ED or the Perkins program. In particular, the Perkins statute safeguards local control over instructional content, academic standards and assessments, curricula, and programs of instruction. 20 U.S.C. 2306a(a). These regulations would only impact and control DOL CTE apprenticeship programs and would not create any rules governing the operation of Perkins programs. Nothing in this proposed regulation would mandate, direct, or control a State's, local educational agency's, eligible Perkins recipient's, or school's specific instructional content, academic standards and assessments, curricula, or program of instruction.

[163] *https://www.ecfr.gov/current/title-34/part-600#p-600.2(Credit%20hour).*

[164] *https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-05-25/implementation-updated-clock-credit-conversion-regulations-ea-id-general-21-34.*

instruction should equal not less than 12 postsecondary credit hours.

The Department notes that the remaining CTE apprenticeship-related instruction hours may be acquired through additional postsecondary credit hours, secondary education, or through other industry or employer designed related instruction, as applicable. This proposal is designed to provide sponsors flexibility of how to attain the 540 hours, in addition to the 12 postsecondary credit hour requirement.

The postsecondary credit hour requirement is proposed so that the CTE apprenticeship-related instruction includes industrywide skills and competencies and the acquisition of college credit to ensure that CTE apprentices make significant progress toward a postsecondary credential or degree such as an associate's degree and/or bachelor's degree. Evidence shows clear economic gains for individuals as they attain higher levels of education after high school, such as the acquisition of postsecondary credit and credentials. According to the Department's Bureau of Labor Statistics (BLS), earnings increase and unemployment decreases among individuals who have attained postsecondary education and credentials when compared to individuals who have only completed high school.[165] In addition, the Department believes the requirement for 12 postsecondary credit hours that can be applied towards a recognized postsecondary credential or degree will incentivize the greater utilization of college programs while students are in high school, which evidence suggests leads to improved student outcomes. These benefits include higher student performance on state assessments, higher high school graduation rates, increased enrollment and completion of postsecondary programs, and increased lifetime earnings for students.[166] Finally, the model of adopting college, including postsecondary credit hours, in high schools has been shown to increase access and opportunity to college and postsecondary education for low-income students, underserved populations, and first-generation college students.[167] The Department believes the evidence associated with postsecondary educational attainment is a critical component and benefit to students in the design of registered CTE apprenticeship programs.

The Department is proposing a 12 postsecondary credit hour standard because the Department believes that this level of credit has multiple benefits for CTE apprentices, while balancing the ability to design programs under this proposed approach. This includes helping CTE apprentices who are in secondary school to complete high school and transition into higher levels of education and employment, as evidenced by the benefits of dual enrollment, as well as serving adults who may be career changers, and subsequently providing these apprentices with a head start to pursue additional postsecondary education. Evidence suggests that the benefits of dual enrollment increase for secondary students with every postsecondary credit earned, particularly that benefits and educational attainment increase for those students with 12 or more credits than those with less than 12 credits.[168] [169] Therefore, the Department is proposing this approach to ensure the benefits of this evidence is incorporated into the program design of registered CTE apprenticeship. CTE apprentices under this approach will be in a strong position to build their careers with continued employment, including through registered apprenticeship programs under subpart A, continue their postsecondary education towards a postsecondary credential and degree, or both.

The Department is seeking comments on its proposal to require that all registered CTE apprentices earn 12 postsecondary credit hours as part of their participation in a registered CTE program, and is interested in comments that identify: (1) how this proposal supports the broader goal of the program to increase the labor market connectivity for CTE apprentices; (2) the benefits for CTE apprentices of this approach or an alternative standard of postsecondary credit hours should be considered; and (3) the feasibility for secondary school sponsors of registered CTE apprenticeship programs to design programs that include these requirements. Additionally, the Department is interested in comments regarding the impact of the 12 postsecondary credit hour requirement across all industries that would utilize registered CTE apprenticeship and registered apprenticeship programs under subpart A or if other factors should be considered on an industry basis.

The Department is particularly interested in comments about how it can a support the growth of secondary educational models that imbed postsecondary credit hours into the program design. The Department is also interested in comments regarding the attainment of a minimum of 12 postsecondary credit hours, including that it leads to a postsecondary credential or degree, evidenced by a postsecondary institution's official transcript(s) for a CTE apprentice, and any other factors that can increase access to the labor market and higher education opportunities for CTE apprentices. Finally, we recognize that many registered CTE sponsors will not be credit awarding institutions, particularly local education agencies. The Department is seeking comment on whether it will be feasible for sponsors to enter into partnerships with institutions of higher education or to make other arrangements for the awarding of the requisite credit hours, and whether the Department should include an affirmative partnership requirement between postsecondary institutions and local education agencies if they seek to sponsor a registered CTE apprenticeship program.

In considering whether to establish a floor for the number of hours required in CTE apprenticeship-related instruction, the Department evaluated a number of factors, such as application of standard credit-bearing unit, State flexibility for establishing credit hours, and Perkins performance accountability. Initially, the Department regarded the Carnegie unit as a universal unit of measurement in credit-bearing hours for a student's ability to successfully complete the necessary credits for attaining a recognized secondary or postsecondary degree.[170] While the Carnegie unit is a standardized unit of measurement, under Perkins, States have flexibility in how they define courses and assign credits to courses. States that use Carnegie or other units

[165] *https://www.bls.gov/emp/chart-unemployment-earnings-education.htm.*

[166] *https://www.air.org/project/evaluating-impact-early-college-high-schools.*

[167] Six Years and Counting: The ECHSI Matures (*air.org*).

[168] Taylor, J.L., Allen, T.O., An, B.P., Denecker, C., Edmunds, J.A., Fink, J., Giani, M.S., Hodara, M., Hu, X., Tobolowsky, B.F., & Chen, W. (2022), Research priorities for advancing equitable dual enrollment policy and practice. Salt Lake City, UT: University of Utah. Retrieved from: *https://cherp.utah.edu/_resources/documents/publications/research_priorities_for_advancing_equitable_dual_enrollment_policy_and_practice.pdf.*

[169] Radunzel, J., Noble, J., & Wheeler, S. (2014). Dual-credit/dual-enrollment coursework and long-term college success in Texas. ACT. *https://www.act.org/content/dam/act/unsecured/documents/DualCreditTexasReport.pdf.*

[170] Carnegie Foundation for the Advancement of Teaching, ''What is the Carnegie Unit?,'' *https://www.carnegiefoundation.org/faqs/carnegie-unit* (last visited July 20, 2023).

may translate those units into hours of instruction.

Perkins-eligible recipients typically calculates contact hours for State accountability purposes. As an example calculation, a P–12 school year is typically 180 days, and if a student attends school every day and has 6 CTE contact hours during a school day, that student would accumulate 540 hours of contact hours. In this example, 540 hours supports the establishment of the required number of hours in CTE apprenticeship-related instruction, provided that these hours include the required postsecondary coursework. Postsecondary Perkins recipients may also choose to calculate instruction time using clock hour and credit hour requirements. In this example, 540 clock hours would equate to 18 credit hours using the guidance provided by Federal Student Aid.[171]

In establishing a floor of 540 hours, the Department is allowing flexibility to accommodate variability in how eligible program sponsors define hours and how they are applied to meet the requirement for the CTE apprenticeship-related instruction component. The inclusion of at least 12 postsecondary credit hours within the 540 hours of CTE apprenticeship-related instruction is designed to ensure that there are strong linkages between secondary and postsecondary programs, and opportunities for students to achieve the desired outcomes of the program. The Department anticipates that there will be a range of applicable credit hours that are counted toward a CTE apprentice's participation in a program as a requirement of a CTE apprenticeship-related instruction component included in the standards. A program sponsor would need to determine the required length of time a student may be enrolled in a corresponding program and as part of the overall CTE apprenticeship-related instruction. The Department recognizes that the requirement for 540 hours for CTE apprenticeship-related instruction may solely occur while students are in high school, may solely occur while students are enrolled in postsecondary education, and may also span students' high school experience and into postsecondary education. To the extent that States have CTE programs that include dual or concurrent enrollment agreements or articulation agreements that facilitate the extension of programs that have similar characteristics to registered CTE apprenticeship programs, the Department is interested in commenters' examples of such programs and the necessary coordination amongst CTE stakeholders to achieve the 540 hours of CTE apprenticeship-related instruction and the inclusion of at least 12 postsecondary credit hours that will be necessary to enable and expand these types of educational pathways. The Department is also interested in comments about the established floor for CTE apprenticeship-related instruction and whether it should be lower or higher to best accommodate the proposed model while providing educational attainment pathways for enrolled students.

This proposal also includes a provision found in subpart A regarding whether apprentices, or CTE apprentices in this instance, would be provided wages and fringe benefits during their participation in CTE apprenticeship-related instruction. The Department acknowledges that under the registered CTE apprenticeship model, where the CTE program is the primary form of CTE apprenticeship-related instruction, sponsors and employers may be less likely to provide support wages for the hours in which the CTE apprentices are participating in their CTE program. However, the Department encourages, where possible, registered CTE apprenticeship models in which employers elect to provide wages or fringe benefits during CTE apprenticeship-related instruction. This may also be relevant where employer-specific training is added to the CTE program as part of the total amount of CTE apprenticeship-related instruction.

Proposed § 29.24(c)(3) would establish the requirement that program sponsors of a registered CTE apprenticeship include a description of any recognized postsecondary credentials that would be awarded to a CTE apprentice as a programmatic outcome either during or at the completion of registered CTE apprenticeship. Program sponsors also would be required to include, as applicable, any associate or baccalaureate degree associated with the program and the amount of postsecondary credit hours that students will earn as a result of the registered CTE apprenticeship. Program sponsors must also include the name of any credential or certificate awarding entity, typically an accredited education institution, as part of the description. The Department has proposed a similar requirement in subpart A, requiring the disclosure of credentials provided by the program; however, the requirement to disclose the number of postsecondary credit hours is a proposed requirement for registered CTE apprenticeship. The Department has determined this information is valuable for Registration Agencies to have as part of its desire to build high-quality registered apprenticeship programs in both models.

Proposed § 29.24(c)(4) would establish the requirement that program sponsors of a registered CTE apprenticeship include a description of how the program will result in CTE apprentices' selection into an apprenticeship program registered under subpart A, enrollment in a postsecondary educational program, employment, or some combination thereof. The Department considers a program that accomplishes any one of these three outcomes as key to measuring the success of the registered CTE apprenticeship model, and believes it is important for sponsors to have considered these outcomes and for apprentices to have visibility into the potential outcome of their participation. Registered CTE apprenticeship programs should establish a documented relationship with a registered apprenticeship program established under proposed subpart A, especially in sectors where such programs are well-established, and with an institution of higher education, to maximize educational and employment opportunities for CTE apprentices.

As previously discussed, an industry skills framework is utilized in developing the on-the-job outline that is a core component of a registered CTE apprenticeship. Such outlines must have a minimum duration of 900 hours of paid on-the-job training and lead to proficiency in the skills and competencies described in the industry skills framework. Proposed § 29.24(c)(5) would establish the requirement that program sponsors of a registered CTE apprenticeship include a description of the employment in which CTE apprentices will be employed in on-the-job training with criteria included in the on-the-job training outline. The Department is proposing this requirement because registered apprenticeship programs under subpart A are responsible for training in a specific occupation and, therefore, the specific type of employment is known in that model, under the registered CTE apprenticeship model, the Department is approving broader industry skills frameworks that could lead to attainment of foundational skills in multiple occupations within an industry. The Department considers the

[171] *See* Federal Student Aid, ''Implementation of updated clock-to-credit conversion regulations,'' May 25, 2021 *https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-05-25/implementation-updated-clock-credit-conversion-regulations-ea-id-general-21-34.*

requirement critical to ensuring the employment associated with the registered CTE apprenticeship is relevant to the industry skills framework. By including this description, a Registration Agency can better ascertain that the skills identified in the framework are being achieved by the CTE apprentice through employed on-the-job training.

The Department is basing the 900 hours requirement on certain State youth apprenticeship models that require a minimum of 450 hours of on-the-job training per year.[172] The Department has also reviewed several State requirements of State youth apprenticeship models and how States and localities have incorporated CTE into such models, as well as the incorporation of CTE into pre-apprenticeship and registered apprenticeship.[173] [174] Such practices are the basis for establishing the requirement of 900 hours of on-the-job training. For example, the State of Wisconsin has established that a youth apprenticeship consists, at minimum, of 1 year of employment of at least 450 hours and related instruction of at least two semester-long courses.[175] In addition to completing 1 year of a youth apprenticeship, high school juniors or seniors may choose to also complete 2 years of employment of at least 900 hours and related instruction of at least four semester-long courses, which can be completed during the junior or senior year of high school (including over the summer or during breaks between semesters). Similarly, the State of Maryland offers youth apprenticeship opportunities for students typically in their junior and senior year of high school and requires students in such programs work a minimum of 450 hours with an employer approved by the Maryland Division of Workforce Development and Adult Learning while receiving concurrent related educational instruction that has been approved by their local school system.[176] The Department is basing its approach off of these models' 1-year youth apprenticeship standard, which balances a student's education and work-life, and applying it to a model that requires the equivalent of a 2 year duration. This would help to ensure the programmatic goal of bridging secondary and postsecondary education with quality labor standards. Rather than impose a yearly requirement, the hourly requirement provides flexibility for multiple models of when the employment may take place, including during the school year or semester and over the summer or during breaks between semesters. The Department welcomes comments both on establishing a floor of paid on-the-job training hours for registered CTE apprenticeship, as well as any recommendations on the number of hours needed for that floor. The Department is interested in comments about whether this proposed floor limits program development. To the extent that potential program sponsors are interested in pursuing this new model, the Department is interested in comments addressing whether existing program design and outcomes provide evidence that the number of 900 hours should be lessened. The Department is also interested in comments addressing whether the 900-hour floor is sufficient to train apprentices on core industry competencies in a work setting or if a higher number should be considered.

Proposed § 29.24(c)(6) largely follows proposed § 29.8(a)(17) and would require the written standards to include wages that the CTE apprentice will receive during the registered CTE apprenticeship program. The current regulation at 29 CFR 29.5(b)(5) stipulates the payment of a progressively increasing schedule of wages to be paid to the apprentice with the skill required. It further provides that the entry wage may not be less than the Fair Labor Standards Act minimum wage, where applicable, unless a higher wage is required by other applicable Federal, State, or local law, or respective regulations, or by collective bargaining agreement.

The Department also proposes to retain the requirement of a minimum wage floor at the outset of the apprenticeship and a graduated schedule of progressively increasing wages for apprentices during the remainder of the apprenticeship term. However, similar to proposed § 29.8(a)(17), proposed § 29.24(c)(6) would stipulate that the graduated schedule of wages paid to a CTE apprentice would increase over the balance of the apprenticeship term to reflect the apprentice's progressive acquisition of industry skills and competencies.

The Department invites comments on these provisions to bolster the registered CTE apprenticeship progressive wage requirements. The Department is interested in comments regarding the feasibility of this approach across industries, and whether this requirement effectively balances the goal of providing continuous progressive wages with competency attainment against industry needs for flexibility regarding wage increases.

In addition to these proposed wage progression revisions, the Department reminds sponsors that, consistent with the requirements of 29 CFR part 30, the wages paid by a sponsor or a participating employer to a CTE apprentice must not discriminate against such persons on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, age (40 or older), genetic information, or disability. In addition, the Department reminds both registered CTE apprenticeship program sponsors and participating employers that CTE apprentices who meet the definition of an employee under either the Internal Revenue Code or the Fair Labor Standards Act—which they will in virtually every instance—must not be misclassified by such sponsors or employers as independent contractors.

Proposed § 29.24(c)(7) would follow proposed § 29.8(a)(19) in subpart A, regarding the ratio of apprentices to journeyworkers, and would apply ratio requirements for registered CTE apprenticeship in this part. The intended purpose of this ratio requirement is to further the Department's goal of ensuring the safety and welfare of CTE apprentices while engaged in on-the-job training. Proposed § 29.24(c)(7)(i) would specify that the sponsor's ratio must be approved by a Registration Agency, consistent with the proper safety, health, supervision, and training of the CTE apprentice. This requirement would center apprentice safety and welfare as the main considerations in the establishment of the specific numeric ratio for a registered CTE apprenticeship program. To ensure that the ratio is consistent

[172] Wisconsin Department of Public Instruction, ''Career-Based Learning Experience: State-Certified Youth Apprenticeship,'' Aug. 2022, *https://dpi.wi.gov/sites/default/files/imce/acp/pdf/2022_08_State-Certified_Youth_Apprenticeship_handout.pdf.*

[173] An explanation of youth apprenticeship utilizing registered apprenticeship can be found at *https://www.jff.org/what-we-do/impact-stories/center-for-apprenticeship-and-work-based-learning/youth-apprenticeship. See also* Joseph B. Fuller et al., The Project on Workforce, Harvard University, ''The Options Multiplier: Decoding the CareerWise Youth Apprenticeship Journey,'' Nov.14, 2022, *https://www.hbs.edu/faculty/Pages/item.aspx?num=63353.*

[174] ED, ''Opportunities for Connecting Secondary Career and Technical Education (CTE) Students and Apprenticeship Programs,'' June 2017, *https://careertech.org/resource/connecting-secondary-cte-and-apprenticeships.*

[175] Wisconsin Department of Workforce Development, ''Youth Apprenticeship,'' *https://dwd.wisconsin.gov/apprenticeship/ya* (last visited July 20, 2023).

[176] Maryland Department of Labor, ''Policy Issuance 2022–12: Youth Apprenticeship,'' Dec. 19, 2022, *https://www.labor.maryland.gov/employment/mpi/mpi12-22.pdf.*

with the proper safety, health, supervision, and training of the registered CTE apprentice, program sponsors and the reviewing Registration Agency should consider factors that could endanger the welfare of an apprentice who is participating in their program such as risk of exposure to hazardous working conditions and risk of serious bodily injury or death while on the job.

In practice, a ratio of one apprentice to one journeyworker has been the norm for programs under subpart A; however, registered CTE apprenticeship may require greater scrutiny for ratios because there is a greater likelihood that high-school-aged CTE apprentices may participate in settings where they will need more supervision to ensure proper training and safety.

While apprentice safety is the focus of the proposed requirement, there would also be flexibility provided to sponsors in setting the specific numeric ratio. Proposed § 29.8(c)(7)(ii) would specify that sponsors must use a ratio that is consistent with the provisions of any applicable collective bargaining agreements, as well as any applicable Federal and State laws governing ratios of apprentices to journeyworkers, and specific and clearly described as to its application to a particular workforce, workplace, job site, department, or plant. The Department recognizes that a one-size-fits-all approach is not feasible with respect to ratios. Instead, the Department is cognizant that ratios may be different depending upon the specific industry or on-the-job training opportunity in which the registered CTE apprenticeship program is taking place. The Department also recognizes that a specific numeric ratio of an apprenticeship program may be set in an applicable collective bargaining agreement or by applicable Federal and State laws. As described in subpart A at proposed § 29.8, the current practice has been to approve a 1:1 ratio, with some deviations based on safety and other considerations of specific industries. The Department anticipates a similar ratio for registered CTE apprenticeship. Ultimately, each program must have a ratio specific to that program that is designed to protect the safety of its CTE apprentices consistent with the considerations described and discussed above. The Department is seeking comments on these longstanding criteria, particularly to ensure how the ratios are applied in both emerging and traditional industries that provide CTE apprentices with foundational skills and competencies and work experiences. The Department is also interested in comments about setting ratios where there is a blended on-the-job training component with a registered apprenticeship under subpart A. Finally, the Department seeks comments on whether it should require a different CTE apprentice-to-journeyworker ratio because of the nature of this model being designed for students and their related employment.

Proposed § 29.24(c)(8) would establish the requirement for a probationary period that program sponsors of a registered CTE apprenticeship must include in program standards. The probationary period for registered CTE apprenticeship programs may not exceed 30 days. Proposed § 29.24(c)(8) differs from proposed § 29.8(a)(12) by creating a shorter probationary timeframe for registered CTE apprenticeship. The 30-day probation period aligns with customary practices Perkins-eligible recipients and institutions utilize to allow students to change courses at the outset of a semester. For example, a CTE apprentice may choose to change their course schedule or enroll in another program or other coursework unrelated to the registered CTE apprenticeship for which they were admitted. The probationary period is also shortened to recognize that registered CTE apprenticeship programs' on-the-job training hours are shorter in length than those of registered apprenticeship programs under subpart A. The Department is interested in comments about whether the probationary period length is appropriate for CTE students' participation in and program sponsors' operation of CTE programs and registered CTE apprenticeship programs.

Proposed § 29.24(c)(9) follows proposed § 29.8(a)(15) and would require that the standards of registered CTE apprenticeship include an attestation that the program sponsor will provide adequate, safe, and accessible facilities for the training and supervision of apprentices. The attestation must include that the program sponsor will provide accessible facilities (including for individuals with disabilities), aligning with the Department's broader goal that registered CTE apprenticeship programs registered under this part are career pathways available to everyone. The Department adds that the attestation would also require that the facilities be compliant with all applicable Federal, State, and local laws, including, but not limited to, disability, occupational safety, and occupational health laws.

Proposed § 29.24(c)(10) follows proposed § 29.8(a)(16) and would require that the standards of registered CTE apprenticeship include an attestation that the program sponsor will provide adequate, industry-recognized safety training for apprentices in both the on-the-job training and CTE apprenticeship-related instruction components of the registered CTE apprenticeship program. Proposed § 29.24(c)(10) would require that safety training provided to CTE apprentices be tailored to mitigate the potential workplace hazards that may be encountered in the covered industry skills framework on-the-job training outline. This proposed requirement would help ensure the safety of apprentices participating in registered CTE apprenticeship programs.

Proposed § 29.24(c)(11) would establish the requirement that program sponsors of a registered CTE apprenticeship include in their standards the minimum qualifications, if any, required by a sponsor and its participating employers for persons entering the CTE apprenticeship program. The purpose of this provision is to ensure that program eligibility and subsequent opportunities for CTE apprentices to participate in the paid on-the-job component of their registered CTE apprenticeship program have inclusive, achievable, and standardized minimum qualifications to ensure fair and equitable opportunities for all students looking to access and enter a registered CTE apprenticeship. This provision would also acknowledge that program sponsors and employers have minimum qualifications for entry, such as a student's responsibility to have completed requisite coursework, and have an appropriate attendance history. The Department requests comment on whether program sponsors and employers should be permitted to establish a certain minimum grade point average for CTE apprentices to obtain entry into, or maintain enrollment in, a registered CTE apprenticeship program.

Proposed § 29.24(c)(12) would follow existing requirements under the current regulations at 29 CFR part 29 and proposed § 29.8(a)(2) under subpart A and would apply to this part. Proposed § 29.24(c)(12) would require program sponsors of registered CTE apprenticeship programs to include a provision in their program standards that describes the program's method for the selection of apprentices. The current regulations specify that program standards for all registered apprenticeship programs must fully comply with the EEO in Apprenticeship regulations at 29 CFR part 30, and current 29 CFR 29.5(b)(21)—which forms the basis for the language proposed at § 29.8(a)(2) in subpart A

and in this part in this NPRM—specifies that selection procedures must conform to the regulations governing the selection of apprentices at current 29 CFR 30.10. The current regulatory text covers selection procedures within a provision that includes other requirements for program sponsors that have EEO elements and corresponding part 30 requirements. The Department has determined that the regulated community would benefit from the clarity that would arise from separating these elements out into distinct provisions. Accordingly, the Department proposes to include a provision covering selection procedures for registered CTE apprenticeship programs, similar to proposed 29 CFR 29.8(a)(2). Such selection procedures must conform to the corresponding requirements at 29 CFR 30.10.

The EEO in Apprenticeship regulations at 29 CFR 30.10 reiterate the part 29 requirement that sponsors must submit selection procedures in the written plan for their program standards, which are submitted to and approved by the Registration Agency. The regulations at 29 CFR 30.10 stipulate that sponsors may use any method or combination of methods for the selection of apprentices, as long as the selection method(s) comply with the Uniform Guidelines on Employee Selection Procedures found at 41 CFR part 60–3, which require an evaluation of the selection procedures' impact on race, sex, and ethnic groups, as well as a demonstration of the business necessity for procedures that result in an adverse impact across any of these demographic groups. The regulations at 29 CFR 30.10 also stipulate that selection procedures be applied uniformly and consistently across all applicants and apprentices, and that the selection procedures must comply with title I of the ADA and the implementing regulations at 29 CFR part 1630. Finally, the regulations at 29 CFR 30.10 clarify that selection procedures must be facially neutral with respect to race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, and disability. Per the ruling from *Washington* v. *Davis,* 426 U.S. 229 (1976), a decision (or selection procedures, in the case of the apprenticeship regulations at parts 29 and 30) appears facially neutral if it neither creates a ''suspect classification'' nor infringes on a ''fundamental right.'' [177] As stated in subpart A, these regulatory requirements would be unchanged by this NPRM. However, for this subpart all potential program sponsors seeking approval of a registered CTE apprenticeship must be in compliance with the selection procedures regulations at parts 29 and 30, and the Department stands ready to provide subregulatory guidance on these requirements or any other requirements related to the development, submission, and approval of program standards.

Proposed § 29.24(c)(13) would require program sponsors to provide a list of any supportive services that may be available to the CTE apprentice, including childcare, transportation, equipment, tools, or any other supportive service provided by the sponsor or a partnering organization. This proposal would provide an opportunity for the CTE apprentice to be aware of any supports they may have access to or receive during their participation in the program. Such supports may be arranged through partner organizations or in coordination with the workforce development system.

Proposed § 29.24(c)(14) would largely follow proposed § 29.8(a)(20), which would change an existing requirement concerning the granting of advanced standing, credit, and an increased wage to an apprentice and confers this recognition to CTE apprentices. The proposed provision would require that the program sponsors' standards of registered CTE apprenticeship programs not only grant advanced standing, credit, and an increased wage to a CTE apprentice when appropriate, but explicitly instruct sponsors to include a process by which they will reduce the usual term of on-the-job training or CTE apprenticeship-related instruction. This change would recognize that the reduction of the usual term of on-the-job training or related instruction may be appropriate in two scenarios: (1) where a CTE apprentice comes to a program with prior qualifications that warrant the reduction of the usual term of on-the-job training or related instruction, such as previous enrollment in a program that aligns with the program in CTE apprenticeship-related instruction in a registered CTE apprenticeship program; and (2) where an apprentice demonstrates expedited progress while in a registered CTE apprenticeship program that warrants the reduction of the usual term of on-the-job training or related instruction, such as the attainment of postsecondary credit that may be counted for matriculation purposes.

Further, proposed § 29.24(c)(14) would create two requirements for the process by which sponsors must abide. Proposed § 29.24(c)(14)(i) would require that the established process be fair, transparent, and objective in identifying, assessing, and documenting a registered CTE apprentice's prior learning or experience as well as any accelerated progress made by a CTE apprentice. Proposed § 29.24(c)(14)(ii) would require that the process must result in advanced standing, credit, and an increased wage that is commensurate with any progression granted because of the registered CTE apprentice's prior qualifications or accelerated progress. The Department notes that this feature of accelerating CTE apprentices was a feature of the competency-based model of registered apprenticeship under the current rule, which the Department is proposing to remove as a separate model. The Department recognizes that the utilization of industry skills frameworks for the attainment of industrywide skills and competencies resembles the competency model in some regards but is differentiated by the successful attainment of industrywide skills and competencies and not proficiency in any one occupation suitable for registered apprenticeship. The Department's proposal seeks to embed the benefits of competency attainment from this model with minimum employment duration requirements for on-the-job training. This proposal would allow sponsors the flexibility to advance apprentices, and for CTE apprentices to receive commensurate advancement in wages, based on their prior experience. This proposal would help to ensure sponsors continue to have some of the key flexibility components of the competency-based approach that are well-suited for registered CTE apprentices, with key quality enhancements enabling the Registration Agency, in coordination with a State CTE Agency, to review to ensure CTE apprentices are progressed fairly, and such processes are equitable, objective, and align with educational requirements embedded within a program.

The Department's proposed method of requiring a minimum amount of on-the-job training hours while allowing advanced standing based on existing competency is similar to the current ''hybrid'' model of registered apprenticeship and would provide the right balance of training participants to an industry standard and duration, while recognizing the unique skill and competency progressions of CTE

[177] Thomas B. Henson, ''Proving Discriminatory Intent From a Facially Neutral Decision With A Disproportionate Impact,'' 36 Wash & Lee L. Rev. 109, 1979, *https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?article=2745&context=wlulr.*

apprentices. This provision would also ensure that a CTE apprentice does not have an abbreviated on-the-job training experience in the program if circumstances do not warrant it, so that a program is not graduating apprentices from their program before they have completed their training and demonstrate the requisite proficiency. CTE apprentices may need to complete on-the-job training even when an academic school year has ended. The Department is interested in comments about the applicability of such mechanisms for recognition, such as prior learning in a program or transferable credit through dual or concurrent enrollment, in this new model and welcomes comments about other mechanisms that would enable CTE apprentices the opportunity for advanced standing, credit, and increased wages.

Proposed § 29.24(c)(15) would create a requirement that the standards of registered CTE apprenticeship include an attestation to document in writing that the qualifications and experience of the trainers and instructors providing the on-the-job training and CTE apprenticeship-related instruction to CTE apprentices satisfy the requirements in proposed § 29.12 of subpart A. The requirement in this section would be an acknowledgment in the standards that the requirements of proposed § 29.12 are being met. The Department believes it is important that the standards of registered CTE apprenticeship include this requirement so that the Registration Agency can ensure that trainers are qualified and so that apprentices know that they are being trained by qualified individuals.

Proposed § 29.24(c)(16) would require that registered CTE apprenticeship program sponsors identify the Registration Agency and State CTE Agency for which the program is being registered. The purpose of this proposed provision is to ensure that both coordinating entities are accurately identified and that such information is available to the CTE apprentices and their parents or guardian, if applicable, as well as the Registration Agency for conducting program reviews and coordinating with a State CTE Agency as applicable in the written agreement.

Proposed § 29.24(c)(17) would address a program's adherence to EEO Requirements and would stipulate that the standards of registered CTE apprenticeship must include the equal opportunity pledge as required in § 30.3(c), as well as a statement that the program must be conducted, operated, and administered in conformity with all applicable provisions of 29 CFR part 30.

Proposed § 29.24(c)(18) would require program sponsors of a registered CTE apprenticeship to include in standards the contact information of the appropriate party to address complaints within the program. In addition to filing complaints with the program, CTE apprentices may make complaints to a Registration Agency consistent with paragraph (g) of this section, and information on how to do so must be included in the apprentice agreement as required by paragraph (e) of this section.

§ 29.24(d) Registered CTE Apprenticeship Program Sponsors

Proposed § 29.24(d) would describe the entities eligible to be a sponsor of a registered CTE apprenticeship program, the process for which a sponsor registers a registered CTE apprenticeship program, additional responsibilities for intermediaries designated to be program sponsors, and the requirement for program sponsors to enter into an adoption agreement.

§ 29.24(d)(1) Eligible Registered CTE Apprenticeship Program Sponsors

Proposed § 29.24(d)(1) would establish the types of organizations and entities that may be eligible for registration by a Registration Agency to serve as a sponsor of a registered CTE apprenticeship program. For the registered CTE apprenticeship model, the Department envisions LEAs, institutions of higher education, State CTE Agencies, or another State government agency that shares responsibility for CTE in the State, as the primary organizations and entities that may serve as a program sponsor. Such Perkins-eligible recipients and agencies are embedded within the existing infrastructure of Perkins and are well-positioned to perform many of the programmatic and administrative requirements that program sponsors must perform under this part. The proposed eligible registered CTE apprenticeship program sponsor organizations and entities have institutional experience and acumen working with and supporting students who are enrolled in CTE programs. Consistent with statutory Perkins requirements as administered by ED, Perkins-eligible recipients and agencies that provide administrative and programmatic oversight would be required to ensure that rigorous academic standards are developed, implemented, successfully met, and continuously refined to provide CTE students with educational outcomes that prepare them for career pathways in high-demand industries that offer good jobs. In addition, administrators and CTE faculty would be equipped with certified training to perform the requisite administration and execution of recognized programs that registered CTE apprenticeship has included as an integral component for CTE apprenticeship-related instruction. To the extent that any of the aforementioned organizations and entities chose to designate as a program sponsor an intermediary, they may do so by entering into an agreement.

Proposed § 29.24(d)(1)(iv) would allow a State CTE Agency, State Educational Agency, LEA, or institution of higher education to designate an intermediary to act as a program sponsor. To serve as a sponsor, intermediaries should have expertise in organizing and coordinating registered CTE apprenticeship programs or registered apprenticeship programs under subpart A. The following organizations and entities are examples of entities that may qualify to be designated as an intermediary: the local affiliate of a labor organization, such as a joint apprenticeship and training committee; an employer; the local affiliate of a trade or industry organization; a local workforce development board as established under WIOA; an institution of higher education (including community or technical colleges, 4-year degree granting institutions, Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority Serving Institutions); an LEA; and any other public, private, or not-for-profit entity that has experience coordinating Perkins funding. This broad list of examples shows the potential models that may be developed in coordination and partnership at the State or local level. In practice, a number of potential program sponsors that would be eligible under this part operate consortia and designate responsibility to LEAs, institutions of higher education, or non-profit organizations that specialize in the administration and operation of education programs. The Department understands that States and local education systems may need flexibility in designing registered CTE apprenticeship programs to accommodate nuances in the development and articulation. The Department is most interested in comments about both the feasibility and capacity of the proposed eligible organizations and entities and the types of intermediaries that may be designated through an agreement to develop registered CTE apprenticeship programs within existing CTE programs.

§ 29.24(d)(2) Sponsor Program Registration

Proposed § 29.24(d)(2) would contain the requirements for a program sponsor to submit an application for registration of a new registered CTE apprenticeship program. The Department anticipates electronic submission of applications, which would lead to increased timely technical assistance. The Department has successfully launched a web-based platform called Standards Builder, which has also been leveraged by SAAs and could be utilized for the registration of registered CTE apprenticeship programs. While there is no requirement that standards must be submitted electronically in the current rule for registered apprenticeship programs, the Department anticipates that requiring submissions electronically would result in better customer service, enable technical assistance to be provided electronically and timely, and could yield more responsive approvals of programs that meet the requirements of this part and part 30. The Department anticipates continuing to expand and refine its development of web-based tools to assist in the registration process, and requiring electronic submissions would allow OA to focus its efforts more on providing sponsors technical assistance than on reviewing and providing feedback through nonelectronic means.

Proposed § 29.24(d)(2)(i) through (v) would require a prospective program sponsor to submit: (1) an on-the-job training outline that aligns with an associated industry skills framework, set forth in proposed § 29.24(b); (2) a registered CTE apprenticeship-related instruction outline, set forth in proposed § 29.24(c)(2); (3) standards of registered CTE apprenticeship for the proposed program, set forth in proposed § 29.24(c); and (4) the CTE apprenticeship agreement for the registered CTE apprenticeship, set forth in proposed § 29.24(e). These requirements would capture the core elements of a registered CTE apprenticeship program and ensure that program sponsors have addressed such core elements in the submission process to register a program.

Proposed § 29.24(d)(2)(v)(A) through (G) would require a registered CTE apprenticeship program sponsor to include a written plan with seven components. Proposed § 29.24(d)(2)(v)(A) would require a description of how the program will ensure the students who are selected to participate in the registered CTE apprenticeship program reflect a diverse and inclusive cross-section of the current student body enrollment of the participating secondary or postsecondary school(s), consistent with the requirements of 29 CFR part 30. The purpose of this component of the written plan is for the program sponsor to demonstrate to the Registration Agency that the program sponsor is providing equitable opportunities for all students within the educational institution. Proposed § 29.24(d)(2)(v)(B) would require a description of how the approved industry skills framework aligns with the existing CTE program. The purpose of this component of the written plan is to ensure that there is alignment between the industrywide skills and competencies detailed within an Administrator-approved industry skills framework with a State-approved CTE program. Standards of registered CTE apprenticeship would not impact, direct, or control Perkins CTE programs, as such are completely within local control as established in 20 U.S.C. 2306a. Proposed § 29.24(d)(2)(v)(C) would require a description of recognized postsecondary credentials the program may provide, including how the program confers such credentials, and its usefulness for apprentices' entry into employment, a registered apprenticeship program under subpart A, a postsecondary educational program, or some combination thereof. The purpose of this component of the written plan is to demonstrate the likelihood that the registered CTE apprenticeship would provide corresponding educational credentials and provide a pathway for a CTE apprentice to enter into any one of the aforementioned outcomes.

Proposed § 29.24(d)(2)(v)(D) would require a written description from the registered CTE apprenticeship program sponsor of how they will ensure that each employer participating in the program has an established record of maintaining a safe and inclusive workplace that is free from discrimination, violence, harassment, intimidation, and retaliation against employees. The purpose of including this description is to ensure the safety and welfare of CTE apprentices participating in the on-the-job training component of the program.

Proposed § 29.24(d)(2)(v)(E) would require a written description from the registered CTE apprenticeship program sponsor of how CTE apprentices will have access to a broad range of career services and supportive services that enable participation in, and successful completion of, the CTE apprenticeship program. The purpose of including this assurance is to provide transparency to potential program participants and their families that such services are available so students can equitably access, participate in, and complete a CTE apprenticeship program regardless of potential socioeconomic barriers that would otherwise provide a financial hardship to the CTE apprentice or their families.

Proposed § 29.24(d)(2)(v)(F) would require a written description from the registered CTE apprenticeship program sponsor of how it will conduct routine monitoring and oversight of all aspects of the registered CTE apprenticeship program. The purpose of this written assurance is to ensure a program sponsor is aware of its responsibility to provide timely and accurate monitoring and oversight to maintain the functionality and integrity of the registered CTE apprenticeship program and to allow the Registration Agency to take necessary corrective action if the sponsor fails to abide by this assurance.

Proposed § 29.24(d)(2)(v)(G) would require a written description from the registered CTE apprenticeship program sponsor of how the program will take affirmative steps to adhere to the requirements of 29 CFR part 30. This section is the same concept as proposed for registered apprenticeship programs in proposed § 29.10(a)(8) and the Department is including this provision here, with updates to account for registered CTE apprenticeship programs and CTE apprentices in the proposed text to ensure this provision is referencing the terms of subpart B.

Proposed § 29.24(d)(2)(vi) would require a written assurance from the registered CTE apprenticeship program sponsor that parties involved with the operation of the registered CTE apprenticeship program, such as employers, partnering educational institutions, and designated intermediaries, agree to the specific commitments, roles, and responsibilities addressed in the program standards. In addition, proposed § 29.24(d)(2)(vii) would require an assurance that such agreements be formalized through memoranda of understanding or other written agreements. This proposed provision would help establish that the prospective sponsor has engaged with these stakeholders and partners and would allow the Registration Agency to hold the sponsor accountable if they have not engaged these stakeholders and partners.

Proposed § 29.24(d)(2)(vii) would require a written assurance from the registered CTE apprenticeship program sponsor that, consistent with § 29.18, the sponsor will maintain any required records that the Registration Agency considers necessary to determine

whether the sponsor has complied or is complying with the requirements of this part and any applicable Federal or State laws. The purpose of this written assurance is to provide a Registration Agency with pertinent records for conducting program reviews and other compliance activities. All records referenced in proposed § 29.24(d)(2)(i) through (vii) would be subject to the records retention requirement in proposed § 29.24(d)(2)(viii).

§ 29.24(d)(3) Additional Responsibilities for Intermediaries Serving as a Sponsor

Proposed § 29.24(d)(3) would require an intermediary that has been designated as a program sponsor under proposed § 29.24(d)(1)(iv) to comply with the requirements of this subpart and coordinate with relevant Perkins educational institutions and agencies to ensure program sponsor requirements are met, including the complete electronic submission of written assurances under proposed § 29.24(d)(2) as well as any and all State and local State laws, requirements of a State CTE Agency, and any other agency that administers Perkins CTE programs in the State for which there may be additional requirements that apply. The Department recognizes that intermediaries, depending upon the organization or entity designated, may need to coordinate with partnering educational institutions and agencies to share applicable registered CTE apprenticeship information, in compliance with section 444 of the General Education Provisions Act, as amended, commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA), to meet the proposed requirements of this part. The Department is interested in hearing from potential registered CTE apprenticeship intermediaries about the potential challenges and opportunities for meeting requirements of a program sponsor in this part and the role Registration Agencies and State CTE Agencies may play to facilitate an intermediary's participation in this new model.

§ 29.24(d)(4) Sponsor Standards Adoption Agreements

Proposed § 29.24(d)(4) follows the entirety of proposed § 29.11 in subpart A and would prescribe the content and operational requirements for a written sponsor standards adoption agreement, as defined in proposed § 29.2, between a sponsor and a participating employer that is reached outside of a collective bargaining process. The Department believes this addition would be critical for the registered CTE apprenticeship model because employers are not eligible sponsors of this model. Given the vital role employers play in providing the on-the-job training in both the registered apprenticeship and registered CTE apprenticeship model, it is important that an adoption agreement for employers is developed. The Department notes that the main difference in subpart B is the name of the agreement, so the regulated community can distinguish between the agreements an employer signs for subpart A (a program standards adoption agreement) and the agreement an employer signs for subpart B (a sponsor standards adoption agreement). Agreements between the sponsors of a registered CTE apprenticeship program and an individual employer that participates in that sponsor's program would be required under this proposal for registered CTE apprenticeship. The Department believes that the inclusion of a regulatory provision expressly obligating participating employers to comply with the sponsor's standards of registered CTE apprenticeship and to adhere to the requirements contained in 29 CFR parts 29 and 30 would serve to bolster registered CTE apprenticeship program accountability and integrity and protect the safety and welfare of CTE apprentices. Because a participating employer in a sponsor's group program will typically be the entity that employs and pays wages to CTE apprentices enrolled in a registered CTE apprenticeship program, and that also typically provides close on-the-job direct supervision and training to such individuals, it follows that such employers should be obligated to adhere to the same standards of CTE apprenticeship and regulatory obligations as the sponsor of the program so that apprentices are protected and receive the full benefit of the program.

§ 29.24(e) CTE Apprenticeship Agreement

As with registered apprenticeship, the Department views the formal apprenticeship agreement between a program sponsor and a CTE apprentice as a foundational element of registered CTE apprenticeship that protects the welfare of CTE apprentices by clarifying the terms and conditions of the program in which they intend to participate, and by serving as a verifiable record of such terms and conditions. The Department views the apprenticeship agreement as holding equal value and importance under each model, and accordingly has proposed provisions in subpart B that largely mirror the apprenticeship agreement provisions in subpart A, with some minor adjustments or revisions that reflect the relevant entities and context for registered CTE apprenticeship programs. As with registered apprenticeship, the Department views CTE apprenticeship agreements as a critical tool for protecting CTE apprentices' welfare by establishing transparency and accountability. Further, the Department recognizes that the success of efforts to expand registered apprenticeship, including through the creation of this newly proposed registered CTE apprenticeship model, depends in part on the effective communication of the benefits of CTE apprenticeship and what CTE apprentices can expect to achieve in terms of their career development through participation in a registered CTE apprenticeship program. The Department views the CTE apprenticeship agreement as an important tool not only for holding all parties accountable to a program's agreed-upon terms and conditions, but also as a tool to succinctly explain the purpose, benefits, and intended outcomes of a registered CTE apprenticeship program. For registered CTE apprenticeship, clarifying the shape and value of such outcomes, and the program's training and instruction plan for achieving such outcomes, is critical for explaining the potential value of this new apprenticeship model and encouraging enrollment in any newly created registered CTE apprenticeship programs.

Proposed § 29.24(e)(1) mirrors the proposed regulatory text at proposed § 29.9(a) and would establish that all registered CTE apprenticeship programs must develop an apprenticeship agreement containing the terms and conditions of the training and instruction plan for CTE apprentices. The proposed text at § 29.24(e)(1) differs slightly in that it would require that the agreement include the program's terms and conditions for education of registered CTE apprentices, in addition to the employment and training of apprentices contained at proposed § 29.9(a). This reflects the educational context of registered CTE apprenticeship, including the entities the Department expects would establish and participate in such programs, and the model's increased focus on education and classroom learning.

Proposed § 29.24(e)(1)(i) through (v) would establish the list of parties that must sign the apprenticeship agreement for registered CTE apprenticeship programs. These parties would include the CTE apprentice (proposed paragraph (e)(1)(i)), the CTE apprentice's parent or legal guardian if the CTE apprentice is

under 18 years of age (proposed paragraph (e)(1)(ii)), the sponsor (proposed paragraph (e)(1)(iii)), the secondary or postsecondary educational institution where the CTE apprentice is enrolled (proposed paragraph (e)(1)(iv)), and any employers participating in the registered CTE apprenticeship program that have adopted or agreed to the sponsor standards adoption agreement (proposed paragraph (e)(1)(v)). These parties would reflect the same list as the parties that must sign the apprenticeship agreement for registered apprenticeship programs at proposed § 29.9(a)(1) through (4), with one addition that reflects the educational context of the registered CTE apprenticeship program (the proposed requirement at § 29.24(e)(1)(iv) that the secondary or postsecondary institution sign the agreement for registered CTE apprenticeship). The Department views educational institutions as critical partners in the development and success of registered CTE apprenticeship, given that the Department envisions that this model would complement and build upon established CTE programs, curricula, and networks. The Department proposes to include educational institutions as required signatories for apprenticeship agreements to extend the transparency and accountability the agreement would establish to these partners. Further, as discussed earlier, enrollment as a student in a CTE program in a secondary or postsecondary institution is a proposed requirement to participate as a registered CTE apprentice, and the Department expects that requiring such institutions to sign apprenticeship agreements would further confirm and clarify participants' eligibility.

Proposed § 29.24(e)(2) would provide that the signed apprenticeship agreement (which includes the program standards for the registered CTE apprenticeship program) must be provided to the CTE apprentice and their parent or legal guardian, as applicable, prior to the apprenticeship's start date. This provision largely reflects the proposed requirement at proposed § 29.9(b), but would intentionally include the CTE apprentice's parent or legal guardian as parties who must receive the agreement prior to the start of the apprenticeship term. This difference between the recipients of the apprenticeship agreement at proposed § 29.9(b) and proposed § 29.24(e)(2) reflects the school-aged population (secondary or postsecondary students) that may participate in registered CTE apprenticeship programs, and the importance of keeping their parents or legal guardians informed of the terms and conditions of this new career development opportunity for their child or dependent, including the hourly demands it will place on the students' schedules, assurances of the safe and welcoming environment the student would encounter through the program, and what their child or dependent can expect to receive through participating in the program to support their professional development.

Proposed § 29.24(e)(3)(i) through (xvi) would list 16 elements that apprenticeship agreements must contain for registered CTE apprenticeship, and this list of elements mirrors the elements that must be contained in apprenticeship agreements for registered apprenticeship at proposed § 29.9(c)(1) through (16). Proposed § 29.24(e)(3)(i) and (ii) would provide that apprenticeship agreements for registered CTE apprenticeship programs must include contact and identifying information for CTE apprentices (including date of birth and, on a voluntary basis, their Social Security number) and contact information for the Registration Agency, sponsor, and any participating employers. While the Social Security number is not required to be reported to the Registration Agency, it will need to be provided to the employer. These elements would mirror the required elements for the apprenticeship agreements in registered apprenticeship at proposed § 29.9(c)(1) and (2) and would ensure that the apprenticeship agreement is a reliable source for up-to-date contact information for those individuals participating in registered CTE apprenticeship programs, and those parties involved in registering, overseeing, and operating a program.

Proposed § 29.24(e)(3)(iii) would contain some differences from its companion provision at proposed § 29.9(c)(3). For registered CTE apprenticeship, the Department proposes that the apprenticeship agreement must include the identification of the job or occupation the CTE apprentice will be employed in, as well as the industry skills framework and CTE apprenticeship-related instruction outline that underpin the program's alignment with an established CTE course of study and a career readiness framework (in the context of registered CTE apprenticeship, this is known as the industry skills framework). These elements would mirror the related instruction and work process schedule for registered apprenticeship (the subject of proposed § 29.9(c)(3)) and the Department is including the relevant terminology at proposed § 29.24(e)(3)(iii) for clarity regarding which terminology applies within each model.

Proposed § 29.24(e)(3)(iv) would provide that the apprenticeship agreement includes the program's standards for the registered CTE apprenticeship and would mirror the proposed regulatory text at proposed § 29.9(c)(4) for apprenticeship agreements in registered apprenticeship. Proposed § 29.24(e)(3)(v) would mirror the proposed regulatory text at proposed § 29.9(c)(5) and would provide that apprenticeship agreements under the registered CTE apprenticeship model must describe the roles, duties, and responsibilities of CTE apprentices, sponsors, and participating employers. As with proposed § 29.9(c)(5), proposed § 29.24(e)(3)(v) would stipulate that any employers participating in registered CTE apprenticeship programs must provide CTE apprentices with information about their rights and protections under Federal, State, and local labor laws and the process for filing complaints with the relevant Registration Agency. The reasons for these proposed requirements in the CTE apprenticeship agreement are the same as for the apprenticeship agreement under subpart A.

Proposed § 29.24(e)(3)(vi) would provide that the apprenticeship agreement must provide the beginning and expected end date for the term of the CTE apprenticeship, as well as the date when on-the-job training will begin. This differs from the requirement at proposed § 29.9(c)(6), which would require that apprenticeship agreements for registered apprenticeship programs provide the beginning dates for the program overall, the beginning date for on-the-job training, and the duration of the probationary period for the program. Regarding the probationary period, this proposal would provide that apprenticeship agreements for registered CTE apprenticeship programs must include a description of the program's probationary period and would stipulate that such period may not exceed 30 days. The Department is proposing to take a slightly different approach to probationary periods under the registered CTE apprenticeship model and recognizes that allowing a probationary period that lasts longer than 30 days would not serve the best interests of CTE apprentices. Apprentices in registered CTE apprenticeship programs must also enroll in an established CTE program, while job seekers considering participating in a registered apprenticeship program are not so connected to the program or occupation

via other established enrollments. Accordingly, the Department believes that the probationary period for registered apprenticeship programs should be more flexible and subject to the sponsor's discretion, while the probationary period for registered CTE apprenticeship programs should have a shorter maximum length and should reflect that the CTE apprentice is firmly established in the job training program and course of study via multiple agreements and enrollments.

Proposed § 29.24(e)(3)(vii) concerns wages paid to CTE apprentices and contains some differences from the apprenticeship agreement section for wages in registered apprenticeship at proposed § 29.9(c)(7). Proposed § 29.24(e)(3)(vii) would require the apprenticeship agreement include the entry wage and graduated scale of increasing wages for registered CTE apprentices, as would be required at proposed § 29.9(c)(7), but would not include the ''journeyworker wage'' nor the ''fringe benefits'' information that would be required at proposed § 29.9(c)(7). The Department is not proposing any wage requirements tied to journeyworker wages in registered CTE apprenticeship programs. The CTE apprenticeship model's focus is on industry skills frameworks, and thus reflects an inherent flexibility in terms of a program's relation to several occupations, rather than just a single occupation as in registered apprenticeship. Thus, the Department does not view the journeyworker wage in an occupation as relevant to the apprenticeship agreement for registered CTE apprenticeship.

Proposed § 29.24(e)(3)(viii) would provide that the apprenticeship agreement must contain the allocation of hours between a registered CTE apprenticeship program's on-the-job training component and CTE apprenticeship-related instruction component, mirroring proposed § 29.9(c)(8) with the slight adjustment of the term ''CTE apprenticeship-related instruction.''

Proposed § 29.24(e)(3)(ix) would provide that the apprenticeship agreement must explain the methods used over the course of the registered CTE apprenticeship program to measure CTE apprentices' attainment of competencies, which differs slightly from the requirement at proposed § 29.9(c)(9) that would also include measuring the apprentice's progress towards acquiring the competencies necessary for a registered apprenticeship program's end-point assessment. As discussed above, the Department has determined that end-point assessments will be a useful tool for measuring and affirming apprentices' proficiency in registered apprenticeship programs; however, such assessments would not be appropriate for the registered CTE apprenticeship model. The latter model is based on providing training and instruction within a broader scope of career readiness than the registered apprenticeship model, which focuses more acutely on proficiency within a specific occupation and aligns with an end-point assessment measuring such occupational proficiency. As such, the Department's proposed model for registered CTE apprenticeship does not include an end-point assessment and would grant registered CTE apprenticeship programs more flexibility in designing program completion measures that apply to the program's associated career pathways.

Proposed § 29.24(e)(3)(x) would mirror the proposed regulatory language at § 29.9(c)(10) and would provide that, under both models, the apprenticeship agreement should describe any supportive services available to apprentices or CTE apprentices. These may include childcare services, transportation stipends or reimbursement programs, equipment or tools, or other supportive services under both models. This reflects the Department's consideration of advice from apprenticeship stakeholders, including the ACA, that the provision of supportive services is an important factor in addressing barriers to participation, particularly for underserved communities, individuals in rural communities, and individuals who face challenges or bear responsibilities for providing dependent care during typical working hours. The Department requests comment on whether registered CTE apprenticeship programs should be required to provide CTE apprentices with access to supportive services.

Similarly, proposed § 29.24(e)(3)(xi) would mirror the requirement at proposed § 29.9(c)(11) that apprenticeship agreements contain a description of the nature and amount of any unreimbursed costs associated with a program. As discussed above, the Department is concerned about excessive or undue participation costs and the burden they place on job seekers seeking to improve their career readiness through participation in a registered CTE apprenticeship program. The Department therefore proposes that registered CTE apprenticeship programs disclose all participation costs in the apprenticeship agreement so that CTE apprentices are not faced with unexpected costs once they have taken steps to participating in a registered CTE apprenticeship program.

To further its goal of establishing transparency throughout all apprenticeship programs registered for Federal purposes (including registered apprenticeship programs and registered CTE apprenticeship programs), the Department proposes to require that apprenticeship agreements under both models must include a description of any credentials, secondary credits, or postsecondary credit hours conferred upon participants who progress through the program. However, the Department expects that registered CTE apprenticeship programs may not provide the same breadth of credentials as a registered apprenticeship program more closely aligned with a specific occupation. Accordingly, the proposed regulatory text at proposed § 29.24(e)(3)(xii) would differ slightly from the proposed regulatory text at § 29.9(c)(12) in that the former would not refer to ''occupational qualifications,'' nor would it refer to other conditions or requirements that may be related to attaining an occupational qualification or licensure under Federal, State, or local laws or requirements. The Department expects that registered CTE apprenticeship programs would confer equally valuable credentials to registered CTE apprentices, in particular secondary credits or at least 12 postsecondary educational credit hours that may accelerate their progress through an educational curriculum or career development program. As such, for CTE apprenticeship agreements, the Department proposes that registered CTE apprenticeship programs include descriptions of the ''secondary or postsecondary credits or credentials'' associated with completing the program.

Proposed § 29.24(e)(3)(xiii) would provide that apprenticeship agreements for the registered CTE apprenticeship model must include an affirmation from all parties that they will adhere to the applicable requirements of parts 29 and 30 governing registered apprenticeship and EEO in registered apprenticeship. This language would mirror the proposed regulatory text at proposed § 29.9(c)(13) and would reflect the Department's reiteration that, except when explicitly stated otherwise, the requirements of parts 29 and 30 would apply to any apprenticeship program registered for Federal purposes.

Proposed § 29.24(e)(3)(xiv) would require a statement addressing whether the CTE apprentice is paid wages and benefits during the CTE apprenticeship-related instruction component of the

program and, if so, what the wage rate is, and whether the CTE apprenticeship-related instruction is provided during work hours. This requirement would be the same as the proposed requirement in § 29.9(c)(14) that the apprenticeship agreement specify whether CTE apprenticeship-related instruction is compensated; however, it would more precisely require that the apprenticeship agreement address both wages (*i.e.,* not some other form of compensation) and whether CTE apprenticeship-related instruction occurs during work hours. This would provide notice to the CTE apprentice of whether to expect CTE apprenticeship-related instruction to occur on their own time and, regardless of when CTE apprenticeship-related instruction takes place, whether it is paid and at what rate. The Department acknowledges that, under the registered CTE apprenticeship model, the CTE program would be the primary form of CTE apprenticeship-related instruction and less likely to result in a CTE apprentice receiving wages. The Department encourages, where possible, registered CTE apprenticeship models in which employers invest in their CTE apprentices with wages or fringe benefits paid during CTE apprenticeship-related instruction. As discussed in proposed paragraph (c)(2) sponsors must consider, as a part of their programs' standards of registered CTE apprenticeship, whether to pay wages for CTE apprenticeship-related instruction. Since registered CTE apprenticeship is an ''earn-and-learn'' model, this provision would provide transparency to the CTE apprentice about when and what wages would be received, and during what component(s) of the program. This provision would also make transparent a schedule of paid and unpaid time an CTE apprentice is expected to be present to fulfill learning and worksite productivity objectives when attending CTE apprenticeship-related instruction and on-the-job training. Making this information available to CTE apprentices for transparency purposes would provide apprentices with the necessary information to make financial decisions, seek out resources or supportive services through a program sponsor to attend CTE apprenticeship-related instruction or compensate costs incurred, and manage time to accommodate responsibilities, such as providing care to family members.

Proposed § 29.24(e)(3)(xv) would mirror the proposed regulatory language at proposed § 29.9(c)(15) and would require that apprenticeship agreements for registered CTE apprenticeship contain the contact information of those individuals or entities designated by the program to receive, review, and address any controversies or complaints that may arise. The Department expects that CTE apprentices would benefit from the clarity of understanding the process for filing, reviewing, and resolving complaints, and as such, is including proposed regulatory language to include contact information related to the program's complaint process for both registered apprenticeship and registered CTE apprenticeship.

Proposed § 29.24(e)(3)(xvi) would require the apprenticeship agreement to include the consent of the CTE apprentice, or their parent or guardian if the CTE apprentice is under 18 and not in attendance at a postsecondary institution, permitting the secondary or postsecondary institution in which the CTE apprentice is enrolled as a student to disclose individual apprentice level information to the program sponsor, to the entity designating any intermediary organization as a sponsor, to participating employers, to the Registration Agency and the Department, if OA is not the Registration Agency, and to and any other institution involved in administering the registered CTE apprenticeship program, as would be required under proposed subpart B of this part. Secondary and postsecondary institutions that receive Federal education funds under a program administered by ED must comply with FERPA. FERPA requires, among other things, that a parent of a student, or an ''eligible student'' (namely, a student who is 18 years of age or older or in attendance at a postsecondary institution at any age), provide prior written consent before an educational institution discloses personally identifiable information from the student's education records, unless an exception to FERPA's general written consent requirement applies. This provision would ensure that secondary or postsecondary institutions can meet their obligations under FERPA and disclose individual apprentice level information as required under the registered CTE apprenticeship program.

Proposed § 29.24(e)(4) would mirror the proposed regulatory text at proposed § 29.9(d) that would prohibit registered apprenticeship program sponsors from including any non-compete provisions or other provisions that would serve to restrict an apprentice's labor market mobility. The Department views this proposed prohibition of non-compete and other restrictive labor clauses as a key reform in this proposed update to the part 29 regulations and seeks to apply this prohibition to any apprenticeship programs registered for Federal purposes. Given the nature of the registered CTE apprenticeship model's outcomes being designed for placement in employment, a postsecondary educational program, or a registered apprenticeship program under subpart A, the Department does not expect non-compete provisions would be as likely as in registered apprenticeship programs under subpart A. Nevertheless, the Department expects that this important worker protection would maximize the potential benefits of apprenticeship training for all participants, whether they are students, job seekers seeking to receive training in a specific occupation, or experienced workers seeking to change careers. As such, the Department proposes including the prohibition on non-compete and other restrictive labor clauses in the apprenticeship agreements section for registered CTE apprenticeship.

Similarly, at proposed § 29.24(e)(5), the Department proposes to apply the same prohibition against non-disclosure provisions from the proposed § 29.9(e) covering apprenticeship agreements for registered apprenticeship programs. The Department sees no reason to exempt registered CTE apprenticeship programs from these proposed prohibitions on clauses that would serve to restrict an apprentice's labor market mobility and future success finding employment. On the contrary, CTE apprentices who receive training and instruction via an industry skills framework, potentially covering multiple occupations, are potentially more at risk of suffering career consequences via the inclusion of such clauses given that they are at an early stage of their careers and would not be well-served by any restriction on the employers or occupations they may wish to pursue.

Finally, proposed § 29.24(e)(6) would mirror the proposed requirement at proposed § 29.9(f) and would stipulate that registered CTE apprenticeship program sponsors must submit a completed copy of the executed apprenticeship agreement for each individual apprentice it registers for participation in its program to the Registration Agency within 30 days of the execution of the agreement. In this NPRM's preamble section-by-section discussion at proposed § 29.9(f), the Department explains that the proposed 30-day timeframe for submitting executed apprenticeship agreements to the Registration Agency would be a reduction from existing policy (from 45 days to 30 days) in the amount of time a sponsor has to submit agreements, and

that this proposed timeframe would be reasonable given the advancements in technology that enable streamlined submission of apprenticeship agreements via the RAPIDS system. The Department expects that these same technological advancements would facilitate the submission of apprenticeship agreements for registered CTE apprenticeship programs and proposes to align the timelines for submitting apprenticeship agreements under both models.

The Department invites comments from the public on all aspects of the apprenticeship agreement requirements for registered CTE apprenticeship programs, including whether any of the apprenticeship agreement elements from proposed § 29.9 (applying to registered apprenticeship programs) should not apply to registered CTE apprenticeship, or whether the Department should apply different parameters based on the differences between these two models of registered apprenticeship, or whether additional elements should be added.

§ 29.24(f) Certificate of Completion of Registered CTE Aprenticeship

Proposed § 29.24(f) provides that Registration Agencies would issue certificates of completion of registered CTE apprenticeship to CTE apprentices who complete all of the requirements of the program. This proposal is similar to the Certificate of Completion Registration Agencies would issue to apprentices in registered apprenticeship programs in subpart A. These Certificates of Completion are important milestones for all apprentices and help to signify their value in the job market and opportunities for advancement in their career. The Department envisions registered apprenticeship programs in subpart A would consider providing advanced standing as described in § 29.8 to CTE apprentices who complete a registered CTE apprenticeship program and can demonstrate their completion with a certificate of completion of registered CTE apprenticeship.

§ 29.24(g) Administrative Requirements of the Registration Agency

Proposed § 29.24(g) contains the provisions related to the administrative requirements for Registration Agencies operating Registered CTE apprenticeship programs. This section is designed to address the core duties of Registration Agencies and their roles and responsibilities in the registered CTE apprenticeship model. Included in this are key provisions related to technical assistance and registration of programs, establishment of a compliant process for CTE apprentices, the operation of program reviews, deregistration processes, the recognition of Registration Agencies, data collection and metrics from programs, and program exemptions.

Proposed § 29.24(g)(1) would provide the process that the Registration Agency uses when it receives an application from a prospective program sponsor. Similar to subpart A, the Registration Agency must make a determination within 90 days of the receipt of a complete application as to whether the program has met the requirements of this subpart and is eligible for program registration. The Registration Agency would be responsible for informing applicants in writing of all decisions regarding the program registration. Additionally, if programs are denied approval for registration, the reasons for the denial must be explained in writing. These provisions would help to ensure a transparent process for sponsors and Registration Agencies for the review and approval of programs.

Proposed § 29.24(g)(2) is a provision on the role of Registration Agencies in providing technical assistance and other support, including outreach, technical assistance, and other assistance such as referrals to registered apprenticeship programs under subpart A to sponsors or other potential partners to support the adoption and expansion of registered CTE apprenticeship programs in a State.

Proposed § 29.24(g)(3) would provide a provision for CTE apprentice complaints similar to what the Department has proposed for registered apprenticeship programs in subpart A at proposed § 29.17. The Department anticipates that complaints arising under the registered CTE apprenticeship model would undergo a similar process to complaints submitted by apprentices under subpart A, and the discussion of that process is described in § 29.17. Though this section cites to § 29.17 for this process, the Department is proposing one difference, which would provide that the Registration Agency may refer complaints to the State CTE Agency as appropriate. Due to the close coordination with the State CTE Agencies envisioned under this proposed subpart, the Department anticipates that some complaints filed with the Registration Agency may be better addressed through a referral to the State CTE Agency. For example, a CTE apprentice who has a concern about their CTE program may submit a complaint to the Registration Agency. In those instances, and depending on the nature of the complaint, the Department believes that the CTE apprentice's issue may be best addressed by the State CTE Agency. The Department envisions that the process for such referrals may be addressed in the written agreement between the Registration Agency and the State CTE Agency proposed in paragraph (a). The Department welcomes any comments on the value of a proposed alignment of complaint provisions with subpart A, or if any other processes or deviations other than the one discussed above should be considered.

Proposed § 29.24(g)(4) would provide for the conduct of program reviews to confirm the Registration Agency can ensure the program is operating in compliance with this subpart. The Department, under paragraph (g)(4)(i), is proposing to utilize the process described in proposed § 29.19 in subpart A for the process and conduct of program reviews by a Registration Agency. Proposed paragraph (g)(4)(ii) would provide that the reviews should be coordinated between the Registration Agency and the State CTE Agency, the process for which would be addressed in the written agreement described in paragraph (a). The Department envisions that examples of quality program reviews may include the State CTE Agency reviewing the CTE portions of the program while the Registration Agency reviews the labor standards. The Department is allowing flexibility on how this is coordinated but does expect a strategy or agreement to be included in the written agreement described in paragraph (a). Proposed paragraph (g)(4)(iii) provides clarity that program reviews under this subpart would not impact an entity's eligibility under, or compliance with, the Perkins programs. This provision is to make clear that the Registration Agency's authority is limited to the registration of the program and would not extend to determining eligibility for CTE funding. Perkins CTE programs would not be governed by this subpart, but rather must meet the requirements of the Perkins statute as administered by ED. The Department welcomes comments on the alignment of program review provisions, including about the goal of a joint review process with the State CTE Agency. The current proposal encourages the idea of concurrent reviews but is proposing to provide flexibility to Registration Agencies and State CTE Agencies to address that process or alternatives as part of the written agreement in paragraph (a).

Proposed § 29.24(g)(5) would provide for the deregistration of programs that fail to meet the requirements of this subpart. The ability to deregister

programs for noncompliance with this subpart and part 30 is critical to the effective oversight of registered apprenticeship programs both under subparts A and B. Provided that the Department is proposing a registration process for programs that meet the requirements of this subpart and part 30, a deregistration process is necessary for those that do not continue to meet those requirements. The process for the deregistration of programs would be the same as the process in proposed § 29.20 of subpart A. The Department envisions, similar to the process in subpart A, that a program review would occur to ascertain a sponsor's compliance with this subpart and part 30. The Department welcomes any comments on the alignment of deregistration proceedings, and the goals of aligning processes, where possible, with subpart A.

Proposed § 29.24(g)(6) would provide the same hearings process as described in proposed § 29.21 in subpart A. Given that both models of registered apprenticeship under subparts A and B have similar processes for registration, review, and deregistration, the Department is proposing to align this process for hearings. The Department welcomes any comments on the proposed alignment of this process with subpart A, particularly regarding if any deviations would provide administrative efficiencies.

Proposed § 29.24(g)(7) would provide the same hearings on deregistration process proposed in § 29.21 of subpart A. As described throughout this paragraph, the Department is proposing to align administrative processes as much as possible to minimize parallel processes for the registration, review, data collection, and oversight of registered CTE apprenticeship programs with registered apprenticeship programs in subpart A.

Proposed § 29.24(g)(8) would provide for the process of recognizing Registration Agencies for registered CTE apprenticeship. Registration Agencies would be responsible for the registration of CTE apprenticeship programs, which would provide opportunities to build alignment between registered apprenticeship programs in subpart A and registered CTE apprenticeship programs. Registration Agencies may be OA or a recognized SAA. Given the proposed requirement in paragraph (a) that there be a written agreement between the State CTE Agency and the Registration Agency, the Department does not anticipate considering National Program Standards for Apprenticeship, as proposed in subpart A, as an option for this model. One of the primary goals of this rulemaking is to bring greater alignment between registered apprenticeship models with State and local education systems. The Department envisions this localized alignment would result in quality program design tailored to local economies. As such, OA is only considering local registration by the State's respective Registration Agency. The Department is open to comments on national program registration models, and whether that could ensure alignment with State and local educational systems.

The Department clarifies that adopting the requirements of subpart B would not be a requirement for an SAA to obtain or maintain recognition as a Registration Agency and SAA. The Department acknowledges the unique requirements and partnerships needed at the State and local level to develop quality registered CTE apprenticeship programs and would not condition an SAA's recognition to register apprenticeship programs under subpart A of this part on a requirement that they must also register programs described in this subpart.

Proposed § 29.24(g)(8)(i) would identify the circumstances in which OA may serve as the Registration Agency in a particular State. OA may serve as the Registration Agency in States where the OA Administrator has not recognized an SAA in the State, and there is a written agreement between OA and the State CTE Agency, as described in paragraph (a), for the registration of CTE apprenticeship programs in the State. Under this proposal, OA would not serve as a Registration Agency in States that have a recognized SAA or if there is not a written agreement with the State CTE Agency. Given the importance of aligning the State's education system with this model, the Department does not anticipate the registration of programs in States that do not develop written agreements with OA or do not have a recognized SAA.

Proposed § 29.24(g)(8)(ii)(A) through (D) would provide the process by which SAAs may seek recognition for the registration of CTE apprenticeship programs. The Department is proposing to limit the ability to be a Registration Agency to those entities that are Registration Agencies for the purposes of registering apprenticeship programs under subpart A. This would ensure alignment at the State level by providing that entities approving registered apprenticeship programs under subpart A are the same entities approving registered CTE apprenticeship programs under subpart B. This would help ensure greater alignment in program design, technical assistance, and administrative procedures and minimize redundancies at the State level for the registration of programs. SAAs recognized or seeking recognition under subpart C of this proposed rule would be recognized as Registration Agencies for CTE apprenticeship if they meet the criteria described in proposed paragraphs (g)(8)(ii)(A) through (D).

Proposed § 29.24(g)(8)(ii)(A) would provide that the State's proposed or current apprenticeship laws for registered CTE apprenticeship meet or exceed the requirements for protecting the safety and welfare of CTE apprentices set forth in subpart B. This is the same standard that is being proposed for SAAs seeking recognition under subpart C. The proposed regulations are designed to set the minimum standards for registration, and SAAs may adopt requirements that include more protections for CTE apprentices in their laws.

Proposed § 29.24(g)(8)(ii)(B) would provide that the SAA must have entered into a written agreement with the respective State CTE Agency as described in paragraph (a), which outlines the required coordination between the respective agencies, including roles and responsibilities. This requirement would allow the Administrator to be sure that necessary coordination is occurring at the State level.

Proposed § 29.24(g)(8)(ii)(C) would provide that the State has submitted its relevant apprenticeship laws and CTE engagement strategies as part of its State Apprenticeship Plan submitted according to proposed § 29.27 in subpart C. This may be done concurrently as the State government agency is seeking recognition under subpart C for the purposes of registering apprenticeship programs under subpart A, or may be submitted as a modification to a State Apprenticeship Plan according to the criteria for modifications outlined in proposed § 29.27(a)(2).

Proposed § 29.24(g)(8)(ii)(D) would provide that the Administrator must approve concurrently, or have previously approved, the State government agency for recognition as an SAA under proposed § 29.27. This is designed to ensure that State government agencies would not be recognized for registering apprenticeship programs under subpart B without being approved to register programs for subpart A. The Department discussed previously that it believes it is critical that the Registration Agency for a particular State must be approved to register apprenticeship programs for subpart A purposes in order to be able

to register programs for subpart B purposes. However, a State government agency may serve as an SAA only for the purposes of registering apprenticeship programs for subpart A.

Proposed § 29.24(g)(9) is a provision related to the collection of data and quality metrics concerning registered CTE apprenticeship programs. The Department is largely proposing to align the data collection from sponsors and SAAs consistent with the requirements described in proposed § 29.25 of subpart C. The Department anticipates utilizing RAPIDS as the primary database and case management system for the collection and reporting of data on registered CTE apprenticeship programs and apprentices. The Department welcomes comments on the data collection for registered CTE apprenticeship, the proposed alignment with proposed § 29.25, and the key differences discussed below in data collection. Collectively, the Department envisions that a comprehensive data set and the alignment of reporting across both models of registered apprenticeship in this proposed rule will enable the Department to provide robust technical assistance to support stakeholders' compliance with these regulations.

Proposed § 29.24(g)(9)(i) is a provision for the collection of CTE apprentice information. The information being proposed to be collected is largely consistent with apprentice information that would be collected for apprentices under subpart A as described in proposed § 29.25(a). The discussion of those provisions is discussed in the preamble for § 29.25(a). The Department is proposing a consistent collection here with a few exceptions. For registered CTE apprenticeship under paragraph (g)(9)(i)(A), the Department would collect an associated industry skills framework with the program rather than the occupation associated with a registered apprenticeship under proposed § 29.25(a). This difference is based on the unique requirements in subpart B regarding associated industry skills frameworks as the basis for training in registered CTE apprenticeship rather than occupations suitable for registered apprenticeship. Separately, the Department is not proposing to collect pre-apprenticeship participation information as a regulatory requirement in this section because the Department anticipates pre-apprenticeship models to be more closely associated with registered apprenticeship programs under subpart A.

Proposed paragraph (g)(9)(i)(B) would provide for sponsors to report status updates based on similar changes as discussed in proposed § 29.25(a), with the exception that the updates would be made on an academic semester basis rather than within 30 days. This is to account for the unique nature of this model, and requirement that sponsors be largely from the education system.

Proposed § 29.24(g)(9)(1)(ii) is a provision for the collection of program sponsor information and quality metrics that would be generally consistent with the proposed program sponsor information proposed for collection under § 29.25 for registered apprenticeship programs under subpart A. The primary differences are that the program sponsor information would be collected for each industry skills framework in this section rather than by occupation under proposed § 29.25. Additionally, this paragraph proposes collecting information on the outcomes of registered CTE apprenticeship, which are placement in a registered apprenticeship under subpart A, a postsecondary educational program, or employment at the time of program completion. Employment for this purpose would mean employment outside of the employment associated with a registered apprenticeship program under subpart A.

Proposed § 29.24(g)(9)(iii) is a provision for information and reports based on the information collected in paragraph (g)(9)(ii) to be made publicly available by the Registration Agency, which would align with proposed § 29.25(c). This section also would include similar language to proposed § 29.28 regarding the reporting of information from SAAs. These provisions would help support a comprehensive system data on both models of registered apprenticeship envisioned under these proposed regulations.

Proposed § 29.24(g)(10) would provide for exemptions from the subpart B requirements similar to the proposal in § 29.23 of subpart A for registered apprenticeship. As described in the preamble to proposed § 29.23, such requests would be required to be made in writing and transmitted to the Administrator and would also be required to contain a statement of the reasons supporting the request. The Administrator would only grant an exemption for good cause. Examples of good cause can be found in the preamble to proposed § 29.23. The Department has added proposed language regarding exemptions that cannot be made because they are outside of this subpart, including exemptions to requirements provided for in other applicable Federal, State, or local laws. For instance, the Administrator cannot consider exemption requests from any CTE participation requirements related to a CTE program or provisions governing the Perkins programs.

D. Subpart C—Administration and Coordination of the National Apprenticeship System

Section 29.25—Collection of Data and Quality Metrics Concerning Apprenticeship

In the 15 years since the registered apprenticeship regulations were last updated, advancements in technology and data functionality have transformed daily life in the United States and throughout the world. These developments include a major expansion of the ability to capture, collect, store, and use data. Institutions, businesses, governments, and organizations have prioritized the collection, application, and analysis of data to capitalize on opportunities to improve programs, policies, and outcomes. Within the world of registered apprenticeship, significant developments have been made since 2008 to keep pace with the increasing significance of data, including OA's efforts to develop and refine RAPIDS as a case management platform, with the goal of aligning with the growing role of data in the daily operations of employers and program sponsors within the National Apprenticeship System.

As part of the Department's effort to modernize data collection and reporting capabilities through RAPIDS, significant investments have been made to improve functionality and provide access and interoperability to SAAs for their data collection and reporting needs. The enhanced collection of quality data by Federal agencies is supported by the provisions of the Foundations for Evidence-Based Policymaking Act of 2018 (Pub. L. 115–435), as well as President Biden's January 27, 2021 memorandum on restoring trust in government through evidence-based policymaking.[178] RAPIDS is the case management system administered by OA, and it serves as the primary platform for program sponsors' management of apprentices, occupations, job openings, and other relevant program information. The Department plans to continue RAPIDS

[178] President Joesph R. Biden, Jr., ''Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking,'' Jan. 27, 2021, *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/memorandum-on-restoring-trust-in-government-through-scientific-integrity-and-evidence-based-policymaking/*.

as the primary database and case management system for the foreseeable future, but RAPIDS may undergo improvements or be altered over time, including to the name and affiliated acronym of such database and case management system, to meet the needs of National Apprenticeship System stakeholders. Technical assistance will be provided by OA, Apprenticeship Training Representatives, and applicable SAA staff as needed. This will help facilitate a connection between program sponsors using RAPIDS and Registration Agencies. While not a requirement for State recognition, SAA States and their sponsors may voluntarily opt to use the Department's case management system as a cost-effective approach to enable and support the data collection and reporting process described in proposed § 29.28(d).

Proposed § 29.25 would formalize the requirements for sponsors to report apprentice and sponsor information to their Registration Agency and establish a requirement for the Department to make this information publicly available in the form of sponsor level and national summary reports. In practice, the Department has made available related information, but this proposal would provide stakeholders with more robust and consistent information about the National Apprenticeship System. The Department is interested in comments about the benefits of making public more information about the performance of registered apprenticeship programs and their benefits to apprentices or career seekers while balancing expectations for sponsors and apprentices with respect to program burden and privacy. While some of this type of reporting currently occurs through approved ICRs (*see* OMB Control Number 1205–0223), the requirements for reporting have not been included in regulations in the past and are therefore subject to some uncertainty in terms of how the requirements might change from year to year. The Department has made significant investments in reporting capabilities through RAPIDS, including by making it available to SAAs for their reporting and data collection needs. Additionally, the increased Federal funding and benefits associated with registered apprenticeship programs (such as Apprenticeship grants, WIOA, the Davis-Bacon and related Acts, and the IRA) enhance the need to develop a more structured, uniform, and accountable reporting structure while balancing the burdens associated with collecting this information from sponsors, apprentices, and employers. The Department is particularly interested in any comments about whether the proposed approach strikes the proper balance, if other critical information should be included, or if less critical information should be omitted. The Department is also interested in any proposed quality measures for Registration Agencies or sponsors described below. Lastly, the Department is interested in comments on how it can utilize the collection of quality participant data and identify effective performance measures at the National, State, industry, and occupational level to achieve greater equity across and within the National Apprenticeship System.

Proposed § 29.25(a) would establish the requirements for what information about individual apprentices must be collected and reported by sponsors to the Registration Agency. Under the current approach, this is done primarily through sponsors entering data into the RAPIDS system, and the Department anticipates this approach will continue. Sponsors in States that do not use the system provided by the Department, whether RAPIDS or another system, would use the case management system provided by their Registration Agency to collect this information. SAA States and their sponsors may voluntarily opt to use the Department's case management system as a cost-effective approach to enable and support the data collection and reporting process described in proposed § 29.28(d). The Department is exploring approaches that would allow for apprentices to self-report and update demographic information through the mechanisms provided by the Department, which would help to meet this requirement. Such mechanisms would allow individual apprentices to report to the Department sensitive information that they might be hesitant to provide to their employer.

The collection of individual information included in this proposed section would enable substantive program analyses, including cross-sectional analyses and improved data disaggregation that would serve to identify strengths and weaknesses of the National Apprenticeship System when it comes to crucial goals like DEIA, identifying best practices, increasing economic mobility, and improving performance outcomes. Collecting data in this manner in a more uniform way and utilizing a system provided by the Department would also reduce the burden of data collection on employers and would enable the Department to ensure the questions being posed to apprentices are asked in a consistent manner during data collection. The Department will follow all applicable laws and procedures to ensure data security.

Improved collection of demographic information would enable the Department to better disaggregate demographic data, in addition to leveraging such data to develop and track indices relating to equity in program access, exit, and completion, which can serve to inform and drive improvements towards greater equity in the National Apprenticeship System. These goals are not only important to the Department, but they are also aligned to the recommendations from the ACA on this subject. The Department is interested in comments about the Department's and SAAs' ability to collect individualized data and its benefits, particularly with regard to the ability to use cross-sectional analysis of demographic information to ensure that programs are operating equitably. The Department is also interested in comments discussing information or strategies that would help the Department assess the performance of programs in a more standardized manner.

Additionally, this section would establish that within 30 days of a change, in addition to a change of apprentice's status, sponsors must also report on the start date of on-the-job training for apprentices, changes to credentials attained, employment retention, and wage progression. This requirement would enable the Department to more fully track an apprentice's progress throughout the program including the issuance of licenses, degrees, and the full scope of credentials earned through registered apprenticeship programs, as recommended by the ACA. This additional information obtained through more regular updates would enable better analyses and more complete understanding of programs, particularly when it comes to assessments of program quality and informing potential apprentices' understanding of what to expect during their participation in a program.

Another benefit of these proposed requirements is that they would result in closer alignment between the National Apprenticeship System and WIOA, as these updates would ensure that reporting timeframes, processes, and many of the definitions are brought into closer alignment with the requirements for WIOA programs. By aligning the reporting requirements, reporting definitions, and reporting processes more closely, States would benefit from efficiency improvements

and easier cross program collaboration as information collected by one program can be collected once and shared rather than similar information being collected separately in different ways. More congruity between programs and improved information would also enable both States and job seekers to make more data-driven decisions. For example, collecting data in a similar manner to WIOA's data collection can facilitate more direct comparisons between the data on WIOA ETPs and registered apprenticeship programs. Aligning this data collection would benefit job seekers and potential apprentices by enabling them to make informed decisions based on workforce data from these programs. This can also be beneficial to employers, as more transparent information can lead job seekers to seek out programs that they are more likely to stay with long term.

Proposed § 29.25(b) would establish the requirements for what information about sponsors and their programs must regularly be collected and reported by sponsors to the Registration Agency. Currently, this information is provided to the Department primarily by Registration Agencies entering data into the RAPIDS system, and the Department is anticipating that approach will continue. This information would include data about the sponsor and any participating employers. This section is divided into two paragraphs. Paragraph (b)(1) focuses on what type of information sponsors must update within 30 days of a status change, and paragraph (b)(2) describes items that must be updated and certified by sponsors on an annual basis. For sponsors using the system provided by the Department, whether RAPIDS or another system capable of collecting this data should updates be made in the future to the Department's IT and reporting systems, the Department anticipates that this process would involve sponsors ensuring that their data and information in the system are up to date and then certifying in that system that the records are current and accurate. The Department anticipates that sponsors that are not using the system provided by the Department would need to submit and certify a report in the system provided by the Department.

Under proposed § 29.25(b)(2) the Department anticipates the annual information being made available to the public to assist job seekers in being able to make informed choices about programs, and stakeholders would have a greater understanding of the scope, scale, and effectiveness of registered apprenticeship programs. This proposal would significantly enhance the amount of public information made available about registered apprenticeship programs and their outcomes. The Department is interested in comments on the appropriate amount of information collected and reported for public purposes, taking into account any burdens and privacy protections afforded to apprentices or programs. In balancing this, the Department is proposing to largely use measures that a Registration Agency would be able to calculate on behalf of a sponsor, rather than requiring unique measures that may require manual tracking.

One new measure would assist Registration Agencies in seeing if programs are exiting significant numbers of apprentices and not graduating them, which they can use as the basis for technical assistance. This measure, unlike the proposed cohort completion rate, would not exclude exiters during the probationary period of the program. However, the Department does consider this measure as being useful for considering any impacts in program design that lead to apprentices not completing their programs once they are apprentices. This measure would also align with the Department's ETP reporting under WIOA for program completion rates. This measure would be calculated as part of the data requirements of proposed § 29.25 and be subject to program reviews under proposed § 29.19. The Department is interested in any comments on this approach, including whether exits during the probationary period should be included and any other potential measures.

Another new measure, proposed § 29.25(b)(2)(viii), would assist Registration Agencies in determining the percentage of exiters that enter a postsecondary educational program or a career pathway program at the time of exit. The purpose of this new measure is to identify the extent to which apprentices who have either left a program prior to completion or completed a program enter into a postsecondary educational program or a career pathway program.[179] In some non-traditional industries for which registered apprenticeship programs currently exist, such as health care and education, some apprentices complete a program, receive a Certificate of Completion, and then enroll in a postsecondary educational program or another registered apprenticeship to continue education and training that leads to corresponding occupations that may provide a higher wage, are along a career pathway, and require additional competencies, skills, and recognized postsecondary credentials. The Department recognizes that the calculation of this metric may yield small percentages since it is not common across all industries and suitable occupations for apprentices to enroll in a postsecondary educational program or a career pathway program following the successful completion of a registered apprenticeship program. However, the calculation of this metric would help Registration Agencies identify which programs provide articulation and connections to the postsecondary system. These connections may be critical for programs that serve high-school-aged youth or are designed as entry-level opportunities in the health care or education industry. In addition, the information collected would enable the capacity for disaggregation by industry and occupation for registered apprenticeship exiters who enter into a postsecondary educational program or a career pathway program.

Proposed § 29.25(c) would establish annual reporting requirements for Registration Agencies, including OA, based on the information collected in paragraph (b)(2) of this section. This would include State and sponsor-level reporting and a national summary report. These requirements would serve to further enhance equity in the National Apprenticeship System; improve the overall quality of registered apprenticeship programs through improved transparency and accountability; and allow for disaggregating registered apprenticeship data for more informative publicly available and accessible products, as is recommended by the ACA. The Department is proposing in § 29.25(c)(3) that Registration Agencies use a series of supplemental information sources, in IC efforts. Registration Agencies should provide the necessary sources of information, such as surveys, wage records, or other valid support and technical assistance to sponsors to ensure that supplemental sources are valid and meet the criteria for ensuring effective reporting requirements. These supplemental sources would enable the calculation of quality metrics on a system level, such as post-apprenticeship employment retention rates calculated 6 and 12 months after program exit; annualized median earnings of exited apprentices; percentage of all completers of a registered apprenticeship program that are earning an income that allows them to support themselves and their

[179] WIOA sec. 3(7) (definition of *career pathway*).

families, or are placed in a postsecondary educational program or a career pathway program, 1 year after program completion; and customer service metrics for Registration Agencies focused on customer satisfaction of sponsors with registered apprenticeship and Registration Agency services. In addition, the Department believes that system-level metrics for registered apprenticeship can be utilized as a mechanism to improve the overall job quality of a range of occupations as well as improve wages and working conditions for individuals pursing these careers.

The registered apprenticeship system is intended to secure apprenticeship-related pathways that lead to occupations providing income that allow individuals to support themselves and their families. Accordingly, the Department seeks to establish a system-level performance reporting measure that would quantify income outcomes for apprentices registered under subpart A and CTE apprentices registered under subpart B. The Department is considering setting the income performance reporting measure at 200 percent of the Federal poverty level. (The Federal poverty level is a measure of income calculated annually by the Department of Health and Human Services and often used to determine Federal benefit eligibility.) If an individual receives at least 200 percent of the Federal poverty level (*i.e.,* $49,720 a year for a family of 3 in the 48 contiguous States and the District of Columbia, or about $23.90 an hour assuming 2,080 work hours in a year) in the year after the successful completion of a registered apprenticeship program, this would be understood to be a successful program outcome. The Department envisions that making available to the public the data from this system-level performance reporting measure would benefit prospective apprentices exploring potential occupations and apprenticeship programs. The Department invites comments on this proposed methodology, including whether and how the Department should define a successful outcome for apprentices in terms of income and suggestions for modifying this proposed system-level performance reporting measure.

The Department in proposed paragraph (c)(5) may decide to withhold certain information described above from publication for good cause (for example, if the publication of data may result in personally identifiable information becoming attributable to individuals, or if the data collected has been documented to be inaccurate). The Department is interested in any other comments regarding potentially withholding information from publication.

To support operability and implementation of proposed system level metrics the Department would conduct additional research, such as researching the effective mechanisms needed for training through a registered apprenticeship model that leads to sustainable careers, how supportive services may increase the annual completion rate, the cohort completion rate, and the subsequent earnings potential of apprentices. Utilizing this framework, as noted in proposed paragraph (c)(4), the Administrator plans to conduct evaluations and longitudinal studies to assess the impact and improve the effectiveness of registered apprenticeship programs. To the extent that information is collected in this process for the development, calculation, and implementation of publicly facing products, such as program and Registration Agency reports or dashboards, the Department may omit or suppress data or data elements necessary to protect apprentice personally identifiable data. The Department also may omit or suppress other information provided by sponsors that is collected through standards or requisite agreements that sponsors request to not be disclosed. The Department will provide guidance on this process and operational protocol through subregulatory guidance.

The Department is interested in any comments regarding these proposed measures, including additional or alternative measures. The Department is also interested in comments about the proposed measurement and IC framework as a means to make more programmatic information available to the public, particularly balancing the business needs of employers and sponsors, the privacy of apprentices, and the overarching goal of providing more information to the public, particularly to job seekers to assist in their career decisions.

Section 29.26—Roles and Responsibilities of State Apprenticeship Agencies

The concept of SAAs serving as extensions of the Department in the registration of apprenticeship programs for Federal purposes has been and can continue to be an effective model to expand capacity, expertise, and local partnerships. SAAs can also serve as laboratories to promote innovative models of apprenticeship. SAAs have been innovative in moving into more formal roles in pre-apprenticeship programs and in youth apprenticeship models, even if those efforts to date are not officially recognized for Federal purposes. The Department supports these innovations at the State level that are designed to make more apprenticeship models and quality standards available to career seekers and youth.

However, ambiguity about the roles and responsibilities of SAAs relative to the roles and responsibilities of State Apprenticeship Councils, and inconsistent alignment with the Department's current apprenticeship regulations, has created a highly fragmented, inconsistent system that has deviated from the model envisioned by the current regulation and that has, in some instances, created a challenging market for sponsors and employers seeking to enhance and invest in their worker training through the registered apprenticeship training model.

Proposed § 29.26 would substantially revise the content of the provisions in existing § 29.13 concerning the duties and responsibilities of SAAs that are recognized by OA for Federal purposes. Among other things, this updated regulatory provision would describe the duties and responsibilities of recognized SAAs, as well as the proper allocation of responsibilities between such SAAs and the State Apprenticeship Councils that they are responsible for establishing and overseeing. The Department is concerned that the current version of the regulation has not been effective in delineating the respective duties and powers of the foregoing administrative and advisory bodies, which has seriously impeded the fair, efficient, consistent, and transparent operation of the National Apprenticeship System.

The Department has long taken the view that SAAs—acting as impartial and disinterested governmental bodies that are accountable to the elected executive authority within their respective States—are best suited to fairly and equitably discharge the administrative and oversight duties with respect to apprenticeships that have been entrusted to such SAAs by the Administrator. While the Department notes that many SAAs have admirably fulfilled these administrative responsibilities in accordance with the current regulatory requirements established at 29 CFR 29.13, the Department has also observed that other States have not operated in accordance with the current regulation. Specifically, while the current regulation (at 29 CFR 29.13(a)(2)) stipulates that a State Apprenticeship Council, which functions in a regulatory or advisory capacity, must be established by an SAA

and must operate under the direction of that SAA, the authority to evaluate and register apprenticeship programs in a number of States has been improperly ceded—on either a de facto or a de jure basis—to State Apprenticeship Councils or other non-governmental, external entities.

The Department has received disturbing complaints from potential program sponsors—particularly those operating within the skilled trades—that have unsuccessfully sought to register apprenticeship programs in certain States where State Apprenticeship Councils have impermissibly exercised the authority to approve or deny applications for program registration. These complaints have often cited the infrequency of State Apprenticeship Council hearings to consider applications for registration (as these bodies typically meet only on a quarterly basis), repeated postponements of decisions by a State Apprenticeship Council on whether to approve or deny program standards or registration, and the absence of procedural due process, appeal rights, and a written record in those instances where a Council has improperly issued a negative final determination on a potential program's registration. Such conduct by State Apprenticeship Councils may help to explain why the speed of program registration in SAA States lags behind the pace of registrations in those States administered by OA.[180] In instances where an applicant who otherwise appears to meet the existing regulatory requirements for program registration has encountered such inappropriate barriers to registration, the Department has been obligated to consider whether the exercise of its residual, plenary authority under existing 29 CFR 29.13(i) to register apprenticeship programs in any State would be warranted.

Accordingly, this revised provision would clarify that an SAA that has received recognition (under proposed § 29.27) from the Administrator possesses the exclusive, non-delegable authority to evaluate, approve, register, monitor, oversee, suspend, and deregister apprenticeship programs operating within that State. The only exception would be when the Administrator—taking into account the interests of the National Apprenticeship System as a whole—chooses to exercise its residual authority to register an apprenticeship program on either a State-by-State or a nationwide basis.

Specifically, as a prerequisite for the recognition or continued recognition of an SAA by the Department, the proposed rule (at § 29.26(b)) would expressly prohibit a State—either in law or in practice—from delegating, assigning, or relinquishing any of the discretionary authority conferred by the Department upon an SAA, including with respect to registration determinations and the oversight of apprenticeship programs and standards within that State, to any external third-party entity, including a State Apprenticeship Council.

In a related vein, the proposed rule (at § 29.26(b)) would reiterate the requirement contained in the current rule (at 29 CFR 29.13(a)(2)) that State Apprenticeship Councils must operate under the direction and control of the SAAs that have established them, and would also expressly prohibit State Apprenticeship Councils from assuming or exercising any of the discretionary and inherently governmental regulatory and oversight duties with respect to apprenticeship that are properly vested in an SAA. The proposed rule would also eliminate the somewhat inchoate distinction posited under the current version of the regulation (at 29 CFR 29.2 and 29.13(a)(2)) between those State Apprenticeship Councils whose purposes and functions are ''advisory'' in nature from those that are ''regulatory'' in nature. The proposed rule instead would stipulate that all State Apprenticeship Councils must serve an exclusively advisory function. Specifically, the proposed rule (at § 29.26(c)) would limit the duties and powers of State Apprenticeship Councils to providing their respective SAAs with written, non-binding advice, recommendations, research, and reports concerning apprenticeship-related matters, and to providing advice in connection with the State's submission of the State Apprenticeship Plan that is required under § 29.27 of the proposed rule.

However, the Department wishes to note that the foregoing prohibition would not prohibit an SAA from using contractors or other third parties to perform tasks that do not involve or relate to duties described in proposed § 29.26(a), such as providing assistance to the SAA with promotional and public outreach activities. The SAA must retain the ultimate decision-making authority regarding whether an apprenticeship program qualifies for registration. In addition, the proposed regulation (at § 29.26(a)(5)) would require SAAs, as a precondition for receiving either initial or continued recognition, to provide OA with data relating to apprentices and registered apprenticeship programs in that State. This regulatory data-sharing requirement described in proposed § 29.28, if adopted, would enhance registered apprenticeship program transparency, and provide the public with a truly national picture of the performance of the National Apprenticeship System.

SAAs are defined, both under current regulations and under proposed § 29.2, as the agency of a State government that has responsibility and accountability for apprenticeships within the State. An approved SAA steps into the role of OA in that State, administering registered apprenticeship in lieu of OA and in a manner consistent with OA's role as outlined in these proposed regulations. In furtherance of a unified National Apprenticeship System, an SAA can only exercise this responsibility once it has established, among other things, that its laws, statutes, and regulations are consistent with Federal regulations, as discussed below. This serves to promote uniformity and consistency of experience, particularly for sponsors of registered apprenticeship programs and apprentices, among not only SAAs, but also those States where apprenticeship is regulated and overseen by OA. In short, it facilitates the establishment of a more unified National Apprenticeship System. Currently, there are 30 SAAs serving as Registration Agencies, a number that has increased over the last several years. This section would provide an explanation of the roles and responsibilities of SAAs and the general requirements to obtain recognition from the Administrator.

Proposed paragraph (a) is new and explains, upon recognition, what actions an SAA would be allowed to conduct for Federal purposes.

Proposed § 29.26(a)(1) and (7) would detail the SAA's role and responsibilities with respect to establishing and implementing apprenticeship-related regulations, policies, and procedures to meet the requirements of proposed parts 29 and 30. Proposed § 29.26(a)(2) through (6) and (8) through (10) would describe the SAA's role and responsibilities over the day-to-day establishment, operation, and oversight of registered apprenticeship programs. Efforts to expand and modernize the apprenticeship system must be inclusive of industries that are well-established within the apprenticeship system as well as industries seeking to begin or expand their participation. In furtherance of this goal, the SAA would

[180] *See* Apprenticeships for America, ''The State of Apprenticeships in the U.S.: A Plan for Scale,'' July 2022, *https://www.apprenticeshipsforamerica.org/white-paper.*

bear the responsibility of promoting cohesion and alignment among program sponsors and employers. Lastly, proposed § 29.26(a)(11) would provide for the role SAAs may provide as Registration Agencies for registered CTE apprenticeship under subpart B. The primary discussion of SAA recognition for the purposes of subpart B is located in the preamble for § 29.24(g)(8).

The Department proposed paragraph (a) to clarify the expected role and responsibilities of the SAA. The requirements in current § 29.13 have some description of the expected roles and responsibilities of the SAA, but that section is not clear, and the relevant roles and responsibilities are spread throughout the section. This proposed paragraph would make those roles and responsibilities clear and include them in one location for ease of use. Further, the Department is adding proposed paragraph (a) to establish the key responsibilities of SAAs, which also applies to Registration Agencies generally and supports establishing the key roles and responsibilities in the system. The activities listed in proposed paragraph (a) are those that OA would ordinarily perform if a State did not have a recognized SAA. The Department anticipates that proposed paragraph (a) would reduce confusion about the expectations of the SAA and ensure that the SAA is fulfilling the needs of apprentices, sponsors, and employers in the State for which it has been recognized to be the Registration Agency for Federal purposes.

Proposed paragraph (b) is new and explains that SAA functions in proposed § 29.26(a) cannot be delegated, assigned, devolved, or relinquished to any other entity. Proposed paragraph (c), which describes the role of the State Apprenticeship Council, would further clarify that the functions described in (a) cannot be performed by the State Apprenticeship Council. In the preamble to the 2008 final rule that last updated the apprenticeship regulations in 29 CFR part 29, the Department confirmed that it would only recognize SAAs and would not recognize State Apprenticeship Councils in the discussion of public comments received on 29 CFR 29.13.[181] The Department acknowledged that State Apprenticeship Councils comprise knowledgeable apprenticeship stakeholders representing ''diverse employer, labor, and public interests,'' but ultimately concluded that State Apprenticeship Council members are not State officials and are thus not accountable to the State nor the Department. The Department continues to view State Apprenticeship Councils as a valuable advisory resource for SAAs but continues to believe that authority over registered apprenticeship in a State should rest with a State government agency. The Department further believes that clarifying that SAAs cannot delegate regulatory and oversight functions to State Apprenticeship Councils would strengthen accountability within the National Apprenticeship System.

Despite the 2008 final rule's clarification that the Department would not recognize State Apprenticeship Councils, in some States, such entities have overtaken regulatory and oversight functions from SAAs. Commenters responding to the 2007 NPRM that preceded the 2008 final rule confirmed that this practice was ongoing before the 2008 update to the regulations and remarked that some State laws granting State Apprenticeship Councils oversight of the State's apprenticeship system or granting State Apprenticeship Councils the authority to promulgate regulations dictating the role and functions of SAAs, would need to be overturned. Such delegation of critical apprenticeship system oversight has continued in the intervening years, and in some States, State Apprenticeship Councils continue to perform key apprenticeship oversight functions, including making determinations on an occupation's suitability for registered apprenticeship training and making registration determinations. The Department is concerned that the State Apprenticeship Councils continue to play this role in some States, and maintains the view expressed in the preamble to the 2008 final rule that administration and oversight functions are the responsibility of government entities comprising Federal or State officials. State officials are accountable to the interests of an entire State and that State's population, while State Apprenticeship Council members are not. State Apprenticeship Council members appropriately comprise equal numbers of representatives from different sectors and bring diverse perspectives on apprenticeship to the table, but they are ultimately not accountable to the public in the same manner as State officials working in SAAs.[182] As expressed in the preamble to the 2008 final rule, the Department maintains that the effective function of the relationship between the Federal government and State governments necessitates a direct relationship between Federal and State government agencies. The Department recognizes and appreciates the valuable expertise and advice that State Apprenticeship Councils have historically provided and expects that they will continue to serve as a valuable source of advice helping to inform matters related to registered apprenticeship, including ongoing efforts to expand registered apprenticeship into new and emerging industries and to new and diverse populations. However, in order to further establish effective accountability throughout the National Apprenticeship System and to provide optimal clarity to the regulated community, the Department has determined to propose revisions to the apprenticeship regulations to expressly state the appropriate, solely advisory role of State Advisory Councils and clarify that SAAs may not delegate apprenticeship oversight nor regulatory functions to such entities. SAAs are reminded that if the State Apprenticeship Council performs functions that can only be exercised by the SAA, then the Administrator can take appropriate remedial action including the initiation of derecognition proceedings.

The regulatory and oversight functions of an SAA are foundational in ensuring the establishment and maintenance of high-quality and safe apprenticeship training. For the reasons discussed above, the Department has determined that these functions should remain as responsibilities of the SAA, which it has recognized for the purpose of discharging these responsibilities for Federal purposes and which the Department monitors and oversees for compliance with the requirements in proposed parts 29 and 30.

Proposed paragraph (c) is new and would consolidate requirements around the establishment and duties of State Apprenticeship Councils into one provision. Proposed paragraph (c) explains SAAs would be required to establish a State Apprenticeship Council. The Department emphasizes that proposed paragraph (c) would envision the creation of a single State Apprenticeship Council. While existing requirements may have been unclear as

[181] See existing regulation at 29 CFR 29.13, concerning ''Recognition of State Apprenticeship Agencies.''

[182] The existing apprenticeship regulations at § 29.13(a)(2)(ii) require that State Apprenticeship Councils ''must include an equal number of representatives of employer and of employee organizations and include public members who shall not number in excess of the number named to represent either employer or employee organizations.'' The Department proposes to retain this requirement on the makeup of State Apprenticeship Councils in this proposed rule but offers more details on who would constitute a member of an ''employer organization,'' ''labor organizations,'' and ''members of the public'' at proposed § 29.26(d)(1)(i) through (iii).

to the Department's intention, in this rulemaking the Department makes clear that proposed part 29 would intend for only one State Apprenticeship Council to be established by a given SAA. As a purely advisory body, State Apprenticeship Councils' focus should be convening stakeholders from different sector perspectives—namely, employers, organized labor, and the public sector—to offer guidance and advice on apprenticeship matters that balances the priorities and perspectives of each sector. State Apprenticeship Councils should serve as the forum for meeting the challenge of balancing different sectoral perspectives and arriving at consensus advice through robust discussion, deliberation, and compromise among stakeholders from these sectors. The Department recognizes that the challenge of balancing competing perspectives to arrive at consensus advice on apprenticeship matters would be compounded if multiple State Apprenticeship Councils were operating in a single State. In such a situation, one State Apprenticeship Council may be engaged in robust debate on a challenging issue and arrive at a consensus recommendation over the course of a series of meetings, while another State Apprenticeship Council may take up the same issue, engage in such debate, and arrive at a completely different recommendation. Within each State Apprenticeship Council, the views of stakeholders from different sectors will have been heard and considered, but because discussions took place in two different forums, the ultimate recommendation for the State's consideration may be unclear. In the Department's view, based in part on successful interactions with the ACA at the national level, maintaining a single State Apprenticeship Council would be the best approach for convening apprenticeship stakeholders from different sectors to produce useful advice for SAAs on apprenticeship matters.

In order to address the many issue areas and topics related to registered apprenticeship, and to more closely align the advisory work of a State Apprenticeship Council with the specific expertise and professional backgrounds of the individuals who comprise a State Apprenticeship Council, it may be useful for such Councils to establish subcommittees, appoint chairs, cochairs, or other leadership roles, and otherwise divide responsibilities within the Council. Aside from stipulating that State Apprenticeship Councils contain equal representation from employers, organized labor, and members of the public, and limiting the number of State Apprenticeship Councils in a State to one, the Department is not proposing any limitations or restrictions on the composition, division of responsibilities, or internal functions of State Apprenticeship Councils in this proposed regulation, provided the Council exercises only those functions that it is authorized to exercise under this proposed regulation.

Proposed paragraph (c) would explain that State Apprenticeship Councils are strictly advisory bodies that are created by, and with the purpose to serve, the SAA by providing non-binding advice. State Apprenticeship Councils have historically provided valuable advice and insights for consideration by SAAs, and the Department recognizes the value such entities add to the National Apprenticeship System through the provision of non-binding advice and recommendations at the State level. State Apprenticeship Councils have provided, and will continue to provide, useful advice on sector-specific strategies to inform efforts to expand registered apprenticeship, considerations on how best to align different workforce development programs (such as WIOA), LEA initiatives, or public-private sector partnerships with registered apprenticeship, and other issues where an SAA benefits from the synthesis of diverse industry perspectives that may not exist among State employees working at an SAA. As this proposed rule would explicitly clarify the advisory role of State Apprenticeship Councils, the Department expects that State Apprenticeship Councils would be more effective and timelier in executing their pivotal role of providing advice on apprenticeship matters based on the input from diverse stakeholders from different sectors. This is especially true in cases where a State Apprenticeship Council has been performing functions that should have been reserved for SAAs, such as reviewing and adjudicating applications for an occupation's suitability for registered apprenticeship training or program registration. In such cases, these responsibilities would be appropriately retained by the SAA, and the State Apprenticeship Councils formerly acting in such capacity would be free to focus on deliberations on challenging issues and the provision of useful, consensus advice reflecting input from multiple sectors and industry stakeholders.

The Department is also interested in hearing from stakeholders on the Department's proposal to transition State Apprenticeship Councils to a more strategic role and away from reviewing applications from prospective sponsors to allow for greater focus on expansion, quality improvements, equity, and system alignment initiatives within the State.

Proposed § 29.26(c)(1) concerns the composition of State Apprenticeship Councils and would expand upon the language in the existing regulation at 29 CFR 29.13(a)(2)(i) and (ii). The existing regulation provides that State Apprenticeship Councils must comprise individuals who are knowledgeable in matters pertaining to ''apprenticeable occupations'' and must include equal numbers of representatives from employer and employee organizations, as well as public members ''who shall not number in excess of the number named to represent either employer or employee organizations.'' [183] This proposed rule would retain the requirement that State Apprenticeship Councils contain an equal number of representatives from these three sectors—employers or employer organizations, labor organizations, and members of the public.[184] It would further provide more granular information about the backgrounds of such individuals that would be useful for aligning State Apprenticeship Council membership with the Department's goals for expansion of the National Apprenticeship System and alignment with other workforce development entities and LEAs. This proposal also envisions that State Apprenticeship Councils would be balanced from an employer and labor perspective, but also that the membership would be reflective and inclusive of underserved communities so the State Apprenticeship Council can provide key recommendations that promote the goals of expansion, diversification, and greater equity in the National Apprenticeship System.

For example, at proposed 29 CFR 29.26(c)(1)(i), the Department explains that representatives from the employer sector (either employers or employer

[183] *See* 29 CFR 29.13(a)(2)(i) and (ii).

[184] While the current regulation does stipulate equal numbers of representatives from the employer and labor sectors, it only requires that the number of public representatives be equal to (or less than) the number of representatives from the employer sector or the labor sector (which are required to be equal). For example, the current regulation would allow for a State Apprenticeship Council to be made up of 10 representatives from each of the employer and labor sectors, and up to 10 (but no more than 10) representatives from the general public. The proposed regulation would require equal numbers of representatives from all three sectors—employer, labor, and public.

organizations) may include representatives from sectors where apprenticeship is not currently widespread. Similarly, proposed paragraph (c)(1)(ii) explains that representatives from labor organizations or joint labor-management organizations (an organization that is known to and relevant for registered apprenticeship, wherein representatives from both the management and labor divisions of an organization form a deliberative body that addresses issues with input from both sides) may include those from industries or occupations where apprenticeship has not traditionally been utilized. This additional detail would align with the Department's goal of expanding registered apprenticeship generally, and particularly into new industries where registered apprenticeship has yet to take hold as an effective workforce training tool. The Department expects that State Apprenticeship Councils would be a useful resource to support this goal and encourages such bodies to recruit members who can provide insights from industries targeted for registered apprenticeship expansion.

At proposed 29 CFR 29.26(c)(1)(iii), the Department proposes to require that State Apprenticeship Councils' representatives from the general public include at least one representative from the State's workforce development system, and at least one representative from the secondary or postsecondary education system in the State who is familiar with registered apprenticeship. The Department expects that improved alignment between the National Apprenticeship System and State-level workforce development programs and educational networks would be another area where State Apprenticeship Councils can provide valuable insight, advice, and recommendations to guide the ongoing integration of these related job strategies. Apprenticeship, workforce training, and education all share the common goal of preparing participants—whether apprentices, job seekers, or students—for success in the labor market, for stable careers, and for achieving financial security. Successful outcomes for such participants also benefit U.S. employers by helping them address their talent needs. Ultimately, successful outcomes for job seekers and employers make U.S. businesses more competitive in the global marketplace and provide a meaningful boost to the U.S. economy; achieving optimal alignment among apprenticeship, workforce development, and education is a critically important national interest. Accordingly, the Department proposes to require that State Apprenticeship Councils would recruit and retain members who represent workforce development and education to facilitate connections and provide insight for the mutual benefit of their respective systems and the National Apprenticeship System.

Proposed § 29.26(c)(2) is a new provision that, for the reasons discussed above, would prohibit State Apprenticeship Councils from assuming or carrying out any of the responsibilities and functions of the SAA listed in proposed § 29.26(a).

Proposed paragraph (d) would require that an SAA must establish a reciprocity process for providing approval in the SAA's State to apprentices, registered apprenticeship programs, and standards of apprenticeship that are registered by other Registration Agencies for Federal purposes. Proposed paragraph (d) would expand upon an existing requirement that an SAA must accord reciprocal approval for Federal purposes. The existing requirement does not specify how, or on what basis, an SAA must provide reciprocal approval which has led to uncertainty by sponsors on the process for being granted such reciprocity across SAAs. To address this gap, proposed paragraph (d) would specify that the process must provide for a determination on a program sponsor's application for reciprocity no later than 45 calendar days after receipt of the request. Further, proposed paragraph (e) would specify a reciprocity process established by an SAA provide reciprocal approval only when certain conditions are met.

Proposed § 29.26(d)(1) would require that the reciprocity process must ensure reciprocal approval only be provided where the program sponsor meets the statutory and regulatory wage and hour requirements and apprentice-to-journeyworker ratios of the State in which reciprocal approval is sought.

Proposed § 29.26(d)(2) would require that the reciprocity process ensures that the program and apprentices to which reciprocal approval is accorded are registered by the SAA.

Proposed § 29.26(d)(3) would require that the reciprocity process must account for the development of standards that meet or exceed the requirements of State or local licensure, if licensure is required for the occupation that is the subject of the program that is being accorded reciprocal approval. This proposed change from requiring reciprocity is a recognition of an evolution in the Department's understanding of how reciprocity works with regard to SAAs, State labor laws, licensing laws, and the expansion of State benefits associated with registration by an SAA. The Department believes the current regulatory text at § 29.13(b)(7), which essentially requires SAAs to provide reciprocal approval, is overly simplistic and, if read literally, could jeopardize the ability of apprentices to legally work in a State. The current effect has been a barrier to registration status access and a failure to properly account for all the State issues related to apprenticeship programs. However, the Department does believe that reciprocity is a vital tool in assisting sponsors that have already met the registration requirements in a State but that have operations in another to more easily acquire registration status in that State. The Department, in acknowledging these two needs, is proposing to require that States develop a process in which they would provide reciprocity and articulate that process as part of their State Apprenticeship Plan submission in proposed § 29.27(b)(3). The Department anticipates that expansion of this requirement and further elaboration upon the criteria that a reciprocity process must address would further its goal of driving alignment in the National Apprenticeship System and is interested in comments about this approach in terms of providing transparency to potential sponsors while balancing the complex State needs.

Section 29.27—Recognition of State Apprenticeship Agencies

Proposed § 29.27 would provide the framework for OA to confer recognition to States that seek to obtain recognition or renewal of recognition as an SAA State. In the process of obtaining recognition, States would undergo a strategic planning process that seeks to establish a broad vision of registered apprenticeship expansion, modernization, diversification, and equitable opportunities for all learners and workers. The strategic planning process would be an opportunity for States to convene stakeholders at the State level that find value and opportunity in bolstering the system of registered apprenticeship in the State. Through this process, States can build consensus around a shared strategic vision and goals; promote program quality and good jobs; leverage and align with an existing workforce and education infrastructure; meet the skilled workforce needs of employers in existing and emerging high-growth industries and occupations; galvanize commitments for increasing access to and support within registered apprenticeship for individuals from

underserved communities; and utilize data collection and reporting capacity for greater system accountability and transparency.

The Department envisions that the State Apprenticeship Plan would be a blueprint for how a State will prioritize Federal and State investments in registered apprenticeship and align administrative, operational, and governance principles for more effective and efficient implementation of expansion and equity strategies and goals. To the extent this process for recognition and State apprenticeship planning is currently underway in States, either through executive order,[185] statutory mandate,[186] or unified or combined planning under WIOA [187] and Perkins, States can build off of their lessons learned in this proposed process and continuously incorporate new investments, statutory or governance changes, and system innovations through utilization of maximum flexibility to modify plans. States also would have the opportunity to receive recognition from the Department for the purposes of operating registered CTE apprenticeship programs in their States as part of the State Apprenticeship Plan.

Through the State planning process for SAA recognition, States would have an opportunity to incorporate new and existing investments, innovations, and strategies into their plans. States can incorporate recent investments in the transportation, clean energy, and manufacturing sectors, and in more resilient infrastructure, for example, through the Bipartisan Infrastructure Law, IRA, and CHIPS Act. These laws aim to encourage the use of registered apprenticeship and would offer an opportunity to engage and convene stakeholders in new and emergent industries that may not have traditionally been participating in the National Apprenticeship System. Furthermore, investments that have been made by the Department under AAI, Apprenticeship Building America, and State Apprenticeship Expansion, Equity, and Innovation grants have been and continue to be a catalyst for encouraging States to make strategic investments through coordinated partnership with regional and local program sponsors and employers and to build a dynamic system of registered apprenticeship in their States. States also would have the opportunity to create and join an interconnected network of industry intermediaries at the national and State level to facilitate effective industry engagement and support efforts for program sponsors to better integrate equity into programs. To the extent that States choose to better align cross-system planning with WIOA or Perkins or both, States can use the State Apprenticeship Plan process for coordination at the State and local level to leverage resources for related instruction and on-the-job training. Additionally, this would enable the leveraging of Federal- and State-funded workforce and education infrastructure and provide necessary supportive services for shared priority populations, underserved communities, and individuals who face barriers to economic mobility. This approach would also enable equitable access to career exploration, pre-apprenticeship, and Job Corps that lead to registered apprenticeship career pathways for job seekers. Lastly, this approach would enable SAAs to engage in employer-driven, innovative sector strategies and State economic development initiatives, as well as align measurable outcomes and disaggregated demographic data through data sharing and reporting strategies.

Finally, proposed § 29.27 would modify the existing regulatory requirement (found at 29 CFR 29.13(a)(1)) that an SAA, to be eligible for recognition by OA, must submit a State apprenticeship law that conforms to the requirements contained in 29 CFR parts 29 and 30. The proposed rule would instead require that a State's apprenticeship laws either meet or exceed the minimum requirements set forth in 29 CFR parts 29 and 30 for protecting the safety and welfare of apprentices, as discussed further below. Over time, the Department has observed that the existing State law conformity standard has greatly impeded the efficient and reasonable consideration of applications for recognition by many SAAs. The Department believes that this revision would ensure that all SAAs satisfy the minimum Federal labor standards and EEO in apprenticeship requirements established by the foregoing regulations, while also providing States with the regulatory flexibility to innovate and expand the scope of protections available to apprentices who are enrolled in, or seeking admission into, registered apprenticeship programs. This provision would also harmonize with the State law flexibilities that would be preserved under the proposed regulatory provision concerning ''Relation to Other Laws'' at proposed § 29.5.

The process proposed in this section would further promote consistency within the National Apprenticeship System as it is intended to establish a process that would be uniform and transparent for States seeking recognition or continued recognition as an SAA State. The implementation of a 4-year State planning process would satisfy each of those goals by simultaneously creating a consistent cadence by which all States would have their suitability for recognition assessed, and a basis to be used by the Administrator to approve or deny submitted State Apprenticeship Plans. This augmentation to the current process would leave in place integral components of systemic consistency such as demonstrated compliance with Federal regulations and submission of a State EEO plan. The addition of components such as the operationalization of requirements outlined in proposed § 29.26, and clear communication of a strategic vision for the continued expansion and modernization of apprenticeship are needed to strengthen the existing recognition process. The Department intends to make the contents of such plans publicly available to promote greater transparency in the National Apprenticeship System.

Proposed § 29.27 would set forth new requirements for State government agencies to obtain or maintain recognition as an SAA. Specifically, this section describes the process by which a State government agency would submit a State Apprenticeship Plan to the Administrator for review and approval. As discussed below, this process would require a State government agency to submit, as part of the State Apprenticeship Plan, strategic planning elements that address the

[185] Office of the Governor of Kansas, Laura Kelly, Executive Order No. 22–07, ''Establishing the Office of Registered Apprenticeship,'' Sept. 6, 2022, *https://sos.ks.gov/publications/Register/Volume-41/Issues/Issue-37/09-15-22-50504.html.*

[186] Governor's Workforce Board, Rhode Island, ''Unlocking Apprenticeship: A Strategic Plan for Expanding New and Innovative Apprenticeship Models in Rhode Island,'' Dec. 2017, *https://apprenticeshipri.org/wp-content/uploads/2018/01/2017-Apprenticeship-Report-Final.pdf.*

[187] DOL, ''Required Elements for Submission of the Unified or Combined State Plan and Plan Modifications under the Workforce Innovation and Opportunity Act,'' OMB Control Number 1205–0522, Sept. 5, 2019, *https://www.dol.gov/sites/dolgov/files/ETA/wioa/pdfs/State-Plan-ICR.pdf.* Note: States must address all program-specific requirements for the WIOA core programs regardless of whether the State submits either a Unified or Combined State Plan. The Unified or Combined State Plan must, with respect to activities carried out under subtitle B of title I of WIOA, describe how the State will incorporate registered apprenticeship into its strategy for service design and delivery as well as provide the procedure, eligibility criteria, and information requirements for determining training provider initial and continued eligibility, including for registered apprenticeship programs.

State's goals to expand the registered apprenticeship model.

Proposed paragraph (a) would outline the application process for the submission, review, approval, or disapproval of the State Apprenticeship Plan. Current § 29.13(d) prescribes that the State's apprenticeship law will be reviewed for Federal conformity every 5 years based on their last approval from OA. To address the lack of consistency, proposed § 29.27(a)(1) would establish a clear process and a regular cadence for all States to submit a State Apprenticeship Plan for review and approval by the Administrator. Proposed § 29.27(a)(1) would set forth that State Apprenticeship Plans are due every 4 years, beginning for a State seeking recognition for a 4-year period after December 31, 2026, a departure from the current SAA recognition period of 5 years. This change is precipitated by ETA's desire to better align apprenticeship with the greater workforce development system, including WIOA and the Perkins program, which also utilizes a State planning process on a 4-year cycle. The selection of December 31, 2026, would provide at least 2 full calendar years for States to make the necessary changes to their laws and develop plans consistent with the requirements in this proposed rule. The timing of 2026 generally aligns with the next WIOA State planning process that States undergo as required by title I of that Act as well as the Perkins program. While there is some inconsistency with the WIOA State planning process, which is for the period beginning July 1, 2026, the Department believes that States do need sufficient time to make changes, particularly in instances where State apprenticeship laws may need to be updated. While the cycles do not completely overlap, they do occur during the same calendar year and the Department considers this alignment in timing as a strategic opportunity to build greater cohesion and strategic State operations and coordination with the State's workforce system, CTE system, and system of registered apprenticeship, all of which are engaged in planning around the same time period. This alignment could lead to increased system cohesion and coordination. To address this gap in time, the Department is proposing the first State Apprenticeship Plan cycle to be slightly less than 4 years. Proposed paragraph (a)(1)(ii) would provide that the first State apprenticeship planning cycle would cover SAA recognition from January 1, 2027, through June 30, 2030. Proposed paragraph (a)(1)(iii) would provide that the second State apprenticeship planning period would cover the 4-year period beginning on July 1, 2030. The goal of this proposal is to align with WIOA's State planning process in the future. Proposed paragraph (a)(1)(iv) would provide that while a State can seek SAA recognition at any time, consistent with it being at least 120 days prior to when a State is requesting such recognition, the approved SAA must also submit a State Apprenticeship Plan to align with the next State apprenticeship planning cycle. For instance, if a State that has not been previously recognized as an SAA State applies for and receives SAA recognition from the Administrator in July 2028, they must still submit a State Apprenticeship Plan for recognition for the 4-year period spanning July 1, 2030, to June 30, 2034. The goal of this proposal is to ensure that all SAAs are on a consistent and aligned State planning cycle. In addition to ensuring consistency with other programs such as WIOA and Perkins to enhance synergies between the systems, it also may lead to benefits from SAAs sharing their planning experiences with each other to strengthen State coordination and alignment. Under proposed paragraph (a)(1)(i), SAAs seeking recognition from the Administrator must submit their plans for the Administrator's review at least 120 days prior to the proposed effective date of their recognition. This would mean that State government agencies seeking recognition for a period after December 31, 2026, must submit on approximately September 1, 2026, to meet the 120-day criteria. The Department is interested in comments about this approach, the ability of States to successfully transition, and any potential flexibilities the Administrator may need to provide under this approach. Commenters requesting flexibility are encouraged to describe a standard by which this could be accomplished so as to not perpetuate longstanding misalignment with these proposed regulations.

Proposed § 29.27(a)(2) would specify the circumstances that would lead to an SAA seeking a modification to their State Apprenticeship Plan. Proposed paragraph (a)(2)(i) outlines when a modification would be required. These circumstances would include changes in Federal or State law, changes to labor market conditions, or changes to State vision, strategies, policies, operational procedures, or organizational structure of the SAA that would materially impact the ability of the SAA to fulfill its plan as written and approved. For example, modifications would be necessary when a new State apprenticeship law adds further requirements not called for under these proposed regulations, or a State may restructure its oversight of its workforce training programs by shifting oversight to a different State government agency. However, a determination would need to be made that the modified submission meets the requirements for approval.

Proposed § 29.27(a)(2)(ii) would describe that an SAA also has the discretion to modify its State Apprenticeship Plan. This may include an SAA seeking a change in its recognition status from provisional to full under proposed paragraph (c) of this section. While regulatory in nature for the compliance of the SAA, the Department believes Plans are also strategic documents that can lead to greater institutionalizing of State-based systems of registered apprenticeship into not just a regulatory or passive role in reviewing programs but in proactive approaches and strategies to expanding high-quality registered apprenticeship programs. Another example of when an SAA may seek a modification to its State Apprenticeship Plan is if the SAA is seeking recognition for the purposes of registering CTE apprenticeship programs under subpart B. The Department envisions that SAAs may seek this recognition at a different time period than the initial SAA recognition process, and a State Apprenticeship Plan modification would be an appropriate method to seek recognition for the purposes of subpart B.

Proposed § 29.27(a)(2)(iii) would specify that modifications to an approved State Apprenticeship Plan must be submitted to the Administrator at least 120 days prior to the requested effective date of the modification. The Department is including this requirement to allow the Administrator sufficient time to review and confirm that any proposed modifications meet the requirements for approval.

Proposed § 29.27(a)(2)(iv) would provide that, if the modifications are approved by the Administrator, modified State Apprenticeship Plans remain approved until the end of the original cycle of the Plan.

Proposed paragraph (b) describes the contents of the State Apprenticeship Plan. Proposed paragraph (b) begins by setting forth the minimum requirements by which a recognized SAA must abide. Then, proposed paragraph (b) goes on to describe the full contents of what a State Apprenticeship Plan must include.

Proposed § 29.27(b)(1) would establish what the Department has determined to be the core requirements of the registered apprenticeship model that a recognized SAA must meet or exceed. As part of this process the State must submit its proposed or current apprenticeship laws governing the standards of apprenticeship, apprenticeship agreements, registration requirements, program standards adoption agreements, qualifications of apprentice trainers and providers of related instruction, end-point assessments, complaints, recordkeeping, processes by which a program will be reviewed and if necessary deregistered, the roles and responsibilities of SAAs, and the reporting requirements for an SAA. This provision also would require that the SAA coordinate with the State's education system, including institutions of higher education, LEAs, State CTE and Educational Agencies, and other educational entities that support CTE programs and career pathways, and mandate that the SAA provide a description of any efforts to align and leverage apprenticeship-related data with education system and workforce development system data. The Department believes that these are core requirements of Registration Agencies and, as such, must govern the roles of SAAs. Instead of the current standard of conformity with 29 CFR part 29, the Department is proposing a standard that the State laws meet or exceed these requirements for protecting the safety and welfare of apprentices. The Department is proposing this more flexible approach for States to innovate beyond the current conformity standard, which essentially requires that the State laws mirror 29 CFR part 29 with few exceptions. This standard is designed to set the minimum quality requirements and would provide States the flexibility to innovate if they can demonstrate that it advances the goal of protecting the safety and welfare of apprentices. This standard is at the heart of the Department's mission under the NAA. The Department welcomes comments on this proposed standard including ideas by which the Department may apply it. Under the proposed standard, State laws that, for example, provide higher or more frequent wage progressions than the proposed rule, would require more frequent program reviews, or require more training for instructors or protections for apprentices may all be acceptable deviations.

Proposed § 29.27(b)(2) would identify the Strategic Planning Elements to be submitted as part of the State Apprenticeship Plan. Strategic planning elements provide an opportunity for the SAA to develop a vision for expanding and improving the registered apprenticeship model in its respective State, something that is integral to the robust cooperation between OA and SAAs. The absence of strategic alignment in the current recognition process limits OA's ability to promote and embed high-quality apprenticeship as a talent development strategy within States. Increased Federal benefits and strategies tied to the leveraging of registered apprenticeship programs have created a need to ensure further cooperation by SAAs to perform a strategic role in the State's strategic workforce initiatives. Examples of this increased need include the passage of WIOA and the strategic role registered apprenticeship programs are designed to play in fostering registered apprenticeship strategies, and the need to ensure an active role in promoting equity in apprenticeship in light of both the 29 CFR part 30 regulation and the Department's priorities. By mapping out both short-term and long-term strategies through utilization of available individual and cross-sectional labor market data that speaks to the past, present, and future potential of registered apprenticeship as a workforce development strategy, a State would be better positioned to work with OA and ETA to grow and modernize apprenticeship within the State. The strategic planning elements would allow OA to ascertain how an SAA will align with the Department's goal of, and initiatives around, driving ongoing modernization and system alignment across stakeholders. Components of the strategic planning elements would include goals for expanding the registered apprenticeship model in the State; goals for promoting registered apprenticeship programs for underserved communities in the State; goals for aligning a State's registered apprenticeship activities with broader education and workforce development activities; activities to coordinate with economic development entities within the State; and strategies for engaging and leveraging industry intermediaries as part of the State's strategy for expanding registered apprenticeship programs.

Proposed § 29.27(b)(3) would identify the Operational Planning Elements to be submitted as part of the State Apprenticeship Plan. Operational planning elements would identify key items that are necessary to the implementation of the vision developed in the strategic planning elements and that generally describe how the State government agency would perform the roles and responsibilities of an SAA described in proposed § 29.26. Proposed § 29.27(b)(3) would specify the required operational planning elements when a State is submitting its State Apprenticeship Plan for recognition as an SAA State every 4 years. The operational planning elements required in an initial State Apprenticeship Plan would be: the State's EEO plan, in conformity with part 30; the State's technical assistance plan; the State's process by which it will meet performance reporting requirements of proposed § 29.28 including utilizations details of data management tools and data management procedures; the plan for conducting program reviews; the State's plans to operationalize registration standards; the State's reciprocity policy, in accordance with proposed § 29.26(f); and the structure of how the State Apprenticeship Council is or will be structured consistent with the requirements of proposed § 29.26.

Proposed § 29.27(b)(4) would identify the assurances to be provided to the Administrator as part of the State Apprenticeship Plan. The assurances would provide a simplified method for OA to ensure that an SAA is meeting other requirements of proposed parts 29 and 30, not already identified in the other subsections of proposed § 29.27(b)(4). The assurances identified would be: that the State will provide a process for local registration of National Guidelines for Apprenticeship Standards; that the State has the resources necessary to operate the SAA and is capable of carrying out all of the responsibilities of the SAA; that the State will have a publicly available website describing its apprenticeship-related laws, regulations, policies, and procedures; and that the State will require from sponsors a written assurance that they are complying with the requirements of the Support for Veterans in Effective Apprenticeships Act of 2019. The Department has determined that these assurances would be necessary to align the operations of recognized SAAs with that of OA. The Department anticipates that these assurances would help drive system alignment and deliver high-quality apprenticeship training to all apprentices by all Registration Agencies. The Department has proposed these provisions as assurances as a balance of prioritizing the most important elements where a narrative is needed for a State Apprenticeship Plan versus the need to have an SAA provide a more streamlined process for meeting these

key goals. The Department welcomes comments on these assurances, including the value an assurance in this situation brings, whether an assurance is sufficient to drive the alignment desired, and what, if any, other assurances should be considered in a State Apprenticeship Plan.

Proposed § 29.27(b)(5) would provide for the process by which a State government agency operating or seeking to operate as an SAA may apply for and receive recognition to register CTE apprenticeship programs in their State. States would not be required to seek recognition for registering CTE apprenticeship programs under subpart B to receive recognition for registering apprenticeship programs under subpart A. States that do seek this recognition would be required to submit their proposed or current registered CTE apprenticeship laws as described in proposed § 29.24(g)(8) as part of their State Apprenticeship Plan or modification. Additionally, this section would include the requirement that the written agreement between the Registration Agency in proposed § 29.24(a)(2) would be submitted with the State Apprenticeship Plan so that OA can ascertain that this requirement has been met prior to granting recognition. Lastly, the State Apprenticeship Plan must include a narrative description of how the State would seek to develop and expand registered CTE apprenticeship programs in the State. The Department is requiring this to ensure strategic alignment for the SAA in their strategies for expanding both registered apprenticeship under subpart A as well as registered CTE apprenticeship under subpart B.

Proposed paragraph (c) explains the designations that OA would convey upon review of a State Apprenticeship Plan submitted by a State. The Department anticipates that this approach would better ensure that it can both further its goal of driving system alignment and high-quality apprenticeship training across the National Apprenticeship System and provide flexibility to States in transitioning to the State planning process.

Proposed § 29.27(c)(1) would describe the conditions that must be met for OA to convey full recognition. The Department has determined that the State Apprenticeship Plan must demonstrate all conditions in proposed § 29.27(c)(1) for full recognition because they would be necessary to ensure the State has addressed all of the requirements in the proposed rule regarding the increased role that the Department envisions for SAAs. Those requirements would include, but are not limited to, minimum labor standards, a comprehensive State Apprenticeship Plan that addresses all of the strategic and operational elements necessary to drive the expansion of quality registered apprenticeship programs, clear commitments and progress in promoting equity throughout the system, and strategies that integrate workforce development and educational activities.

Proposed § 29.27(c)(2) describes when OA would convey provisional recognition. Provisionally approved SAAs have provided a minimally sufficient State Apprenticeship Plan that has met the minimum requirements and standards set forth in proposed parts 29 and 30. However, these are plans that the Department has determined have one or more deficiencies regarding the State's planning that prevent the plan from obtaining full recognition. Proposed § 29.27(c)(2)(i) describes the deficiencies that may result in provisional recognition, including strategic planning or operational elements that are not complete or responsive, such as not having a technical assistance strategy for the period covering the State Apprenticeship Plan.

Proposed § 29.27(c)(2)(ii) explains that OA would provide technical assistance to States as they develop, and prior to the submission of, any subsequent State Apprenticeship Plan, either a modification of the initially submitted plan or a new 4-year plan. OA would require the submission and approval of a corrective action plan for the purpose of obtaining full recognition. A corrective action plan would detail a set of actionable steps the SAA will undertake to address areas of concern in the State Apprenticeship Plan, including a timeline for the implementation of such activities. This provision also would contain the requirement that a State may not be provisionally recognized for more than one full planning cycle. This would allow provisionally recognized States the time needed to make the necessary adjustments to be fully recognized.

Proposed paragraph (c)(3) would describe denial of recognition. Proposed § 29.27(c)(3)(i) specifies that denial of recognition would mean that the Administrator has determined that the State's apprenticeship laws do not meet the minimum standards described in proposed § 29.27(b)(1). Proposed § 29.27(c)(3)(ii) would specify that denial of recognition would also be conveyed when the Administrator is unable to fully approve a State Apprenticeship Plan after the State was provisionally recognized for one full planning cycle as described in proposed § 29.27(c)(2). Proposed § 29.27(c)(3)(iii) goes on to explain that the processes and procedures applicable to such denial of recognition would be described in proposed § 29.29.

Proposed paragraph (d) continues the concept in the current regulation at 29 CFR 29.13(i) that OA would also retain its existing authority to register an apprenticeship program on either a local registration or (with respect to National Program Standards for Apprenticeship) nationwide basis in instances where such an action would serve the interests of the National Apprenticeship System.

Proposed paragraph (e) provides that OA would monitor and review SAAs to ensure they are operating consistent with their approved State Apprenticeship Plans. While the State Apprenticeship Plan would provide a regular 4-year cycle for the review of SAAs through their plan submissions, certain instances may warrant more frequent reviews. For example, if a State is provisionally granted recognition, OA may schedule a review to go over the corrective action plan and provide technical assistance to ensure the agreed upon benchmarks in the plan are being met or conclude that a revision is needed. The Department is interested in any comments about when periodic reviews could or should happen outside of the 4-year State apprenticeship planning cycle.

Proposed paragraph (f) would provide for the derecognition of an SAA, whether fully or provisionally approved, when the Administrator determines that an SAA is not operating consistent with its approved State Apprenticeship Plan, and references the procedures described in proposed § 29.29 below.

Proposed paragraph (g) explains that OA may suspend an SAA's authority to register new apprenticeship programs where a corrective action plan is not submitted for review and approval, as contemplated by proposed paragraph (c)(2). Proposed paragraph (g) goes on to describe the process by which the suspension would take effect and the duration of the suspension. The Administrator would provide written notice to the State of the suspension, which would take effect 30 calendar days after the date of the written notice. The suspension would end upon the State's submission of a corrective action plan, as described in proposed paragraph (c)(2). The Department has determined that this provision is necessary to ensure that States submit corrective action plans to OA to address their provisional status and a plan to

make the changes necessary for full recognition. While an SAA that does not submit a corrective action plan as part of its requirement for provisional recognition would ultimately be considered for derecognition proceedings, the Department envisions this suspension provision as an interim step that the Administrator may take prior to derecognition. The Department is interested in comments regarding an interim approach towards accountability in this regard, including if other interim steps should be considered, or if a State's failure to submit corrective action plans should immediately lead to denial of a State Apprenticeship Plan and derecognition.

Proposed paragraph (h) explains that where a State Apprenticeship Plan is denied or where the Administrator derecognizes an SAA, a State would not be permitted to have a State government agency function as an SAA. Specifically, a State would not be authorized to conduct operations and activities, for Federal purposes, in connection with those responsibilities enumerated in proposed § 29.26(a). Further, proposed paragraph (h) explains that this prohibition would continue until OA conveys full or provisional recognition to a State Apprenticeship Plan. States that have been denied recognition or derecognized may always submit an updated or new State Apprenticeship Plan to address the recognition requirements.

Section 29.28—Reporting Requirements for State Apprenticeship Agencies

One of the key goals of the Department's proposed rule is the collection of accurate and complete registered apprenticeship data. A key goal for the Department to fully and accurately oversee the National Apprenticeship System, is to have comprehensive and complete data from the entire system, including SAAs. While the existing regulations do not impose a specific requirement regarding data collection from SAAs, OA and SAAs have made great strides to enhance and increase SAA data reporting to OA. While those voluntary submissions have greatly increased OA's ability to oversee the system and report its successes to stakeholders, the lack of a consistent reporting requirement leaves significant gaps in the quality of data. Data collection requirements that fail to mandate a central repository for program data and the data of individual apprentices do not give sufficient credence to the importance of data to the continued growth and modernization of apprenticeship. Data collection and data integrity are not optional tools to optimize the National Apprenticeship System, but rather compulsory elements. Replacing voluntary recommendations with mandatory requirements impresses upon SAAs the Department's commitment to the creation and sustainment of a transparent, unified data system.

Proposed § 29.28 would establish requirements for SAAs to collect and report apprentice and sponsor data and information to the Department. These requirements would include at least quarterly submission of individual apprentice records and annual submission of sponsor records, as defined in proposed § 29.25. This requirement could be met by using the Department-provided case management system, such as many SAAs currently do with RAPIDS, or creating interoperable mechanisms in which the required information is reported accurately, timely, and with validity in the format determined by the Administrator on a quarterly and annual basis. Utilizing a central information and case management system provided by the Department would defer costs for States related to the development and ongoing maintenance of such systems and make available technical assistance to States to enable the technological expertise and capacity to reliably and validly enter accurate information to manage registered apprenticeship program participants while also fulfilling reporting requirements.

The purpose of this proposed provision is to facilitate modernization of the National Apprenticeship System, as recommended in the ACA's 2022 Interim Report,[188] and to increase the SAAs' reporting to OA's RAPIDS, by making data collection and reporting more uniform and standardized across the Department's and SAAs' case management systems. Creating a more unified and standardized approach to data collection and reporting also would enable system transparency and accountability. Greater transparency is another recommendation in the ACA's 2022 Interim Report, as enabling greater transparency can help States develop validation strategies for more reliable data.[189] Furthermore, increased accountability can help States assess program quality and support equity strategies to increase registered apprenticeship program access, participation, and improve outcomes for underserved communities. Through more robust data collection and reporting, National Apprenticeship System stakeholders can make more informed, data-driven decisions about how to best target investments in registered apprenticeship programs.

States would also be able to have a framework for disaggregating demographic data to support planning requirements and align State planning goals with State strategic planning efforts under WIOA and Perkins. Increased data collection and reporting can facilitate opportunities for States to rigorously evaluate and assess apprenticeship pathways. Understanding that many States have their own case management systems for sponsor and apprentice data, this modernization effort would support flexibility and create mechanisms for increased interoperability.

Proposed § 29.28(a) would establish the requirement that information about individual apprentices and sponsors must be collected by the Registration Agency, which is described in proposed § 29.25(a) and (b). This requirement makes clear that SAAs would be responsible for reporting to the Department the information that sponsors report to the Registration Agency under proposed § 29.25(a) and (b). These requirements are key to improving collection of demographic information that would enable the Department to better disaggregate and leverage such data to develop and track indices relating to equity. This data analysis can serve to inform and drive improvements towards greater equity in the apprenticeship system. These goals are not only important to the Department, they are also aligned to the recommendations from the ACA to

[188] ACA recommendations from its 2022 Interim Report related to the uniform collection of apprenticeship data on a national scale include:

- Analyze how to encourage more State participation in RAPIDS and consider withholding OA State-level funding for States that do not fully participate in the RAPIDS system. Encourage States that do not participate in the RAPIDS system, or participate only partially, to take part in the collection and sharing of apprenticeship data for the benefit of the national dataset (RAPIDS).
- Encourage sponsors and apprentices to provide requested data for the benefit of a robust, national apprenticeship dataset.
- To assist stakeholders, including States and sponsors, with improved data collection and usage, OA should consider investments or other financial support to incentivize complete and accurate data collection.

ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

[189] One recommendation from the ACA's 2022 Interim Report was to ''[m]ake RAPIDS data more publicly available and accessible to improve transparency and accountability, and enable improved insights and analysis related to apprenticeship.'' ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, at 16, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

increase SAA reporting to OA on this subject.

These changes not only serve the goals of greater transparency and equity, but would also enable the Department to modernize its systems to capture more fully an apprentice's progress throughout the program, including the capture of licenses, degrees, and the full scope of credentials earned through registered apprenticeship programs, as recommended by the ACA.

Proposed § 29.28(b) would establish the requirement that information collected under proposed § 29.25(a) must be reported by the Registration Agency to the Department on at least a quarterly basis. Under the current approach, this type of reporting is done primarily through sponsors and Registration Agencies entering data into the RAPIDS system, and the Department anticipates that approach would continue. This would ensure that Registration Agencies are responsible for reporting quarterly to the Department the information that sponsors report to the Registration Agency under proposed § 29.25(a). Reporting on a quarterly basis would align the reporting cadence with WIOA and most other workforce programs, and enable more timely availability of information as well as more timely identification of any reporting difficulties and deficiencies so that those issues can be resolved in advance of the submission of annual reports. Quarterly reporting also would enable the identification of patterns that occur within the year, such as seasonal changes in employment patterns.

Proposed § 29.28 (c) would establish the requirement that information collected under proposed § 29.25(b) must be reported by the Registration Agency to the Department on an annual basis. Under the current approach, this type of reporting is done primarily through sponsors and Registration Agencies entering data into the RAPIDS system, and the Department anticipates that approach would continue. This would ensure that Registration Agencies are responsible for reporting annually to the Department the information that sponsors report to the Registration Agency under proposed § 29.25(b).

Proposed § 29.28(d) would establish that the Department will make the information collected under proposed § 29.28(c) publicly available. The Department anticipates utilizing a public-facing website on *apprenticeship.gov* to share this information. Information shared will include raw data in a variety of file formats. This would be responsive to the recommendation from the ACA to make disaggregated demographic data publicly available and modernize the National Apprenticeship System through quality data and analytics.

Proposed § 29.28(e) would establish that to meet the requirements in proposed § 29.28(a) through (c), SAAs must either utilize a case management system provided by the Department, such as RAPIDS, or maintain a State system that is capable of reporting individual apprentice record level information to the Department in a manner that meets requirements prescribed by the Administrator and minimum security requirements consistent with FERPA. This would be a vital component to ensure that the data reported to OA is consistent nationally and across State lines. The Department is not proposing to mandate the use of RAPIDS or a future system; however, as of the end of fiscal year 2023, 19 States do utilize RAPIDS as their primary system and it is a service available to them to assist in meeting these requirements and 11 States use an external case management system, uploading results into RAPIDS on a quarterly basis. Separately, the Department acknowledges that some SAAs have their own systems and may collect additional information that is important for their stakeholders. This proposal would not require them to no longer use that system but would require that they report in a consistent format.

Section 29.29—Denial of a State Apprenticeship Plan for Recognition as a State Apprenticeship Agency and Derecognition of Existing State Apprenticeship Agencies

The current regulations at § 29.13 include a paragraph regarding the denial of an application for a State to become an SAA as well as a paragraph regarding procedures when an SAA voluntarily withdraws from recognition. The current regulations also feature a separate section describing the derecognition process at § 29.14. Proposed § 29.29 is new and would consolidate the processes and procedures concerning the denial of a State Apprenticeship Plan and the derecognition of an existing SAA into one section. Proposed § 29.29 would update the existing language and align these existing processes with the new State apprenticeship planning process in proposed § 29.27. The procedures concerning requests for a hearing after a final determination denying recognition or derecognizing an existing SAA would largely be the same as the current regulation but have been updated to align with the deregistration hearing procedures in proposed § 29.21. Further, State obligations after derecognition of an existing SAA would largely retain the language in the current regulation.

Proposed paragraph (a) would outline the processes and procedures when OA denies a State Apprenticeship Plan or derecognizes an existing SAA.

Proposed § 29.29(a)(1) explains that a written notice would be provided to a State when OA denies a State Apprenticeship Plan, pursuant to proposed § 29.27(c)(3), or derecognizes an existing SAA, pursuant to proposed § 29.27(f). The notice would include the reason, or reasons, for the denial or derecognition. The notice would also identify what remedial measures the State will need to take to address the denial or derecognition. Finally, the notice would set a timeline for addressing those measures, which must be no longer than 12 months after the date of the written notice. Corrective action plans would be required in the case of a provisionally recognized SAA. Here, in the case of derecognition, corrective action plans would not exist. Instead, upon issuance of the written notice that is provided to an SAA that it will be derecognized including the reasons leading to the derecognition, the State would be given a timeline to complete necessary remedial measures to address the reasons leading to derecognition. The inclusion of a timeline is necessary so that a State can make the necessary changes or take the necessary actions to ensure compliance. If a State does not make the necessary changes or take the necessary actions, the Department would proceed with the denial or derecognition procedures described in proposed § 29.29. The Department acknowledges that the reason for the denial or derecognition will vary based on the facts specific to the scenario, and, as a result, the time needed to address those measures will vary. However, the Department believes that a specific timeframe is necessary to ensure that the reason for denial or derecognition would be addressed in an expeditious manner. Accordingly, the Department determined that proposed § 29.29(a)(1) should include a provision specifying that a State would be given no longer than 12 months after the date of the written notice to address identified remedial measures. The Department determined that 12 months would be an appropriate timeframe to allow a State to make potential changes to their State laws, which may require a significant amount of State legislative session scheduling. However, the Department does not want this timeframe to remain open-ended, and

12 months would provide the urgency needed to make the necessary changes.

Proposed § 29.29(a)(2) is based on the existing regulation and would explain that if a State does not address or fails to remedy the reason(s) for the denial or derecognition in the timeframe identified in the written notice, the Administrator may issue a final determination. In the final determination, the Administrator would include the reason(s) for the denial or derecognition and the State would be provided an opportunity to request a hearing within 30 calendar days of the date of the final determination. The Department would provide notice to the public if a State has been derecognized by the Department.

Proposed § 29.29(a)(3) is based on existing provisions at § 29.13(g) and § 29.14(c)(3). This section would describe the procedural requirements when a State requests a hearing upon receiving the Administrator's final determination. Proposed § 29.29(a)(3) would provide that a request for a hearing must be sent to the OALJ and the Administrator, who, in turn, transmits the request to the Office of the Solicitor. The Administrator would also promptly provide the OALJ with the administrative file containing all relevant documents relied upon by the Administrator in making the final determination.

Proposed § 29.29(a)(4) and (5) are based on the existing provisions at § 29.13(g)(1) through (4), respectively. Both proposed § 29.29(a)(4) and (5) have been updated to align with the procedures for hearings on deregistration, described in proposed § 29.21.

Proposed § 29.26(a)(6) would describe the procedures applicable when an SAA voluntarily seeks withdrawal from recognition. This section would recognize that States have the discretion to voluntarily relinquish recognition of recognized SAAs.

Proposed paragraph (b) is based on existing provisions at § 29.14(d) and (e) and would describe what actions the Administrator must take when an existing SAA is denied recognition, derecognized, or voluntarily seeks withdrawal of derecognition. Proposed § 29.29(b)(1) would be the same as existing § 29.14(d)(1). Proposed § 29.29(b)(2) would combine existing § 29.14(d)(2) and (e) into a single provision and also update the procedures described therein. Specifically, proposed § 29.29(b)(2) would set forth a requirement that the Administrator must notify sponsors, in the State where the SAA is derecognized, that the Department will cease to recognize their programs that were previously registered unless the sponsor submits an application for registration with OA within 45 calendar days after the date of the final agency determination to derecognize the SAA. Proposed § 29.29(b)(2) goes on to describe that the sponsor's application for registration would be reviewed in accordance with the requirements and procedures described in proposed § 29.10. Within 90 calendar days of receiving the application for registration, OA would review the application to determine if it meets the requirements for registration described in proposed § 29.10(a) and would approve any applications for registration in accordance with the procedures and requirements described in proposed § 29.10(b). OA would deny any applications for registration if the application does not meet the requirements in proposed § 29.10(b). The procedures described in proposed § 29.10(c) would apply to any applications for registration that are declined.

Proposed paragraph (c) is based on a requirement at existing § 29.14(h) and would explain what a State must do when its existing SAA has been denied recognition or derecognized by OA or has voluntarily withdrawn from recognition. Proposed § 29.29(c)(1) would describe the transfer of apprenticeship-related records and information to the Department after derecognition. Proposed § 29.29(c)(2) would update language from the current regulation to align with proposed paragraph (b), adding an additional requirement that the State must notify sponsors that their programs will no longer be registered for Federal purposes as of 45 calendar days after the date of the Administrator's final determination. Sponsors interested in registration with OA must submit an application for registration to OA, pursuant to proposed paragraph (b). Finally, proposed § 29.29(c)(3) would require that States must cooperate fully with the Administrator during a transition period. For example, the Department, during such a transition, envisions that the State would maintain open lines of communication with the Department and would facilitate the transfer of pertinent records and information in a timely manner. The Department includes this proposed provision to ensure smooth, seamless continuity of operations in the National Apprenticeship System, and to further support the Department in fulfilling its obligations and responsibilities to apprentices and program sponsors.

Section 29.30—Apprenticeship Requirements in Other Laws

Proposed § 29.30 is designed to help the National Apprenticeship System integrate with other Federal or State laws that have been designed to support the expansion of registered apprenticeship programs by providing a Certificate of Participation to stakeholders, which provides information on apprentice participation that may be required by other Federal or State laws. This provision would seek to address situations where information on apprentices in registered apprenticeship programs is necessary to document compliance with Federal and State laws separate from the NAA. For example, the Department has a long history of providing information on apprentice participation to satisfy the prevailing wage requirements of the Davis-Bacon and related Acts and 29 CFR part 5. Additionally, with the expansion of registered apprenticeship as an allowable activity under WIOA, the apprenticeship requirements of the IRA, and other Federal and State laws that provide Federal and State benefits associated with utilizing registered apprenticeship, there is, and will continue to be, a need for OA or SAAs to provide information to Federal and State officials responsible for implementing Federal and State laws, sponsors or participating employers seeking Federal or State benefits for participation in registered apprenticeship programs, workforce development system partners funding individual training accounts or on-the-job training contracts under WIOA with registered apprenticeship programs, and potentially future stakeholders as Federal and State policymakers continue to embrace the registered apprenticeship model. The Department is adding this provision to make it clear that provision of this information would be permissible to allow other, related laws to be effectively implemented provided that it would be done so consistent with the requirement of any applicable Federal or State privacy law or other relevant law.

E. Part 30 Revisions

As part of this proposed rule for 29 CFR part 29, the Department is proposing technical and conforming edits to 29 CFR part 30, which would address EEO in apprenticeship. The Department invites commenters to opine on the proposed technical and conforming edits to part 30; however, the scope of these changes is narrow and primarily confined to necessary adjustments to align with proposed

changes to 29 CFR part 29. The Department is fully committed to the enhanced alignment of the labor standards of 29 CFR part 29 with the part 30 requirements and has proposed changes through part 29 to bring about greater alignment. The Department believes that this increased alignment between the two parts would enhance the implementation of 29 CFR part 30 across the National Apprenticeship System and promote greater equity and opportunity for job seekers and apprentices nationwide. Correspondingly, the Department proposes limited changes to 29 CFR part 30 to ensure consistency with the quality enhancements proposed for 29 CFR part 29 in this rulemaking.

The Department proposes a technical change to replace all cross-references in part 30 that currently cite to specific sections of part 29 with citations that simply cite to ''part 29.'' The Department proposes this change to remove what will now be outdated references and to avoid the need to update these cross-references again following any future reorganization of part 29. This change would affect the following sections: 29 CFR 30.3(b)(2)(i), 30.10(a), and 30.12(a)(3); the introductory language of 29 CFR 30.18(a)(1); 29 CFR 30.18(a)(3) and (4); the introductory language of 29 CFR 30.18(c); and 29 CFR 30.18(c)(3) and (d).

The Department also proposes a conforming change to replace the terms ''EEO compliance review'' and ''compliance review'' with ''program review'' throughout part 30. This would be consistent with the terminology being proposed in part 29 and more accurately reflects the scope of OA's reviews, which include both parts 29 and 30 components. This change is strictly one of terminology and the Department is not proposing to change anything about the nature of the reviews as they are described in part 30. This terminology change would affect the following sections: 29 CFR 30.5(b)(2) and (c)(6), 30.7(d)(2)(ii), 30.12(f), and 30.13(a), (b), and (c); the introductory language to 29 CFR 30.15; and 29 CFR 30.17(a)(3) and 30.18(b) and (c)(1).

Section 30.2—Definitions

Proposed 29 CFR 30.2 would revise the definition section to cite to the definitions of 29 CFR 29.2. The Department is proposing this change to place all definitions related to the National Apprenticeship System in one section. The Department considers this technical change an important one for the regulated community to be able to navigate and access all the required definitions in one section of regulatory text more easily. The Department is proposing all the definitions that were in part 30, but not in part 29, to be inserted into § 29.2, with these changes discussed in that section.

Section 30.13—Program reviews

In addition to the proposed terminology change to ''program reviews,'' discussed above, the Department proposes to amend § 30.13 by replacing references to ''business days'' with simply ''days.'' Days would be defined in 29 CFR 29.2 to mean calendar days, and not business days or workdays. The Department is proposing to use calendar days instead of business days for consistency with part 29 and to improve clarity for the regulated community. In situations where sponsors currently have 30 business days to comply or respond to a review finding, under this proposed rule they would have 45 calendar days to do so. The Department views these timeframes as roughly equivalent and would not intend to alter the substantive amount of working time within which sponsors would need to act. The Department is including a reference to the EEO requirements contained in this part to ensure that as the Department is proposing the term program reviews to address compliance with both parts 29 and 30, this edit would ensure the regulatory text of part 30 is in alignment with this provision.

Section 30.14—Complaints

The Department proposes to add a new subordinate paragraph (c)(1)(vi) to § 30.14(c), which would require the Registration Agency to protect the identity of the complainant to the extent practicable. This addition would maintain consistency with the complaint process being proposed under part 29. The Department invites comments on the substance of this provision under § 29.17(e)(2), where the rationale is more fully laid out.

Section 30.15—Enforcement Actions

The Department proposes to amend § 30.15(b) by deleting ''or if the Registration Agency does not institute such proceedings within 45 days of the start of the suspension, the suspension is lifted'' at the end of the paragraph. This alteration would maintain consistency between the suspension and enforcement procedures under both parts 29 and 30. This change would also permit the Registration Agency to impose a suspension for a set period of time without being required to proceed to deregistration proceedings within 45 days of the imposition of the suspension, thus providing sponsors and Registration Agencies more time to resolve any deficiencies.

Section 30.20—Severability

The Department proposes to include a severability provision, identical to that proposed in 29 CFR 29.5, as part of the conforming edits being proposed for part 30 to maintain consistency between the two parts.

V. Regulatory Analysis and Review

A. Executive Orders 12866 (Regulatory Planning and Review), 14094 (Modernizing Regulatory Review), and 13563 (Improving Regulation and Regulatory Review)

Under E.O. 12866, OMB's Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and, therefore, subject to the requirements of the executive order and review by OMB. *See* 58 FR 51735 (Oct. 4, 1993). Section 1(b) of E.O. 14094 amends sec. 3(f) of E.O. 12866 to define a ''significant regulatory action'' as an action that is likely to result in a regulation that may: (1) have an annual effect on the economy of $200 million or more (adjusted every 3 years by the Administrator of 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 impact 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 set forth in E.O. 12866. *See* 88 FR 21879 (Apr. 11, 2023). This proposed rule is a significant regulatory action under section 3(f)(1) of E.O. 12866, as amended by E.O. 14094.

E.O. 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. E.O. 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss

qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

1. Summary of the Economic Analysis

The Department anticipates that the proposed rule would result in benefits, costs, cost savings, and transfers for sponsors, participating employers, apprentices, and society. The benefits of the proposed rule are described qualitatively in section V.A.2 (Benefits). The estimated costs are explained in sections V.A.3 (Quantitative Analysis Considerations), V.A.4 (Subject-by-Subject Analysis), and V.A.5 (Summary of Costs). The nonquantifiable costs and cost savings are described qualitatively in section V.A.6 (Nonquantifiable Costs and Cost Savings). The nonquantifiable transfer payments are described qualitatively in section V.A.7 (Nonquantifiable Transfer Payments). An analysis of distributional impacts of the proposed rule is in section V.A.8 (Distributional Impact Analysis). Finally, the regulatory alternatives are explained in section V.A.9 (Regulatory Alternatives).

The quantified costs of the proposed rule for participating employers are rule familiarization and recordkeeping. The quantified costs of the proposed rule for sponsors include rule familiarization, on-the-job training documentation, wage analysis and career development, data collection and reporting, program registration, program standards and adoption agreement, administration of end-point assessments to apprentices and program reviews. The quantified costs of the proposed rule for apprentices include data collection and reporting and end-point assessments. The quantified costs of the proposed rule for SAAs are associated with rule familiarization, data collection and reporting, program registration, program reviews, data sharing, reciprocity of registration, and submission of State Apprenticeship Plans. The quantified costs of the proposed rule for the Federal Government are associated with the occupation suitability determination process, program registration, National Occupational Standards for Apprenticeship, National Program Standards for Apprenticeship, National Guidelines for Apprenticeship Standards, end-point assessments, and program reviews. The quantified costs of the proposed rule for apprentices are the requirement to take an end-point assessment.

Exhibit 1 shows the total estimated costs of the proposed rule over 10 years (2025–2034) at discount rates of 3 percent and 7 percent. The proposed rule is expected to have first-year costs of $147.9 million in 2022 dollars. Over the 10-year analysis period, the annualized costs are estimated at $151.9 million at a discount rate of 7 percent in 2022 dollars. In total, over the first 10 years, the proposed rule is estimated to result in costs of $1.066 billion at a discount rate of 7 percent in 2022 dollars. The majority of these costs are from changes to registered apprenticeship that would result in an estimated annualized cost of $145.9 million at a discount rate of 7 percent and total 10-year costs of $1.024 billion at a discount rate of 7 percent. The creation of registered CTE apprenticeship is expected to result in lower costs than the changes to registered apprenticeship as the Department anticipates that it would be a smaller program. The Department estimates annualized costs from registered CTE apprenticeship at $6.0 million at a 7-percent discount rate and total 10-year costs of $42.1 million at a 7-percent discount rate.

EXHIBIT 1—ESTIMATED COSTS

[2022 $millions]

Year	Registered apprenticeship program costs	CTE program costs	Total costs
1	$147.2	$0.8	$147.9
2	126.8	2.5	129.3
3	131.9	3.7	135.6
4	137.3	4.9	142.2
5	142.6	6.1	148.8
6	148.2	7.3	155.5
7	153.3	8.6	161.9
8	158.7	9.7	168.4
9	164.1	11.0	175.0
10	169.6	12.2	181.8
Annualized, 3% discount rate, 10 years	147.0	6.4	153.4
Annualized, 7% discount rate, 10 years	145.9	6.0	151.9
Total, 3% discount rate, 10 years	1,254.2	54.4	1,308.6
Total, 7% discount rate, 10 years	1,024.5	42.1	1,066.6

2. Benefits

This section provides a qualitative description of the anticipated benefits associated with the proposed rule. The Department is unable to quantify the anticipated benefits due to data limitations and therefore is providing a qualitative description of those benefits. The Department seeks public comments and inputs to allow for quantification of the benefits in the final rule.

a. Benefits From Improvements and Updates to Registered Apprenticeship

There are numerous benefits that are expected to result from the updates to registered apprenticeship programs, including greater worker protections, advancements in equity, higher quality apprenticeship training, and enhanced program transparency. The addition of program reviews would increase worker protections and program transparency through reviews of registered apprenticeship programs to ensure compliance and identify any deficiencies that require remedy. In addition, program reviews must be conducted if the Registration Agency receives credible information or allegations that the program is not being operated in accordance with program standards and requirements. This requirement would offer greater

accountability in the operation of apprenticeship programs and provide an avenue for investigating any potential instances of noncompliance. In doing so, the Department would create more safeguards for apprentices to ensure that they have healthy and safe working and learning environments.

The proposed updates to registered apprenticeship would also yield additional benefits to apprentices through changes to the process for determining occupations suitable for apprenticeship. The Department's proposal would create a more objective, proactive, and transparent process for determining occupations suitable for apprenticeship, which would allow occupations in non-traditional apprenticeship industries to grow while providing protections against the splintering of existing occupations, which could have a negative impact on workers' wages and job quality. These modifications also would reinforce that new occupations suitable for apprenticeship must meet industry-recognized criteria that place workers on a pathway to earning an income that allows them to support themselves and their families, with a fair opportunity for career advancement and economic mobility.

b. General Apprenticeship Benefits From the Creation of the Registered CTE Apprenticeship Model

The proposed registered CTE apprenticeship model would offer multiple benefits to individuals who are seeking career opportunities and looking to develop the skills necessary to be successful in a certain field. Apprenticeships help workers to master both hard skills that are relevant to occupations, and soft skills such as communication, problem-solving, respectful workplace behavior, and teamwork, all while being paid for their work.[190] Development of these skills is highly valued by potential employers and offers benefits for future employment opportunities. Studies have found that individuals who participated in a registered apprenticeship program were 8.6 percent more likely than nonparticipants to be employed 6 and 9 years after enrollment.[191] In addition, apprenticeship participants and those who completed registered apprenticeship programs were also found to have greater lifetime earnings benefits compared to those who had not participated in or completed a registered apprenticeship program.[192] These benefits amounted to $100,000 in lifetime earnings benefits for registered apprenticeship participants and over $240,000 for those who completed registered apprenticeship programs.[193] It should be noted, however, that the results of these studies are correlational in nature. Apprenticeships not only provide individuals with valuable training and skill development without requiring a period of unpaid training time—or even requiring educational loans—but also serve a long-term benefit in overall career success.

For businesses sponsoring a program, registration provides a structure and framework for developing a diverse pool of skilled workers critical to a company's success and a positive net benefit through value creation and an ROI. One report shows that utilizing apprenticeships can contribute to the financial success of a business by reducing employee turnover; promoting a diverse, inclusive, and accessible talent pipeline; and contributing to a more positive company culture.[194] In embracing DEIA in the workforce, research shows that businesses will outperform less diverse companies in terms of profitability. One study found that businesses in the top quartiles for gender diversity were 21 percent more likely to experience above-average profitability than companies in the fourth quartile, while companies in the top quartiles for ethnic and cultural diversity were 35 percent more likely to outperform other companies in terms of profitability.[195] Thus, businesses sponsoring an apprenticeship program will not only have the ability to add diversity to their own workforce but also may outperform other companies profit-wise. Some examples of indirect benefits include ''improved pipeline of skilled employees, improved productivity of coworkers, improved firm culture and employee engagement and loyalty, reduced turnover, and even process or product innovation.'' [196] Another report shows that registered apprenticeship programs help eliminate the biasing factors that traditionally create barriers to entry and promotion for workers. This opportunity creates equity for those who are part of registered apprenticeship programs and allows for fairness and transparency throughout the process.[197]

The proposed registered CTE apprenticeship model would have numerous benefits for students who are enrolled in high school or in community and technical colleges. This new model would allow students to continue their education while participating in the labor market, provide students with opportunities to attain a recognized postsecondary credential, complete college coursework and a registered apprenticeship program, and participate in paid on-the-job learning. These opportunities would allow students to earn and learn, accelerate their completion of postsecondary credentials through dual enrollment, and put students on a career path. Earn and learn programs provide students with an opportunity to gain access to good jobs and stable careers without debt or substantial financial burden.[198] A study completed on the CareerWise Colorado program found that nearly 64 percent of CareerWise students achieve the program's goal of apprenticeship serving as an ''options multiplier,'' in which they transition on to postsecondary education, employment, or both.[199] The program would also provide developmental benefits for youth participants, both at the personal and professional level.[200] This relationship can be especially impactful for youth whose caregivers are inconsistent or unavailable by providing these

[190] Robert Lerman, ''Expanding Apprenticeship—A Way to Enhance Skills and Careers,'' Apr. 15, 2010, *https://www2.ed.gov/PDFDocs/college-completion/03-expanding-apprenticeship.pdf.*

[191] Debbie Reed et al., ''An Effectiveness Assessment and Cost-Benefit Analysis of Registered Apprenticeship in Ten States,'' July 25, 2012, *https://mathematica.org/publications/an-effectiveness-assessment-and-costbenefit-analysis-of-registered-apprenticeship-in-10-states.*

[192] *Ibid.*

[193] *Ibid.*

[194] Accenture, ''Getting to Equal: The Disability Inclusion Advantage,'' 2018, *https://www.accenture.com/_acnmedia/PDF-89/Accenture-Disability-Inclusion-Research-Report.pdf.*

[195] Dame Vivian Hunt, Lareina Yee, Sara Prince, and Sundiatu Dixon-Fyle, ''Delivering through diversity,'' Jan. 18, 2018, *https://www.mckinsey.com/business-functions/people-and-organizational-performance/our-insights/delivering-through-diversity.*

[196] Kevin Hollenbeck, Daniel Kuehn, Robert Lerman, and Siobhan Mills De La Rosa, ''Do Employers Earn Positive Returns to Investments in Apprenticeship? Evidence from Registered Programs under the American Apprenticeship Initiative,'' Oct. 26, 2022, *https://wdr.doleta.gov/research/FullText_Documents/ETAOP2022-36_AAI_ROI_Final_Report_508_9-2022.pdf.*

[197] Intelligent Partnerships, ''Expanding DEIA Programs Through Apprenticeship,'' Apr. 2022, *https://www.apprenticeship.gov/sites/default/files/expanding-deia-programs-through-apprenticeship.pdf.*

[198] Joseph B. Fuller et al., The Project on Workforce, Harvard University, ''The Options Multiplier: Decoding the CareerWise Youth Apprentice Journey,'' Nov. 14, 2022, *https://www.hbs.edu/faculty/Pages/item.aspx?num=63353.*

[199] Joseph B. Fuller et al., The Project on Workforce, Harvard University, ''The Options Multiplier: Decoding the CareerWise Youth Apprentice Journey,'' Nov. 14, 2022, *https://www.hbs.edu/faculty/Pages/item.aspx?num=63353.*

[200] Jean E. Rhodes et al., ''A Model for the Influence of Mentoring Relationships on Youth Development,'' Oct. 5, 2006, *https://www.rhodeslab.org/files/Model.pdf.*

individuals with a source of stability and a role model. Registered CTE apprenticeship would also help to develop young people's career-relevant skillsets at an early age, particularly in the realm of soft and interpersonal skills. Gaining practical experience in organization, problem-solving, teamwork, and time management would help these individuals build the necessary skills for future success in their occupations.[201] We welcome comments providing resources and best practices in mentorship to ensure that programs help apprentices, including those from underserved communities, excel in mentorship programs.

c. Prohibiting Non-Disclosure and Non-Compete Provisions (§ 29.9(d)(1) and (2), (e))

While the proposed prohibitions on non-compete and non-disclosure provisions in apprenticeship agreements may impose cost burdens on those program sponsors and participating employers that might otherwise elect to use them (*i.e.,* the forfeiting of any investment made by such an employer to train an apprentice), the Department is persuaded that any such costs would be outweighed on a macroeconomic level by the substantial economic benefits that would accrue to other employers in the same sector or occupation that can offer a more competitive salary and package of benefits to those employees (such as apprentices) who might otherwise be effectively prevented from offering their skills in the labor market because of such restrictive employment contract covenants. By prohibiting or limiting the use of such anticompetitive practices with respect to apprenticeship agreements, the Department seeks to promote a freer and more competitive marketplace for both employers and skilled workers.

The Department acknowledges that prohibiting non-compete provisions may lead to the unintended consequence of disincentivizing investment in apprenticeship training. However, the Department has determined that this risk would be outweighed by the benefit of prohibiting anticompetitive practices during the term of the registered apprenticeship program. The Department is seeking to encourage the growth of high-quality apprenticeship and the increased use of registered apprenticeship as a training tool. Encouraging competition in the market would serve these goals by incentivizing employers to seek to retain their apprentices through high-quality training and employment rather than through limiting apprentices' ability to seek employment opportunities elsewhere during the term of the apprenticeship. In other words, providing high-quality registered apprenticeship would be a more effective and fair method of retaining apprentices in a registered apprenticeship program rather than through a prohibition on labor movement, which the Department views as harmful to both employers as a restraint on a free and competitive market and to apprentices as a restraint on their mobility.

In addition, there are several benefits that would accrue to apprentices by prohibiting non-disclosure and non-compete provisions. The proposed rule would increase apprentice mobility and labor market competition by removing certain restrictions such as non-compete provisions, thus allowing them to move freely between jobs. The absence of these restrictions would provide apprentices with the opportunity to seek higher paying positions, which would result in an overall increase in wages and offer greater opportunities for growth. Increased mobility is particularly beneficial to younger apprentices, as job changes account for approximately one-third of early career wage growth.[202] One recent study estimated that a nationwide ban on non-compete provisions would increase average earnings by 3.3 to 13.9 percent.[203] The FTC recently estimated that one in five American workers is bound by a non-compete provision.[204] A 2014 survey of workers found that 18 percent of respondents work under a non-compete provision at the time of the survey and that 38 percent had been subject to a non-compete provision during their career.[205] Although these studies are for the general workforce, the Department does not expect the prevalence of non-compete provisions to be materially different in registered apprenticeship. Therefore, the financial benefits of removing non-compete provisions from apprentice agreements could be significant, especially for young apprentices.

In addition to earnings increases, the proposed rule could provide greater opportunities for completed apprentices to potentially engage in entrepreneurial activities.[206] The absence of non-compete provisions generally allows entrepreneurial activity to increase through the formation of intra-industry spinoffs, which serve as grounds for knowledge sharing, innovation, and career growth.[207] The Department is unable to estimate the extent to which recently completed apprentices remain under non-compete provisions and their ability to engage in entrepreneurial activity, but the ability for apprentices to freely leverage their skills and knowledge through entrepreneurial ventures would increase career growth opportunities and the potential for wage increases.

d. National Occupational Standards for Apprenticeship, National Program Standards for Apprenticeship, and National Guidelines for Apprenticeship Standards (§§ 29.13 through 29.15)

Under the proposed rule, the Department seeks to facilitate the use of registered apprenticeship models currently available by defining ''National Program Standards for Apprenticeship'' and ''National Guidelines for Apprenticeship Standards.'' This would promote innovation of and enable ease of access to industry-recognized, standardized products that are intended to facilitate the expansion of new quality programs to be registered expeditiously and efficiently. This would create a more efficient process for National Program Standards for Apprenticeship approval and for local registration of National Guidelines for Apprenticeship Standards. The proposed rule also defines ''National Occupational Standards for Apprenticeship.'' This new product would build, and continuously reinforce and improve with validated industry feedback, a national system of occupational frameworks that incentivize quality in registered apprenticeship programs and feature industry-validated training standards and curricula. The National Occupational Standards for Apprenticeship would provide a template for national occupations, programs, and guidelines that would

[201] Robert Lerman, ''Expanding Apprenticeship—A Way to Enhance Skills and Careers,'' Apr. 15, 2010, *https://www2.ed.gov/PDFDocs/college-completion/03-expanding-apprenticeship.pdf.*

[202] Robert Topel and Michael Ward, ''Job Mobility and the Careers of Young Men,'' May 1, 1992, Q.J. Econ. 107(2), 439–479, *https://academic.oup.com/qje/article-abstract/107/2/439/1838303.*

[203] Matthew S. Johnson, Kurt Lavetti, and Michael Lipsitz, ''The Labor Market Effects of Legal Restrictions on Worker Mobility,'' 2020, at 2, *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3455381.*

[204] 88 FR 3482 (Jan. 19, 2023) (NPRM on non-compete provisions).

[205] Evan P. Starr, James J. Prescott, and Norman D. Bishara, ''Noncompete Agreements in the U.S. Labor Force,'' 64 J. L. & Econ. 1, 53–84 (2021), *https://repository.law.umich.edu/articles/2263.*

[206] John M. McAdams, ''Non-Compete Agreements: A Review of the Literature,'' Dec. 31, 2019, *https://dx.doi.org/10.2139/ssrn.3513639.*

[207] 88 FR 3482 (Jan. 19, 2023) (NPRM on non-compete provisions).

create time and cost savings for sponsors or SAAs that would have submitted new occupation determinations, by allowing them to leverage national frameworks that are already developed by OA.

e. Complaints (§ 29.17)

The proposed rule would extend the amount of time for apprentices to file complaints against sponsors as well as provide requirements that Registration Agencies better protect the identity of apprentices who file complaints. These changes would result in apprentices having more time and feeling more comfortable in filing complaints against sponsors, which could result in better work conditions, improved apprenticeships, and more apprentices completing their programs.

f. Deregistration (§ 29.20)

Currently, deregistration of an apprenticeship program occurs when a sponsor fails to demonstrate compliance with 29 CFR part 29. The proposed rule would add a suspension step allowing sponsors an adequate span of time to update their practices and come into compliance without having to be deregistered and then reregistered at a later date. Under this procedure, a Registration Agency would suspend a registration of new apprentices until the sponsor has achieved compliance with part 29 through the completion of a voluntary compliance action plan or until a final order is issued in formal deregistration proceedings initiated by the Registration Agency.

The intermediary step of suspension represents a benefit because it would allow sponsors to become compliant without having to be deregistered and then reregister or abandon their program. The benefits of this provision are difficult to quantify because of a lack of data on how many suspensions might occur as well as the fact that some programs eligible for deregistration may seek deregistration voluntarily. Voluntary deregistration, however, can occur for several reasons and it would be incorrect to assume that all voluntary deregistrations directly correlate with sponsors that have been deregistered.

The Department expects that fewer programs would be required to deregister or voluntarily deactivate as a result of the suspension procedure, enabling more active total sponsors and the associated apprenticeship opportunities.

3. Quantitative Analysis Considerations

The Department estimated the costs of the proposed rule relative to the existing baseline (*i.e.,* regulations at 29 CFR part 29). In accordance with the regulatory analysis guidance articulated in OMB Circular A–4 and consistent with the Department's practices in previous rulemakings, this regulatory analysis focuses on the likely consequences of the proposed rule (*i.e.,* the costs that are expected to accrue to the affected entities). The analysis covers 10 years to ensure it captures the major costs that are likely to accrue over time. The Department expresses the quantifiable impacts in 2022 dollars and uses discount rates of 3 and 7 percent, pursuant to Circular A–4.

a. Estimated Number of Registered Apprenticeship Program SAAs

The proposed rule would impact SAAs through new regulatory requirements that result in new burdens to or transfer payments. The Department currently works with 31 SAAs, and these are used as the affected population through the period of analysis.

b. Estimated Number of Registered Apprenticeship Program Sponsors

The proposed rule would affect registered apprenticeship programs and their sponsors. A sponsor can have more than one program but, due to data availability, this analysis assumes the number of registered apprenticeship programs is the same as the estimated number of sponsors. The Department used historical data from the Energy Document Portal (EDP) on the number of registered apprenticeship programs from 2017 to 2022 to calculate the annual average growth in the number of programs. To project the number of registered apprenticeship programs and sponsors from 2025 to 2034 the Department calculated the average annual increase in programs (942), presented in Exhibit 2. This increment was applied to project the population of programs from 2025 to 2034.

The proposed rule would add requirements for new registered apprenticeship program registrations. New program registrations differ from the average annual increase in sponsors because the increase in program registrations is partially offset by deregistrations. The Department used historical data from EDP on the number of new program registrations from 2017 to 2022 to calculate an average annual increase in the number of new programs (73) based on the average difference in programs from year to year and applied to project the population of new programs from 2025 to 2034. Data on new program registrations are presented in Exhibit 2.

EXHIBIT 2—HISTORICAL NUMBER OF REGISTERED APPRENTICESHIP PROGRAMS

Year	Total programs *	New programs **	Competency-based programs	Hybrid programs	Non-collectively bargained programs
2017	18,956	2,176	833	980	2,083
2018	20,371	2,691	1,102	1,295	2,115
2019	21,872	2,540	1,386	1,544	2,119
2020	22,495	2,376	1,670	1,755	2,138
2021	23,785	2,688	2,096	1,981	2,122
2022	23,666	2,543	2,474	2,114	2,095
Average Annual Increase ***	942	73	328	227	.....
Average ***	.....	.....	.....	.....	2,112

* Total number of programs does not sum from the detailed components because only a small subset of programs are competency-based, hybrid, or non-collectively bargained. The remaining programs not competency-based or hybrid are hourly programs with at least 2,000 hours of on-the-job training and the remaining programs not included in the non-collectively bargained figures are collectively bargained. These two categories of program do not face unique costs and therefore are not included in the table.

** New programs are newly registered apprenticeship programs for a particular year. They add to the total number of programs but are not equal to the difference in total programs between years due the occurrence of deregistered programs.

*** The average annual increase was calculated by averaging the differences in population from year to year. For example, 942 = ((20,371 − 18,956), (21,872 − 20,371), (22,485 − 21,872), (23,785 − 22,485), (23,666 − 23,785))/5. When the average annual increase or average has a value, that indicates the value used to develop projections.

The Department derived subpopulations of registered apprenticeship programs to estimate the effect of the proposed rule on programs with certain characteristics. The number of programs that were not solely time-based (*i.e.,* competency-based programs or hybrid programs) were calculated by the Department using historical data from EDP from 2017 to 2022. The Department calculated the average annual increase in the number of competency-based programs (328) and the average annual increase in the number of hybrid programs (227) based on the average differences in these programs from year to year. These estimates were applied to project the populations of these programs from 2025 to 2034. Lastly, the proposed rule would have new requirements for registered apprenticeship programs that are not collectively bargained, so the Department estimated the number of programs for which these requirements would apply. Using historical EDP data from 2017 to 2022, the Department assumed that the number of non-collectively bargained programs would remain constant across years, based on the average number of these programs across years (2,112).

Exhibit 2 above presents the historical data on the above five program populations across available years of data as well as average annual increase used to derive the projected number of entities or, in the case of programs reviewed, the average population assumed constant across years. The projected number of each entity from 2025 through 2034, based on either the average annual increase or the average annual value from Exhibit 2, are provided in Exhibit 3 below.

EXHIBIT 3—PROJECTED NUMBER OF REGISTERED APPRENTICESHIP PROGRAMS

Year	Total programs *	New programs **	Competency-based programs	Hybrid programs	Non-collectively bargained programs
2025	26,492	2,763	3,459	2,794	2,112
2026	27,434	2,837	3,787	3,021	2,112
2027	28,376	2,910	4,115	3,248	2,112
2028	29,318	2,983	4,443	3,475	2,112
2029	30,260	3,057	4,771	3,702	2,112
2030	31,202	3,130	5,100	3,928	2,112
2031	32,144	3,204	5,428	4,155	2,112
2032	33,086	3,277	5,756	4,382	2,112
2033	34,028	3,350	6,084	4,609	2,112
2034	34,970	3,424	6,412	4,836	2,112

The number of programs reviewed by either OA or SAAs would also be affected by the proposed rule. The Department used a percentage-based approach to estimate the number of programs reviewed by either Registration Agency. The Department reviews each program every 5 years, meaning that 20 percent of programs are reviewed every year. Of the programs reviewed, the Department estimates that 58.2 percent are reviewed by SAAs and 41.8 percent are reviewed by OA, based on an average of 12,946 programs registered by SAAs yearly and 9,288 registered by OA yearly. Therefore, the Department calculates that 8.4 percent of all programs are reviewed by OA yearly and 11.6 percent of all programs are reviewed by SAAs yearly.[208] The Department applies these percentages to the projected number of programs from 2025 to 2034 to determine the number of programs reviewed by each agency.

c. Estimated Number of Registered Apprenticeship Program Participating Employers

The proposed rule would increase requirements for participating employers in each registered apprenticeship program. The Department used RAPIDS to gather data on the number of participating employers in 2022 and derive the ratio of employers to programs. By dividing the number of participating employers in 2022 by the number of programs in 2022, it was calculated that there are roughly 1.53 employers per program.[209] This ratio was applied to the projected number of sponsors from Exhibit 3 to derive the number of employers from 2025 to 2034, presented in Exhibit 4 below.

EXHIBIT 4—PROJECTED NUMBER OF PARTICIPATING EMPLOYERS

Year	Number of participating employers
2025	40,533
2026	41,974
2027	43,415
2028	44,857
2029	46,298
2030	47,739
2031	49,180
2032	50,622
2033	52,063
2034	53,504

d. Estimated Number of Apprentices

The proposed rule would affect apprentices. The Department used historical data on the number of apprentices from 2017 to 2022 to project the population of apprentices from 2025 to 2034 by calculating the average annual increase in the number of apprentices (32,512).[210] Exhibit 5 presents the number of apprentices from 2017 to 2022 as well as the average annual increase.

EXHIBIT 5—HISTORICAL NUMBER OF APPRENTICES

Year	Total apprentices
2017	415,458
2018	466,560
2019	520,411
2020	538,204
2021	549,747
2022	578,020
Average Annual Increase	32,512

The average annual increase in apprentices is used to project the number of apprentices in 2025–2034, presented in Exhibit 6 below.

[208] 8.4 percent = 41.8 percent × 20 percent; 11.6 percent = 58.2 percent × 20 percent.

[209] 36,218 participating employers in 2022/23,666 programs in 2022 = 1.53.

[210] *See* OA, ''Data and Statistics,'' *https://www.apprenticeship.gov/data-and-statistics* (last updated June 16, 2023).

EXHIBIT 6—PROJECTED NUMBER OF APPRENTICES

Year	Number of apprentices
2025	675,557
2026	708,070
2027	740,582
2028	773,094
2029	805,607
2030	838,119
2031	870,632
2032	903,144
2033	935,656
2034	968,169

e. Estimated Number of Occupations

The proposed rule would impose new requirements in the occupation determination application process and introduce new administrative burdens to sponsors, SAAs, and OA, based on the number of occupation determination applications. The Department used historical data from RAPIDS to calculate the average annual number of occupation determination applications. Data on the number of new and revised occupation determination applications were available from 2019 to 2022. The Department calculated the average annual number of new occupation applications (15) and used this to project new applications for a suitability determination from 2025 to 2034. However, for revised occupations, the proposed rule at § 29.7(h) envisions that OA would review existing approved occupations for revisions every 5 years. There are currently approximately 1,100 approved occupations, so the Department estimates approximately 220 revised occupations per year (1100 ÷ 5 years = 220). The proposed rule would allow the establishment of national occupations, so the Department also estimates that there would be 15 new national occupations yearly based on the bulletin list of national occupations from *Apprenticeship.gov.* Exhibit 7 presents the historical data on the number of new occupations applications and the average number used in the analysis for each year from 2025 to 2034.

EXHIBIT 7—HISTORICAL NUMBER OF NEW OCCUPATION APPLICATIONS

Year	Number of new occupation determinations applications
2019	17
2020	14
2021	12
2022	16
Average	15

f. Estimated Number of CTE SAAs

The creation of registered CTE apprenticeship would result in CTE SAAs entering into agreements with OA to run CTE programs. The Department expects that over the 10-year analysis period that States running their CTE programs would be a proportion of the States with recognized SAAs for registered apprenticeship. The Department estimates that half of the States that are registered apprenticeship SAAs would become CTE SAAs by 2034. Therefore, the Department estimates a steady increase to 16 CTE SAAs by 2035 by assuming 3 percent enter each year (1 SAA per year). Those projected number of CTE SAAs are presented in Exhibit 8. The Department seeks public comment on the assumption that half of States that are registered apprenticeship SAAs would become CTE SAAs by 2034. The Department thinks this estimate is reasonable since it is a voluntary model that States may or may not subscribe to, but the public's input is still requested.

EXHIBIT 8—PROJECTED NUMBER OF CTE SAAS

Year	Number of CTE SAAs
2025	1
2026	2
2027	3
2028	4
2029	5
2030	6
2031	7
2032	7
2033	8
2034	9

g. Estimated Number of Registered CTE Apprenticeship Program Sponsors, CTE Participating Employers, and CTE Apprentices

Secondary schools and postsecondary institutions would be eligible to be registered CTE apprenticeship program sponsors. The Department estimated the population based on the number of school districts that receive Perkins Federal Grant Program funds and the number of postsecondary institutions offering approved CTE programs. The Institute of Education Services estimates that 65 percent of LEAs receive Perkins funds. Based on National Center for Education Statistics (NCES) data, there were 19,359 LEAs in 2021–2022, resulting in an estimate of 12,583 receiving Perkins funds. Data collected by NCES through the Integrated Postsecondary Education Data System indicate that the number of public 2-year and less than 2-year institutions with CTE programs is 1,134 institutions. This results in a total potential population of 13,717 sponsors. However, because of requirements to register, maintain 540 hours of CTE apprenticeship-related instruction over the program, and expectations for registered CTE apprenticeship to slowly ramp up, the Department estimates a small percent of these would become sponsors in the first year (1 percent or 137 sponsors), second year (3 percent or 412 sponsors), and in each subsequent year (3 percent or 412 sponsors).

To estimate the number of participating employers and apprentices associated with registered CTE apprenticeship program sponsors, the Department used data from registered apprenticeship. As discussed in the population estimates for registered apprenticeship, there are approximately 1.53 participating employers per sponsor and 23.4 apprentices per sponsor. The Department expects similar ratios under CTE and used these with the projected number of sponsors to project participating employers and apprentices.

The Department's projections of registered CTE apprenticeship program sponsors, participating employers, and apprentices are presented in Exhibit 9.[211]

[211] Year 1, 137 = 0.01 × 13,717. Year 2, 549 = 137 + 0.03 × 13,717; Year 3, 960 = 549 + 0.03 × 13,717; Year 4, 1,372 = 960 + 0.03 × 13,717; Year 5, 1,783 = 1,372 + 0.03 × 13,717; Year 6, 2,195 = 1,783 + 0.03 × 13,717; Year 7, 2,606 = 2,195 + 0.03 × 13,717; Year 8, 3,018 = 2,606 + 0.03 × 13,717; Year 9, 3,429 = 3,018 + 0.03 × 13,717; Year 10, 3,841 = 3,429 + 0.03 × 13,717.

EXHIBIT 9—PROJECTED NUMBER OF REGISTERED CTE APPRENTICESHIP PROGRAM SPONSORS, PARTICIPATING EMPLOYERS, AND APPRENTICES

Year	Registered CTE apprenticeship program sponsors	CTE participating employers	CTE apprentices
2025	137	210	3,210
2026	549	839	12,839
2027	960	1,469	22,468
2028	1,372	2,099	32,098
2029	1,783	2,728	41,727
2030	2,195	3,358	51,356
2031	2,606	3,988	60,986
2032	3,018	4,617	70,615
2033	3,429	5,247	80,244
2034	3,841	5,876	89,874

h. Estimated number of new CTE apprentices.

The Department estimated the costs of the proposed CTE program based on the number of new apprentices who are projected to enter registered CTE apprenticeship programs. Accordingly, the Department developed projections for the number of new CTE apprentices entering each year of the program based on the number of projected CTE apprentices in Exhibit 10. Given that 540 hours of CTE apprenticeship-related instruction would be required for apprentices in registered CTE apprenticeship programs, the Department expects that it would take 1 to 2 years to complete a registered CTE apprenticeship. To develop its projections, the Department assumed the value of 2 years and estimated the cohorts that would enter each year and exit after 2 years based on the projected CTE apprenticeship population. The projected number of new CTE apprentices and the cohorts those numbers are derived from are presented in Exhibit 10.

EXHIBIT 10—PROJECTED NUMBER OF ANNUAL NEW CTE APPRENTICES

	Year 1	2	3	4	5	6	7	8	9	10
Cohort 1	3,210	3,210								
Cohort 2		9,629	9,629							
Cohort 3			12,839	12,839						
Cohort 4				19,259	19,259					
Cohort 5					22,468	22,468				
Cohort 6						28,888	28,888			
Cohort 7							32,098	32,098		
Cohort 8								38,517	38,517	
Cohort 9									41,727	41,727
Cohort 10										48,147
New Apprentices	3,210	9,629	12,839	19,259	22,468	28,888	32,098	38,517	41,727	48,147
Total Apprentices	3,210	12,839	22,468	32,098	41,727	51,356	60,986	70,615	80,244	89,874

i. Compensation Rates

Exhibits 11a through 11c present the hourly compensation rates for the occupational categories that are expected to experience a change in level of effort (workload) due to the proposed rule. We used BLS's mean hourly wage rate for private sector and State employees.[212] We also used the wage rate from the Office of Personnel Management's Salary Table for the 2022 General Schedule for Federal employees.[213] To reflect total compensation, wage rates include nonwage factors, such as overhead and fringe benefits (*e.g.,* health and retirement benefits). For all labor groups (*i.e.,* private sector, State, and Federal Government), we used an overhead rate of 17 percent.[214] For the private sector, we used a fringe benefits rate of 42 percent, which represents the ratio of average total compensation to average wages for private industry workers in 2022.[215] For the State government sector, we used a fringe benefits rate of

[212] BLS, ''May 2022 National Industry-Specific Occupational Employment and Wage Estimates: NAICS 999200—State Government, excluding schools and hospitals (OEWS Designation),'' *https://www.bls.gov/oes/current/naics4_999200.htm* (last updated Apr. 25, 2023).

[213] Office of Personnel Management, ''Salary Table 2022–GS,'' Jan. 2022, *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/GS_h.pdf.*

[214] U.S. Environmental Protection Agency, ''Wage Rates for Economic Analyses of the Toxics Release Inventory Program,'' June 1, 2002, *https://www.regulations.gov/document?D=EPA-HQ-OPPT-2014-0650-0005.* DOL has used 17 percent in prior final rules, including the Adverse Effect Wage Rate Methodology for the Temporary Employment of H–2A Nonimmigrants in Non-Range Occupations in the United States final rule (RIN 1205–AC05), Temporary Agricultural Employment of H–2A Nonimmigrants in the United States (RIN 1205–AB89), Cranes and Derricks in Construction: Railroad Roadway Work (RIN 1218–AD07), and Occupational Exposure to Beryllium and Beryllium Compounds in Construction and Shipyard Sectors final rule (RIN 1218–AD29).

[215] BLS, ''Employer Costs for Employee Compensation—2022,'' May 16, 2023, *https://data.bls.gov/cgi-bin/srgate.* Calculated using Series Id CMU2020000000000D and CMU2020000000000P, CMU2010000000000D and CMU2010000000000P. Average of 2022 Q1–Q4 for private industry total compensation cost per hour worked divided by average of 2022 Q1–Q4 for private industry wages and salaries cost per hour worked.

62 percent, which represents the ratio of average total compensation to average wages for State government workers in 2022.[216] For the Federal Government, we used a fringe benefits rate of 63 percent.[217] We then multiplied the sum of the loaded wage factor and overhead rate by the corresponding occupational category wage rate to calculate an hourly compensation rate.[218]

EXHIBIT 11a—COMPENSATION RATES FOR PRIVATE SECTOR EMPLOYEES

[2022 dollars]

Position	Grade level	Base hourly wage rate (a)	Loaded wage factor (b)	Overhead costs (c)	Hourly compensation rate d = a + b + c
Training and Development Manager	N/A	$64.84	$27.23 (=$64.84 × 0.42)	$11.02 (=$64.84 × 0.17)	$103.09
Office and Administrative Support Occupation	N/A	21.62	$9.08 (=$21.62 × 0.42)	$3.68 (=$21.62 × 0.17)	34.38
Apprentice	N/A	16.33	$6.86 (=$16.33 × 0.42)	$2.78 (=$16.33 × 0.17)	25.96
Industry Leader	N/A	64.15	$26.94 (=$64.15 × 0.42)	$10.91 (=$64.15 × 0.17)	102.00

EXHIBIT 11b—COMPENSATION RATES FOR STATE EMPLOYEES

[2022 dollars]

Position	Grade level	Base hourly wage rate (a)	Loaded wage factor (b)	Overhead costs (c)	Hourly compensation rate d = a + b + c
Training and Development Manager	N/A	$41.48	$25.72 (=$41.48 × 0.62)	$7.05 (=$41.48 × 0.17)	$74.25
Secretary and Administrative Assistant	N/A	22.74	$14.10 (=$22.74 × 0.62)	$3.86 (=$22.74 × 0.17)	40.70
Computer Systems Analyst	N/A	39.11	$24.25 (=$39.11 × 0.62)	$6.65 (=$39.11 × 0.17)	70.01

EXHIBIT 11c—COMPENSATION RATES FOR FEDERAL EMPLOYEES

[2022 dollars]

Position	Grade level	Base hourly wage rate (a)	Loaded wage factor (b)	Overhead costs (c)	Hourly compensation rate d = a + b + c
Administrative Assistant	GS–7, Step 5	$20.91	$13.17 (=$20.91 × 0.63)	$3.55 (=$20.91 × 0.17)	$37.63

4. Subject-by-Subject Analysis

The Department's subject-by-subject analysis covers the estimated costs and cost savings of the proposed rule. The hourly time burdens and other estimates used to quantify the costs are largely based on the Department's experience with registered apprenticeship.

a. Registered Apprenticeship Costs

(1) Rule Familiarization

When the proposed rule becomes final and takes effect, sponsors, employers, and SAAs would need to familiarize themselves with the new regulation, thereby incurring a one-time cost. To estimate the cost of rule familiarization to sponsors, the Department estimates that each sponsor would have a Training and Development Manager (private sector) spend 4 hours reading and reviewing the new rule. The estimate is based on the length and complexity of this rule, and the Department's program experience with previous apprenticeship regulations. This estimate aligns with the time estimate made in the 2016 DOL Apprenticeship Equal Employment Opportunity (EEO) RIA for the time required to read and review the rule. The Department seeks public comment on this estimate. In subsequent years, this cost is only applied to new sponsors. The estimated cost in year 1 is $10,924,835 (= 26,492 sponsors in year 1 × 4 hours × $103.10 per hour). In years 2–10, only new sponsors would incur this cost. In year 2, for example, new sponsors would face a cost of $1,169,764 (= 2,837 new sponsors × 4 hours × $103.10 per hour).

To estimate the cost of rule familiarization to participating employers, the Department estimates that each participating employer would have a Training and Development Manager (private sector) spend 2 hours reading and reviewing the new rule. This estimate was made by dividing the time estimate of 4 hours to read and review the rule from the 2016 DOL Apprenticeship EEO RIA in half. The Department anticipates it will take participating employers less time to read and review the rule since only certain provisions will be relevant to them. The Department seeks public comment on this estimate with the goal of providing refined estimates in the final rule. In subsequent years, this cost is only applied to new participating employers. The estimated cost in year 1 is $8,357,498 (= 40,533 participating employers in year 1 × 2 hours × $103.10 per hour). In years 2–10, only new participating employers would incur this cost. In year 2, for example, new employers would face a cost of $297,175

[216] *Ibid.* Calculated using Series Id CMU3020000000000D and CMU3020000000000P, CMU3010000000000D and CMU3010000000000P. Average of 2022 Q1–Q4 for State and local government total compensation cost per hour worked divided by average of 2022 Q1–Q4 for State and local government wages and salaries cost per hour worked.

[217] DOL ''Workforce Innovation and Opportunity Act (WIOA) Common Performance Reporting,'' OMB Control No. 1205–0526, concluded May 5, 2021, *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202012-1205-003.*

[218] The hourly compensation rates presented in Exhibit 11a, Exhibit 11b, and Exhibit 11c are rounded. Calculations used throughout the regulatory impact analysis (RIA) use the unrounded value. Therefore, numbers may not sum due to rounding for the convenience of the reader.

(= 1,441 new participating employers × 2 hours × $103.10 per hour).

To estimate the cost of rule familiarization to SAAs, the Department estimates that each SAA would have a Training and Development Manager (State level) spend 4 hours reading and reviewing the new rule. This estimate aligns with the time estimate made in the 2016 DOL Apprenticeship EEO RIA for the time required to read and review the rule. The Department seeks public comment on this estimate with the goal of providing refined estimates in the final rule. This would result in a first-year cost to SAAs of $9,207 (= 31 SAAs × 4 hours × $74.25 per hour). The Department estimates that SAAs would only incur costs from rule familiarization in the first year.

In total, rule familiarization would have annualized costs over the 10-year analysis period of $3.6 million at a discount rate of 3 percent and $3.9 million at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $30.7 million at a discount rate of 3 percent and $27.6 million at a discount rate of 7 percent.

(2) New Requirements for On-the-Job Training Documentation (§ 29.7(b)(3))

The proposed rule would require sponsors to submit documentation of the industry standard of minimum hours needed to obtain proficiency in the occupation under consideration, and that the minimum hours are not less than 2,000 hours. Programs that do not meet the 2,000-hour minimum requirement would need to update their on-the-job training requirements and submit documentation. There are currently an average of 3,459 programs that have occupations that are competency-based and 2,794 registered apprenticeship programs that have occupations that are hybrid (time-based and competency-based). It is assumed that these programs would not meet the minimum 2,000-hour requirement of on-the-job training and would incur one-time costs to update their requirements. The Department estimates that sponsors would have a Training and Development Manager (private sector) spend 8 hours updating their on-the-job training requirements and spend 2 hours submitting documentation. These estimates are based on program experience, and the Department seeks public comment on these estimates. In year 1, the Department estimates the cost to be $6,446,568 (= 6,253 occupations with programs with <2,000 hours on-the-job training × 10 hours × $103.10 per hour). In years 2–10, only sponsors with new occupations would need to submit the documentation of training requirements and incur costs.

In total, the annualized cost over the 10-year analysis period of new requirements for on-the-job training documentation is estimated at $733,723 at a discount rate of 3 percent and $857,800 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $6.3 million at a discount rate of 3 percent and $6.0 million at a discount rate of 7 percent.

(3) Wage Analysis and Career Development Profile (§ 29.7(b)(2))

The proposed rule would require sponsors to submit documentation of the typical compensation and career advancement profile for each occupation that places workers in an occupation that leads to a sustainable career. The Department estimates that this new requirement would impose costs on sponsors to submit documentation of the wage analysis and career advancement profile for existing occupations and new and revised occupation determinations. The Department estimates that sponsors would have a Training and Development Manager (private sector) spend 2 hours to develop and submit the documentation for each existing, new, and revised occupation. This estimate aligns with the time estimates for similar activities in the 2019 DOL Industry-Recognized Apprenticeship Programs (IRAP) RIA for the time required to prepare and submit the wage analysis and career development profile. The Department seeks public comment on this estimate with the goal of providing refined estimates in the final rule. This would result in an annual cost to sponsors of $48,455 (= 235 new and revised occupation determinations × 2 hours × $103.10 per hour).

In total, the annualized cost over the 10-year analysis period of documenting the wage analysis and career development profile is estimated at $48,455 at a discount rate of 3 percent and $48,455 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $413,330 at a discount rate of 3 percent and $340,327 at a discount rate of 7 percent.

(4) DOL–OA Occupation Determination Evaluation Process (§ 29.7(c))

The proposed rule would update the process by which OA evaluates occupation determinations by providing more clarity and being more precise on what is being evaluated including all the new documentation submissions under proposed § 29.7(b). In addition, the proposed rule formalizes the process by which OA solicits feedback from industry leaders on the suitability of an occupation for registered apprenticeship.

The Department estimates that OA would incur costs for a GS–13 manager to spend an additional 4 hours reviewing the new documentation under proposed § 29.7(b) for each occupation application. This estimate is based on program experience, and the Department seeks public comment on this estimate. This would result in an annual cost to OA for new and revised occupation determinations, with a cost in year 1 of $74,617 (= 235 new and revised occupation determinations × 4 hours × $79.38).

In addition, the Department estimates that industry leaders would spend a total of 2 hours providing feedback on the suitability of an occupation for registered apprenticeship. This estimate is based on program experience, and the Department seeks public comment on this estimate. This would result in an annual cost to private industry for new and revised occupation determinations, with a cost in year 1 of $47,939 (= 235 new and revised occupation determinations × 2 hours × $102.00).

In total, the annualized cost over the 10-year analysis period of the new OA occupation determination evaluation process is estimated at $122,556 at a discount rate of 3 percent and $122,556 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $1.0 million at a discount rate of 3 percent and $860,786 at a discount rate of 7 percent.

(5) Data Collection and Reporting (§§ 29.25, 29.8(a), 29.9(b) and (c))

The proposed rule would create new data collection and reporting requirements for apprentices, participating employers, sponsors, and SAAs. Proposed § 29.25(a) would create new apprentice level data collections, including information on pre-apprenticeship services, occupations, and wage schedules. Proposed § 29.25(b) would create new data collections on program sponsors including information such as participating employers, copies of program standards adoption agreements, participation with credentialing agencies, numbers of new and active apprentices, completed apprentices, out-of-pocket costs by apprentices, earnings from completed apprentices. Proposed § 29.8(a) on standards of apprenticeship would update requirements for the written set of standards of apprenticeship including information on term of the apprenticeship program, and related instruction. Proposed § 29.9 would

require sponsors to give the signed apprenticeship agreement to the apprentice and to include new information in the apprenticeship agreements such as descriptions of roles, terms and conditions, end-point assessments, unreimbursed costs, expenses or fees, and credentials.

The Department estimates that complying with these additional data collections and transmitting them to OA would impose additional time burdens on apprentices, sponsors, and SAAs. The majority of these data collections are simple drop down or choice answers similar to the existing form ETA–671 covered under existing ICR 1205–0223.

The Department estimates that apprentices would spend an additional 5 minutes (0.083 hours) providing information to sponsors (proposed § 29.25(a)). This estimate aligns with the time estimate in the supporting statement for Registration and Equal Employment Opportunity in Apprenticeship Programs (OMB Control Number 1205–0223, hereafter referred to as the EEO Supporting Statement), Table 1 for the time apprentices spend on apprenticeship agreements and program registration additions. The Department seeks public comment on this estimate. This would result in an annual cost to apprentices, with a cost in year 1 of $1,455,873 (= 675,557 apprentices × 0.083 hour × $25.96 per hour).

The Department estimates that sponsors would require a Training and Development Manager (private sector) to spend 0.33 hour to provide information on standards of apprenticeship (proposed § 29.8(a)). This estimate aligns with the time estimate in the EEO Supporting Statement, Table 1 for the time sponsors spend updating standards of apprenticeship. The Department seeks public comment on this estimate. The Department estimates that sponsors would also have an office and administrative support staff (private sector) spend 5 minutes (0.083 hour) per apprentice providing additional data on apprentices (proposed § 29.25(a)) and providing the apprenticeship agreement (proposed § 29.9). This estimate aligns with the time estimate in the EEO Supporting Statement, Table 1 for the time sponsors spend providing additional data on apprentices and providing the apprenticeship agreement. The Department seeks public comment on this estimate. Finally, the Department estimates that sponsors would also have an office and administrative support staff (private sector) spend 5 minutes (0.083 hour) per participating employer providing additional data on employers in their programs (proposed § 29.25(b)). This estimate aligns with the time estimate in the EEO Supporting Statement, Table 1 for the time sponsors spend providing additional data on employers in their programs. The Department seeks public comment on this estimate. This would result in an annual cost to sponsors, with a cost in year 1 of $2,944,441 (= 26,492 programs × 0.33 hour × $103.10 per hour + 675,557 apprentices × 0.083 hour × $34.38 per hour + 40,533 participating employers × 0.083 hour × $34.38 per hour).

The Department estimates that SAAs would have a Training and Development Manager (State level) spend an additional 1.5 hours per sponsor providing additional data to OA (proposed § 29.25(a) and (b), as required by proposed § 29.28). This estimate is made by multiplying the time estimate in the EEO Supporting Statement, Table 1 by 1.5 to account for the added length of the form. The Department seeks public comment on this estimate. This would result in an annual cost to SAAs, with a cost in year 1 of $2,950,515 (= 26,492 sponsors × 1.5 hours × $74.25 per hour).

In total, the annualized cost over the 10-year analysis period of the new data collection and reporting requirements is estimated at $8.64 million at a discount rate of 3 percent and $8.55 million at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $73.7 million at a discount rate of 3 percent and $60.0 million at a discount rate of 7 percent.

(6) Program Registration (§ 29.10)

The proposed rule would require sponsors that submit new applications to include additional information in their applications including a narrative on how they are working with the workforce system, information on their financial capacity and other resources to operate the proposed program, and any history of violations. OA and SAAs would need to review this new information when making a registration determination.

The Department estimates that sponsors would have a Training and Development Manager (private sector) spend 1 hour submitting the additional information with applications for new programs. This estimate is based on program experience, and the Department seeks public comment on this estimate. This would result in an annual cost to sponsors submitting new program applications, with a cost in year 1 of $284,874 (2,763 new programs × 1 hour × $103.10 per hour).

Each Registration Agency would spend additional time reviewing the added information to registration applications. The Department estimates that SAAs would have a Training and Development Manager (State level) spend 0.5 hour reviewing the additional information. This estimate is based on program experience, and the Department seeks public comment on this estimate. This would result in an annual cost to SAAs based on the number of new registration applications they would review. The Department assumes they would review the same proportion of new registration applications as there are programs registered with SAAs (58.2 percent, on average between 2019 and 2022), with a cost in year 1 of $59,730 (= 2,763 new program registrations × 58.2% × 0.5 hour × $74.25 per hour).

The Department estimates that OA would have a GS–13 level employee spend 0.5 hour reviewing the additional information. This estimate is based on program experience, and the Department seeks public comment on this estimate. This would result in an annual cost to OA based on the number of new registration applications they would review (41.8 percent), with a cost in year 1 of $45,814 (= 2,763 new program registrations × 41.8% × 0.5 hour × $79.38 per hour).

In total, the annualized cost over the 10-year analysis period of the new program registration requirements is estimated at $434,561 at a discount rate of 3 percent and $431,342 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $3.7 million at a discount rate of 3 percent and $3.0 million at a discount rate of 7 percent.

(7) Reporting for Program Standards Adoption Agreement (§ 29.11)

The proposed rule would require non-collectively bargained programs to include requirements that participating employers would adopt and comply with the sponsor's standards of apprenticeships as well as applicable requirements under 29 CFR part 30. This primarily formalizes existing arrangements between employers and sponsors. In addition to formalizing these agreements, they must be transmitted by the sponsor to OA, thereby imposing a new burden on sponsors.

The Department estimates that sponsors that have non-collectively bargained programs would have a Training and Development Manager (private sector) spend 1 hour transmitting the adoption agreements with employers to OA. This estimate is based on program experience, and the Department seeks public comment on

this estimate. This would result in an annual cost to sponsors with non-collectively bargained programs of $217,738 (= 2,112 average annual non-collectively bargained programs × 1 hour × $103.10).

In total, the annualized cost over the 10-year analysis period of the program standards adoption agreement provision is estimated at $217,738 at a discount rate of 3 percent and $217,738 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $1.9 million at a discount rate of 3 percent and $1.5 million at a discount rate of 7 percent.

(8) National Occupational Standards for Apprenticeship, National Program Standards for Apprenticeship, and National Guidelines for Apprenticeship Standards (§§ 29.13 Through 29.15)

The proposed rule would allow OA to create National Occupational Standards for Apprenticeship that would be suitable for adoption by program sponsors. This would extend existing work to identify and characterize competency-based occupational frameworks and ensure they meet the new standards of proposed § 29.7. The Department estimates that a GS–13 level employee would require 40 hours to commission each new national occupational standard. This estimate is based on program experience, and the Department seeks public comment on this estimate. This would result in an annual cost of $47,628 (= 15 annual new national occupation determinations × 40 hours × $79.38 per hour).

In total, the annualized cost over the 10-year analysis period of commissioning National Occupational Standards for Apprenticeship is estimated at $47,628 at both a discount rate of 3 percent and 7 percent. The total cost over the 10-year analysis period is estimated at $406,277 at a discount rate of 3 percent and $334,519 at a discount rate of 7 percent.

(9) End-Point Assessments (§ 29.16)

The proposed rule would require sponsors to conduct an end-point assessment with the apprentice after their completion of the registered apprenticeship program. The end-point assessment would objectively measure the apprentice's acquisition of the relevant knowledge, skills, and competencies necessary to demonstrate proficiency in the occupation covered by the program. The Department understands that many sponsors already perform end-point assessments but does not have data on how many do so. Therefore, the Department estimates the costs based on all sponsors conducting end-point assessments as a result of the proposed rule. The Registration Agency would award a Certificate of Completion to the apprentice after successful completion of the end-point assessment.

The Department estimates that apprentices would spend 1 hour working with the sponsor answering questions and completing the end-point assessment. This estimate is based on program experience, and the Department seeks public comment on this estimate. This would result in an annual cost to apprentices, with a cost in year 1 of $17,540,640 (= 675,557 apprentices × 1 hour × $25.96 per hour). The Department estimates that sponsors would also have a Training and Development Manager (private sector) spend 1 hour working with the apprentices to assess their proficiency in the occupation covered by the program. This estimate is based on program experience, and the Department seeks public comment on this estimate. This would result in an annual cost to sponsors, with a cost in year 1 of $69,646,975 (= 675,557 apprentices × 1 hour × $103.10). The Department estimates the Registration Agency would have a GS–7 staff spend 15 minutes (0.25 hour) per program awarding a Certificate of Completion to each apprentice after successful completion of the end-point assessment. This estimate is based on program experience, and the Department seeks public comment on this estimate. This would result in an annual cost, with a cost in year 1 of $249,276 (= 26,492 × 0.25 hour × $37.64 per hour).

In total, the annualized cost over the 10-year analysis period of the end-point assessment requirements is estimated at $105.3 million at a discount rate of 3 percent and $104.0 million at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $898.5 million at a discount rate of 3 percent and $730.7 million at a discount rate of 7 percent.

(10) Recordkeeping (§ 29.18)

The proposed rule would require participating employers to record and maintain additional information on end-point assessments and safety records. The Department estimates that office and administrative support staff (private sector) would spend 4 hours recording and maintaining the additional information. This estimate is based on program experience, and the Department seeks public comment on this estimate. This would result in an annual cost to participating employers, with a cost in year 1 of $5,573,384 (= 40,533 participating employers × 4 hours × $34.38 per hour).

In total, the annualized cost over the 10-year analysis period of this recordkeeping requirement is estimated at $6.42 million at a discount rate of 3 percent and $6.36 million at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $54.7 million at a discount rate of 3 percent and $44.6 million at a discount rate of 7 percent.

(11) Program Reviews (§ 29.19)

The proposed rule would require Registration Agencies to conduct periodic program reviews at least every 5 years. Program reviews can consist of off-site reviews such as desk audits of submitted records or on-site reviews at the workplace of the sponsor or participating employer, and could involve examination and copying of relevant documents or interviews. The Registration Agency must also present a Notice of Program Review Findings to the sponsor. If a sponsor receives a Notice of Program Review Findings that indicates a failure of compliance, the sponsor must develop a compliance action plan that details a commitment to remediate the areas of noncompliance, precise actions to be taken, the time period over which the deficiency would be remedied, and identification of individuals responsible for corrections of deficiencies.

The Department assumes that 20 percent of program sponsors would be subject to program reviews annually, such that in a 5-year period all program sponsors would be reviewed. The Department estimates that OA would conduct annual program reviews for 8.4 percent of sponsors based on the proportion of programs registered by OA and that a GS–13 level employee would spend 40 hours conducting each program review. This estimate aligns with the time estimate made in the 2016 Apprenticeship EEO RIA for the time required to conduct compliance reviews. The Department seeks public comment on this estimate. This would result in an annual cost to OA, with a cost in year 1 of $7,027,755 (= 26,492 sponsors in year 1 × 8.4% × 40 hours × $79.38 per hour).

The Department estimates that SAAs would conduct annual program reviews for the remaining 11.6 percent of sponsors and that a Training and Development Manager (State level) would spend 40 hours conducting each program review. This estimate aligns with the time estimate made in the 2016 Apprenticeship EEO RIA for the time required to conduct compliance reviews. The Department seeks public comment on this estimate. This would result in an annual cost to SAAs, with

a cost in year 1 of $9,162,569 (= 26,492 sponsors in year 1 × 11.6% × 40 hours × $74.25 per hour).

The Department estimates that 20 percent of sponsors would be found noncompliant and need to develop a compliance action plan. The Department thinks this estimate is reasonable due to the number of new program requirements that sponsors would need to implement but seeks public comment on this estimate. The Department estimates that a Training and Development Manager (private sector) would require 8 hours to develop and write the compliance action plan and 0.17 hour to submit it electronically. These estimates are based on program experience, and the Department seeks public comment on these estimates. This would result in an annual cost to sponsors, with a cost in year 1 of $892,559 (= 26,492 sponsors in year 1 × 20% undergoing program reviews × 20% found noncompliant × 8.17 hours × $103.10 per hour).

In total, the annualized cost over the 10-year analysis period of program reviews is estimated at $19.7 million at a discount rate of 3 percent and $19.5 million at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $167.8 million at a discount rate of 3 percent and $136.8 million at a discount rate of 7 percent.

(12) Data Sharing (§ 29.28)

The proposed rule would require SAAs to furnish OA with apprenticeship-related data applicable to proposed §§ 29.25 and 29.28. Most SAAs already use RAPIDS and therefore would not face costs to develop software or IT infrastructure as a result of this provision. For the three SAAs that do not currently use RAPIDS, the Department assumes that they would face costs associated with developing the software and IT infrastructure as well as new costs for compiling and submitting their apprenticeship data. The Department assumes that all SAAs would face new costs for compiling and submitting their apprenticeship data.

The Department estimates that the three SAAs not using RAPIDS would face a one-time cost associated with software and IT systems infrastructure of $100,000 and $50,000 in licensing costs. The Department also assumes that they would face annual costs associated with consulting costs and system maintenance of $75,000. This would result in costs to SAAs not using RAPIDS of $2,475,000 in the first year (= 11 SAAs not using RAPIDS × $225,000 for system infrastructure, licensing, and consulting and maintenance costs) and annual costs in years 2–10 of $825,000 (= 11 SAAs not using RAPIDS × $75,000 for annual consulting and system maintenance costs).

The Department estimates that all SAAs would have a Training and Development Manager (State level) spend 32 hours compiling and submitting apprenticeship data. This estimate aligns with time estimates for similar activities in the 2016 WIOA RIA. The Department seeks public comment on this estimate. The Department further estimates that all SAAs would have 3 computer systems analysts (State level) spend 80 hours each working to help compile and submit apprenticeship data. This estimate aligns with time estimates for similar activities in the 2016 WIOA RIA for the time required to compile and submit apprenticeship data. The Department seeks public comment on this estimate. Finally, the Department estimates that all SAAs would have an office and administrative support staff (State level) spend 72 hours to assist with compiling and submitting apprenticeship data. This estimate aligns with time estimates for similar activities in the 2016 WIOA RIA. The Department seeks public comment on this estimate. This would result in an annual cost to SAAs of $685,359 (= 31 SAAs × 32 hours × $74.25 per hour + 31 SAAs × 240 hours × $70.01 per hour + 31 SAAs × 72 hours × $40.70 per hour).

In total, the annualized cost over the 10-year analysis period for data sharing is estimated at $1.70 million at a discount rate of 3 percent and $1.73 million at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $14.5 million at a discount rate of 3 percent and $12.1 million at a discount rate of 7 percent.

(13) SAA Reciprocity of Registrations (§ 29.26(d))

In order to obtain or maintain full or provisional recognition status, SAAs would be required to establish a process and criteria for providing approval to apprentices, apprenticeship programs, and standards of apprenticeship. Under this requirement, SAAs would face a burden to develop and write a reciprocity statement. The Department estimates that each SAA would have a Training and Development Manager (State level) spend 4 hours to develop and write the reciprocity statement. This estimate is based on program experience, and the Department seeks public comment on this estimate. This would be a one-time cost resulting in a first-year cost of $9,207 (= 31 SAAs × 4 hours × $74.25 per hour). In total, the annualized cost over the 10-year analysis period is estimated at $1,048 at a discount rate of 3 percent and $1,225 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $8,939 at a discount rate of 3 percent and $8,605 at a discount rate of 7 percent.

(14) Submission of State Apprenticeship Plan (§ 29.27)

In order to maintain recognition as an SAA, each SAA would be required to submit a State Apprenticeship Plan every 4 years, beginning in 2026. The State Apprenticeship Plan would contain strategic planning elements such as goals for expansion; promotion of DEIA; a narrative describing workforce development activities; and a description of its strategy and initiatives for ensuring its registered apprenticeship programs feature high-quality apprenticeships. The State Apprenticeship Plan also would include operational planning elements such as regulatory documentation, State EEO plan, complaint investigation plan, technical assistance plan, performance reporting process, program review plan, registration standards, reciprocity policy, and data sharing policy. Finally, the State Apprenticeship Plan would include a variety of assurances that the State would abide by relevant regulatory requirements, registration requirements, resource availability, and information availability. Under this requirement, SAAs would face a burden to write and document these requirements, and then submit their State Apprenticeship Plan.

The Department estimates that each SAA would have a Training and Development Manager (State level) spend 86 hours to develop, write, review, and submit the State Apprenticeship Plan. This estimate aligns with the time estimate made in the 1205–0522 Supporting Statement for WIOA State Plans for the time required to write state plans. The Department seeks public comment on this estimate. This periodic cost would occur every 4 years, beginning in 2026. Therefore, SAAs would face costs in years 2, 6, and 10 of $197,948 (= 31 SAAs × 86 hours × $74.25 per hour). In total, the annualized cost over the 10-year analysis period is estimated at $58,575 at a discount rate of 3 percent and $57,723 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $499,656 at a discount rate of 3 percent and $405,424 at a discount rate of 7 percent.

b. CTE Costs

(1) Rule Familiarization

When the proposed rule becomes final and takes effect, registered CTE apprenticeship program sponsors, participating employers, and SAAs would need to familiarize themselves with the new regulation, thereby incurring a one-time cost. To estimate the cost of rule familiarization to sponsors, the Department estimates that each registered CTE apprenticeship program sponsor would have a Training and Development Manager (private sector) spend 4 hours reading and reviewing the new rule. This estimate aligns with the time estimate made in the 2016 DOL EEO Apprenticeship RIA for the time required to read and review the rule. The Department seeks public comment on this estimate. In subsequent years, this cost is only applied to new registered CTE apprenticeship program sponsors. The estimated cost in year 1 is $56,566 (= 137 sponsors in year 1 × 4 hours × $103.10 per hour). In years 2–10, only new sponsors would incur this cost. In years 2–10, new sponsors would face a cost of $169,699 (= 412 new sponsors × 4 hours × $103.10 per hour).

To estimate the cost of rule familiarization to participating employers, the Department estimates that each participating employer would have a Training and Development Manager (private sector) spend 2 hours reading and reviewing the new rule. This estimate was made by dividing the time estimate of 4 hours to read and review the rule from the 2016 DOL EEO Apprenticeship RIA in half. The Department anticipates it will take participating employers less time to read and review the rule since only certain provisions will be relevant to them. The Department seeks public comment on this estimate. In subsequent years, this cost is only applied to new CTE participating employers. The estimated cost in year 1 is $43,273 (= 210 participating employers in year 1 × 2 hours × $103.10 per hour). In years 2–10, only new participating employers would incur this cost. In year 2, for example, new employers would face a cost of $129,820 (= 630 new participating employers × 2 hours × $103.10 per hour).

To estimate the cost of rule familiarization to SAAs, the Department estimates that each CTE SAA would have a Training and Development Manager (State level) spend 4 hours reading and reviewing the new rule. This estimate aligns with the time estimate made in the 2016 DOL EEO Apprenticeship RIA for the time required to read and review the rule. The Department seeks public comment on this estimate. This would result in an annual cost to new CTE SAAs, with an estimated year 1 cost of $297 (= 1 CTE SAAs × 4 hours × $74.25 per hour).

In total, rule familiarization would have annualized costs over the 10-year analysis period of $278,274 at a discount rate of 3 percent and $274,349 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $2.4 million at a discount rate of 3 percent and $1.9 million at a discount rate of 7 percent.

(2) Development of Industry Skills Frameworks (§ 29.24(b))

The proposed rule would require OA to develop industry skills frameworks. OA would be required to develop training outlines that provide a structure for developing the personal effectiveness, academic, and workplace competencies required by an industry. The proposed rule would require the industry skills frameworks to describe the core competencies to be developed across an industry and must specify an on-the-job training outline detailing the minimum number of on-the-job training hours apprentices must attain in order to meet the specific benchmarks required by an industry.

The Department assumes that OA would develop a specific industry skills framework for 16 industries [219] participating in the program and estimates that OA would have a GS–13 level employee spend 80 hours per industry developing the training material and course content. This estimate aligns with the time estimate made in the 2020 DOL IRAP rule for the time required to develop a training plan. The Department seeks public comment on this estimate. The Department assumes that it can develop 8 industry skills frameworks per year and therefore that it will develop 8 in year 1 and 8 in year 2. The Department also assumes there will be engagement from industry leaders to support the review of the industry skills frameworks and industry leaders will spend a total of 2 hours providing their support for this review. This estimate is based on program experience, and the Department seeks public comment on this estimate.

To estimate the costs to OA associated with developing industry skills frameworks, the Department multiplied the anticipated number of industry skills frameworks developed per year by the hour burden to develop the Skills Frameworks and by the GS–13 (Federal) loaded hourly wage. In years 1–2, the Department estimates costs to OA associated with developing industry skills frameworks to be $50,803 per year (= 8 industry skills frameworks × 80 hours × $79.38 per hour).

To estimate the costs to industry leaders associated with supporting the development of the industry skills frameworks, the Department multiplied the anticipated number of industry skills frameworks developed per year by the hour burden to develop the Skills Frameworks and by the industry leader's loaded hourly wage. In years 1–2, the Department estimates costs to industry leaders associated with supporting the development of the industry skills frameworks to be $1,632 per year (= 8 industry skills frameworks × 2 hours × $102 per hour).

In total, the annualized cost over the 10-year analysis period for program sponsors to develop industry skills frameworks is estimated at $11,762 at a discount rate of 3 percent and $13,498 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $100,333 at a discount rate of 3 percent and $94,804 at a discount rate of 7 percent.

(3) CTE Apprenticeship Program Registration Applications (§ 29.24(d)(2))

The proposed rule would require a prospective program sponsor to electronically submit to a Registration Agency an application that includes written plans and assurances. The Department anticipates the program sponsor's Training and Development Manager (private sector) would spend 10 hours carrying out the duties associated with CTE apprenticeship registration applications. This estimate is based on program experience, and the Department seeks public comment on this estimate.

To estimate the costs associated with CTE apprenticeship program registration applications, the Department multiplied the number of anticipated program sponsors in each year by the hour burden to compile application information and by the Training and Development Manager (private sector) loaded hourly wage. In year 1, the Department estimates costs associated with compiling and submitting program applications to be $141,416 (= 137 program sponsors × 10 hours × $103.10 per hour). In year 2, the Department estimates costs associated with compiling and submitting program applications to be $424,249 (= 412 new program sponsors × 10 hours × $103.10 per hour).

[219] The basis for the 16 industries is the 16 Career Clusters that were created by Advance CTE on behalf of ED. Advance CTE, ''Career Clusters,'' *https://careertech.org/career-clusters* (last visited Oct. 23, 2023).

In total, the annualized cost over the 10-year analysis period for program sponsors to compile and submit program applications is estimated at $392,058 at a discount rate of 3 percent and $386,614 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $3.3 million at a discount rate of 3 percent and $2.7 million at a discount rate of 7 percent.

(4) Selection of Diverse and Inclusive Cross-Section of Students (§ 29.24(d)(2)(v)(A))

The proposed rule would require program sponsors to ensure a diverse and inclusive cross-section of students is selected for participation. The Department assumes that in order to be compliant with the proposed rule, program sponsors would ensure that information is distributed regularly to underserved communities. The Department anticipates the program sponsor's human resources (HR) manager and administrative assistant would spend 0.5 hours, respectively, carrying out the duties associated with distributing information. This estimate aligns with the time estimate made in the 2016 EEO Apprenticeship RIA for the time spent on outreach to students from underserved communities. The Department seeks public comment on this estimate.

To estimate the costs associated with ensuring a diverse and include cross-sections of students are selected, the Department multiplied the anticipated number of program sponsors per year by the hour burden to distribute information to underserved communities and by the HR manager as well as the administrative assistant loaded hourly wage (private sector), respectively. In year 1, the Department estimates costs associated with distributing information to underserved communities to be $10,086 (= 137 program sponsors × 0.5 hours × $32.93 per hour + 137 program sponsors × 0.5 hours × $114.13 per hour).

In total, the annualized cost over the 10-year analysis period for program sponsors to ensure a diverse and inclusive cross-section of students is selected is estimated at $138,880 at a discount rate of 3 percent and $129,487 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $1.2 million at a discount rate of 3 percent and $909,461 at a discount rate of 7 percent.

(5) Sponsor Oversight of Participating Employers (§ 29.24(d)(4))

The proposed rule would impose costs on sponsors to ensure that each of the employers that participate in the program adheres to all requirements of the proposed rule. The Department anticipates the program sponsor's HR manager would spend 8 hours performing the duties associated with overseeing the participating employers. This estimate is based on program experience, and the Department seeks public comment on this estimate.

To estimate the costs associated with sponsor oversight of participating employers, the Department multiplied the number of program sponsors anticipated each year by the hour burden to ensure participating employers adhere to all the requirements of the proposed rule and by the HR manager hourly wage (private sector). In year 1, the Department estimates the costs associated with the oversight of participating employers to be $125,424 (= 137 program sponsors × 8 hours × $114.13 per hour).

In total, the annualized cost over the 10-year analysis period for program sponsors to oversee participating employers is estimated at $1.7 million at a discount rate of 3 percent and $1.6 million at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $14.7 million at a discount rate of 3 percent and $11.3 million at a discount rate of 7 percent.

(6) CTE Apprenticeship Agreement (§ 29.24(e))

The proposed rule would require all program sponsors registered by a Registration Agency to develop and establish a written CTE apprenticeship agreement that contains the terms and conditions of the employment, education, and training of the CTE apprentice. The Department anticipates the program sponsor's Training and Development Manager (private sector) would spend 0.167 hours performing the duties associated with the CTE apprenticeship agreements. This estimate aligns with the time estimate made in the 2020 DOL IRAP rule for the time required to prepare and sign the apprenticeship agreement. The Department seeks public comment on this estimate.

To estimate the costs associated with the CTE apprenticeship agreement, the Department multiplied the number of CTE apprentices anticipated to participate each year by the hour burden for program sponsors to prepare and sign the CTE apprenticeship agreement and by the Training and Development Manager wage (private sector). In year 1, the Department estimates the costs associated with preparing and signing CTE apprenticeship agreements to be $55,263 (= 3,210 CTE apprentices × 0.167 hours × $103.10 per hour).

In total, the annualized cost over the 10-year analysis period for program sponsors to develop written CTE apprenticeship agreements is estimated at $421,712 at a discount rate of 3 percent and $395,717 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $3.6 million at a discount rate of 3 percent and $2.8 million at a discount rate of 7 percent.

(7) Credentials Upon Completion of Program (§ 29.24(f))

The proposed rule would impose costs on the Registration Agency to provide a nationally recognized certificate of completion of registered CTE apprenticeship and any other industry-recognized credential to students who meet the graduation requirements for the registered CTE apprenticeship program. The Department estimates that OA would issue 41.8 percent of the total credentials based on the proportion of certificates issued by SAAs (58.2 percent). The Department anticipates that the duties associated with issuing completion credentials would be performed by a GS–13 level employee who would spend 0.25 hour providing a certificate of completion of registered CTE apprenticeship and other credentials to students. This estimate aligns with the time estimate made in the RAP section of this RIA for the time required to provide a certificate of compliance to each sponsor. The Department seeks public comment on this estimate. To estimate the costs associated with OA providing completion credentials to students, the Department multiplied the number of CTE apprentices anticipated to receive certificates each year by the hour burden for OA to prepare and issue the certificates and by the GS–13 wage (public sector). The Department assumes that the first cohort of students to receive completion credentials would be eligible beginning in year 2, and estimates the costs to OA associated with providing completion credentials to be $26,609 (= 3,210 CTE apprentices × 41.8% × 0.25 hour × $79.38 per hour).

The Department estimates that SAAs would issue 58.2 percent of the total credentials based on the anticipated total number of CTE apprentices per year. The Department anticipates that the duties associated with issuing completion credentials would be performed by a Training and Development Manager (public sector) who would spend 0.25 hour providing a certificate of completion of registered

CTE apprenticeship and other credentials to students. This estimate aligns with the time estimate made in the RAP section of this RIA for the time required to provide a certificate of compliance to each sponsor. The Department seeks public comment on this estimate. To estimate the costs associated with SAAs providing completion credentials to students, the Department multiplied the number of CTE apprentices anticipated to receive certificates each year by the hour burden for SAAs to prepare and issue the certificates and by the Training and Development Manager wage (public sector). In year 2, the Department estimates the costs to SAAs associated with providing completion credentials to be $34,692 (= 3,210 CTE apprentices × 58.2% × 0.25 hour × $74.25 per hour).

In total, the annualized cost over the 10-year analysis period for OA and SAAs to issue completion credentials is estimated at $376,291 at a discount rate of 3 percent and $348,039 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $3.2 million at a discount rate of 3 percent and $2.4 million at a discount rate of 7 percent.

(8) Program Registration (§ 29.24(g)(1))

The proposed rule would require Registration Agencies to review CTE apprenticeship program registration applications and determine whether the program is eligible for registration within 90 days of receipt. Additionally, Registration Agencies would have to inform applicants in writing of decisions regarding program registration.

The Department estimates that OA would register 41.8 percent of programs based on the proportion of programs that are typically registered by SAAs (58.2 percent). The Department anticipates that the duties of reviewing applications and making a determination would be performed by a GS–13 level employee who would spend 2 hours reviewing program registration applications and informing applicants of their decision. This estimate is based on program experience, and the Department seeks public comment on this estimate. To estimate the costs associated with OA reviewing CTE apprenticeship program registration applications and informing applicants of their decision, the Department multiplied the number of programs typically registered by OA by the hour burden for OA to review program registration applications and by the GS–13 hourly wage. This would result in an annual cost to OA, with a cost in year 1 of $9,097 (= 137 program sponsors × 41.8% × 2 hours × $79.38 per hour).

The Department estimates that SAAs would register 58.2 percent of programs, and the time required for a Training and Development Manager to review program registration applications and inform applicants of their decision would be consistent with that of OA's at 2 hours. This estimate is based on program experience, and the Department seeks public comment on this estimate. To estimate the costs associated with SAAs reviewing CTE apprenticeship program registration applications and informing applicants of their decision, the Department multiplied the number of programs typically registered by SAAs by the hour burden for SAAs to review program registration applications and by the Training and Development Manager (State level) hourly wage. This would result in an annual cost to SAAs, with a cost in year 1 of $11,860 (= 137 program sponsors × 58.2% × 2 hours × $74.25 per hour).

In total, the annualized cost over the 10-year analysis period for Registration Agencies to review CTE apprenticeship program registration applications and inform applicants of their decision is estimated at $58,102 at a discount rate of 3 percent and $57,295 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $495,622 at a discount rate of 3 percent and $402,418 at a discount rate of 7 percent.

(9) Technical Assistance and Other Support (§ 29.24(g)(2))

The proposed rule would require Registration Agencies to provide outreach, technical assistance, and other support to potential sponsors to support the adoption of registered CTE apprenticeship.

The Department estimates that OA would provide technical assistance to 41.8 percent of program sponsors based on the proportion of programs that are typically registered by OA. The Department anticipates that the time required for a GS–13 level employee to provide technical assistance and other support to sponsors would be 3 hours. This estimate aligns with time estimates for similar activities in the 2016 WIOA RIA. The Department seeks public comment on this estimate. To estimate the costs associated with OA providing technical assistance, the Department multiplied the number of programs typically registered by OA, and thus receiving technical assistance from OA, by the hour burden for OA to provide technical assistance and by the GS–13 hourly wage. This would result in an annual cost to OA, with a cost in year 1 of $13,646 (= 137 program sponsors × 41.8% × 3 hours × $79.38 per hour).

The Department estimates that SAAs would provide technical assistance to 58.2 percent of program sponsors based on the proportion of programs that are typically registered by SAAs. The Department anticipates that the time required for a Training and Development Manager to provide technical assistance and other support to sponsors would be 3 hours. This estimate aligns with time estimates for similar activities in the 2016 WIOA RIA. The Department seeks public comment on this estimate. To estimate costs associated with SAAs providing technical assistance, the Department multiplied the number of programs typically registered by SAAs, and thus receiving technical assistance from SAAs, by the hour burden for SAAs to provide technical assistance and by the Training and Development Manager (State level) hourly wage. This would result in an annual cost to SAAs, with a cost in year 1 of $17,791 (= 137 program sponsors × 58.2% × 3 hours × $74.25 per hour).

In total, the annualized cost over the 10-year analysis period for Registration Agencies to provide outreach, technical assistance, and other support to potential sponsors is estimated at $432,862 at a discount rate of 3 percent and $403,586 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $3.7 million at a discount rate of 3 percent and $2.8 million at a discount rate of 7 percent.

(10) Program Reviews (§ 29.24(g)(4))

The proposed rule would require Registration Agencies to conduct reviews of registered CTE apprenticeship programs at least every 5 years. Program reviews can consist of off-site reviews such as desk audits of submitted records or on-site reviews at the workplace of the sponsor. On-site reviews could involve copying of relevant documents and interviews with employees, CTE apprentices, journeyworkers, supervisors, managers, and hiring officials. The Registration Agency must also provide a written Notice of Program Review Findings to the sponsor. If a sponsor receives a Notice of Program Review Findings that indicates a failure of compliance, the sponsor must develop a compliance action plan or submit a written rebuttal to the Registration Agency.

The Department assumes that 20 percent of program sponsors would be subject to program reviews annually, such that in a 5-year period all program

sponsors would be reviewed. The Department estimates that OA would conduct annual program reviews for 8.4 percent of sponsors based on the proportion of programs registered by OA and that a GS–13 level employee would spend 40 hours conducting each program review. This estimate aligns with the time estimate made in the RAP section of this RIA for the time required to conduct program reviews. The Department seeks public comment on this estimate. This would result in an annual cost to OA, with a cost in year 1 of $36,388 (= 137 sponsors in year 1 × 8.4% × 40 hours × $79.38 per hour).

The Department estimates that SAAs would conduct annual program reviews for the remaining 11.6 percent of sponsors and that a Training and Development Manager (State level) would spend 40 hours conducting each program review. This estimate aligns with the time estimate made in the RAP section of this RIA for the time required to conduct program reviews. The Department seeks public comment on this estimate. This would result in an annual cost to SAAs, with a cost in year 1 of $47,442 (= 137 sponsors in year 1 × 11.6% × 40 hours × $74.25 per hour).

The Department estimates that 20 percent of sponsors would be found noncompliant and need to develop a compliance action plan. The Department estimates that a Training and Development Manager (private sector) would require 8 hours to develop the compliance action plan and 0.17 hour to submit it electronically. These estimates align with the time estimates made in the RAP section of this RIA for the time required to develop and submit the compliance action plan. The Department seeks public comment on these estimates. This would result in an annual cost to sponsors, with a cost in year 1 of $4,621 (= 137 sponsors in year 1 × 20% undergoing program reviews × 20% found noncompliant × 8.17 hours × $103.10 per hour).

In total, the annualized cost over the 10-year analysis period of program reviews is estimated at $1.2 million at a discount rate of 3 percent and $1.1 million at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $10.4 million at a discount rate of 3 percent and $8.0 million at a discount rate of 7 percent.

(11) Request for Reconsideration of Program Registration Status (§ 29.24(g)(5) Through (7))

The proposed rule would allow sponsors to file a request for reconsideration if their initial application is denied, renewal of the registration of a program is denied, or the program is deregistered. It would also require Registration Agencies to review the request and issue a written explanation of their final decision.

The Department assumes that 25 percent of program sponsors would submit a request for reconsideration annually but seeks public comment on this assumption. The Department thinks this estimate is reasonable due to the level of coordination required for this model and since the program is new. The estimate is also based on the Department's experience with registered apprenticeship. The Department also assumes that the duties associated with preparing and submitting requests for reconsideration for program sponsors would be performed by a Training and Development Manager (private sector) who would spend 6 hours preparing requests. This estimate is based on program experience, and the Department seeks public comment on this estimate. In year 1, the Department estimates the costs for program sponsors associated with requests for reconsideration to be $21,212 (= 137 sponsors × 25% requesting consideration × 6 hours × $103.10 per hour). In year 2, the Department estimates the costs for new program sponsors associated with new requests for reconsideration to be $63,637 (= 412 new sponsors × 25% requesting consideration × 6 hours × $103.10 per hour).

The Department assumes that 41.8 percent of programs will be registered by OA. The Department also assumes that the duties associated with Registration Agencies reviewing requests for reconsideration for OA will be performed by a GS–13 level employee who will spend 2 hours reviewing requests. This estimate is based on program experience, and the Department seeks public comment on this estimate. In year 1, the Department estimates the costs for OA associated with requests for reconsideration to be $2,274 (= 137 sponsors × 41.8% registered by OA × 25% requesting consideration × 2 hours × $79.38 per hour). In year 2, the Department estimates costs for OA associated with new request for reconsideration to be $6,823 (= 412 new sponsors × 41.8% registered by OA × 25% requesting consideration × 2 hours × $79.38 per hour).

The Department assumes that 58.2 percent of program sponsors will be registered by SAAs. The Department also assumes that the duties associated with Registration Agencies reviewing requests for reconsideration for SAAs will be performed by a Training and Development Manager (private sector) who will spend 2 hours reviewing requests. This estimate is based on program experience, and the Department seeks public comment on this estimate. In year 1, the Department estimates costs for SAAs associated with request for reconsideration to be $2,965 (= 137 sponsors × 58.2% registered by SAAs × 25% requesting consideration × 2 hours × $74.25 per hour). In year 2, the Department estimates costs for SAAs associated with new request for reconsideration to be $8,895 (= 412 new sponsors × 58.2% registered by SAAs × 25% requesting consideration × 2 hours × $74.25).

In total, the annualized cost over the 10-year analysis period associated with requests for reconsideration of program status is estimated at $73,334 at a discount rate of 3 percent and $72,316 at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $625,555 at a discount rate of 3 percent and $507,917 at a discount rate of 7 percent.

(12) Data and Quality Metrics; Submission to Registration Agency (§ 29.24(g)(9))

The proposed rule would require CTE apprentices to provide their information to program sponsors. The Department assumes that CTE apprentices would spend 0.16 hour providing their information to program sponsors. This estimate aligns with the time estimate made in the RAP section of this RIA for the time apprentices spend providing their information to program sponsors. The Department seeks public comment on this estimate. To calculate the costs for CTE apprentices associated with providing information to program sponsors, the Department multiplied the number of anticipated CTE apprentices each year by the hour burden to provide information and by the CTE apprentice hourly wage (private sector). In year 1, the Department estimates the costs for CTE apprentices to provide their information to program sponsors to be $13,835 (= 3,210 CTE apprentices × 0.16 hour × $25.96 per hour).

The proposed rule would require program sponsors to spend time compiling and sending to OA data on CTE apprentices, participating employers, and themselves. The Department assumes program sponsors would spend 0.167 hour (10 minutes) compiling and sending data on CTE apprentices, 0.167 hour on participating employers, and 0.67 hour on themselves. These estimates align with the time estimates made in the RAP section of this RIA for the time required to compile and send data. The Department seeks public comment on

these estimates. The Department also assumes that the duties associated with the hour burden to compile and send data would be performed by a Training and Development Manager (private sector). To calculate the costs to program sponsors associated with compiling and sending data, the Department multiplied the number of CTE apprentices, program sponsors, and employers anticipated each year by the respective hour burden to compile and send data and by the Training and Development Manager wage (private sector). In year 1, the Department estimates the costs to program sponsors associated with compiling and sending data to be $67,857 (= 3,210 CTE apprentices × 0.167 hour × $103.10 per hour + 210 participating employers × 0.167 hour × $103.10 per hour + 137 program sponsors × 0.67 hour × $103.10 per hour).

The Department assumes that the duties associated with compiling and developing reports to be made publicly available would be performed by a GS–13 level employee who would spend 60 hours compiling and developing reports. This estimate is based on program experience, and the Department seeks public comment on this estimate. To calculate the costs for OA associated with compiling and developing reports, the Department multiplied the hour burden to compile and develop reports by the GS–13 wage. In year 1, the Department estimates the costs to OA associated with compiling and developing reports to be $4,763 (= 60 hours × $79.38 per hour).

The proposed rule would require CTE SAAs to compile and submit all CTE apprenticeship-related data. The Department assumes that the duties associated with compiling and submitting CTE apprenticeship-related data would be performed by management, computer systems, and administrative staff who would spend 32 hours, 240 hours, and 72 hours, respectively, compiling and submitting data. These assumptions are consistent with the assumptions in registered apprenticeship for similar activities. Additionally, the Department assumes that CTE SAAs would spend 40 hours compiling and developing reports to be made publicly available. This estimate is based on program experience, and the Department seeks public comment on this estimate. In year 1, the Department estimates the costs to CTE SAAs associated with compiling and developing reports to be $25,078 (= 1 CTE SAA × 32 hours × $74.25 per hour + 1 SAA × 240 hours × $70.01 per hour + 1 SAA × 72 hours × $40.70 per hour + 1 SAA × 40 hours × $74.25 per hour).

In total, the annualized costs over the 10-year analysis period associated with data quality and metrics are estimated at $1.3 million at a discount rate of 3 percent and $1.2 million at a discount rate of 7 percent. The total cost over the 10-year analysis period is estimated at $10.7 million at a discount rate of 3 percent and $8.2 million at a discount rate of 7 percent.

5. Summary of Costs

This proposed rule would result in costs from changes to the registered apprenticeship regulations and creation of the registered CTE apprenticeship model. Exhibit 12 presents a summary of the estimated costs for each quantified provision for the registered apprenticeship and registered CTE apprenticeship, respectively.

EXHIBIT 12—SUMMARY TABLE OF COSTS BY PROVISION

[2022 $millions, annualized, 7%]

Registered apprenticeship provisions	Registered apprenticeship cost per provision	CTE provisions	CTE cost per provision
Rule familiarization	$3.93	Rule familiarization	$0.27
New requirements for on-the-job training	0.86	Development of industry skills frameworks	0.01
Wage analysis and career development	0.05	Apprenticeship program registration application	0.39
Occupation determination evaluation process	0.12	Selection of diverse and inclusive cross-section of students.	0.13
Data collection and reporting	8.55	Sponsor oversight	1.61
Program registration	0.43	Apprenticeship agreement	0.40
Reporting for program standards and adoption agreement.	0.22	Credentials upon completion of program	0.35
National occupation, program, and guidance standards	0.05	Program registration	0.06
End-point assessments	104.03	Technical assistance and other support	0.40
Recordkeeping	6.36	Program reviews	1.14
Program reviews	19.48	Request for reconsideration of program registration status.	0.07
Data sharing	1.73	Data and quality metrics	1.17
SAA reciprocity of registrations	0.001		
Submission of State Apprenticeship Plan	0.06		

The proposed rule would result in quantified costs to registered apprenticeship SAAs, sponsors, participating employers, and apprentices. The proposed rule would also result in quantified costs to CTE program SAAs, sponsors, participating employers, and apprentices. Exhibit 13 presents a summary of the quantifiable costs to each type of entity associated with the proposed rule.

EXHIBIT 13—SUMMARY TABLE OF COSTS BY PROVISION

[2022 $millions, annualized, 7%]

Registered Apprenticeship Program Entities:	
SAAs	$13.52
Sponsors	91.34
Participating Employers	7.77

EXHIBIT 13—SUMMARY TABLE OF COSTS BY PROVISION—Continued

[2022 $millions, annualized, 7%]

Apprentices	22.60
OA	10.62
CTE Program Entities:	
SAAs	1.19
Sponsors	3.66
Participating Employers	0.12
Apprentices	0.18
OA	0.84

Exhibit 14 presents a summary of the quantifiable costs associated with this proposed rule.

EXHIBIT 14–ESTIMATED COSTS

[2022 $millions]

Year	Registered apprenticeship program costs	CTE program costs	Total costs
1	$147.2	$0.8	$147.9
2	126.8	2.5	129.3
3	131.9	3.7	135.6
4	137.3	4.9	142.2
5	142.6	6.1	148.8
6	148.2	7.3	155.5
7	153.3	8.6	161.9
8	158.7	9.7	168.4
9	164.1	11.0	175.0
10	169.6	12.2	181.8
Annualized, 3% discount rate, 10 years	147.0	6.4	153.4
Annualized, 7% discount rate, 10 years	145.9	6.0	151.9
Total, 3% discount rate, 10 years	1,254.2	54.4	1,308.6
Total, 7% discount rate, 10 years	1,024.5	42.1	1,066.6

6. Nonquantifiable Costs and Cost Savings

This section addresses the nonquantifiable costs and cost savings of the proposed rule.

a. Costs

(1) Authority To Determine Occupations Suitable for Apprenticeship (§ 29.7(a))

The proposed rule would give the authority to determine occupations suitable for registered apprenticeship only to OA. Currently, some occupations are determined to be suitable for registered apprenticeship only by SAAs. Those occupations determined only by SAAs, and not OA, to be suitable for registered apprenticeship would need to submit new requests for the occupations to be approved by OA for them to continue to be suitable for registered apprenticeship. The Department assumes that sponsors would submit new requests for all occupations only approved by SAAs to be determined suitable for registered apprenticeship therefore incurring a one-time cost. The Department does not have data on the number of occupations that are only determined to be suitable for registered apprenticeship by SAAs and therefore is unable to quantify the cost of submitting the new requests for occupation suitability. The Department seeks public comments on data supporting costs of occupation suitability determinations to SAAs and sponsors.

(2) New Requirements for Off-the-Job Training Documentation (§ 29.7(b)(4))

The proposed rule would require sponsors to submit documentation of the curriculum and number of off-the-job training hours, which cannot be less than 144 hours. Programs that do not meet the 144-hour minimum requirement would need to update their off-the-job training requirements and submit documentation. The Department does not have data on the number of programs that do not meet the minimum 144-hour requirements of off-the-job training and is therefore unable to quantify this cost.

(3) Deregistration (§ 29.20)

As discussed under the benefits section, the proposed rule would add a suspension step prior to deregistration allowing sponsors an adequate span of time to update their practices and be in compliance without having to be deregistered and then reregistered at a later date. Both SAAs and OA would need to develop a process for suspension procedures and offer technical assistance to sponsors to promote compliance with the suspension process. The Department is unable to quantify this cost due to uncertainty with procedures that would be developed and a lack of data on how many suspensions would be expected to occur. In addition, the addition of the suspension step could reduce the number of costly deregistrations, potentially even leading to cost savings for Registration Agencies.

(4) State Apprenticeship Councils (§ 29.26(d))

The proposed rule would increase and clarify the requirements for State

Apprenticeship Councils that are established by SAAs. State Apprenticeship Councils provide SAAs with written, nonbinding advice, recommendations, research, and reports concerning apprenticeship-related matters, and on the submission of the State Apprenticeship Plan. The proposed rule would establish requirements for State Apprenticeship Council composition including requiring State Apprenticeship Councils to be composed of individuals who are familiar with occupations suitable for registered apprenticeship, registered apprenticeship programs, and opportunities across a wide range of industries and sectors including employers, representatives of employers, representatives of labor organizations, members of State workforce development boards, representatives of the secondary or postsecondary education system, and other stakeholders of the National Apprenticeship System. State Apprenticeship Council participation would be voluntary and therefore impose de minimis costs on individuals. However, SAAs would have a cost to recruit members and maintain the State Apprenticeship Council. The Department lacks data on the burden or costs associated with establishing and maintaining a State Apprenticeship Council and is therefore unable to quantify the costs of this provision. The Department seeks public comment on data or estimates of the costs associated with establishing and maintaining a State Apprenticeship Council for any States that would need to create State Apprenticeship Councils.

b. Cost Savings

(1) Exemptions (§ 29.23)

The proposed rule would provide relief to certain sponsors that can justify being exempt from certain requirements of subpart A of 29 CFR part 29. This would result in cost savings for sponsors and potentially participating employers. The Department is unable to project how many exemptions would be requested and granted, as well as what provisions the exemptions would be for. Therefore, the Department is unable to estimate the potential cost savings resulting from exemptions. The Department seeks public comment on how sponsors may use the exemption provision.

7. Nonquantifiable Transfer Payments

a. Progressive Wage Increases (§ 29.8(a)(17)(B))

The proposed rule would require a graduated schedule of increasing wages from entry wage to the journeyworker wage that includes at least one incremental wage step during the first 2,000 hours of on-the-job training and a final wage that is at least 75 percent of the journeyworker wage paid by the employer for that occupation. These changes would result in transfer payments from participating employers to apprentices. Participating employers that, in the baseline, do not increase wages during the first 2,000 hours or do not pay an end-point wage of 75 percent of the journeyworker wage, would need to pay higher total wages over the apprenticeship term. The Department lacks data on the number of participating employers that do not offer at least one wage increase for every 2,000 hours or the number of participating employers that do not pay an end-point wage of 75 percent of the journeyworker wage. Therefore, the Department is unable to quantify the transfer payments associated with either change. The Department seeks public comment on how progressive wage increases from this provision would impact apprentices and employers, specifically data that would indicate how many apprentices are currently not receiving progressive wage increases.

b. Unreimbursed Costs to Apprentices (§ 29.8(a)(18))

The proposed rule would limit the unreimbursed costs, expenses, and fees that an apprentice may incur during the registered apprenticeship program to those that are necessary and reasonable and do not impose financial barriers. The Department believes that there are currently some instances in which apprentices are required to pay costs, expenses, or fees that are excessive and unreasonably burden the apprentice. The Department expects that this provision would reduce the instances of these and as a result, be a transfer payment from sponsors or participating employers to apprentices. The Department does not have data on the prevalence of excessive costs to apprentices, and therefore is unable to quantify this transfer payment.

8. Distributional Impact Analysis

E.O. 13985, ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,'' seeks to advance equity in agency actions and programs. The term *equity* is defined as consistent and systematic fair, just, and impartial treatment of individuals, including individuals who belong to underserved communities, such as women; Black, Latino, and Indigenous and Native American persons; Asian Americans and Pacific Islanders; other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

To assess the impact of the proposed rule on equity, the Department analyzed Census data from the 2020 American Community Survey with data on the demographic distribution of registered apprenticeship programs. As shown in Exhibit 15 below, certain underserved communities are well represented in registered apprenticeship programs and are approximately equal to or exceed the distribution of these groups in the Census Workforce Population.[220] This includes individuals who identify as Hawaiian/Pacific Islander, Hispanic, Native American, Black, Veteran, and Youth. Although the remaining demographic groups' representation in registered apprenticeship programs does not yet reflect the overall U.S. workforce, significant progress has been made and efforts continue to advance equity for underserved communities. This proposed rule tries to further advance registered apprenticeship as an equitable program by increasing the rights of apprentices such as by removing non-compete provisions, improving the complaint process, ensuring progressive wage increases through an apprentice's tenure, and other quality improvements to registered apprenticeship.

[220] U.S. Census Bureau, ''American Community Survey Data,'' 2020, *https://www.census.gov/programs-surveys/acs/data.html.*

EXHIBIT 15—DEMOGRAPHIC COMPARISON BETWEEN U.S. CENSUS WORKFORCE AND REGISTERED APPRENTICESHIP PROGRAM

Demographic	Census (%)	OA (%)
Asian	6.11	2.04
Black or African American	11.89	10.77
Disabled	4.94	1.12
Hawaiian/Pacific Islander	0.18	1.10
Hispanic or Latino	17.86	22.75
Multiracial	4.34	1.10
Native American	0.68	1.60
Veteran	4.20	7.09
White	71.63	61.74
Women	43.15	13.8
Youth	12.64	39.00

The advancement of worker rights and pay through changes in registered apprenticeship from removal of non-compete provisions, improvements to the complaint process, progressive wage increases, and other quality improvements to registered apprenticeship would have the potential to have two distributional impacts: (1) for the existing distribution of registered apprenticeship, which serves underserved communities at a rate equal to or higher than the population, improve their economic outcomes; and (2) have the potential to make registered apprenticeship more attractive and increase further the representation of underserved communities.

For the apprentices in the current distribution of registered apprenticeship, as shown in Exhibit 15, improvements in registered apprenticeship would improve their economic outcomes as described by the benefits of the proposed rule. Workers could potentially receive higher wages by improving their labor mobility, would participate in higher quality registered apprenticeship programs, and would face fewer financial barriers affecting their economic future.

The reduction in financial barriers would potentially increase participation by underserved communities. Many of the underserved communities are economically disadvantaged or face other workplace-related barriers. Reducing financial barriers and improving economic outcomes from registered apprenticeship could incentivize greater participation by those underserved communities. Changes to the registered apprenticeship model, combined with prior updated EEO regulations for registered apprenticeship programs, which were released in 2016, would help businesses to reach a larger and more diverse pool of workers, while also protecting apprentices and applicants from discrimination.[221] The effects of the Department's efforts are evident in the demographic data provided by 686,000 apprentices between 2010 and 2019.[222] These data show that the representation of Asian apprentices has increased from 1.7 percent in 2010 to 2.2 percent in 2019.[223] Additionally, the distribution of Black or African American apprentices has grown from 12.8 percent in 2010 to 17.1 percent in 2019.[224] This demonstrates that efforts to advance equity in registered apprenticeship programs have proven to be effective thus far, and this work will continue to ensure that underserved communities are represented in these programs. The new registered CTE apprenticeship program would expand worker protections and anti-discrimination initiatives to youth apprentices.

Although the participation of nearly all underserved communities has become more closely aligned with the makeup of the overall U.S. workforce, women's representation in registered apprenticeship programs still falls well below this metric. Although women comprise 43.15 percent of the American workforce in 2020,[225] only 13.8 percent of all apprentices are women in 2022.[226] According to BLS, women accounted for only 10.9 percent of total employed construction workers in 2022,[227] and only 4.2 percent of those working skilled construction trades occupations.[228] The Department's Women's Bureau has worked to expand opportunities for women by administering the WANTO grant program.[229] Since 2017, approximately 15 million in grant funding has been awarded to help recruit, train, and retain more women in pre-apprenticeship and registered apprenticeship programs in industries where they are typically underrepresented.[230] This grant program, amongst the previously discussed reduction of financial barriers by this proposed rule, will continue to create a pathway for more women, including those that are economically disadvantaged, to enter registered apprenticeship programs.[231] This proposed rule would ensure that all registered apprenticeship programs, including those targeting the disadvantaged, maintain high-quality programming, report more data that can be used to analyze participation and outcomes, and do not impose unnecessary financial burdens. The creation of the registered CTE apprenticeship model would also provide more opportunities for women to get into registered apprenticeship

[221] OA, ''Diversity, Equity, Inclusion, and Accessibility,'' *https://www.apprenticeship.gov/employers/diversity-equity-inclusion-accessibility* (last visited July 20, 2023).

[222] DOL, ''Equity Snapshot: Apprenticeships in America,'' Nov. 4, 2021, *https://blog.dol.gov/2021/11/03/equity-snapshot-apprenticeships-in-america.*

[223] *Ibid.*

[224] *Ibid.*

[225] U.S. Census Bureau, ''American Community Survey Data,'' 2020, *https://www.census.gov/programs-surveys/acs/data.html.*

[226] OA, ''Women in Apprenticeship,'' Aug. 2022, *https://www.apprenticeship.gov/sites/default/files/dol-industry-factsheet-series-women.pdf.*

[227] BLS, ''Labor Force Statistics from the Current Population Survey,'' Jan. 25, 2023, *https://www.bls.gov/cps/cpsaat18.htm.*

[228] Institute for Women's Policy Research, ''Numbers Matter: Women Working in Construction,'' July 2023, *https://iwpr.org/wp-content/uploads/2023/07/Quick-Figure-construction-July-2023.pdf.*

[229] OA, ''WANTO Grant Program,'' *https://www.dol.gov/agencies/wb/grants/wanto* (last visited July 20, 2023).

[230] *Ibid.*

[231] DOL, Women's Bureau, ''Advancing Opportunities for Women through Apprenticeship,'' Jan. 2021, *https://www.dol.gov/sites/dolgov/files/WB/media/AdvancingOpportunitiesWomenthroughApprenticeship-jan2021.pdf.*

programs at an earlier stage in their career.

9. Regulatory Alternatives

OMB Circular A–4, which outlines best practices in regulatory analysis, directs agencies to analyze alternatives if such alternatives best satisfy the philosophy and principles of E.O. 12866. Accordingly, the Department considered four regulatory alternatives for changes to registered apprenticeship, two less burdensome and two more burdensome than the proposed rule. Under the first alternative, end-point assessments (proposed § 29.16) would not be required under the proposed rule. Under the second alternative, program reviews (proposed § 29.19) would only be conducted for cause. Under the third alternative, program reviews (proposed § 29.19) would be conducted for all sponsors every 2 years rather than every 5 years. Finally, under the fourth alternative, end-point assessments (proposed § 29.16) would be conducted by an independent third party. The Department seeks comment on these four regulatory alternatives as well as additional regulatory alternatives for the Department to consider.

For the first alternative the Department considered removing the requirement for end-point assessments. To estimate the reduction in costs under this alternative, the Department subtracted the estimated costs of end-point assessments from the total costs estimated of the proposed rule. Over the 10-year analysis period, the annualized costs are estimated at $41.8 million at a discount rate of 7 percent. In total, this alternative is estimated to result in costs of $293.8 million at a discount rate of 7 percent.

The Department decided not to pursue this alternative because end-point assessments are a key method for sponsors to assess the skills and knowledge acquired by the apprentice. They help to measure and ensure the quality of registered apprenticeship programs.

For the second alternative the Department considered conducting program reviews only for cause, rather than for all sponsors every 5 years. To estimate the reduction in costs under this alternative, the Department adjusted the calculations described in the subject-by-subject analysis for program reviews (proposed § 29.19). The Department estimated that instead of all sponsors undergoing a program review every 5 years, only 320 sponsors would receive program reviews in each year. The Department maintained the assumption that 20 percent of those program reviews would find noncompliance and require a subsequent compliance action plan. The Department maintained the cost estimates for all other provisions. Over the 10-year analysis period, the annualized costs are estimated at $127.9 million at a discount rate of 7 percent. In total, this alternative is estimated to result in costs of $898.2 million at a discount rate of 7 percent.

The Department decided not to pursue this alternative because conducting program reviews only for cause would miss a large number of programs that may need reviews. To ensure high-quality registered apprenticeship programs, and that all programs abide by the regulatory requirements of registered apprenticeship, the Department believes that all registered apprenticeship programs should be reviewed over a 5-year period as specified in the proposed rule. This 5-year period ensures that the Department has the resources available to conduct reviews and that the review is not overly burdensome on programs undergoing the review.

For the third alternative, the Department considered conducting program reviews for all registered apprenticeship programs every 2 years, rather than for all programs every 5 years. This would increase the frequency at which the Department could identify noncompliance and potentially improve the quality of registered apprenticeship programs by ensuring closer compliance with the regulatory requirements. To estimate the increase in costs under this alternative, the Department adjusted the calculations described in the subject-by-subject analysis for program reviews (proposed § 29.19). The Department estimated that instead of all sponsors undergoing a program review every 5 years, they would receive a program review every 2 years. This would increase the annual number of program reviews conducted by SAAs (from 3,085 in year 1 to 7,713) and by OA (from 2,213 in year 1 to 5,533). The Department maintained the cost estimates for all other provisions. Over the 10-year analysis period, the annualized costs are estimated at $196.9 million at a discount rate of 7 percent. In total, this alternative is estimated to result in costs of $1,383.1 million at a discount rate of 7 percent.

The Department decided not to pursue this alternative because conducting program reviews every 2 years would increase costs by more than the benefit of more frequent program reviews. In addition, OA, and potentially SAAs, would lack the resources to conduct the large number of annual program reviews required. The Department welcomes comments with recommendations for how OA could use its resources most effectively to identify and review more frequently programs that need improvement.

For the fourth and final alternative the Department considered requiring end-point assessments to be conducted by an independent third party. An independent third party would remove any potential for conflicts of interest related to the perceived effectiveness of the sponsor's registered apprenticeship program that could occur by having sponsors conduct end-point assessments themselves. Requiring the end-point assessment to be conducted by an independent third party would have the potential to increase the quality of registered apprenticeship programs and ensure apprentices complete the program with the tools and skills needed to succeed. To estimate the increase in costs under this alternative, the Department adjusted the calculations described in the subject-by-subject analysis for end-point assessments (proposed § 29.16). The Department increased the time required for a Training and Development Manager (private sector) from 1 hour to 4 hours to account for additional preparation, synthesis of findings, and reporting of findings by the independent third party. The Department maintained the estimated cost of all other provisions of the proposed rule. Over the 10-year analysis period, the annualized costs are estimated at $646.3 million at a discount rate of 7 percent. In total, this alternative is estimated to result in costs of $4,539.5 million at a discount rate of 7 percent.

The Department decided not to pursue this alternative because the burden placed on registered apprenticeship programs is estimated to be too high for the resulting benefits of independent third-party end-point assessments.

The Department presents a comparison of the costs of each of the four alternatives and the proposed rule in Exhibit 16 below.

EXHIBIT 16—SUMMARY OF PROPOSED AND ALTERNATIVES COSTS

[2022 $millions]

Year	NPRM	Alt. 1	Alt. 2	Alt. 3	Alt. 4
1	$147.2	$59.7	$131.2	$172.8	$408.7
2	126.8	35.1	110.1	153.3	400.9
3	131.9	36.1	114.7	159.4	418.7
4	137.3	37.2	119.4	165.6	436.6
5	142.6	38.4	124.2	171.9	454.6
6	148.2	39.7	129.1	178.4	472.7
7	153.3	40.7	133.7	184.4	490.4
8	158.7	41.8	138.4	190.7	508.4
9	164.1	43.0	143.2	197.0	526.3
10	169.6	44.3	148.1	203.4	544.5
Annualized, 3% discount rate	147.0	41.7	128.6	185.4	539.4
Annualized, 7% discount rate	145.9	41.8	127.9	196.9	646.3
Total, 3% discount rate, 10 years	1,254.2	355.6	1,097.0	1,581.8	4,601.3
Total, 7% discount rate, 10 years	1,024.5	293.8	898.2	1,383.1	4,539.5

In addition to the four regulatory alternatives discussed above, the Department also considered maintaining the status quo. E.O. 12866 states, ''In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating.'' Accordingly, the Department considered not implementing any of the provisions in this proposed rule. Under the status quo alternative, the Department would retain current program standards, apprenticeship agreements, and state governance requirements, and would not develop a registered CTE apprenticeship model. Doing so would incur no new costs or benefits. The Department decided against maintaining the status quo because the Department believes the proposed rule would improve the capacity of the National Apprenticeship System to respond to evolving employer needs, provide workers equitable pathways to good jobs, and increase the system's long-term resilience.

B. Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act of 1996, and Executive Order 13272 (Proper Consideration of Small Entities in Agency Rulemaking)

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (Mar. 29, 1996), hereafter jointly referred to as the RFA, requires agencies to prepare an initial regulatory flexibility analysis (IRFA) when proposing, and a final regulatory flexibility analysis when issuing, regulations that will have a significant economic impact on a substantial number of small entities.

The Department believes that this proposed rule would have a significant economic impact on a substantial number of small entities and is therefore publishing this IRFA as required. It should be noted, however, that participation in registered apprenticeship programs and registered CTE apprenticeship programs is voluntary; therefore, only small entities that choose to continue participate would experience an economic impact—significant or otherwise. The Department anticipates that small businesses would continue to participate only if they believe the benefits will outweigh the costs. Because participation is voluntary, the increased burdens associated with this proposed rule may result in certain entities choosing to discontinue participation in the National Apprenticeship System. On the whole, however, the Department expects this rulemaking to facilitate the expansion and growth of registered apprenticeship.

1. Why the Action by the Agency Is Being Considered

The NAA has not been changed since the New Deal. There is need for a renewed commitment to registered apprenticeship and a modern system. In addition, there is need for a registered pathway for CTE apprenticeship. It has been decades since there has been a serious overhaul and update of registered apprenticeship regulations to address labor standards in a rapidly changing economy. This proposed rule would enhance labor standards to affirm guarantees and results for workers, create a consistent navigable system to support expansion across industries, and create equitable pathways to registered apprenticeship for underserved communities and youth. In addition, it would extend the high-quality requirements associated with registered apprenticeship to the newly created registered CTE apprenticeship model.

2. Objectives and Legal Basis for the Proposed Rule

The NAA (29 U.S.C. 50) authorizes the Secretary of Labor to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging their inclusion in contracts of apprenticeship, to cooperate with States to formulate and promote such standards, and to bring together employers and labor for the formulation of programs of apprenticeship. Pursuant to this authority, the Department has established regulations governing the registration of apprenticeship programs and apprentices at 29 CFR part 29 that prescribe minimum quality and content requirements with respect to a program's standards of apprenticeship and its apprenticeship agreements; establish procedures concerning the registration, cancellation, and deregistration of apprenticeship programs; and set forth a mechanism for the recognition of SAA as Registration Agencies. The steady expansion of the registered apprenticeship model has revealed the need to revise and modernize the policies and procedures contained in the current version of 29 CFR part 29 in order to promote dual goals of fostering innovation while preserving and enhancing the quality and effectiveness of the registered apprenticeship model.

3. Description and Estimate of the Small Entities Affected by the Proposed Rule

The proposed rule would primarily affect program sponsors and participating employers in registered apprenticeship. Registered apprenticeship program sponsors may be employers, employer associations, industry associations, or labor management organizations and, thus, may represent businesses, small businesses, and not-for-profit organizations. The proposed rule would also affect program sponsors and participating employers in registered CTE apprenticeship. Registered CTE apprenticeship program sponsors may be secondary schools and postsecondary institutions. This analysis focuses on the participating employers and sponsors that participate in registered apprenticeship programs or registered CTE apprenticeship programs and would incur costs from the proposed rule. As explained in the E.O. 12866 section above, the Department used historical program data for registered apprenticeship, and the Department's best estimates of CTE participation, to estimate the number of participating employers and sponsors that are projected to participate in registered apprenticeship programs and registered CTE apprenticeship programs. Exhibit 17 below summarizes the projections over the 10-year analysis period.

EXHIBIT 17—PROJECTED NUMBER OF SPONSORS AND PARTICIPATING EMPLOYERS

Year	Total registered apprenticeship program sponsors	Total registered apprenticeship program participating employers	Total registered CTE apprenticeship program sponsors	Total CTE participating employers
1	26,492	40,533	137	210
2	27,434	41,974	549	839
3	28,376	43,415	960	1,469
4	29,318	44,857	1,372	2,099
5	30,260	46,298	1,783	2,728
6	31,202	47,739	2,195	3,358
7	32,144	49,180	2,606	3,988
8	33,086	50,622	3,018	4,617
9	34,028	52,063	3,429	5,247
10	34,970	53,504	3,841	5,876

The Department lacks data on the size of these sponsors and participating employers. Therefore, the Department assumes that registered apprenticeship program sponsors will have the same size distribution as the firms in each of the 19 major industry sectors represented in registered apprenticeship. In addition to the 19 major industry sectors, the Department assumes that the Educational Services sector (NAICS 61) would have a similar representation in size distribution for registered CTE apprenticeship program sponsor. This assumption allows the Department to conduct a robust analysis using data from the Census Bureau's Statistics of U.S. Businesses,[232] which include the number of firms, number of employees, and annual revenue by industry and firm size. Using these data allows the Department to estimate the per-program costs of the proposed rule as a percent of revenue by industry and firm size. The Department also lacks data on the size of participating employers in either registered apprenticeship or registered CTE apprenticeship, but as discussed below, is able to conclude that there would not be a significant economic impact on any participating employers that are not sponsors.

4. Compliance Requirements of the Proposed Rule

The E.O. 12866 analysis above quantifies several types of labor costs that would be borne by registered apprenticeship program sponsors: (1) rule familiarization; (2) on-the-job training documentation; (3) wage analysis and career development; (4) data collection and reporting; (5) program registration; (6) program standards and adoption agreement; (7) end-point assessments; and (8) program reviews. Since some sponsors can also be participating employers, the Department adds costs of recordkeeping that are imposed on participating employers to all sponsors.

As explained in the E.O. 12866 section above, the Department estimates the following first-year costs to sponsors; each sponsor would incur a subset of these nine costs:

- rule familiarization: $412 per sponsor
- on-the-job training documentation: $1,031 per sponsor with program with less than 2,000 hours on-the-job training
- wage analysis and career development profile: $206 per sponsor submitting a new or revised occupation determination
- data collection and reporting: $111 per sponsor
- program registration: $103 per sponsor with a new program
- program standards adoption agreement: $103 per sponsor with new non-collectively bargained program standards
- end-point assessments: $103 per sponsor per apprentice
- program reviews: $842 per noncompliant sponsor
- recordkeeping: $138 per employer

Additional costs that may be incurred but could not be quantified due to a lack of data include new requirements for off-the-job training and prohibition of non-disclosure and non-compete provisions. In addition, the proposed rule would result in transfer payments from participating employers to apprentices in the form of compensation, but the Department lacks data on the extent of entities that would be impacted as well as the magnitude of transfers as discussed in the nonquantifiable transfer payments section of the E.O. 12866 analysis.

The costs associated with the increased requirements for registered apprenticeship present the possibility that some sponsors and employers may leave the registered apprenticeship system altogether. However, in other countries with quality labor standards, such as Germany, apprenticeship

[232] *See* U.S. Census Bureau, ''Statistics of U.S. Businesses,'' *https://www.census.gov/programs-surveys/susb/data.html* (last updated May 10, 2022).

participation remains high. In Germany, about 54.5 percent of graduates from general education [233] enter the labor force through an apprenticeship training program.[234] German apprenticeship programs include numerous costly requirements, including contractual agreements between apprentices and employers, national apprenticeship standards for each occupation, and examinations to ensure apprentices meet the standards of excellence at the end of their program.[235] Despite these program requirements, apprenticeship participation in Germany has remained high. The Department does not expect the proposed rule to result in an exodus from registered apprenticeship as a result of increased requirements. Participation in apprenticeship programs is greater in Germany than in the United States, indicating that quality labor standards would unlikely decrease apprenticeship participation in the United States and could potentially make apprenticeship more attractive.[236]

The E.O. 12866 analysis above quantifies several types of labor costs that would be borne by registered CTE apprenticeship program sponsors: (1) rule familiarization; (2) program registration application requirements; (3) selection of a diverse and inclusive cross-section of students; (4) sponsor oversight; (5) apprenticeship agreements; (6) program reviews; (7) request for reconsideration of program registration status; and (8) data and quality metrics.

As explained in the E.O. 12866 section above, the Department estimates the following first-year costs to registered CTE apprenticeship program sponsors; each sponsor would incur a subset of these eight costs:

- rule familiarization: $412 per sponsor
- program registration application requirements: $1,031 per sponsor
- selection of a diverse and inclusive cross-section of students: $74 per sponsor
- sponsor oversight: $913 per sponsor
- apprenticeship agreements: $17 per sponsor per apprentice
- program reviews: $842 per noncompliant sponsor
- request for reconsideration of program registration status: $619 per sponsor
- data and quality metrics: $495 per sponsor

Additional costs that may be incurred but could not be quantified due to a lack of data include new requirements for off-the-job training and prohibition of non-disclosure and non-compete provisions. In addition, the proposed rule would result in transfer payments from participating employers to apprentices in the form of compensation, but the Department lacks data on the extent of entities that would be impacted as well as the magnitude of transfers as discussed in the nonquantifiable transfer payments section of the E.O. 12866 analysis.

To quantify the costs to small entities, the Department uses the same cost estimates for sponsors and participating employers described in the subject-by-subject analysis of the E.O. 12866 analysis for registered apprenticeship programs and registered CTE apprenticeship programs, respectively. Note that ''firm'' refers to ''sponsor'' in this IRFA. Sponsors are frequently employers, so the Department combined the costs for sponsors and employers to obtain an upper-bound estimate of the cost for ''firms.'' Hence, the cost estimates are the maximum amount that would be borne by a small entity that chooses to participate. The E.O. 12866 analysis above quantifies two types of labor costs that would be borne by participating employers in registered apprenticeship: (1) rule familiarization; and (2) recordkeeping. These two requirements combined would impose $343.69 [237] in costs on each participating employer. For participating employers in CTE, the Department estimates costs of $206.19 for rule familiarization. These costs are combined with the costs for sponsors to estimate the costs for firms.

Exhibit 18 shows the estimated cost per registered apprenticeship program sponsor for each year of the analysis period. The first-year cost per sponsor is estimated at $3,420 at a discount rate of 7 percent. The annualized cost per sponsor is estimated at $3,238 at a discount rate of 7 percent. These estimates are *average* costs, meaning that some registered apprenticeship program sponsors would have higher costs while other sponsors would have lower costs, regardless of firm size. The Department seeks public comment on these estimates with the goal of providing refined estimates in the final rule.

EXHIBIT 18—ESTIMATED COST TO REGISTERED APPRENTICESHIP PROGRAM SPONSORS

[$ thousands unless otherwise noted]

Year	Rule familiarization	On-the-job training documentation	Wage analysis and career development profile	Data collection and reporting	Program registration	Program standards adoption agreement	End-point assessments	Recordkeeping	Program reviews	Total cost	Number of registered apprenticeship program sponsors	Cost per sponsors ($)
1	$10,925	$6,400	$48	$2,944	$285	$218	$69,647	$5,573	$893	$96,933	26,492	$3,659
2	1,170	0	48	3,073	292	218	72,999	5,772	924	84,496	27,434	3,080
3	1,200	0	48	3,202	300	218	76,351	5,970	956	88,245	28,376	3,110
4	1,230	0	48	3,331	308	218	79,703	6,168	988	91,994	29,318	3,138
5	1,261	0	48	3,460	315	218	83,055	6,366	1,020	95,742	30,260	3,164
6	1,291	0	48	3,589	323	218	86,406	6,564	1,051	99,491	31,202	3,189
7	1,321	0	48	3,718	330	218	89,758	6,762	1,083	103,239	32,144	3,212
8	1,351	0	48	3,847	338	218	93,110	6,961	1,115	106,988	33,086	3,234
9	1,382	0	48	3,976	345	218	96,462	7,159	1,146	110,736	34,028	3,254

[233] Graduating from general education in Germany is comparable to graduating from high school in the United States.

[234] Diana Elliott and Miriam Farnbauer, ''Bridging German and US Apprenticeship Models,'' Aug. 2021, *https://www.urban.org/sites/default/files/publication/104677/bridging-german-and-us-apprenticeship-models.pdf.*

[235] *Ibid.*

[236] Rates of participation, measured in number of apprentices per 1,000 workers, are found to be much higher in Germany than in the United States. *See* Maia Chankseliani et al., ''People and Policy: A comparative study of apprenticeship across eight national contexts,'' Oct. 2017, *https://ora.ox.ac.uk/objects/uuid:56a3d0c9-3221-43d9-9da4-e1883e5a7a00.*

[237] The cost of $343.69 on each participating employer is derived from the sum of costs per employer associated with rule familiarization ($206.19) and recordkeeping ($137.50). The cost of $206.19 comes from the multiplication of the time for existing entities to read and review the new rule by the Training and Development Manager loaded private wage rate by 0.5 to determine the cost per employer. The cost of $137.50 comes from the multiplication of the time required to record and maintain additional information by the Office and Administrative Support Occupation hourly wage rate.

EXHIBIT 18—ESTIMATED COST TO REGISTERED APPRENTICESHIP PROGRAM SPONSORS—Continued

[$ thousands unless otherwise noted]

Year	Rule familiarization	On-the-job training documentation	Wage analysis and career development profile	Data collection and reporting	Program registration	Program standards adoption agreement	End-point assessments	Record-keeping	Program reviews	Total cost	Number of registered apprenticeship program sponsors	Cost per sponsors ($)
10	1,412	0	48	4,105	353	218	99,814	7,357	1,178	114,485	34,970	3,274
First-year cost ($), 7% discount rate												3,420
Annualized cost ($), 7% discount rate, 10 years												3,238

Exhibit 19 shows the estimated cost per registered CTE apprenticeship program sponsor for each year of the analysis period. The first-year cost per sponsor is estimated at $3,476 at a discount rate of 7 percent. The annualized cost per sponsor is estimated at $2,398 at a discount rate of 7 percent. These estimates are *average* costs, meaning that some registered CTE apprenticeship program sponsors would have higher costs while other sponsors would have lower costs, regardless of entity size. The Department seeks public comment on these estimates with the goal of providing refined estimates in the final rule.

EXHIBIT 19—ESTIMATED COST TO REGISTERED CTE APPRENTICESHIP PROGRAM SPONSORS

[$ thousands unless otherwise noted]

Year	Rule familiarization	Program registration application requirements	Selection of diverse and inclusive cross-section of students	Sponsor oversight	Apprenticeship agreements	Program reviews	Request for reconsideration of program registration status	Data and quality metrics	Total cost	Number of registered CTE apprenticeship program sponsors	Cost per sponsors ($)
1	$57	$141	$10	$125	$55	$5	$21	$68	$482	137	$3,516
2	170	424	40	501	166	18	64	271	1,655	549	3,016
3	170	424	71	877	221	32	64	475	2,333	960	2,430
4	170	424	101	1,252	332	46	64	679	3,067	1,372	2,236
5	170	424	131	1,628	387	60	64	882	3,746	1,783	2,101
6	170	424	161	2,004	497	74	64	1,086	4,480	2,195	2,041
7	170	424	192	2,380	553	88	64	1,289	5,159	2,606	1,979
8	170	424	222	2,755	663	102	64	1,493	5,892	3,018	1,953
9	170	424	252	3,131	718	116	64	1,696	6,571	3,429	1,916
10	170	424	282	3,507	829	129	64	1,900	7,305	3,841	1,902
First-year cost ($), 7% discount rate											3,476
Annualized cost ($), 7% discount rate, 10 years											2,398

5. Estimated Impact of the Proposed Rule on Small Entities

Based on the estimated costs to participating employers, presented above, to have a significant economic impact on a participating employer in registered apprenticeship, the participating employer would need revenue less than $11,400.[238] For participating employers in registered CTE apprenticeship, the participating employer would need revenue less than $6,800.[239] Based on the Department's analysis of participating employers that is presented below, there are no industries that have entities in the smallest size categories where average revenue is below $34,000.[240] The majority of costs on entities that could be small are on sponsors and are described below.

a. Registered Apprenticeship Program Sponsors

The Department used the following steps to estimate the cost of the proposed rule per registered apprenticeship program sponsor as a percentage of annual receipts. First, the Department used the Small Business Administration's Table of Small Business Size Standards to determine the size thresholds for small entities within each major industry.[241] Next the Department obtained data on the number of firms, number of employees, and annual revenue by industry and firm size category from the Census Bureau's Statistics of U.S. Businesses.[242] The Department used the Gross Domestic Product deflator to convert revenue data from 2017 dollars to 2022 dollars.[243] Then, the Department divided the estimated first-year cost and the annualized cost per registered apprenticeship program sponsor (discounted at a 7-percent rate) by the average annual receipts per firm to determine whether the proposed rule would have a significant economic impact on sponsors in each size category.[244] Finally, the Department

[238] $11,400 is the value at which 3% of revenue impacted would be larger than 3% (= $343.69/0.03).

[239] $6,800 is the value at which 3% of revenue impacted would be larger than 3% (= $206.19/0.03).

[240] The Management of Companies and Enterprises Industry, for enterprises with receipts below $100,000, has average receipts per firm of $34,371 (*see* Exhibit 32), which is the smallest of the industries analyzed.

[241] U.S. Small Business Administration, ''Table of Small Business Size Standards,'' Mar. 17, 2023, *https://www.sba.gov/document/support-table-size-standards.* The size standards, which are expressed in either average annual receipts or number of employees, indicate the maximum allowed for a business in each subsector to be considered small.

[242] U.S. Census Bureau, ''Statistics of U.S. Businesses,'' *https://www.census.gov/programs-surveys/susb/data.html* (last updated May 10, 2022).

[243] U.S. Bureau of Economic Analysis, ''Table 1.1.9. Implicit Price Deflators for Gross Domestic Product,'' *https://apps.bea.gov/iTable/?reqid=19&step=2&isuri=1&categories=survey* (last visited May 30, 2023).

[244] For purposes of this analysis, the Department used a 3-percent threshold for ''significant economic impact.'' The Department has used a 3-percent threshold in prior rulemakings. *See, e.g.,* 79

Continued

divided the number of firms in each size category by the total number of small firms in the industry to determine whether the proposed rule would have a significant economic impact on a substantial number of small entities.[245]

The results for registered apprenticeship are presented in the following 19 tables, one for each major industry sector. The tables are in numeric order by their North American Industry Classification System (NAICS) code—from NAICS 11 (Agriculture, Forestry, Fishing and Hunting) to NAICS 81 (Other Services). Currently, apprentices are concentrated in the construction industry (33 percent), public administration industry (22 percent), and educational services industry (12 percent),[246] yet the Department has included tables for all 19 major sectors because the Department anticipates that this proposed rule would facilitate the expansion of registered apprenticeship. The variety of industries and occupations that would benefit from registered apprenticeship keeps growing as the Department identifies strategies and opportunities to expand the system. Since this proposed rule is expected to affect small entities across all sectors of the economy, our analysis shows how entities of different sizes within all 19 major industries could be impacted. In short, the first-year cost or annualized cost per registered apprenticeship program sponsor would have a significant economic impact on a substantial number of small entities in 12 out of 19 industries. It should be noted, however, that participation in registered apprenticeship programs is voluntary; therefore, only small entities that choose to continue to participate would experience an economic impact—significant or otherwise.

As shown in Exhibit 20, the first-year and annualized costs for registered apprenticeship program sponsors in the agriculture, forestry, fishing, and hunting industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the agriculture, forestry, fishing, and hunting industry (18.0 percent). The first-year costs are estimated to be 5.7 percent of the average receipts per firm and the annualized costs are estimated to be 5.4 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 20—AGRICULTURE, FORESTRY, FISHING, AND HUNTING INDUSTRY

Small Business Size Standard: $2.25 million–$34.0 million

	Number of firms [1]	Number of firms as percent of small firms in industry [2]	Total number of employees [3]	Annual receipts ($ million) [4]	Average receipts per firm ($) [5]	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts [6]	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts [7]
Enterprises with receipts below $100,000	4,042	18.0	4,495	$242	$59,803	$3,420	5.7	$3,238	5.4
Enterprises with receipts of $100,000 to $499,999	8,582	38.3	16,607	2,592	302,003	3,420	1.1	3,238	1.1
Enterprises with receipts of 500,000 to 999,999	3,703	16.5	14,450	3,127	844,419	3,420	0.4	3,238	0.4
Enterprises with receipts of 1,000,000 to 2,499,999	3,686	16.5	28,333	6,781	1,839,700	3,420	0.2	3,283	0.2
Enterprises with receipts of 2,500,000 to 4,999,999	1,370	6.1	21,333	5,634	4,112,289	3,420	0.1	3,238	0.1
Enterprises with receipts of 5,000,000 to 7,499,999	455	2.0	11,328	3,153	6,929,380	3,420	0.0	3,238	0.0
Enterprises with receipts of 7,500,000 to 9,999,999	208	0.9	7,019	2,101	10,101,550	3,420	0.0	3,238	0.0
Enterprises with receipts of 10,000,000 to 14,999,999	193	0.9	9,143	2,545	13,188,869	3,420	0.0	3,238	0.0
Enterprises with receipts of 15,000,000 to 19,999,999	79	0.4	4,324	1,520	19,242,856	3,420	0.0	3,238	0.0
Enterprises with receipts of 20,000,000 to 24,999,999	60	0.3	4,297	1,357	22,619,811	3,420	0.0	3,238	0.0
Enterprises with receipts of 25,000,000 to 29,999,999	28	0.1	3,068	710	25,343,408	3,420	0.0	3,238	0.0
Enterprises with receipts of 30,000,000 to 34,999,999	17	0.1	1,623	475	27,948,978	3,420	0.0	3,238	0.0

[1] Source: U.S. Census Bureau, Statistics of U.S. Businesses. Note that ''firm'' refers to ''sponsor'' in this analysis.
[2] Number of firms ÷ Small firms in industry.
[3] Source: U.S. Census Bureau, Statistics of U.S. Businesses.
[4] Source: U.S. Census Bureau, Statistics of U.S. Businesses.
[5] Annual receipts ÷ Number of firms.
[6] First-year cost per firm with 7% discounting ÷ Average receipts per firm.
[7] Annualized cost per firm with 7% discounting ÷ Average receipts per firm.

FR 60633 (Oct. 7, 2014) (establishing a minimum wage for contractors).

[245] For purposes of this analysis, the Department used a 15-percent threshold for ''substantial number of small entities.'' The Department has used a 15-percent threshold in prior rulemakings. *Ibid.*

[246] OA, ''Apprentice Population by State Analysis (11–09–2023),'' *https://public.tableau.com/app/profile/dol.apprenticeship/viz/ApprenticePopulationbyStateAnalysis11-09-2023_16995503558600/ApprDemoApprLocation* (last visited Nov. 20, 2023).

As shown in Exhibit 21, the first-year and annualized costs for sponsors in the mining industry are not expected to have a significant economic impact (3 percent or more) on small entities of any size.

EXHIBIT 21—MINING, QUARRYING, AND OIL AND GAS INDUSTRY

Small Business Size Standard: 500–1,500 employees									
	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with 0–4 employees	10,808	57.2	16,788	$7,142	$660,839	$3,420	0.5	$3,238	0.5
Enterprises with 5–9 employees	2,909	15.4	19,066	6,524	2,242,749	3,420	0.2	3,238	0.1
Enterprises with 10–19 employees	2,091	11.1	28,171	10,099	4,829,914	3,420	0.1	3,238	0.1
Enterprises with 20–99 employees	2,276	12.0	86,829	40,628	17,850,734	3,420	0.0	3,238	0.0
Enterprises with 100–499 employees	636	3.4	93,513	62,788	98,723,345	3,420	0.0	3,238	0.0
Enterprises with 500–749 employees	80	0.4	26,343	28,174	352,168,820	3,420	0.0	3,238	0.0
Enterprises with 750–999 employees	46	0.2	19,861	23,285	506,201,362	3,420	0.0	3,238	0.0
Enterprises with 1,000–1,499 employees	46	0.2	28,800	25,639	557,359,001	3,420	0.0	3,238	0.0

As shown in Exhibit 22, the first-year and annualized costs for sponsors in the utilities industry are not expected to have a significant economic impact (3 percent or more) on small entities of any size.

EXHIBIT 22—UTILITIES INDUSTRY

Small Business Size Standard: 250–1,500 employees									
	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with 0–4 employees	3,028	52.1	5,752	$3,386	$1,118,256	$3,420	0.3	$3,238	0.3
Enterprises with 5–9 employees	983	16.9	6,300	1,771	1,802,011	3,420	0.2	3,238	0.2
Enterprises with 10–19 employees	524	9.0	7,065	4,836	9,229,631	3,420	0.0	3,238	0.0
Enterprises with 20–99 employees	892	15.3	40,089	40,076	44,927,999	3,420	0.0	3,238	0.0
Enterprises with 100–499 employees	325	5.6	52,541	71,683	220,563,226	3,420	0.0	3,238	0.0
Enterprises with 500–749 employees	45	0.8	20,302	34,430	765,120,600	3,420	0.0	3,238	0.0
Enterprises with 750–999 employees	16	0.3	4,734	5,385	336,536,358	3,420	0.0	3,238	0.0

As shown in Exhibit 23, the first-year and annualized costs for sponsors in the construction industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the construction industry (24.1 percent). The first-year costs are estimated to be 5.6 percent of the average receipts per firm and the annualized costs are estimated to be 5.3 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 23—CONSTRUCTION INDUSTRY

Small Business Size Standard: $19.0 million–$45.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	167,522	24.1	156,090	$10,303	$61,501	$3,420	5.6	$3,238	5.3
Enterprises with receipts of $100,000 to $499,999	247,074	35.5	544,141	70,010	283,356	3,420	1.2	3,238	1.1
Enterprises with receipts of $500,000 to $999,999	89,351	12.9	444,318	75,937	849,870	3,420	0.4	3,238	0.4
Enterprises with receipts of $1,000,000 to $2,499,999	95,739	13.8	828,261	178,934	1,868,977	3,420	0.2	3,238	0.2
Enterprises with receipts of $2,500,000 to $4,999,999	45,814	6.6	707,745	189,624	4,138,994	3,420	0.1	3,238	0.1
Enterprises with receipts of $5,000,000 to $7,499,999	17,860	2.6	416,512	127,936	7,163,277	3,420	0.0	3,238	0.0
Enterprises with receipts of $7,500,000 to $9,999,999	9,233	1.3	283,971	93,588	10,136,274	3,420	0.0	3,238	0.0
Enterprises with receipts of $10,000,000 to $14,999,999	9,925	1.4	401,418	141,445	14,251,410	3,420	0.0	3,238	0.0
Enterprises with receipts of $15,000,000 to $19,999,999	5,029	0.7	270,176	101,235	20,130,283	3,420	0.0	3,238	0.0
Enterprises with receipts of $20,000,000 to $24,999,999	3,089	0.4	200,568	79,474	25,728,192	3,420	0.0	3,238	0.0
Enterprises with receipts of $25,000,000 to $29,999,999	2,011	0.3	150,472	63,084	31,369,492	3,420	0.0	3,238	0.0
Enterprises with receipts of $30,000,000 to $34,999,999	1,396	0.2	119,403	51,560	36,934,449	3,420	0.0	3,238	0.0
Enterprises with receipts of $35,000,000 to $39,999,999	1,056	0.2	99,968	44,799	42,423,297	3,420	0.0	3,238	0.0
Enterprises with receipts of $40,000,000 to $49,999,999	1,466	0.2	166,727	74,924	51,107,775	3,420	0.0	3,238	0.0

As shown in Exhibit 24, the first-year and annualized costs for sponsors in the manufacturing industry are not expected to have a significant economic impact (3 percent or more) on small entities of any size.

EXHIBIT 24—MANUFACTURING INDUSTRY

Small Business Size Standard: 500–1,500 employees

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with 0–4 employees	102,242	41.5	188,002	$49,168	$480,898	$3,420	0.7	$3,238	0.7
Enterprises with 5–9 employees	45,821	18.6	306,025	64,082	1,398,532	3,420	0.2	3,238	0.2
Enterprises with 10–19 employees	37,549	15.2	511,380	115,096	3,065,227	3,420	0.1	3,238	0.1
Enterprises with 20–99 employees	46,089	18.7	1,872,005	513,594	11,143,518	3,420	0.0	3,238	0.0
Enterprises with 100–499 employees	12,397	5.0	2,162,360	807,852	65,165,144	3,420	0.0	3,238	0.0
Enterprises with 500–749 employees	1,127	0.5	526,397	251,406	223,075,773	3,420	0.0	3,238	0.0
Enterprises with 750–999 employees	608	0.2	370,263	171,676	282,361,226	3,420	0.0	3,238	0.0
Enterprises with 1,000–1,499 employees	578	0.2	487,897	272,079	470,724,074	3,420	0.0	3,238	0.0

As shown in Exhibit 25, the first-year and annualized costs for sponsors in the wholesale trade industry are not expected to have a significant economic impact (3 percent or more) on small entities of any size.

EXHIBIT 25—WHOLESALE TRADE INDUSTRY

Small Business Size Standard: 100–250 employees

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with 0–4 employees	170,879	57.9	282,713	$338,168	$1,978,989	$3,420	0.2	$3,238	0.2
Enterprises with 5–9 employees	48,559	16.5	320,741	317,555	6,539,573	3,420	0.1	3,238	0.0
Enterprises with 10–19 employees	34,020	11.5	453,838	422,050	12,405,945	3,420	0.0	3,238	0.0
Enterprises with 20–99 employees	33,409	11.3	1,246,435	1,202,036	35,979,399	3,420	0.0	3,238	0.0
Enterprises with 100–499 employees	8,042	2.7	1,109,430	1,214,818	151,059,248	3,420	0.0	3,238	0.0

As shown in Exhibit 26, the first-year and annualized costs for sponsors in the retail trade industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, but those firms do not constitute a substantial number of small entities in the retail trade industry (10.9 percent). The first-year costs are estimated to be 5.6 percent of the average receipts per firm and the annualized costs are estimated to be 5.3 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 26—RETAIL TRADE INDUSTRY

Small Business Size Standard: 500–1,500 employees

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	69,679	10.9	83,278	$4,273	$61,325	$3,420	5.6	$3,238	5.3
Enterprises with receipts of $100,000 to $499,999	212,200	33.2	532,330	68,606	323,308	3,420	1.1	3,238	1.0
Enterprises with receipts of 500,000 to 999,999	118,943	18.6	528,280	100,873	848,081	3,420	0.4	3,238	0.4
Enterprises with receipts of 1,000,000 to 2,499,999	126,105	19.8	914,575	235,819	1,870,018	3,420	0.2	3,238	0.2
Enterprises with receipts of 2,500,000 to 4,999,999	57,394	9.0	700,081	234,541	4,086,499	3,420	0.1	3,238	0.1
Enterprises with receipts of 5,000,000 to 7,499,999	19,586	3.1	372,573	137,951	7,043,341	3,420	0.0	3,238	0.0
Enterprises with receipts of 7,500,000 to 9,999,999	9,435	1.5	244,343	93,510	9,910,941	3,420	0.0	3,238	0.0
Enterprises with receipts of 10,000,000 to 14,999,999	9,308	1.5	317,070	128,366	13,790,901	3,420	0.0	3,238	0.0
Enterprises with receipts of 15,000,000 to 19,999,999	4,846	0.8	215,896	92,769	19,143,425	3,420	0.0	3,238	0.0
Enterprises with receipts of 20,000,000 to 24,999,999	3,166	0.5	167,389	78,331	24,741,263	3,420	0.0	3,238	0.0
Enterprises with receipts of 25,000,000 to 29,999,999	2,307	0.4	139,998	69,819	30,263,799	3,420	0.0	3,238	0.0
Enterprises with receipts of 30,000,000 to 34,999,999	1,785	0.3	118,314	62,954	35,268,411	3,420	0.0	3,238	0.0
Enterprises with receipts of 35,000,000 to 39,999,999	1,510	0.2	110,947	61,983	41,048,054	3,420	0.0	3,238	0.0
Enterprises with receipts of 40,000,000 to 49,999,999	2,120	0.3	179,497	102,501	48,349,525	3,420	0.0	3,238	0.0

As shown in Exhibit 27, the first-year and annualized costs for sponsors in the transportation and warehousing industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the transportation and warehousing industry (18.0 percent). The first-year costs are estimated to be 5.8 percent of the average receipts per firm and the annualized costs are estimated to be 5.5 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 27—TRANSPORTATION AND WAREHOUSING INDUSTRY

Small Business Size Standard: $9.0 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	32,704	18.0	34,795	$1,940	$59,315	$3,420	5.8	$3,238	5.5
Enterprises with receipts of $100,000 to $499,999	72,673	40.1	152,029	20,835	286,688	3,420	1.2	3,238	1.1
Enterprises with receipts of $500,000 to $999,999	26,780	14.8	148,113	22,433	837,693	3,420	0.4	3,238	0.4
Enterprises with receipts of $1,000,000 to $2,499,999	25,365	14.0	269,241	46,486	1,832,678	3,420	0.2	3,238	0.2
Enterprises with receipts of $2,500,000 to $4,999,999	11,101	6.1	223,441	44,874	4,042,296	3,420	0.1	3,238	0.1
Enterprises with receipts of $5,000,000 to $7,499,999	4,406	2.4	137,503	30,296	6,876,163	3,420	0.0	3,238	0.0
Enterprises with receipts of $7,500,000 to $9,999,999	2,207	1.2	91,077	21,057	9,540,834	3,420	0.0	3,238	0.0
Enterprises with receipts of $10,000,000 to $14,999,999	2,322	1.3	129,477	29,881	12,868,860	3,420	0.0	3,238	0.0
Enterprises with receipts of $15,000,000 to $19,999,999	1,288	0.7	97,798	21,948	17,040,160	3,420	0.0	3,238	0.0
Enterprises with receipts of $20,000,000 to $24,999,999	772	0.4	78,172	16,800	21,761,486	3,420	0.0	3,238	0.0
Enterprises with receipts of $25,000,000 to $29,999,999	538	0.3	58,986	13,069	24,290,896	3,420	0.0	3,238	0.0
Enterprises with receipts of $30,000,000 to $34,999,999	440	0.2	55,986	12,195	27,715,884	3,420	0.0	3,238	0.0
Enterprises with receipts of $35,000,000 to $39,999,999	333	0.2	37,644	9,427	28,309,025	3,420	0.0	3,238	0.0
Enterprises with receipts of $40,000,000 to $49,999,999	416	0.2	62,522	14,692	35,317,590	3,420	0.0	3,238	0.0

As shown in Exhibit 28, the first-year and annualized costs for sponsors in the information industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the information industry (20.0 percent). The first-year costs are estimated to be 5.9 percent of the average receipts per firm and the annualized costs are estimated to be 5.6 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 28—INFORMATION INDUSTRY

Small Business Size Standard: $11.0 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	15,481	20.0	16,482	892	$57,602	$3,420	5.9	$3,238	5.6
Enterprises with receipts of $100,000 to $499,999	28,404	36.7	68,508	8,391	295,425	3,420	1.2	3,238	1.1
Enterprises with receipts of $500,000 to $999,999	10,545	13.6	57,480	8,811	835,598	3,420	0.4	3,238	0.4
Enterprises with receipts of $1,000,000 to $2,499,999	10,590	13.7	109,948	19,795	1,869,207	3,420	0.2	3,238	0.2
Enterprises with receipts of $2,500,000 to $4,999,999	5,196	6.7	99,937	21,171	4,074,388	3,420	0.1	3,238	0.1
Enterprises with receipts of $5,000,000 to $7,499,999	2,180	2.8	65,492	15,155	6,952,024	3,420	0.0	3,238	0.0
Enterprises with receipts of $7,500,000 to $9,999,999	1,173	1.5	48,149	11,398	9,716,735	3,420	0.0	3,238	0.0
Enterprises with receipts of $10,000,000 to $14,999,999	1,325	1.7	73,550	18,201	13,736,535	3,420	0.0	3,238	0.0
Enterprises with receipts of $15,000,000 to $19,999,999	783	1.0	59,471	14,948	19,090,309	3,420	0.0	3,238	0.0
Enterprises with receipts of $20,000,000 to $24,999,999	497	0.6	42,068	11,733	23,607,138	3,420	0.0	3,238	0.0
Enterprises with receipts of $25,000,000 to $29,999,999	372	0.5	39,211	10,737	28,863,621	3,420	0.0	3,238	0.0
Enterprises with receipts of $30,000,000 to $34,999,999	271	0.4	32,396	9,252	34,138,424	3,420	0.0	3,238	0.0
Enterprises with receipts of $35,000,000 to $39,999,999	221	0.3	31,989	8,464	38,297,393	3,420	0.0	3,238	0.0

EXHIBIT 28—INFORMATION INDUSTRY—Continued

Small Business Size Standard: $11.0 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts of $40,000,000 to $49,999,999	317	0.4	43,836	14,133	44,582,414	3,420	0.0	3,238	0.0

As shown in Exhibit 29, the first-year and annualized costs for sponsors in the finance and insurance industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the finance and insurance industry (18.7 percent). The first-year costs are estimated to be 5.8 percent of the average receipts per firm and the annualized costs are estimated to be 5.5 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 29—FINANCE AND INSURANCE INDUSTRY

Small Business Size Standard: $15.0 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	43,946	18.7	48,037	$2,597	$59,098	$3,420	5.8	$3,238	5.5
Enterprises with receipts of $100,000 to $499,999	109,042	46.5	244,100	33,314	305,519	3,420	1.1	3,238	1.1
Enterprises with receipts of $500,000 to $999,999	35,651	15.2	158,385	29,334	822,802	3,420	0.4	3,238	0.4
Enterprises with receipts of $1,000,000 to $2,499,999	23,382	10.0	184,397	42,220	1,805,650	3,420	0.2	3,238	0.2
Enterprises with receipts of $2,500,000 to $4,999,999	9,135	3.9	146,376	37,457	4,100,430	3,420	0.1	3,238	0.1
Enterprises with receipts of $5,000,000 to $7,499,999	3,926	1.7	101,333	27,564	7,020,937	3,420	0.0	3,238	0.0
Enterprises with receipts of $7,500,000 to $9,999,999	2,158	0.9	76,995	21,387	9,910,531	3,420	0.0	3,238	0.0
Enterprises with receipts of $10,000,000 to $14,999,999	2,545	1.1	122,949	35,425	13,919,423	3,420	0.0	3,238	0.0
Enterprises with receipts of $15,000,000 to $19,999,999	1,494	0.6	98,142	29,155	19,514,918	3,420	0.0	3,238	0.0
Enterprises with receipts of $20,000,000 to $24,999,999	977	0.4	75,763	24,489	25,065,036	3,420	0.0	3,238	0.0
Enterprises with receipts of $25,000,000 to $29,999,999	642	0.3	61,866	19,483	30,347,565	3,420	0.0	3,238	0.0
Enterprises with receipts of $30,000,000 to $34,999,999	537	0.2	56,634	19,541	36,389,004	3,420	0.0	3,238	0.0
Enterprises with receipts of $35,000,000 to $39,999,999	438	0.2	50,652	17,860	40,776,274	3,420	0.0	3,238	0.0
Enterprises with receipts of $40,000,000 to $49,999,999	567	0.2	79,713	27,717	48,883,444	3,420	0.0	3,238	0.0

As shown in Exhibit 30, the first-year and annualized costs for sponsors in the real estate and rental and leasing industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the real estate and rental and leasing industry (22.3 percent). The first-year costs are estimated to be 5.5 percent of the average receipts per firm and the annualized costs are estimated to be 5.3 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 30—REAL ESTATE AND RENTAL AND LEASING INDUSTRY

Small Business Size Standard: &9.0 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	68,419	22.3	66,469	$4,217	$61,630	$3,420	5.5	$3,238	5.3

EXHIBIT 30—REAL ESTATE AND RENTAL AND LEASING INDUSTRY—Continued

Small Business Size Standard: &9.0 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts of $100,000 to $499,999	136,155	44.3	248,363	39,835	292,575	3,420	1.2	3,238	1.1
Enterprises with receipts of $500,000 to $999,999	45,372	14.8	171,862	37,654	829,887	3,420	0.4	3,238	0.4
Enterprises with receipts of $1,000,000 to $2,499,999	34,152	11.1	245,779	61,652	1,805,217	3,420	0.2	3,238	0.2
Enterprises with receipts of $2,500,000 to $4,999,999	12,210	4.0	175,672	48,951	4,009,113	3,420	0.1	3,238	0.1
Enterprises with receipts of $5,000,000 to $7,499,999	4,020	1.3	90,148	27,714	6,894,004	3,420	0.0	3,238	0.0
Enterprises with receipts of $7,500,000 to $9,999,999	2,025	0.7	63,474	19,313	9,537,201	3,420	0.0	3,238	0.0
Enterprises with receipts of $10,000,000 to $14,999,999	1,869	0.6	79,396	24,481	13,098,206	3,420	0.0	3,238	0.0
Enterprises with receipts of $15,000,000 to $19,999,999	1,003	0.3	52,698	17,642	17,589,281	3,420	0.0	3,238	0.0
Enterprises with receipts of $20,000,000 to $24,999,999	617	0.2	42,433	13,469	21,829,242	3,420	0.0	3,238	0.0
Enterprises with receipts of $25,000,000 to $29,999,999	446	0.1	33,126	11,579	25,961,260	3,420	0.0	3,238	0.0
Enterprises with receipts of $30,000,000 to $34,999,999	318	0.1	29,216	9,810	30,849,146	3,420	0.0	3,238	0.0
Enterprises with receipts of $35,000,000 to $39,999,999	224	0.1	20,018	7,096	31,680,293	3,420	0.0	3,238	0.0
Enterprises with receipts of $40,000,000 to $49,999,999	327	0.1	37,186	12,327	37,696,094	3,420	0.0	3,238	0.0

As shown in Exhibit 31, the first-year and annualized costs for sponsors in the professional, scientific and technical services industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the professional, scientific and technical services industry (23.4 percent). The first-year costs are estimated to be 5.9 percent of the average receipts per firm and the annualized costs are estimated to be 5.5 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 31—PROFESSIONAL, SCIENTIFIC AND TECHNICAL SERVICES INDUSTRY

Small Business Size Standard: $90 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	188,173	23.4	186,477	$10,990	$58,404	$3,420	5.9	$3,238	5.5
Enterprises with receipts of $100,000 to $499,999	351,252	43.6	699,310	101,497	288,958	3,420	1.2	3,238	1.1
Enterprises with receipts of $500,000 to $999,999	109,203	13.6	522,342	91,230	835,416	3,420	0.4	3,238	0.4
Enterprises with receipts of $1,000,000 to $2,499,999	89,925	11.2	852,984	164,634	1,830,797	3,420	0.2	3,238	0.2
Enterprises with receipts of $2,500,000 to $4,999,999	33,619	4.2	622,519	136,728	4,066,997	3,420	0.1	3,238	0.1
Enterprises with receipts of $5,000,000 to $7,499,999	11,965	1.5	366,420	84,405	7,054,313	3,420	0.0	3,238	0.0
Enterprises with receipts of $7,500,000 to $9,999,999	6,097	0.8	256,793	60,418	9,909,398	3,420	0.0	3,238	0.0
Enterprises with receipts of $10,000,000 to $14,999,999	6,150	0.8	348,201	84,884	13,802,321	3,420	0.0	3,238	0.0
Enterprises with receipts of $15,000,000 to $19,999,999	3,200	0.4	251,912	60,785	18,995,362	3,420	0.0	3,238	0.0
Enterprises with receipts of $20,000,000 to $24,999,999	1,894	0.2	177,413	45,631	24,092,221	3,420	0.0	3,238	0.0
Enterprises with receipts of $25,000,000 to $29,999,999	1,339	0.2	151,640	38,655	28,868,541	3,420	0.0	3,238	0.0
Enterprises with receipts of $30,000,000 to $34,999,999	930	0.1	123,198	31,108	33,449,165	3,420	0.0	3,238	0.0
Enterprises with receipts of $35,000,000 to $39,999,999	707	0.1	100,554	26,979	38,160,528	3,420	0.0	3,238	0.0

EXHIBIT 31—PROFESSIONAL, SCIENTIFIC AND TECHNICAL SERVICES INDUSTRY—Continued

Small Business Size Standard: $90 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts of $40,000,000 to $49,999,999	964	0.1	161,031	42,285	43,864,307	3,420	0.0	3,238	0.0

As shown in Exhibit 32, the first-year and annualized costs for sponsors in the management of companies and enterprises industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, but those firms do not constitute a substantial number of small entities in the management of companies and enterprises industry (6.2 percent). The first-year costs are estimated to be 9.9 percent of the average receipts per firm and the annualized costs are estimated to be 9.4 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 32—MANAGEMENT OF COMPANIES AND ENTERPRISES INDUSTRY

Small Business Size Standard: $38.5 million–$45.5 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	1,043	6.2	11,909	$36	$34,371	$3,420	9.9	$3,238	9.4
Enterprises with receipts of $100,000 to $499,999	1,228	7.3	3,920	303	246,410	3,420	1.4	3,238	1.3
Enterprises with receipts of $500,000 to $999,999	760	4.5	4,442	361	475,175	3,420	0.7	3,238	0.7
Enterprises with receipts of $1,000,000 to $2,499,999	1,684	10.0	16,525	1,052	624,520	3,420	0.5	3,238	0.5
Enterprises with receipts of $2,500,000 to $4,999,999	1,985	11.8	28,340	1,554	782,756	3,420	0.4	3,238	0.4
Enterprises with receipts of $5,000,000 to $7,499,999	1,518	9.0	25,723	1,715	1,129,906	3,420	0.3	3,238	0.3
Enterprises with receipts of $7,500,000 to $9,999,999	1,183	7.0	26,067	1,642	1,388,403	3,420	0.2	3,238	0.2
Enterprises with receipts of $10,000,000 to $14,999,999	1,912	11.3	44,624	3,345	1,749,307	3,420	0.2	3,238	0.2
Enterprises with receipts of $15,000,000 to $19,999,999	1,380	8.2	40,956	3,206	2,323,136	3,420	0.1	3,238	0.1
Enterprises with receipts of $20,000,000 to $24,999,999	1,047	6.2	34,086	2,481	2,369,790	3,420	0.1	3,238	0.1
Enterprises with receipts of $25,000,000 to $29,999,999	859	5.1	34,479	2,911	3,388,883	3,420	0.1	3,238	0.1
Enterprises with receipts of $30,000,000 to $34,999,999	732	4.3	25,244	2,153	2,940,632	3,420	0.1	3,238	0.1
Enterprises with receipts of $35,000,000 to $39,999,999	651	3.9	26,284	2,258	3,468,771	3,420	0.1	3,238	0.1
Enterprises with receipts of $40,000,000 to $49,999,999	905	5.4	42,674	3,667	4,051,611	3,420	0.1	3,238	0.1

As shown in Exhibit 33, the first-year and annualized costs for sponsors in the educational services industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the educational services industry (24.3 percent). The first-year costs are estimated to be 6.1 percent of the average receipts per firm and the annualized costs are estimated to be 5.7 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 33—EDUCATIONAL SERVICES INDUSTRY

Small Business Size Standard: $9.0 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	22,439	24.3	42,944	$1,267	$56,457	$3,420	6.1	$3,238	5.7

EXHIBIT 33—EDUCATIONAL SERVICES INDUSTRY—Continued

Small Business Size Standard: $9.0 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts of $100,000 to $499,999	37,156	40.3	197,950	10,926	294,070	3,420	1.2	3,238	1.1
Enterprises with receipts of $500,000 to $999,999	11,425	12.4	139,745	9,464	828,359	3,420	0.4	3,238	0.4
Enterprises with receipts of $1,000,000 to $2,499,999	9,837	10.7	237,256	18,178	1,847,893	3,420	0.2	3,238	0.2
Enterprises with receipts of $2,500,000 to $4,999,999	4,948	5.4	227,231	20,288	4,100,203	3,420	0.1	3,238	0.1
Enterprises with receipts of $5,000,000 to $7,499,999	2,051	2.2	142,147	14,300	6,972,405	3,420	0.0	3,238	0.0
Enterprises with receipts of $7,500,000 to $9,999,999	1,085	1.2	99,135	10,572	9,743,335	3,420	0.0	3,238	0.0
Enterprises with receipts of $10,000,000 to $14,999,999	1,217	1.3	149,025	16,368	13,449,575	3,420	0.0	3,238	0.0
Enterprises with receipts of $15,000,000 to $19,999,999	788	0.9	130,304	14,960	18,984,389	3,420	0.0	3,238	0.0
Enterprises with receipts of $20,000,000 to $24,999,999	405	0.4	83,052	9,610	23,727,832	3,420	0.0	3,238	0.0
Enterprises with receipts of $25,000,000 to $29,999,999	266	0.3	72,713	7,656	28,783,311	3,420	0.0	3,238	0.0
Enterprises with receipts of $30,000,000 to $34,999,999	193	0.2	53,118	6,371	33,011,190	3,420	0.0	3,238	0.0
Enterprises with receipts of $35,000,000 to $39,999,999	157	0.2	49,519	5,840	37,197,306	3,420	0.0	3,238	0.0
Enterprises with receipts of $40,000,000 to $49,999,999	230	0.2	84,073	10,197	44,336,758	3,420	0.0	3,238	0.0

As shown in Exhibit 34, the first-year and annualized costs for sponsors in the administrative and support and waste management and remediation services industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the administrative and support and waste management and remediation services industry (25.0 percent). The first-year costs are estimated to be 6.1 percent of the average receipts per firm and the annualized costs are estimated to be 5.7 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 34—ADMINISTRATIVE AND SUPPORT AND WASTE MANAGEMENT AND REMEDIATION SERVICES INDUSTRY

Small Business Size Standard: $8.5 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	85,880	25.0	107,151	$4,839	$56,346	$3,420	6.1	$3,238	5.7
Enterprises with receipts of $100,000 to $499,999	140,272	40.8	443,046	41,086	292,902	$3,420	1.2	3,238	1.1
Enterprises with receipts of $500,000 to $999,999	47,560	13.8	386,597	39,517	830,890	3,420	0.4	3,238	0.4
Enterprises with receipts of $1,000,000 to $2,499,999	38,169	11.1	676,072	69,641	1,824,533	3,420	0.2	3,238	0.2
Enterprises with receipts of $2,500,000 to $4,999,999	15,414	4.5	605,633	62,122	4,030,215	3,420	0.1	3,238	0.1
Enterprises with receipts of $5,000,000 to $7,499,999	5,678	1.7	384,948	38,991	6,867,032	3,420	0.0	3,238	0.0
Enterprises with receipts of $7,500,000 to $9,999,999	2,981	0.9	297,553	28,484	9,555,055	3,420	0.0	3,238	0.0
Enterprises with receipts of $10,000,000 to $14,999,999	3,105	0.9	424,995	39,926	12,858,530	3,420	0.0	3,238	0.0
Enterprises with receipts of $15,000,000 to $19,999,999	1,631	0.5	293,567	28,445	17,440,217	3,420	0.0	3,238	0.0
Enterprises with receipts of $20,000,000 to $24,999,999	1,054	0.3	231,213	22,606	21,448,275	3,420	0.0	3,238	0.0
Enterprises with receipts of $25,000,000 to $29,999,999	707	0.2	207,995	18,415	26,046,902	3,420	0.0	3,238	0.0
Enterprises with receipts of $30,000,000 to $34,999,999	542	0.2	174,505	15,781	29,116,928	3,420	0.0	3,238	0.0
Enterprises with receipts of $35,000,000 to $39,999,999	438	0.1	163,589	14,122	32,242,332	3,420	0.0	3,238	0.0

EXHIBIT 34—ADMINISTRATIVE AND SUPPORT AND WASTE MANAGEMENT AND REMEDIATION SERVICES INDUSTRY—Continued

Small Business Size Standard: $8.5 million–$47.0 million									
	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts of $40,000,000 to $49,999,999	611	0.2	262,706	23,392	38,285,580	3,420	0.0	3,238	0.0

As shown in Exhibit 35, the first-year and annualized costs for sponsors in the health care and social assistance industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the health care and social assistance industry (16.3 percent). The first-year costs are estimated to be 5.9 percent of the average receipts per firm and the annualized costs are estimated to be 5.6 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 35—HEALTH CARE AND SOCIAL ASSISTANCE INDUSTRY

Small Business Size Standard: $9.0 million–$47.0 million									
	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	105,782	16.3%	144,258	$6,090	$57,567	$3,420	5.9%	$3,238	5.6%
Enterprises with receipts of $100,000 to $499,999	247,273	38.0	919,768	78,811	318,721	3,420	1.1	3,238	1.0
Enterprises with receipts of $500,000 to $999,999	130,435	20.0	1,066,795	109,442	839,054	3,420	0.4	3,238	0.4
Enterprises with receipts of $1,000,000 to $2,499,999	102,005	15.7	1,733,292	183,696	1,800,855	3,420	.2	3,238	0.2
Enterprises with receipts of $2,500,000 to $4,999,999	32,793	5.0	1,269,403	133,245	4,063,217	3,420	0.1	3,238	0.1
Enterprises with receipts of $5,000,000 to $7,499,999	11,292	1.7	768,478	80,149	7,097,889	3,420	0.0	3,238	0.0
Enterprises with receipts of $7,500,000 to $9,999,999	6,073	0.9	587,923	60,599	9,978,460	3,420	0.0	3,238	0.0
Enterprises with receipts of $10,000,000 to $14,999,999	6,282	1.0	843,098	87,833	13,981,751	3,420	0.0	3,238	0.0
Enterprises with receipts of $15,000,000 to $19,999,999	3,193	0.5	582,465	62,505	19,575,723	3,420	0.0	3,238	0.0
Enterprises with receipts of $20,000,000 to $24,999,999	1,945	0.3	432,978	48,856	25,118,522	3,420	0.0	3,238	0.0
Enterprises with receipts of $25,000,000 to $29,999,999	1,297	0.2	333,840	39,440	30,408,549	3,420	0.0	3,238	0.0
Enterprises with receipts of $30,000,000 to $34,999,999	939	0.1	287,523	33,961	36,166,881	3,420	0.0	3,238	0.0
Enterprises with receipts of $35,000,000 to $39,999,999	672	0.1	251,011	27,909	41,531,881	3,420	0.0	3,238	0.0
Enterprises with receipts of $40,000,000 to $49,999,999	903	0.1%=	357,594	44,398	49,167,765	3,420	0.0	3,238	0.0

As shown in Exhibit 36, the first-year and annualized costs for sponsors in the arts, entertainment, and recreation industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the arts, entertainment, and recreation industry (23.2 percent). The first-year costs are estimated to be 6.0 percent of the average receipts per firm and the annualized costs are estimated to be 5.7 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 36—ARTS, ENTERTAINMENT, AND RECREATION INDUSTRY

Small Business Size Standard: $9.0 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	29,950	23.2	38,970	$1,710	$57,104	$3,420	6.0	$3,238	5.7%
Enterprises with receipts of $100,000 to $499,999	54,053	41.8	191,639	15,997	295,945	3,420	1.2	3,238	1.1
Enterprises with receipts of $500,000 to $999,999	18,957	14.7	170,222	15,699	828,112	3,420	0.4	3,238	0.4
Enterprises with receipts of $1,000,000 to $2,499,999	15,336	11.9	289,189	27,685	1,805,199	3,420	0.2	3,238	0.2
Enterprises with receipts of $2,500,000 to $4,999,999	5,663	4.4	216,533	22,802	4,026,410	3,420	0.1	3,238	0.1
Enterprises with receipts of $5,000,000 to $7,499,999	1,969	1.5	125,098	13,719	6,967,317	3,420	0.0%	3,238	0.0
Enterprises with receipts of $7,500,000 to $9,999,999	1,046	0.8%	91,555	$10,126	$9,680,550	$3,420	0.0%	$3,238	0.0%
Enterprises with receipts of $10,000,000 to $14,999,999	933	0.7%	107,964	12,372	13,260,079	3,420	0.0	3,238	0.0%
Enterprises with receipts of $15,000,000 to $19,999,999	475	0.4	74,342	8,606	18,118,161	3,420	0.0	3,238	0.0
Enterprises with receipts of $20,000,000 to $24,999,999	241	0.2	44,304	5,431	22,537,025	3,420	0.0	3,238	0.0
Enterprises with receipts of $25,000,000 to $29,999,999	204	0.2	53,147	5,416	26,546,971	3,420	0.0	3,238	0.0
Enterprises with receipts of $30,000,000 to $34,999,999	145	0.1	32,692	4,323	29,810,687	3,420	0.0	3,238	0.0
Enterprises with receipts of $35,000,000 to $39,999,999	100	0.1	27,043	3,904	39,044,753	3,420	0.0	3,238	0.0
Enterprises with receipts of $40,000,000 to $49,999,999	152	0.1	50,619	6,146	40,431,359	3,420	0.0	3,238	0.0

As shown in Exhibit 37, the first-year and annualized costs for sponsors in the accommodation and food services industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, but those firms do not constitute a substantial number of small entities in the accommodation and food services industry (12.3 percent). The first-year costs are estimated to be 5.7 percent of the average receipts per firm and the annualized costs are estimated to be 5.4 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 37—ACCOMMODATION AND FOOD SERVICES INDUSTRY

Small Business Size Standard: $9.0 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	66,229	12.3	115,964	$3,963	$59,844	$3,420	5.7	$3,238	5.4
Enterprises with receipts of $100,000 to $499,999	217,687	40.5	1,118,632	70,085	321,951	3,420	1.1	3,238	1.0
Enterprises with receipts of $500,000 to $999,999	114,796	21.3	1,443,882	96,296	838,842	3,420	0.4	3,238	0.4
Enterprises with receipts of $1,000,000 to $2,499,999	98,061	18.2	2,532,598	175,384	1,788,516	3,420	0.2	3,238	0.2
Enterprises with receipts of $2,500,000 to $4,999,999	26,006	4.8	1,340,484	102,232	3,931,078	3,420	0.1	3,238	0.1
Enterprises with receipts of $5,000,000 to $7,499,999	6,495	1.2	562,320	44,428	6,840,405	3,420	0.0	3,238	0.0
Enterprises with receipts of $7,500,000 to $9,999,999	2,683	0.5	320,216	25,941	9,668,815	3,420	0.0	3,238	0.0
Enterprises with receipts of $10,000,000 to $14,999,999	2,640	0.5	437,032	35,100	13,295,412	3,420	0.0	3,238	0.0
Enterprises with receipts of $15,000,000 to $19,999,999	1,288	0.2	316,081	23,908	18,562,454	3,420	0.0	3,238	0.0
Enterprises with receipts of $20,000,000 to $24,999,999	720	0.1	218,303	16,968	23,566,876	3,420	0.0	3,238	0.0
Enterprises with receipts of $25,000,000 to $29,999,999	485	0.1	174,495	13,587	28,015,312	3,420	0.0	3,238	0.0
Enterprises with receipts of $30,000,000 to $34,999,999	335	0.1	142,671	11,147	33,273,680	3,420	0.0	3,238	0.0

EXHIBIT 37—ACCOMMODATION AND FOOD SERVICES INDUSTRY—Continued

Small Business Size Standard: $9.0 million–$47.0 million									
	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts of $35,000,000 to $39,999,999	279	0.1	136,491	10,468	37,521,086	3,420	0.0	3,238	0.0
Enterprises with receipts of $40,000,000 to $49,999,999	372	0.1	216,049	16,974	45,628,797	3,420	0.0	3,238	0.0

As shown in Exhibit 38, the first-year and annualized costs for sponsors in the other services industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the other services industry (24.6 percent). The first-year costs are estimated to be 5.7 percent of the average receipts per firm and the annualized costs are estimated to be 5.4 percent of the average receipts per firm for firms with revenue below $100,000.

EXHIBIT 38—OTHER SERVICES INDUSTRY

Small Business Size Standard: $8.0 million—$47.0 million									
	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	170,736	24.6	255,297	$10,216	$59,834	$3,420	5.7	$3,238	5.4
Enterprises with receipts of $100,000 to $499,999	317,048	45.7	1,077,568	93,232	294,062	3,420	1.2	3,238	1.1
Enterprises with receipts of $500,000 to $999,999	102,517	14.8	754,571	84,777	826,958	3,420	0.4	3,238	0.4
Enterprises with receipts of $1,000,000 to $2,499,999	68,210	9.8	955,461	121,839	1,786,227	3,420	0.2	3,238	0.2
Enterprises with receipts of $2,500,000 to $4,999,999	20,419	2.9	564,101	81,799	4,006,027	3,420	0.1	3,238	0.1
Enterprises with receipts of $5,000,000 to $7,499,999	6,414	0.9	280,574	44,403	6,922,817	3,420	0.0	3,238	0.0
Enterprises with receipts of $7,500,000 to $9,999,999	2,783	0.4	161,164	27,025	9,710,570	3,420	0.0	3,238	0.0
Enterprises with receipts of $10,000,000 to $14,999,999	2,571	0.4	195,893	34,100	13,263,323	3,420	0.0	3,238	0.0
Enterprises with receipts of $15,000,000 to $19,999,999	1,264	0.2	119,626	22,846	18,074,474	3,420	0.0	3,238	0.0
Enterprises with receipts of $20,000,000 to $24,999,999	692	0.1	72,568	15,534	22,448,389	3,420	0.0	3,238	0.0
Enterprises with receipts of $25,000,000 to $29,999,999	506	0.1	63,532	13,471	26,622,602	3,420	0.0	3,238	0.0
Enterprises with receipts of $30,000,000 to $34,999,999	325	0.0	42,921	9,987	30,729,615	3,420	0.0	3,238	0.0
Enterprises with receipts of $35,000,000 to $39,999,999	292	0.0	37,383	10,032	34,357,693	3,420	0.0	3,238	0.0
Enterprises with receipts of $40,000,000 to $49,999,999	326	0.0	49,042	12,512	38,381,273	3,420	0.0	3,238	0.0

b. Registered CTE Apprenticeship Program Sponsors

The Department used the same steps as in the analysis of registered apprenticeship programs to estimate the cost of the proposed rule per registered CTE apprenticeship program sponsor as a percentage of annual receipts. The Department divided the estimated first-year cost and the annualized cost per registered CTE apprenticeship program sponsors (discounted at a 7-percent rate) by the average annual receipts per firm in the educational services industry (NAICS 61) to determine whether the proposed rule would have a significant economic impact on registered CTE apprenticeship program sponsors in each size category.[247] Then, the Department divided the number of firms in each size category by the total number of small firms in the educational services industry to determine whether the proposed rule would have a significant economic impact on a substantial number of small entities.[248] For registered CTE apprenticeship program sponsors, the first-year cost or annualized cost per sponsor would have a significant economic impact on a substantial number of small entities. As shown in Exhibit 39, the first-year and annualized costs for sponsors in the educational

[247] For purposes of this analysis, the Department used a 3-percent threshold for ''significant economic impact.'' The Department has used a 3-percent threshold in prior rulemakings. *Ibid.*

[248] For purposes of this analysis, the Department used a 15-percent threshold for ''substantial number of small entities.'' The Department has used a 15-percent threshold in prior rulemakings. *Ibid.*

services industry are estimated to have a significant economic impact (3 percent or more) on small entities with receipts under $100,000, and those firms constitute a substantial number of small entities in the educational services industry (24.3 percent). The first-year costs are estimated to be 6.2 percent of the average receipts per firm and the annualized costs are estimated to be 4.2 percent of the average receipts per firm for firms with revenue below $100,000. It should be noted, however, that participation in CTE is voluntary; therefore, only small entities that choose to continue to participate would experience an economic impact—significant or otherwise.

EXHIBIT 39—EDUCATIONAL SERVICES INDUSTRY

Small Business Size Standard: $8.0 million–$47.0 million

	Number of firms	Number of firms as percent of small firms in industry	Total number of employees	Annual receipts ($ million)	Average receipts per firm ($)	First-year cost per firm with 7% discounting	First-year cost per firm as percent of receipts	Annualized cost per firm with 7% discounting	Annualized cost per firm as percent of receipts
Enterprises with receipts below $100,000	22,439	24.3	42,944	$1,267	$56,457	$3,476	6.2	$2,398	4.2
Enterprises with receipts of $100,000 to $499,999	37,156	40.3	197,950	10,926	294,070	3,476	1.2	2,398	0.8
Enterprises with receipts of $500,000 to $999,999	11,425	12.4	139,745	9,464	828,359	3,476	0.4	2,398	0.3
Enterprises with receipts of $1,000,000 to $2,499,999	9,837	10.7	237,256	18,178	1,847,893	3,476	0.2	2,398	0.1
Enterprises with receipts of $2,500,000 to $4,999,999	4,948	5.4	227,231	20,288	4,100,203	3,476	0.1	2,398	0.1
Enterprises with receipts of $5,000,000 to $7,499,999	2,051	2.2	142,147	14,300	6,972,405	3,476	0.0	2,398	0.0
Enterprises with receipts of $7,500,000 to $9,999,999	1,085	1.2	99,135	10,572	9,743,335	3,476	0.0	2,398	0.0
Enterprises with receipts of $10,000,000 to $14,999,999	1,217	1.3	149,025	16,368	13,449,575	3,476	0.0	2,398	0.0
Enterprises with receipts of $15,000,000 to $19,999,999	788	0.9	130,304	14,960	18,984,389	3,476	0.0	2,398	0.0
Enterprises with receipts of $20,000,000 to $24,999,999	405	0.4	83,052	9,610	23,727,832	3,476	0.0	2,398	0.0
Enterprises with receipts of $25,000,000 to $29,999,999	266	0.3	72,713	7,656	28,783,311	3,476	0.0	2,398	0.0
Enterprises with receipts of $30,000,000 to $34,999,999	193	0.2	53,118	6,371	33,011,190	3,476	0.0	2,398	0.0
Enterprises with receipts of $35,000,000 to $39,999,999	157	0.2	49,519	5,840	37,197,306	3,476	0.0	2,398	0.0
Enterprises with receipts of $40,000,000 to $49,999,999	230	0.2	84,073	10,197	44,336,758	3,476	0.0	2,398	0.0

6. Relevant Federal Rules Duplicating, Overlapping, or Conflicting With the Proposed Rule

The Department is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

7. Alternatives to the Proposed Rule

The RFA directs agencies to assess the impacts that various regulatory alternatives would have on small entities and to consider ways to minimize those impacts. Accordingly, the Department considered two regulatory alternatives. Under the first alternative, end-point assessments (proposed § 29.16) would not be required under the proposed rule. Under the second alternative, program reviews (proposed § 29.19) would only be conducted for cause.

For the first alternative the Department considered removing the requirement for end-point assessments from the proposed rule. To estimate the reduction in costs under this alternative, the Department subtracted the estimated costs of end-point assessments from the total costs estimated of the proposed rule. Exhibit 40 shows the estimated cost per sponsor for each year of the analysis period. The first-year cost per sponsor is estimated at $737 at a discount rate of 7 percent. The annualized cost per sponsor is estimated at $468 at a discount rate of 7 percent.

The Department decided not to pursue this alternative because end-point assessments are a key method for sponsors to assess the skills and knowledge acquired by the apprentice and to ensure the quality of registered apprenticeship programs.

EXHIBIT 40—ALTERNATIVE 1—ESTIMATED COST PER REGISTERED APPRENTICESHIP PROGRAM SPONSORS

[$ Millions unless otherwise noted]

Year	Rule familiarization	On-the-job training documentation	Wage analysis and career development profile	Data collection and reporting	Program registration	Program standards adoption agreement	End-point assessments	Recordkeeping	Program reviews	Total cost	Number of registered apprenticeship program sponsors	Cost per sponsors ($)
1	$10.92	$0.00	$0.05	$2.94	$0.28	$0.22	$0.00	$5.57	$0.89	$20.89	26,492	$788
2	1.17	0.00	0.05	3.07	0.29	0.22	0.00	5.77	0.92	11.50	27,434	419
3	1.20	0.00	0.05	3.20	0.30	0.22	0.00	5.97	0.96	11.89	28,376	419
4	1.23	0.00	0.05	3.33	0.31	0.22	0.00	6.17	0.99	12.29	29,318	419
5	1.26	0.00	0.05	3.46	0.32	0.22	0.00	6.37	1.02	12.69	30,260	419

EXHIBIT 40—ALTERNATIVE 1—ESTIMATED COST PER REGISTERED APPRENTICESHIP PROGRAM SPONSORS—Continued
[$ Millions unless otherwise noted]

Year	Rule familiarization	On-the-job training documentation	Wage analysis and career development profile	Data collection and reporting	Program registration	Program standards adoption agreement	End-point assessments	Record-keeping	Program reviews	Total cost	Number of registered apprenticeship program sponsors	Cost per sponsors ($)
6	1.29	0.00	0.05	3.59	0.32	0.22	0.00	6.56	1.05	13.08	31,202	419
7	1.32	0.00	0.05	3.72	0.33	0.22	0.00	6.76	1.08	13.48	32,144	419
8	1.35	0.00	0.05	3.85	0.34	0.22	0.00	6.96	1.11	13.88	33,086	419
9	1.38	0.00	0.05	3.98	0.35	0.22	0.00	7.16	1.15	14.27	34,028	419
10	1.41	0.00	0.05	4.10	0.35	0.22	0.00	7.36	1.18	14.67	34,970	420
First-year cost ($), 7% discount rate												737
Annualized cost ($), 7% discount rate, 10 years												468

For the second alternative, the Department considered conducting program reviews only for cause, rather than for all sponsors every 5 years. To estimate the reduction in costs under this alternative, the Department adjusted the calculations described in the subject-by-subject analysis for program reviews (proposed § 29.19). The Department estimated that instead of all sponsors undergoing a program review every 5 years, only 320 sponsors would receive program reviews in each year. The Department maintained the assumption that 20 percent of those program reviews would find noncompliance and require a subsequent compliance action plan. The Department maintained the cost estimates for all other provisions. Exhibit 41 shows the estimated cost per sponsor for each year of the analysis period. The first-year cost per sponsor is estimated at $3,164 at a discount rate of 7 percent. The annualized cost per sponsor is estimated at $3,174 at a discount rate of 7 percent.

The Department decided not to pursue this alternative because conducting program reviews only for cause would miss a large number of programs that may need reviews. The Department seeks public comment on recommendations for additional lower cost alternatives that would still allow the Department to meet the goals of the proposed rule. To ensure high-quality registered apprenticeship programs, and that all programs abide by the regulatory requirements of registered apprenticeship, the Department believes that all registered apprenticeship programs should be reviewed over a 5-year period as specified in the proposed rule. This 5-year period ensures that the Department has the resources available to conduct reviews and that the review is not overly burdensome on programs undergoing the review. The Department seeks public comment on other alternatives to the proposed rule that would mitigate impacts on small businesses while maintaining the goals of the revisions to registered apprenticeship requirements and creation of registered CTE apprenticeship.

EXHIBIT 41—ALTERNATIVE 2—ESTIMATED COST PER REGISTERED APPRENTICESHIP PROGRAM SPONSORS
[$ Millions unless otherwise noted]

Year	Rule familiarization	On-the-job training documentation	Wage analysis and career development profile	Data collection and reporting	Program registration	Program standards adoption agreement	End-point assessments	Record-keeping	Program reviews	Total cost	Number of registered apprenticeship program sponsors	Cost per sponsors ($)
1	$10.92	$0.00	$0.05	$2.94	$0.28	$0.22	$69.65	$5.57	$0.05	$89.69	26,492	$3,386
2	1.17	0.00	0.05	3.07	0.29	0.22	73.00	5.77	0.05	83.63	27,434	3,048
3	1.20	0.00	0.05	3.20	0.30	0.22	76.35	5.97	0.05	87.34	28,376	3,078
4	1.23	0.00	0.05	3.33	0.31	0.22	79.70	6.17	0.05	91.06	29,318	3,106
5	1.26	0.00	0.05	3.46	0.32	0.22	83.05	6.37	0.05	94.78	30,260	3,132
6	1.29	0.00	0.05	3.59	0.32	0.22	86.41	6.56	0.05	98.49	31,202	3,157
7	1.32	0.00	0.05	3.72	0.33	0.22	89.76	6.76	0.05	102.21	32,144	3,180
8	1.35	0.00	0.05	3.85	0.34	0.22	93.11	6.96	0.05	105.93	33,086	3,202
9	1.38	0.00	0.05	3.98	0.35	0.22	96.46	7.16	0.05	109.64	34,028	3,222
10	1.41	0.00	0.05	4.10	0.35	0.22	99.81	7.36	0.05	113.36	34,970	3,242
First-year cost ($), 7% discount rate												3,164
Annualized cost ($), 7% discount rate, 10 years												3,174

C. Paperwork Reduction Act

The purposes of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* includes minimizing the paperwork burden on affected entities. The PRA requires certain actions before an agency can adopt or revise a collection of information, including publishing for public comment a summary of the collection of information and a brief description of the need for and proposed use of the information.

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA. *See* 44 U.S.C. 3506(C)(2)(A). Furthermore, the PRA requires all Federal agencies to analyze proposed regulations for potential time burdens on the regulated community created by provisions in the proposed regulations that require any party to obtain, maintain, retain, report, or

disclose information. The ICRs also must be submitted to OMB for approval. Such submissions often accompany a proposed rulemaking that seeks to modify an existing IC, introduce new ICs, or both.

A Federal agency may not conduct or sponsor a collection of information unless it is approved by OMB under the PRA and displays a currently valid OMB control number. The public also is not required to respond to a collection of information unless it displays a currently valid OMB control number. In addition, notwithstanding any other provisions of law, no person will be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 44 U.S.C. 3512.

In this NPRM, the Department is proposing several new ICs that will impact existing, and potentially new, registered apprenticeship stakeholders, including those stakeholders involved in program registration (*i.e.,* program sponsors, participating employers, Registration Agencies, and apprentices), the occupational suitability process (*e.g.,* potential program sponsors, industry groups, and trade associations), National Apprenticeship System governance (*e.g.,* SAAs and State employees), and the proposed CTE apprenticeship model (potential registered CTE apprenticeship program sponsors and apprentices, State and Local Educational Agencies, institutions of higher education, and other education and workforce development representatives). Concurrent with the publication of this proposed rule, the Department has submitted ICRs to OMB to request approval for the ICs related to this proposal—one for revisions to the existing, approved ICR for OA's current activities overseeing the National Apprenticeship System (current OMB 1205–0223, form 671), and three new ICRs to reflect the new IC elements in this proposed rule. These ICRs align with the four areas below:

(1) Labor Standards and Equal Employment Opportunity for Registered Apprenticeship Programs Registration and Reporting Requirements—Revisions and additions to current Form 671

(2) Information Collection on Suitability of Occupations for Registered Apprenticeship Programs and National Occupational Standard—New

(3) SAA Governance (State Apprenticeship Plan)—New

(4) CTE Apprenticeship—New

Desired Focus of Comments

The Department is soliciting comments concerning the proposed IC related to the below ICRs. The Department is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of the Department's estimate of the burden related to the IC, including the validity of the methodology and assumptions used in the estimate;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the IC on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of IT (*e.g.,* permitting electronic submission of responses).

Please see additional information regarding each ICR for context on comments.

The ICs associated with this proposal are summarized as follows:

1. Labor Standards and Equal Employment Opportunity for Registered Apprenticeship Programs—Registration and Reporting Requirements

Agency: DOL–ETA.

Title of Collection: Labor Standards and Equal Employment Opportunity for Registered Apprenticeship Programs—Registration and Reporting Requirements.

Type of Review: New.

OMB Control Number: 1205–0NEW.

Description: The Department is taking this opportunity to make changes to the forms in OMB Control Number 1205–1223 (current form 671) used in the registration and reporting process for registered apprenticeship programs and other activities related to the Department's oversight of the National Apprenticeship System. This collection will eventually be included in OMB Control Number 1205–1223 and reflected in a new, updated form 671; however, the Department is not submitting this ICR under that control number because the reginfo.gov database (OMB's system for processing requests) allows only one ICR per control number to be pending at OMB during any given period. Because the Department's current ICR for form 671 (current OMB Control Number 1205–0223) is set to expire in June 2024, and will require a request for renewal, the Department is requesting approval for a new ICR to avoid having two pending ICRs at OMB related to the same IC. Once all outstanding actions are complete, the Department intends to submit a nonmaterial change request to merge the collections so that all the new requirements related to this proposal are added to OMB Control Number 1205–0223.

The proposed changes are intended to increase the quality and uniformity of data related to apprenticeship that are ultimately reported to OA, provide clearer and more usable tools for registered apprenticeship program sponsors, and cover the new or updated apprenticeship labor standards in this proposal that are designed on the basis of protecting and safeguarding the welfare of apprentices. This ICR encompasses the information required from program sponsors to meet the program registration, operation, recordkeeping, and reporting requirements for registered apprenticeship programs. The ICR also covers the information apprentices provide to sponsors (which in turn provide apprentice information to OA via the RAPIDS system, which is populated in part by the data from current form 671 that sponsors submit, either by paper or electronically). The Department proposes to further update ETA form 671, part I by adding part IA to incorporate the newly proposed Group Program Participating Employer Tear-off, a Program Standards Adoption Agreement, a Registered Apprenticeship Individual Record Layout schema to operate a case management system and for SAAs to accurately report data to the Department, additional proposed elements for the complaints process. The Department is also incorporating the IC elements related to National Program Standards for Apprenticeship and National Guidelines for Apprenticeship Standards, tools that were first introduced via DOL Circulars issued by OA (2022–01 [249] for National Program Standards for Apprenticeship, 2022–02 [250] for National Guidelines for Apprenticeship Standards) and are now proposed for incorporation into the part 29 regulations for registered apprenticeship.

Affected Public: State, Local, and Tribal Governments; Private Sector; Individuals or Households.

Obligation to Respond: Required to Obtain or Retain Benefits.

[249] DOL, Circular 2022–01, ''Updated Guidance—Minimum National Program Standards for Registered Apprenticeship Programs,'' 2022, *https://www.apprenticeship.gov/sites/default/files/bulletins/Circular-2022-01.pdf.*

[250] DOL, Circular 2022–02, ''Guidance—National Guidelines for Apprenticeship Standards,'' Feb. 16, 2022, *https://www.apprenticeship.gov/sites/default/files/bulletins/Circular-2022-02.pdf.*

Estimated Total Annual Respondents: 1,508,012 (reflecting FY 2022 data in the supporting statement for sponsors, employers, apprentices, and SAAs).

Estimated Total Annual Responses: 1,893,367 (reflecting FY 2022 data in the supporting statement for sponsors, employers, apprentices, and SAAs).

Estimated Total Annual Burden Hours: 1,313,437.

Estimated Total Annual Burden Costs: $44,755,449.

Estimated Total Annual Other Burden Costs: N/A.

Regulations Sections: §§ 29.2, 29.8 through 29.11, 29.13 through 29.16, 29.17, 29.18, 29.19, 29.23, 29.25, 29.28, 30.3 through 30.10, 30.12, 30.14.

The Department invites the public to provide comments on this proposed update to the existing form 671 and the additional elements related to registered apprenticeship program registration and operation. In particular, the Department is interested in comments about the current form 671, its clarity and ease of use, and the existing registration and reporting requirements for registered apprenticeship programs, and whether the proposed updates to this form are necessary, whether the new IC elements will have practical utility for the Department's oversight of the National Apprenticeship System, and any other feedback or suggestions related to form 671 and the registration and reporting requirements for registered apprenticeship programs. The Department is also interested in its proposed introduction of the RAIR Layout, which would provide a schematic for the development of a case management system, such as RAPIDS to collect the information required in the proposed rule, as well as a schema for SAAs that do not utilize RAPIDS to use when updating their case management systems to align with the NPRM. In addition, the Department is interested in comments about the accuracy of its burden estimates related to this proposal, and whether any potentially impacted stakeholders would be unduly burdened by the proposed changes to form 671 and registration and reporting requirements for registered apprenticeship programs.

2. Occupational Suitability and National Occupational Standards

Agency: DOL–ETA.

Title of Collection: Occupational Suitability.

Type of Review: New.

OMB Control Number: 1205–0NEW.

Description: This IC is new and encompasses the information exchange related to applications regarding an occupation's suitability for registered apprenticeship training under the newly proposed process in § 29.7. This IC also encompasses the exchange of information related to the development and National Occupational Standards for Apprenticeship (including establishing and updating such Standards) under the proposed process at § 29.13. The Department expects that both of these processes will involve the exchange of information between industry stakeholders (including industry groups, leaders, and representatives, trade associations, and labor organizations) and the Administrator (the Department official responsible for making determinations on occupational suitability and overseeing the process of establishing National Occupational Standards for Apprenticeship).

Information exchanged under this collection is necessary to determine if an occupation meets the criteria for occupational suitability at proposed § 29.7, including the critical element of industry-vetting that underpins occupational suitability for registered apprenticeship. In addition, it is necessary to collect information from industry and the public related to the development of a set of nationally applicable standards of apprenticeship for an occupation (National Occupational Standards for Apprenticeship) to ensure these standards are applicable and usable for quality registered apprenticeship programs on a nationwide basis. The information under this collection is also necessary to give other stakeholders and the public the opportunity to provide feedback on a sponsor's submission for either occupational suitability or a set of National Occupational Standards for Apprenticeship.

Affected Public: Private Sector; Individuals or Households.

Obligation to Respond: Required to Obtain or Retain Benefits.

Estimated Total Annual Respondents: 45 (reflective of respondents submitting suitability requests and submitting responses on a estimated average of 15 new occupations per year and 220 revised occupations per year, including National Occupational Standards).

Estimated Total Annual Responses: 2,365 (based on an estimated 10 responses per occupation or National Occupational Standard).

Estimated Total Annual Burden Hours: 2,646.

Estimated Total Annual Burden Costs: $79,854.

Estimated Total Annual Other Burden Costs: N/A.

Regulations Sections: §§ 29.7, 29.13.

The Department is interested in comments from the public on all elements of the ICs related to the proposed processes for making determinations regarding occupational suitability for registered apprenticeship training and for National Occupational Standards for Apprenticeship development. In particular, the Department is interested in hearing from existing stakeholders regarding the existing process for making occupational suitability determinations, whether the responsibility to make such determinations should rest with the Administrator or should remain the purview of both OA and SAAs, and what types of information would best inform the suitability determination process. In addition, the Department is interested in comments from industry representatives, particularly those from industries new to registered apprenticeship that may have a vested interest in the development of National Occupational Standards for Apprenticeship for their industry, regarding the process for developing National Occupational Standards, what types of information would best inform such development, and other feedback or suggestions on how to accelerate registered apprenticeship expansion into new industries through frameworks, tools, and other resources.

3. State Apprenticeship Agency Governance and Planning

Agency: DOL–ETA.

Title of Collection: State Apprenticeship Agency Governance and Planning.

Type of Review: New.

OMB Control Number: 1205–0NEW.

Description: This new IC reflects the Department's proposal to update and refine the process for recognizing SAAs, and the information contained in the collection is required for any State seeking initial or continued recognition as an SAA State. The Department's proposal includes a requirement for State Apprenticeship Plans that SAAs must develop, and submit to OA for approval, in order to obtain or maintain recognition as an SAA, and this IC contains all the required information and documentation needed for a satisfactory State Apprenticeship Plan. The IC also reflects the subsequent documentation required if an SAA's State Apprenticeship Plan needs revisions (*i.e.,* the corrective action plan introduced in the section-by-section discussion of this NPRM), as well as any documentation related to the withdrawal or derecognition of an SAA. Of the 57 States as defined in proposed 29 CFR 29.2, there are currently 31

States with SAAs recognized to registered programs for Federal purposes. These jurisdictions, should they seek to continue recognition for Federal purposes, will submit an initial plan during 2026 (first year that plans are required). After which, States are required to submit a renewal every 4 years. SAAs may submit updates should they need to modify their plan under proposed 29 CFR 29.27. No other submissions are required unless a State without a recognized SAA seeks recognition for Federal purposes.

The information requested in this IC is required to facilitate the Department's examination of a State agency's fitness to serve in the role of an SAA, including meeting the requirements and responsibilities outlined in proposed § 29.26 and the other SAA-related requirements found in proposed §§ 29.27 and 29.29, as applicable. The Department has determined that its proposal for revamping the SAA Governance framework will increase its ability to monitor and verify States' operational and strategic capacity to serve in the important role of an SAA within the National Apprenticeship System, including assessing whether State laws conform to the minimum standards in the parts 29 and 30 regulations, and whether States have a detailed, actionable plan for advancing DEIA and EEO outcomes for the registered apprenticeship programs in their State. The information will be collected via an online form and by email, and the Department is committed to providing substantial technical assistance to any SAAs recognized at the time of this proposed rule's effective date, if finalized, as well as any new States seeking recognition from the Federal government as an SAA State.

Affected Public: State, Local, and Tribal Governments.

Obligation to Respond: Required to Obtain or Retain Benefits.

Estimated Total Respondents in 2026: 31 SAAs.

Estimated Total Responses in 2026: 31 SAAs.

Estimated Total Burden Hours in 2026: 86 hours.

Estimated Total Burden Costs in 2026: $197,948.

Estimated Total Annual Other Burden Costs: N/A.

The Department invites comments from the public, including State or SAA representatives, State and local elected officials, and sponsors and apprentices in SAA States, regarding the proposed updates to the SAA Governance framework and the Department's IC plans related to such framework. In particular, the Department is interested in comments or feedback regarding the increased burden, if any, this revamped approach to SAA Governance may introduce, and whether the benefits of the proposal (as articulated above in the section-by-section discussion) justify any increased burden. The Department is also interested in receiving comments on the practical and strategic benefits of the State planning process (such as that used for the WIOA model) and whether this is appropriate or useful for the National Apprenticeship System.

4. Registered Career and Technical Education Apprenticeship

Agency: DOL–ETA.

Title of Collection: Career and Technical Education Apprenticeship.

Type of Review: New.

OMB Control Number: 1205–0NEW.

Description: This IC is new and encompasses the information exchange related to registered CTE apprenticeship program sponsors—primarily LEAs, institutions of higher education, or their designated intermediaries—and CTE apprentice information under the Department's proposed registered CTE apprenticeship model at proposed 29 CFR part 29, subpart B (proposed § 29.24). This IC also encompasses the exchange of information related to the development of industry skills frameworks (including establishing and updating such Frameworks) under proposed § 29.24, wherein the Department would work with the public and industry representatives to develop nationally applicable frameworks to guide the on-the-job training and CTE apprenticeship-related instruction of CTE apprentices in subject industry for proposed registered CTE apprenticeships.

This ICR will cover sponsors' submission of information for registered CTE apprenticeship program registration, operation, recordkeeping, and reporting requirements (as proposed in § 29.24), including CTE program standards, a CTE apprenticeship agreement, an employer adoption agreement (where applicable under proposed § 29.24), a complaints form, and a voluntary attestation of disability. The ICR also covers the information CTE apprentices provide to sponsors, as populated through a CTE apprenticeship agreement, and sponsors' subsequent provision of apprentice information, to the extent feasible, to a Registration Agency via the RAPIDS or State sponsored case management system (in accordance with FERPA and relevant State laws for sharing information on students in secondary education). This ICR is similar to the current IC practices under subpart A but tailored to meet the requirements under subpart B. OA does not currently collect this information, and doing so will require the development of an applicable form. The ICR will also involve the exchange of information between industry stakeholders (including industry groups, leaders, and representatives, trade associations, labor organizations, and local advisory councils) and the Administrator (the Department official responsible for overseeing the process of developing and establishing industry skills frameworks). Information exchanged under this collection is necessary to collect information from industry and the public related to the development of nationally applicable and locally tailored industry skills frameworks that provide the basis for the paid on-the-job component of a registered CTE apprenticeship.

Affected Public: State, Local, and Tribal Governments; Private Sector; Individuals or Households.

Obligation to Respond: Required to Obtain or Retain Benefits.

Estimated Total Annual Respondents: 4,451 (all 2025 registered CTE apprenticeship program sponsors [137], participating employers [210], CTE apprentices [3210], and SAAs [1]) 8 industry leaders for ISF).

Estimated Total Annual Responses: 4,451 (all 2025 registered CTE apprenticeship program sponsors [137], participating employers [210], CTE apprentices [3210], and SAAs [1]) 8 industry skills framework submissions, 80 industry skills framework responses by industry leaders).

Estimated Total Annual Burden Hours: 5,141.

Estimated Total Annual Burden Costs: $225,031.

Estimated Total Annual Other Burden Costs: N/A.

Regulations Sections: § 29.24.

The Department invites the public to provide comments on this proposed IC for registered CTE apprenticeship program registration and industry skills frameworks. In particular, the Department is interested in comments about the ability for registered CTE apprenticeship program sponsors or their designated intermediaries to provide valid and timely information to meet applicable reporting requirements, such as the submission of standards for program registration. The Department is interested in comments about the potential barriers to reporting CTE apprentice information to a Registration Agency and the types of mechanisms that can facilitate sponsors' or States' ability to report CTE apprentice information. In addition, the

Department is interested in comments about the accuracy of its burden estimates related to this proposal, and whether any potentially impacted stakeholders would be unduly burdened by the new registration and reporting requirements for registered CTE apprenticeship programs. In addition, the Department is interested in comments from industry representatives, particularly those from industries that can provide a broad base of skills and competencies in the development of industry skills frameworks for their industry, regarding the process for developing industry skills frameworks and what types of information would best inform such development. The Department is also interested in hearing from the CTE stakeholder community on the applicability and alignment of industry skills frameworks with CTE programs within State-identified Career Clusters.

D. Executive Order 13132 (Federalism)

The Department has reviewed this proposed rule in accordance with E.O. 13132 and found that, if finalized as proposed, it will have federalism implications because it will have substantial direct effects on States, their registration of programs for Federal purposes, and the relationship between the Federal Government and the States. Due to the nature of OA's role overseeing the National Apprenticeship System per its statutory mandate to protect the welfare of apprentices nationwide, OA's enforcement of the parts 29 and 30 regulations, as well as OA's development and promulgation of updates to such regulations, may have such federalism implications if States are required to make any changes or adjustments to apprenticeship policy, State apprenticeship laws, or any procedures related to their respective roles in this Federally administered apprenticeship system. OA regularly consults and collaborates with State partners and organizations, including when developing and promulgating proposed updates to part 29 or part 30 impacting the National Apprenticeship System (as described below). The Department and OA will continue consulting and collaborating with State partners, which the Department views as central to OA's role in promoting and maintaining quality registered apprenticeship programs. The Department invites comments from the public on the federalism implications of this proposed rule and is interested in comments from State partners regarding the quality and effectiveness of the Department's ongoing consultations and collaborations and any recommendations for improvement.

In particular, the proposed rule, if finalized, may affect internal State organizational structures and processes with regard to new and ongoing SAA recognition, strategic planning for the expansion of registered apprenticeship, determining occupations' suitability for registered apprenticeship training, and developing processes for reciprocal approval of programs registered in other States. The Department is proposing updates to the part 29 regulations concerning National Apprenticeship System governance (with the most significant changes to the relationship between the Federal government and the States contained within proposed subpart C) based on analysis of the functioning and efficacy of the current system, consultations with State partners including representatives from SAAs and State partners from OA States (*i.e.,* States without an SAA recognized by the Department), and recommendations from existing registered apprenticeship stakeholders, advisory bodies (such as the ACA), and other workforce development and education system partners.

Stakeholders, including State and local officials and other National Apprenticeship System partners, have been a vital source of both feedback regarding the efficacy of the current system and suggestions and advice (based on their experiences and regional perspectives registering, overseeing, participating, or analyzing registered apprenticeship programs) regarding ways to improve the system, including recommended adjustments to its governing regulations. In the past 2 years, as an essential part of its planning for the development and promulgation of this NPRM, the Department has been engaged with stakeholders more specifically on the topic of updating the regulatory framework (including whether updates were necessary, and what issues should be prioritized in updating the regulations) and has participated in or organized several forums for soliciting feedback and advice from State partners and other apprenticeship stakeholders on this topic. For example, the Department solicited and considered advice from the most recent term of the ACA,[251] and held listening sessions and otherwise consulted with State partners specifically related to systemwide governance and the relationship between OA and the States (including officials from the National Association of State and Territorial Apprenticeship Directors (NASTAD), the organization representing apprenticeship officials from the District of Columbia, 28 States operating SAAs, and two Territories).

The ACA, which includes representation from NASTAD, offered specific suggestions on matters relating to SAA governance and the role of States in the expansion and modernization of registered apprenticeship that are relevant to this Federalism analysis. These suggestions included aligning registered apprenticeship policies and procedures among SAA and OA States to promote cohesiveness and uniformity within the National Apprenticeship System, standardizing the process for making determinations on occupations' suitability for registered apprenticeship training, and enhancing data collection and reporting requirements to develop a national repository of high-quality apprenticeship data. The Department agrees with many of the ACA's observations and recommendations and has incorporated these recommendations throughout the proposed rule.

In addition to consulting during with the ACA during its most recent term, the Department organized forums to intentionally engage with State partners, such as SAAs and NASTAD, on the effectiveness of the National Apprenticeship System and its existing regulations, the Department's plans to pursue updates to the regulations, and State partners' concerns, issues, or recommendations related to system governance. In March and May 2023, OA held listening sessions to discuss and obtain feedback from these important State partners. To guide the discussions and generate feedback on topics related to the Department's developing plans for updating the part 29 regulations, the Department circulated guiding questions to stakeholders invited to participate in the listening sessions. These questions asked about ways to modernize the National Apprenticeship System, the characteristics of high-quality registered apprenticeship programs, and strategies to improve equitable access to registered apprenticeship programs and promote the expansion of registered apprenticeship into new and emerging industries.

During the listening sessions with State partners, several issues emerged related to the relationship between the Federal Government (for registered apprenticeship, OA) and the States (SAAs and other State partners). For

[251] ACA, ''Interim Report to the Secretary of Labor,'' May 16, 2022, *https://www.apprenticeship.gov/sites/default/files/aca-interim-report-may-2022.pdf.*

example, State partners brought a meaningful perspective on the forthcoming Federal funding for registered apprenticeship programs and the need to safeguard quality throughout all registered apprenticeship programs with new potential stakeholders coming into the system. Some State partners stressed the need to maintain quality as registered apprenticeship expands and new industries and occupations enter the system, including through strong quality standards. Other State partners discussed ways that some existing registered apprenticeship programs fall short of quality standards, including through consistently low completion rates, lack of adequate representation of the diverse populations in the community, and the failure to provide tools or training necessary for apprentices' success in an occupation upon completing a program. In the Department's view, this proposed rule is responsive to the discussion on maintaining quality as the National Apprenticeship System expands. This proposal strengthens the labor standards for registered apprenticeship programs at proposed § 29.8, including through proposed provisions to improve assessment of an apprentices' progress toward proficiency in an occupation. In response to stakeholders' (including State partners) concerns about promoting equitable access to registered apprenticeship programs and addressing barriers to entry, the Department's strengthened labor standards include a new proposed requirement that apprentices must not be charged any unreasonable or unnecessary costs, expenses, or fees to participate in a program, and that apprentices must be made aware of all costs, expenses, or fees related to participation in a program. In the Department's view, these and other strengthened labor standards will promote and maintain program quality as the National Apprenticeship System expands and incorporates new stakeholders, occupations, and industries.

The proposal would also expand the collection of apprenticeship data (at proposed § 29.25) to include elements like interim, secondary, or postsecondary credentials provided in registered apprenticeship programs, additional information regarding apprentices' progress through a program, and information about employers, workforce systems, and other partners associated with a program and its ability to place apprentices on a pathway to quality, sustainable careers. The proposal's enhanced data collection measures also align with feedback from State partners, which discussed the importance of measuring more than just apprentices' entry into and exit from a registered apprenticeship program for assessing program quality.

Many State partners and apprenticeship stakeholders discussed the importance of standardization and uniformity throughout the National Apprenticeship System. In the listening sessions, State partners also discussed the value and effectiveness of existing tools to clarify and facilitate administrative responsibilities (*e.g.,* recordkeeping, data reporting, and the RAPIDS system) and the potential value of robust tools to inform, facilitate, and accelerate the development of new registered apprenticeship programs (*e.g.,* Standard Builder, National Program Standards for Apprenticeship, and National Guidelines for Apprenticeship Standards). The Department considered this input in developing the proposed rule, and the NPRM includes several provisions intended to promote uniformity and standardization throughout the National Apprenticeship System. For example, the NPRM would formalize the processes for development and intended uses of National Occupational Standards for Apprenticeship, National Program Standards for Apprenticeship, and National Guidelines for Apprenticeship Standards. The Department will continue working with industry to refine and develop these templates for new occupations and industries, and expects that new programs will use such tools to more easily develop new registered apprenticeship programs in in-demand occupations.

The Department's proposal would also increase standardization throughout the system with respect to program registration, recordkeeping and reporting requirements, and SAA recognition processes to promote consistent performance accountability among registered apprenticeship programs operating in all States. A key reform in this proposal is the clarification of SAA roles and responsibilities at proposed § 29.26 and the State Apprenticeship Plan process outlined at proposed § 29.27. The Department expects that its proposed reforms to the SAA governance framework, including establishing clearer roles for SAAs and consultative bodies such as State Apprenticeship Councils, aligning State policies via the required submission and approval of a State Apprenticeship Plan, and standardizing data collection processes, will promote uniformity and standardization throughout the National Apprenticeship System to the benefit of existing programs and any new stakeholders entering the system going forward. The updated SAA recognition and reporting requirements represent the most direct Federalism implication within this proposal, and the Department invites comments from all registered apprenticeship stakeholders and State partners regarding the benefits, feasibility, potential challenges, and any undue burdens that may arise related to the Department's proposal to reform SAA recognition and systemwide governance.

Some State partners suggested that the Department should avoid adding to or changing the regulations at all because some existing or potential stakeholders have expressed that the current regulation, the part 30 regulations and associated EEO responsibilities for States and programs, and overall administrative requirements within the system were too long, complicated, or burdensome. Other State partners specifically pointed to EEO requirements, or efforts to improve DEIA outcomes throughout the system, as a source of discomfort among some stakeholders. The Department did not ultimately accept these recommendations in this proposed update to the part 29 regulations because, in the Department's view, the existing regulations need to be strengthened and modernized to reflect the realities and needs of stakeholders in the modern National Apprenticeship System. Further, in the Department's view, the EEO requirements and intentional DEIA focus of the part 30 regulations are important aspects of its goal to improve inclusivity and equity in the National Apprenticeship System.

In addition to soliciting and considering recommendations from the ACA and the facilitation of formal listening sessions, OA has maintained (and will continue to maintain) an open line of communication with SAA leadership that has created a consistent feedback loop on matters related to registered apprenticeship. OA staff at the national and regional levels regularly consult with SAAs, and as stated earlier, OA views the provision of technical assistance as central to its responsibility to oversee the National Apprenticeship System. OA will continue to provide such technical assistance and plans to develop robust tools to assist SAAs and all National Apprenticeship System stakeholders with understanding and complying with this proposed rule, including assistance related to the development of a State Apprenticeship Plan, continuous improvement of the labor standards

tools and templates for both existing and new programs' compliance with the strengthened labor standards in this proposed rule, and resources to support States' and programs' responsibilities and goals related to improved DEIA outcomes and equitable access for apprentices.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1532, requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed rule that may result in $100 million or more in expenditures (adjusted annually for inflation) in any 1 year by State, local, and Tribal governments, in the aggregate, or by the private sector.

This proposed rule, if finalized, does not exceed the $100-million expenditure in any 1 year when adjusted for inflation, and this rulemaking does not contain such a mandate. The requirements of title II of UMRA, therefore, do not apply, and the Department has not prepared a statement under the Act.

F. Executive Order 13175 (Indian Tribal Governments)

The Department has reviewed this proposed rule in accordance with E.O. 13175 and has determined that it does not have Tribal implications. The proposed rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

G. Internet Address of NPRM Summary (5 U.S.C. 553(b)(4))

The Department has developed a summary of the proposed rule in plain language in accordance with 5 U.S.C. 553(b)(4) and it is publicly available at *https://www.regulations.gov.*

List of Subjects

29 CFR Part 29

Apprenticeship agreements and complaints, Apprenticeship programs, Program standards, Registration and deregistration, Sponsor eligibility, State Apprenticeship Agency recognition and derecognition, Suitability for registered apprenticeship criteria.

29 CFR Part 30

Administrative practice and procedure, Apprenticeship, Employment, Equal employment opportunity, Reporting and recordkeeping requirements, Training.

For the reasons stated in the preamble, the Employment and Training Administration proposes to amend 29 CFR parts 29 and 30 as follows:1. Revise part 29 to read as follows:

PART 29—LABOR STANDARDS FOR THE REGISTRATION OF APPRENTICESHIP PROGRAMS

Authority: 29 U.S.C. 50; 40 U.S.C. 3145; 5 U.S.C. 301; 5 U.S.C. App. P. 534.

§ 29.1 Purpose and scope.

The purpose of this part is to set forth labor standards to safeguard the welfare of apprentices, promote the formulation of quality registered apprenticeship programs across a wide range of industries, bring employers, labor, education partners, and other intermediaries together for the formulation of such programs, ensuring equitable apprenticeship opportunities for underserved communities, and to extend the application of Federal standards of apprenticeship by prescribing policies and procedures concerning the registration, for Federal purposes, of registered apprenticeship programs with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA). These labor standards, policies, and procedures cover the registration, cancellation, and deregistration of registered apprenticeship programs and of apprenticeship agreements; the registration of career and technical education (CTE) apprenticeship programs; the collection of apprenticeship-related data from programs; the recognition of a State government agency as an authorized agency for registering apprenticeship programs for certain Federal purposes; the oversight and accountability of registered apprenticeship programs; and matters relating thereto.

§ 29.2 Definitions.

For purposes of this part and part 30 of this title:

Administrator means the Administrator of OA, or any person specifically designated by the Administrator or serving in the capacity of the Administrator.

Annual completion rate means the percentage of apprentices during a fiscal year who received a Certificate of Completion divided by the total number of exiters during the fiscal year.

Apprentice means a worker at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law, who is participating in a registered apprenticeship program under subpart A of this part covered by the requirements of this part and part 30 of this title.

Apprenticeship agreement means a written agreement executed between an apprentice and either a program sponsor or participating employer at the beginning of the apprenticeship that satisfies the requirements herein at § 29.9, and that describes the terms and

conditions of the employment and training of the apprentice, as well as any subsequent contractual provisions or agreements executed between the apprentice and either a program sponsor or a participating employer during the remainder of the apprenticeship term.

Apprenticeship committee (committee) means those persons designated by the sponsor to administer the program. A committee may be either joint or non-joint, as follows:

(1) A joint committee is composed of an equal number of representatives of the employer(s) and of the employees represented by a bona fide collective bargaining agent(s).

(2) A non-joint committee, which may also be known as a unilateral committee or group non-joint committee (which may include employees), has employer representatives but does not have a bona fide collective bargaining agent as a participant.

Cancellation means the termination of the apprenticeship agreement by either the apprentice or sponsor.

Career and technical education (CTE) means, as defined in sec. 3(5) of the Carl D. Perkins Career and Technical Education Act of 2006, as amended by the Strengthening Career and Technical Education for the 21st Century Act (20 U.S.C. 2302(5)) (Perkins), organized educational activities that—

(1) Offer a sequence of courses that—

(i) Provide individuals with rigorous academic content and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions, which may include high-skill, high-wage, or in-demand industry sectors or occupations, which shall be, at the secondary level, aligned with the challenging State academic standards adopted by a State under sec. 1111(b)(1) of the Elementary and Secondary Education Act of 1965;

(ii) Provide technical skill proficiency or a recognized postsecondary credential, which may include an industry-recognized credential, a certificate, or an associate degree; and

(iii) May include prerequisite courses (other than a remedial course) that meet the requirements of this paragraph;

(2) Include competency-based, work-based, or other applied learning that support the development of academic knowledge, higher order reasoning and problem-solving skills, work attitudes, employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual;

(3) To the extent practicable, coordinate between secondary and postsecondary education programs through CTE programs, which may include coordination through articulation agreements, early college high school programs, dual or concurrent enrollment program opportunities, or other credit transfer agreements that provide postsecondary credit or advanced standing; and

(4) May include career exploration at the high school level or as early as the middle grades (as such term is defined in sec. 8101 of the Elementary and Secondary Education Act of 1965).

Career pathway means a combination of rigorous and high-quality education, training, and other services that:

(1) Aligns with the skill needs of industries in the economy of the State or regional economy involved;

(2) Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeship programs registered under subpart A of this part;

(3) Includes counseling to support an individual in achieving the individual's education and career goals;

(4) Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;

(5) Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;

(6) Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and

(7) Helps an individual enter or advance within a specific occupation or occupational cluster.

Certificate of Completion means documentation that a Registration Agency has determined that an individual has successfully completed a registered apprenticeship program. Such documentation may be in a secure digital format, in addition to or instead of a physical format.

Certificate of completion of registered CTE apprenticeship means documentation that a Registration Agency has determined that an individual has successfully completed a registered CTE apprenticeship program. Such documentation may be in a secure digital format, in addition to or instead of a physical format.

Certificate of Participation means documentation that an apprentice has participated or is participating in a registered apprenticeship program. Such documentation may be in a secure digital format, in addition to or instead of a physical format.

Certificate of Recognition means documentation that the Administrator has recognized National Guidelines for Apprenticeship Standards for adoption or adaptation by a sponsor and the standards are eligible for local registration by a Registration Agency. Such documentation may be in a secure digital format, in addition to or instead of a physical format.

Certificate of Registration means documentation that a Registration Agency has registered an apprenticeship program. Such documentation may be in a secure digital format, in addition to or instead of a physical format.

Cohort completion rate means the percentage of an apprenticeship cohort who receive a Certificate of Completion within 1 year of the projected completion date. An apprenticeship cohort is the group of individual apprentices registered to a specific program during a given fiscal year. In calculating a registered apprenticeship program's cohort completion rate, a Registration Agency must disregard any cancellations of apprenticeship agreements by either the apprentice or the program sponsor that occurred during the probationary period for apprentices established in the program's standards of apprenticeship.

Collective bargaining agreement means a written agreement negotiated between an employer (or a group of employers) and the bargaining representative(s) of a labor union to which employees of the employer(s) belong that addresses such topics as wages, hours, workplace health and safety, employee benefits, and other terms and conditions of employment.

Competency means the attainment of knowledge, skills, abilities, and techniques, as specified in a work process schedule approved under § 29.7 and demonstrated by an appropriate on-the-job, industry-based proficiency measurement.

Corrective action plan is a plan developed by a State Apprenticeship Agency (SAA) in consultation with OA that identifies actionable steps that a State must take to address unresolved findings of noncompliance with this part or part 30 of this title. A corrective action plan must list specific milestones for key corrective actions and detail subsequent action to be taken by the Department in the event of inaction by the State.

Credential rate means the percentage of an apprenticeship cohort who receive an interim credential, as defined in this section, prior to their completion of a

registered apprenticeship program. In calculating a registered apprenticeship program's credential rate, a Registration Agency must disregard any cancellations of apprenticeship agreements by either the apprentice or the program sponsor that occurred during the probationary period for apprentices established in the program's standards of apprenticeship.

CTE apprentice means a participant at least 16 years of age, except where a higher minimum age standard is otherwise required by Federal, State, or local law, in a registered CTE apprenticeship program covered by the requirements of subpart B of this part and part 30 of this title. A CTE apprentice is not an apprentice for purposes of §§ 4.6(p), 5.2, 5.5(a)(4), and 570.50(b) of this title.

CTE apprenticeship agreement means a written agreement that complies with the requirements in § 29.24, and that contains the terms and conditions of the employment and training of the CTE apprentice.

CTE apprenticeship-related instruction means an organized and systematic form of instruction designed to provide the CTE apprentice with the knowledge of the theoretical and technical subjects related to the industry skills framework. CTE apprenticeship-related instruction must involve the curriculum that is approved as part of a State-approved CTE program and may include any additional coursework prescribed by the sponsor. Such instruction may be given in a classroom, through electronic media, or through other forms of study approved by the State CTE Agency and Registration Agency.

Day means a calendar day.

Department means the U.S. Department of Labor.

Direct threat means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual poses a ''direct threat'' must be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. This assessment must be based on a reasonable medical judgment that relies on the most current medical knowledge, the best available objective evidence, or both. In determining whether an individual would pose a direct threat, the factors to be considered include:

(1) The duration of the risk;

(2) The nature and severity of the potential harm;

(3) The likelihood that the potential harm will occur; and

(4) The imminence of the potential harm.

Disability means, with respect to an individual:

(1) A physical or mental impairment that substantially limits one or more major life activities of such individual;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

EEO means equal employment opportunity.

Electronic media means media that utilize electronics or electromechanical energy for the end user (audience) to access the content.

Employer means any person or organization that employs workers, and, when used in reference to employing apprentices under subparts A, B, and C of this part, means any person or organization that employs an apprentice during the on-the-job training component of an apprenticeship program pursuant to a program sponsor's approved set of standards of apprenticeship and the apprenticeship agreement.

Ethnicity, for purposes of recordkeeping and affirmative action, has the same meaning as under the Office of Management and Budget's Standards for the Classification of Federal Data on Race and Ethnicity, or any successor standards. Ethnicity thus refers to the following designations:

(1) Hispanic or Latino—A person of Cuban, Mexican, Puerto Rican, Cuban, South or Central American, or other Spanish culture or origin, regardless of race.

(2) Not Hispanic or Latino.

Exit is when an apprentice has ended their participation in a registered apprenticeship program based on a completion, transfer, or cancellation.

Federal purposes includes any Federal contract, grant, agreement, or arrangement dealing with registered apprenticeship; and any Federal financial or other assistance, benefit, privilege, contribution, allowance, exemption, preference, or right pertaining to registered apprenticeship.

Fiscal year means the accounting period of OA. It begins on October 1 and ends on September 30 of the next calendar year.

Genetic information means:

(1) Information about—

(i) An individual's genetic tests;

(ii) The genetic tests of that individual's family members;

(iii) The manifestation of disease or disorder in family members of the individual (family medical history);

(iv) An individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or

(v) The genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

(2) Genetic information does not include information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family members that is not derived from a genetic test.

Group program means an apprenticeship program established and registered by a sponsoring organization in which one or more employers have agreed to participate, usually pursuant to a collective bargaining agreement or a program standards adoption agreement.

Industry skills framework means an on-the-job training outline of nationally applicable, high-quality standards of registered CTE apprenticeship validated by industry and detailing the required skills and competencies to be attained through a CTE apprentice's participation in a registered CTE apprenticeship program.

Institution of higher education (IHE) has the meaning given the term in sec. 101(a) of the Higher Education Act of 1965.

Interim credential means a recognized postsecondary credential issued in connection with participation in a registered apprenticeship program. The interim credential may signify that an apprentice has successfully attained competency milestones within an occupation deemed suitable for registered apprenticeship training, usually as a part of a career pathway, sequence, or progression towards the attainment of more advanced competencies and credentials in that occupation.

Intermediary means an entity that assists in the provision, coordination, or support of a registered apprenticeship program.

Journeyworker means an experienced worker who has attained proficiency in the skills and competencies required in an industry or occupation.

Local educational agency (LEA) has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965.

Local registration means registration of an apprenticeship program for Federal purposes by a Registration Agency within a particular State.

Major life activities include, but are not limited to: Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. A major life activity also includes the operation of a major bodily function, including but not limited to: functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

National Apprenticeship System means the coordinated efforts of OA, of SAAs recognized by OA, of registered apprenticeship programs and registered CTE apprenticeship programs that have been approved by Registration Agencies, and of employers, labor unions, business organizations, trade and industry groups, educational institutions, intermediaries, pre-apprenticeship programs, and other stakeholders across the United States in implementing the minimum labor standards and EEO requirements for apprenticeship of this part and part 30 of this title.

National Guidelines for Apprenticeship Standards means a template of apprenticeship program standards developed by a labor union, trade or industry association, or other organization with national scope and industry expertise that are recognized by OA for the purposes of being adapted by affiliated sponsors for local or national registration.

National Occupational Standards for Apprenticeship means a universally available template of nationally applicable, high-quality standards of apprenticeship (and related work process schedules) developed by industry stakeholders convened by OA and approved by the Administrator for occupations considered suitable for registered apprenticeship training.

National Program Standards for Apprenticeship means a set of standards of apprenticeship developed and adopted by a program sponsor that are registered on a nationwide basis by OA and are entitled to reciprocity of registration.

Non-compete provision means a term in the apprenticeship agreement or other agreement between an employer or sponsor and an apprentice that prohibits the apprentice from seeking or accepting employment with another employer during the registered apprenticeship program or registered CTE apprenticeship program.

Office of Apprenticeship (OA) means the office within the Department's Employment and Training Administration that has been designated by the Secretary to administer the National Apprenticeship System or its successor organization.

On-the-job training means an organized and systematic form of training conducted at a workplace or job site that is designed to provide the apprentice with the hands-on knowledge, skills, techniques, and competencies that are necessary to achieve proficiency in an occupation.

Participating employer means an employer that employs at least one apprentice and that either:

(1) Participates in a registered apprenticeship program sponsored by a joint labor-management apprenticeship and training program established pursuant to a collective bargaining agreement, and under which the employer has adopted the sponsor's standards of apprenticeship and serves as the employer of record for at least one apprentice enrolled in the sponsor's program; or

(2) Is a party to a written program standards adoption agreement with a registered apprenticeship program sponsor that is concluded outside of a collective bargaining process, and under which the employer has adopted the sponsor's standards of apprenticeship and serves as the employer of record for apprentices enrolled in the sponsor's program.

Physical or mental impairment means:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or

(2) Any mental or psychological disorder, such as intellectual disability (formerly termed ''mental retardation''), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Pre-apprenticeship program means a structured education and workplace training program that maintains a documented partnership with at least one registered apprenticeship program, is designed to support access and equitable participation in apprenticeship programs by providing individuals who do not currently possess the minimum qualifications for admission into a registered apprenticeship program or registered CTE apprenticeship with the foundational knowledge and skills needed to gain acceptance into, and succeed in, a registered program, and provides participants with a hands-on introduction to the competencies and techniques used in one or more occupations that are suitable for registered apprenticeship training, with access to educational and career counseling and other supportive services, and may include opportunities to earn industry-recognized credentials.

Proficiency means, for purposes of subpart A of this part, the demonstrated, measurable attainment by an apprentice of each of the relevant job skills and competencies that are necessary to perform successfully at the journeyworker level in a given occupation.

Program review means an administrative review of a registered apprenticeship program that is conducted by a Registration Agency to assess the program's compliance with the requirements of this part and of part 30 of this title.

Program standards adoption agreement means a written agreement executed outside of a collective bargaining process in which a participating employer agrees to adopt and utilize a set of apprenticeship program standards for the employment and training of apprentices that were developed by a program sponsor and registered by a Registration Agency.

Provisional registration means the initial provisional approval of programs that meet the required standards for program registration, after which the program approval may be made permanent, continued as provisional, or deregistered following a program review by the Registration Agency, as provided for in this part.

Qualified applicant or qualified apprentice, for purposes of part 30, is an individual who, with or without reasonable accommodation, can perform the essential functions of the registered apprenticeship program for which the individual applied or is enrolled.

Race, for purposes of recordkeeping and affirmative action, has the same meaning as under the Office of Management and Budget's Standards for the Classification of Federal Data on Race and Ethnicity, or any successor

standards. Race thus refers to the following designations:

(1) White—A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

(2) Black or African American—A person having origins in any of the black racial groups of Africa.

(3) Native Hawaiian or Other Pacific Islander—A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

(4) Asian—A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

(5) American Indian or Alaska Native—A person having origins in any of the original peoples of North and South America (including Central America), and who maintains Tribal affiliation or community attachment.

Reasonable accommodation—(1) The term reasonable accommodation means:

(i) Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires;

(ii) Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or

(iii) Modifications or adjustments that enable a sponsor's apprentice with a disability to enjoy equal benefits and privileges of apprenticeship as are enjoyed by the sponsor's other similarly situated apprentices without disabilities.

(2) *Reasonable accommodation* may include but is not limited to:

(i) Making existing facilities used by apprentices readily accessible to and usable by individuals with disabilities; and

(ii) Job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

(3) To determine the appropriate reasonable accommodation, it may be necessary for the sponsor to initiate an informal, interactive process with the qualified individual in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

Reciprocity of registration means the provision of local registration status by an SAA in that State for an apprenticeship program registered by another Registration Agency.

Recognized postsecondary credential means a credential consisting of an industry-recognized certificate or certification, a license recognized by the State involved or Federal Government, or an associate or baccalaureate degree.

Registered apprenticeship program means a structured apprenticeship program registered by a Registration Agency under subpart A of this part that comprises a paid, supervised on-the-job training component and a related instruction component conveying relevant theoretical and technical knowledge, and may include a program that is eligible for student assistance under title IV of the Higher Education Act of 1965, as amended.

Registered CTE apprenticeship program means a structured, integrated educational and career training program that admits students who have signed a CTE apprenticeship agreement (or that a student's parent or guardian has signed if the student is a minor) that is approved by the Registration Agency under subpart B of this part. Such a program integrates paid, on-the-job training in an industry or occupation suitable for registered CTE apprenticeship training with CTE apprenticeship-related instruction in subjects offered by an education institution that is a Perkins-eligible recipient, and also provides successful program completers with a certificate of completion of registered CTE apprenticeship, credit hours towards a postsecondary degree program, and as applicable a high school diploma or equivalency, and advanced standing in a registered apprenticeship program under subpart A.

Registration Agency means a governmental agency, which may be either OA or an SAA recognized by OA, that has responsibility for registering and overseeing apprenticeship programs and apprentices; providing technical assistance; and conducting program reviews for compliance with this part and part 30 of this title.

Related instruction means an organized and systematic form of instruction designed to provide the apprentice with the knowledge of the theoretical and technical subjects related to the apprentice's occupation. Such instruction may be given in a classroom, through occupational or industrial courses, or by correspondence courses of equivalent value, electronic media, or other forms of self-study approved by the Registration Agency.

Secretary means the U.S. Secretary of Labor or any official of the Department designated by the Secretary.

Selection procedure means any measure, combination of measures, or procedure used as a basis for any decision in apprenticeship. Selection procedures include the full range of assessment techniques, including: traditional paper and pencil tests; performance tests; training programs; probationary periods; physical, educational, and work experience requirements; informal or casual interviews; and unscored application forms.

Sponsor means any person, employer, association, committee, intermediary, or organization that operates and administers an apprenticeship program in whose name that program is registered by a Registration Agency.

Standards of apprenticeship means an organized, written plan embodying the terms and conditions of employment, training, and supervision of one or more apprentices in a registered apprenticeship program.

State means any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or outlying area of the United States as defined in the Workforce Innovation and Opportunity Act (WIOA), Pub. L. 113–128, 128 Stat. 1425 (2014), sec. 3.

State Apprenticeship Agency (SAA) means an agency of a State government that has responsibility and accountability for registered apprenticeship programs within the State. Only a State government agency may seek recognition by OA as an agency that has been properly constituted under an applicable State legal authority and is authorized by OA to register and oversee apprenticeship programs and agreements for Federal purposes.

State Apprenticeship Council is an entity established to assist the SAA. A State Apprenticeship Council is ineligible for recognition as the State's Registration Agency and may only operate in an advisory capacity. The State Apprenticeship Council provides nonbinding advice and guidance to the SAA on the operation of the State's system of registered apprenticeship.

State Apprenticeship Plan means a strategic and operational plan that is a State's application for recognition as an SAA and 4-year strategy for the State's system of registered apprenticeship.

State CTE Agency means a State board designated or created consistent with

State law as the sole State government agency responsible for the administration of CTE in the State or for the supervision of the administration of CTE in the State pursuant to 20 U.S.C. 2302(18), or another State government agency delegated the authority by such State board to administer Perkins.

Supportive services means services such as transportation, childcare, dependent care, housing, and needs-related payments that are necessary to enable an individual to participate and succeed in registered apprenticeship and CTE apprenticeship.

Technical assistance means guidance and support provided by Registration Agency staff in the development, revision, amendment, or processing of a potential or current program sponsor's standards of apprenticeship or apprenticeship agreements, or advice or consultation with a program sponsor to further compliance with this part or with guidance from OA to an SAA on how to satisfy the requirements of this part and part 30 of this title.

Transfer means a shift of apprenticeship registration from one program to another or from one employer within a program to another employer within that same program, where there is agreement between the apprentice and the affected apprenticeship committee or program sponsors.

Underserved communities means persons from historically marginalized communities or populations, including geographic communities, that have been adversely affected by persistent discrimination, inequality, or poverty, including but not limited to: women; persons of color (including Black, Latino, Indigenous and Native American persons, and Asian Americans, Native Hawaiians, and Pacific Islanders); individuals with disabilities; persons adhering to particular religious beliefs or practices; veterans and military spouses; lesbian, gay, bisexual, transgender, queer, gender nonconforming, and nonbinary persons; and individuals with barriers to employment, as defined in WIOA sec. 3(24).

Undue hardship—(1) *In general.* Undue hardship means, with respect to the provision of an accommodation, significant difficulty or expense incurred by a sponsor, when considered in light of the factors set forth in paragraph (2) of this definition.

(2) *Factors to be considered.* In determining whether an accommodation would impose an undue hardship on a sponsor, factors to be considered include:

(i) The nature and net cost of the accommodation needed under this part, taking into consideration the availability of tax credits and deductions, outside funding, or both;

(ii) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources;

(iii) The overall financial resources of the sponsor, the overall size of the registered apprenticeship program with respect to the number of apprentices, and the number, type, and location of its facilities;

(iv) The type of operation or operations of the sponsor, including the composition, structure, and functions of the workforce of such entity, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the sponsor; and

(v) The impact of the accommodation upon the operation of the facility, including the impact on the ability of other apprentices to perform their duties and the impact on the facility's ability to conduct business.

Work process schedule means a training plan for the on-the-job component of a registered apprenticeship program that outlines a sequence of measurable competency benchmarks for the job-related skills whose cumulative acquisition by an apprentice over the course of the apprenticeship term leads to the attainment of occupational proficiency.

§ 29.3 Office of Apprenticeship.

The Secretary will establish and maintain an Office of Apprenticeship (or any successor office or agency so designated by the Secretary) within the Department to facilitate the administration and coordination of the National Apprenticeship System, including:

(a) Formulate and update regulations, subregulatory guidance, policies, and procedures in connection with the implementation of the National Apprenticeship Act of 1937 (29 U.S.C. 50);

(b) Register and provide oversight of apprenticeship programs and standards that satisfy the requirements of this part and of part 30 of this title;

(c) Promote the development of industry-validated standards, including the determination of occupations suitable for registered apprenticeship, the development and adoption of National Occupational Standards for Apprenticeship, as well as industry skills frameworks;

(d) Recognize and oversee SAAs established under applicable State laws and regulations that satisfy the requirements of this part and of part 30 of this title;

(e) Maintain, utilize, and make publicly available National Apprenticeship System data pertaining to apprentices and apprenticeship programs that are registered by either OA or by SAAs and satisfy the requirements of this part and of part 30 of this title;

(f) Promote diversity, equity, inclusion, and accessibility in apprenticeship, including for those from underserved communities, and, consistent with part 30 of this title, enforce equal opportunity standards for apprentices and applicants;

(g) Provide technical assistance to apprenticeship program sponsors, SAAs, and other key stakeholders in the development of apprenticeship program standards and the operation of apprenticeship programs to satisfy the requirements of this part and of part 30 of this title;

(h) Engage in discussions with stakeholders, including multilateral institutions, businesses, and nongovernmental organizations in order to promote and facilitate the development and expansion of apprenticeships in the United States; and develop partnerships with apprenticeship stakeholders that can facilitate and accelerate the expansion of quality apprenticeship programs across the National Apprenticeship System in accordance with the requirements of this part and of part 30 of this title; and

(i) Conduct other activities that support the National Apprenticeship System.

§ 29.4 Relation to other laws and agreements.

(a) *Relation to other laws.* No provision in this part will supersede or invalidate any other Federal, State, or local law establishing minimum labor standards of apprenticeship that are higher or more protective of apprentices than those established in this part.

(b) *Relation to other agreements.* No provision in this part or in any apprenticeship agreement will invalidate any apprenticeship provision in any collective bargaining agreement between employers and employees establishing minimum labor standards applicable to a registered apprenticeship program that are higher or more protective of apprentices than those established in this part.

§ 29.5 Severability.

Should a court of competent jurisdiction hold any portion of any provision(s) of this part to be invalid, the provision will be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding is one of total invalidity or unenforceability, in which event the provision or subprovision will be severable from this part and will not affect the remainder thereof.

§ 29.6 Transition provisions.

(a) With respect to suitability of occupations for registered apprenticeship:

(1) Section 29.7 is in effect for occupations not previously determined suitable for registered apprenticeship by the Administrator 90 days following the effective date of this rule.

(2) Section 29.7 is in effect for occupations not previously determined suitable for registered apprenticeship by an SAA upon the effective date of this rule.

(3) Occupations recognized by OA as apprenticeable under former § 29.4 (Criteria for apprenticeable occupations) as of the day before the effective date of this rule will be subject to the 5-year review of all occupations pursuant to § 29.7(h).

(b) Programs not previously registered by OA as of the day before the effective date of this rule must seek registration based on the requirements of subpart A of this part when an electronic submission process is available to sponsors. Programs registered prior to the development of an electronic submission process must meet all new requirements before converting to permanent registration status.

(c) Programs registered by OA prior to the effective date of this rule must comply with the requirements of subpart A of this part no later than 2 years after the effective date of this rule.

(d) SAAs recognized by the Administrator as of the effective date of this rule will continue to be recognized until December 31, 2026.

(1) SAAs must ensure any programs registered prior to the approval of the State Apprenticeship Plan are registered consistent with the approved State Apprenticeship Plan, within 2 years of the approval date of the State Apprenticeship Plan. Programs registered after the effective date of this rule should be registered provisionally and remain in provisional status until the State Apprenticeship Plan is approved and the program is compliant with its requirements.

(2) SAA-specific occupations must be determined suitable for registered apprenticeship by the Administrator under § 29.7 within 4 years of the effective date of this rule in order for registered apprenticeship programs registered by the SAA to continue being registered for Federal purposes.

(e) SAAs not previously recognized by the Administrator as of the effective date of this rule must seek recognition under the procedures of § 29.27 upon the effective date of this rule.

Subpart A—Standards for Registered Apprenticeship Programs

§ 29.7 Occupations suitable for registered apprenticeship.

(a) Only the Administrator can determine whether an occupation is suitable for registered apprenticeship. Occupations determined suitable for registered apprenticeship will be eligible for local registration for Federal purposes by a Registration Agency.

(b) The following minimum requirements must be met for the Administrator to determine that an occupation is suitable:

(1) The occupation under consideration is commonly recognized or accepted throughout a particular industry or sector as a standalone, distinct occupation;

(2) The occupation leads to a sustainable career;

(3) A structured on-the-job apprenticeship training program will enable an apprentice to be able to acquire the knowledge, skills, techniques, and competencies necessary to become proficient in the occupation; and

(4) The completion of at least 2,000 hours of on-the-job training and not less than a minimum average of 144 hours of off-the-job related instruction for every 2,000 hours of on-the-job training in order to obtain proficiency in the occupation.

(c) A current or potential program sponsor, SAA, or other entity seeking a new determination from the Administrator as to whether an occupation is suitable for registered apprenticeship must submit electronically the following information to the Administrator:

(1) Documentation sufficient to show that each of the requirements at paragraphs (b)(1) through (4) of this section are met;

(2) A work process schedule and an explanation of how the skills, techniques, and competencies detailed in the work process schedule will lead to proficiency in the occupation through a structured on-the-job apprenticeship training program;

(3) Documentation of the industry standard for the minimum number of hours of on-the-job training needed in order to obtain proficiency in the occupation under consideration. The minimum number of hours must involve the completion of at least 2,000 hours of on-the-job training;

(4) A related instruction outline and an explanation based on industry standards describing the proposed curriculum and the number of hours of such instruction, which cannot be less than an average of 144 hours in duration for every 2,000 hours of on-the-job training provided; and

(5) Documentation of any interim credentials, recognized postsecondary credentials, or occupational licenses related to the occupation and whether they are optional or may be required to be obtained during an apprenticeship program in the occupation.

(d) The Administrator will solicit public comment to assess whether the submission described in paragraph (c) of this section constitutes an occupation suitable for registered apprenticeship. Such solicitations will be made available for public comment for at least 30 days. A determination regarding the occupation will be made within 90 days after a complete application is received, though the Administrator may extend this period by providing notice to the applicant. The Administrator may also consider data or request additional information from the applicant, at the Administrator's discretion. The Administrator will maintain an up-to-date publicly available list of all suitability determinations.

(e) An occupation will not be approved as suitable for registered apprenticeship training in instances where the Administrator determines that:

(1) The application is incomplete;

(2) Any of the requirements set forth at paragraphs (b)(1) through (4) of this section are not met;

(3) The proposed scope of the apprenticeship training is confined to a narrowly specialized subset of skills and competencies within an existing occupation that are not readily transferable between employers in the sector; or

(4) The occupation includes or replicates a significant proportion of the work processes that are covered by another occupation that OA previously approved as suitable for registered apprenticeship training, but does not lead to a more advanced occupation.

(f) In instances where the Administrator determines, pursuant to paragraph (c) of this section, that the occupation under consideration is not one that is suitable for registered apprenticeship training, the

Administrator will provide to the applicant a written explanation for the unfavorable decision.

(g) A current sponsor or potential sponsor, SAA, or other entity must submit proposed adjustments to the existing scope, minimum duration, or work processes of an occupation previously deemed suitable for registered apprenticeship training by the Administrator. Such adjustments may be accepted by the Administrator provided that they satisfy the requirements established in this section.

(h) The Administrator will, consistent with the process described in paragraph (d) of this section, periodically review the continued suitability, relevance, and applicability of the work process schedule and related instruction outline associated with an occupation previously approved as suitable for registered apprenticeship training. Based on its review the Administrator will determine whether the occupation remains suitable for registered apprenticeship or requires adjustments to the previously approved work process schedule and related instruction outline. Such a review will occur at least every 5 years. If revisions to work process schedules or related instruction outlines are made during this process, existing programs must update their work process schedules or related instruction outlines to align with the changes before the start of the next training cycle.

§ 29.8 Standards of apprenticeship.

(a) Each registered apprenticeship program must have a written set of standards of apprenticeship that will govern the conduct and operation of that program; such standards must include the following provisions:

(1) The minimum eligibility requirements for entry into the registered apprenticeship program, including a minimum starting age for an apprentice of not less than 16 years except where a higher minimum age requirement is otherwise required by Federal, State, or local law;

(2) The sponsor's procedures for the selection of apprentices, which must comply with the requirements for the selection of apprentices set forth in part 30 of this title;

(3) The sponsor's relevant recruitment area for the selection of apprentices;

(4) The term of the apprenticeship program, which must be sufficient for an apprentice to attain proficiency in all of the knowledge, skills, techniques, and competencies that are relevant to the covered occupation(s). The sponsor must include:

(i) A term of paid on-the-job training that reflects the customary industry standard for acquiring technical proficiency in the occupation, which in no instance can be less than 2,000 hours in duration; and

(ii) A number of hours of related instruction that reflects the customary industry standard, but is not less than a minimum average of 144 hours of related instruction for every 2,000 hours of on-the-job training.

(5) The registered apprenticeship program's covered occupation(s), work process schedule(s), and related instruction outline(s);

(6) The related instruction provider(s) and the instructional methods used to deliver the related instruction;

(7) Documentation that the qualifications and experience of the trainers and instructors that provide on-the-job training and related instruction to apprentices satisfy the requirements described in § 29.12;

(8) A description of:

(i) Any interim credential issued to an apprentice by the program during the term of the apprenticeship;

(ii) Any industry-portable occupational qualification, license, degree, or certification that the apprentice will receive, or will be eligible to receive, upon the successful completion of the registered apprenticeship program; and

(iii) Any postsecondary credit that an apprentice may receive, or may be eligible to receive, upon their successful completion of the related instruction and on-the-job training components of the registered apprenticeship program.

(9) A statement as to whether time the apprentice spends in the related instruction component of the apprenticeship training will be counted as hours worked, and if so, what the wage rate and fringe benefits will be for those hours;

(10) The process for regularly assessing and providing feedback to the apprentice regarding the apprentice's acquisition of job-related knowledge, skills, and competencies during the on-the-job training component of the registered apprenticeship program. In those instances where an apprentice attains such occupational skills and competencies at an accelerated pace, the program may grant advanced standing to such an individual pursuant to paragraph (a)(20) of this section;

(11) The end-point assessment process for certifying the apprentice's successful attainment of all of the knowledge, skills, and competencies necessary for proficiency in the occupation at the conclusion of the term of the registered apprenticeship program;

(12) A probationary period that is reasonable in relation to the program's full apprenticeship term and that must be credited toward the completion of the registered apprenticeship program. However, in no event will the duration of the probationary period exceed 25 percent of the total length of the program, or 1 year, whichever is shorter;

(13) A statement that the registered apprenticeship program will be conducted in accordance with all applicable Federal, State, or local laws;

(14) A statement acknowledging that apprentices will be entitled to the same worker allowances, rights, and protections that are afforded by applicable Federal, State, or local laws to similarly situated, non-apprentice employees, including but not limited to: family and medical leave, workers' compensation, and health and retirement plan benefits;

(15) An attestation by the sponsor, supported by any available documentation, that the program will provide adequate, safe, and accessible facilities and equipment for the training and supervision of apprentices that are compliant with all applicable Federal, State, and local disability, occupational safety, and occupational health laws;

(16) An attestation by the sponsor that the program will provide adequate, industry-recognized safety training for apprentices in both their on-the-job training and related instruction;

(17) The wage(s) and fringe benefits that the apprentice will receive from the employer sponsoring or participating in the registered apprenticeship program, which must meet the following requirements:

(i) The entry wage is not less than the minimum wage prescribed by the Fair Labor Standards Act, where applicable, unless a higher wage is required by other applicable Federal law, State or local law, or by the terms of an applicable collective bargaining agreement;

(ii) A graduated schedule of increasing wages, from the entry wage to the journeyworker wage, that:

(A) Reflects the progressive and measurable acquisition of relevant occupational skills and competencies by the apprentice, except where a different graduated schedule of increasing wages is required by other applicable Federal, State, or local laws (including those governing the payment of prevailing wages), or by the terms of an applicable collective bargaining agreement;

(B) Includes at least one incremental wage step increase during the first 2,000 hours of the registered apprenticeship

program, with additional wage step increments scheduled at reasonable intervals for program terms of longer duration designed to support apprentices' progression and success throughout their apprenticeship, except where a different schedule of incremental wage step increases is required by the terms of an applicable collective bargaining agreement; and

(C) The final wage in the program must be at least 75 percent of the journeyworker wage paid by the employer for that occupation, except where the graduated schedule of increasing wages is required by other applicable Federal, State, or local laws or by the terms of an applicable collective bargaining agreement.

(18) The approximate amount of any unreimbursed costs, expenses, or fees that the apprentice may incur during the registered apprenticeship program. Any such costs, expenses, or fees charged by the sponsor:

(i) Must be necessary and reasonable;

(ii) Must not impose substantial or inequitable financial barriers to program enrollment or to completion of the program; and

(iii) Must comply with all applicable Federal, State, and local wage laws and regulations, including but not limited to the Fair Labor Standards Act, the Davis-Bacon and related Acts, and the McNamara-O'Hara Service Contract Act, and the implementing regulations for such laws.

(19) The program's specific numeric ratio of apprentices to journeyworkers.

(i) The ratio must be consistent with the proper safety, health, supervision, and training of the apprentice.

(ii) A sponsor must use a ratio that is:

(A) Consistent with the provisions of any applicable collective bargaining agreements, as well as any applicable Federal and State laws governing such ratios; and

(B) Specific and clearly described as to its application to a particular workforce, workplace, worksite, job site, department, or plant.

(20) The process by which the sponsor will reduce the usual term of on-the-job training or related instruction as a result of an apprentice's prior learning, training, or acquired experience, or as a result of accelerated progress in the attainment of occupational competencies that is made by an apprentice during their participation in the registered apprenticeship program. Such process must:

(i) Involve a fair, transparent, and equitable process for objectively identifying, assessing, and documenting an apprentice's prior learning, training, or acquired experience, as well as for measuring any accelerated progress in the attainment of occupational competencies in the sponsor's registered apprenticeship program; and

(ii) Result in advanced standing or credit and an increased wage for an apprentice that is commensurate with any progression granted by the sponsor.

(21) If applicable, a provision for the transfer of apprentices between registered apprenticeship programs involving the same occupation. The transfer must be agreed to by the apprentice and the affected program sponsors or apprenticeship committees, and must meet the following requirements:

(i) Both the transferring apprentice and the program to which the apprentice is transferring must be provided a documentation of the apprentice's accrued related instruction and on-the-job training from the originating program sponsor or committee;

(ii) The transfer must be to the same occupation; and

(iii) A new apprenticeship agreement between the apprentice and the incoming program sponsor or committee must be executed after the transfer is executed.

(22) A requirement that the program sponsor and any participating employers create and maintain all records concerning apprenticeship that are detailed at section § 29.18;

(23) The sponsor's Equal Opportunity Pledge, pursuant to § 30.3(c) of this title, as well as an attestation that the program will be operated in accordance with the provisions of part 30 of this title and, where applicable, an approved State EEO plan;

(24) An attestation that the program sponsor (as well as any participating employers in the sponsor's program) will implement effective measures to promote and maintain a safe and inclusive workplace environment that is free from all forms of violence, harassment, intimidation, and retaliation against apprentices;

(25) For apprenticeship programs that were registered on or after September 22, 2020, an attestation that the program sponsor will provide each of the written assurances required under section 2(b)(1) of the Support for Veterans in Effective Apprenticeships Act of 2019 (Pub. L. 116–134, 134 Stat. 277, 29 U.S.C. 50c); and

(26) Contact information (name, address, telephone number, and email address) for the appropriate individual with authority under the program to receive, process, and make disposition of complaints.

(b) In instances where a registered apprenticeship program provides training to apprentices who are employed by participating employers in a group program (pursuant to a collective bargaining agreement, or to a program standards adoption agreement described in § 29.11), the sponsor will be responsible for:

(1) Obtaining an attestation that the participating employer agrees to abide by the requirements contained in this part and in part 30 of this title prior to the admission of the participating employer to the program;

(2) Obtaining a disclosure in writing of all instances where a Federal, State, or local government agency has issued a final agency determination that the participating employer (or any of its officers or employees) has violated any applicable laws pertaining to occupational safety and health, labor standards (including wage and hour requirements), financial mismanagement or abuse, EEO, protections for employees against harassment or assault, or other applicable laws governing workplace practices or conduct, prior to the admission of the participating employer to the program; such disclosure must include a description of the violation, as well as the actions taken by the employer to remedy the violation; and

(3) Actively monitoring each participating employer after their admission to the group program to assess whether such an employer is adhering to both the minimum standards of apprenticeship outlined in this section and the applicable regulatory requirements for registered apprenticeship programs set forth in this part and in part 30 of this title.

§ 29.9 Apprenticeship agreements.

(a) All apprenticeship programs registered by a Registration Agency must develop and establish a written apprenticeship agreement that contains the terms and conditions of the employment and training of the apprentice. Such agreement must be signed prior to the start of an apprenticeship term by:

(1) The apprentice;

(2) The apprentice's parent or legal guardian, if the apprentice is under 18 years of age;

(3) The program sponsor; and

(4) Any participating employers in the program that have adopted the sponsor's standards of apprenticeship through a program standards adoption agreement.

(b) Prior to signing the apprenticeship agreement, an apprentice who has been admitted to the apprenticeship program must be furnished by the program

sponsor with a copy of both the proposed apprenticeship agreement and the program's standards of apprenticeship, and must also be provided with a reasonable opportunity to inspect and review the content of those documents. After the apprenticeship agreement has been signed by the apprentice, the sponsor, and any other relevant parties, the sponsor must transmit or deliver to the apprentice a copy of the executed apprenticeship agreement and the program's standards of apprenticeship not later than the starting date of the apprenticeship.

(c) At a minimum, the apprenticeship agreement must contain the following:

(1) Contact information and identifying information for the apprentice, including the apprentice's date of birth and, on a voluntary basis, their Social Security number;

(2) Contact information for the Registration Agency, program sponsor, and participating employer(s);

(3) An identification of the occupation in which the apprentice is to be trained, as well as copies of the associated work process schedule and related instruction outline;

(4) The incorporation, either directly or by reference, of the program's standards of apprenticeship;

(5) A description of the respective roles, duties, and responsibilities of the apprentice, the program sponsor, and the participating employer, if applicable, during the registered apprenticeship program. With respect to sponsors and participating employers, these responsibilities must include providing information to apprentices regarding their rights and protections under Federal, State, and local laws, including their right to file complaints with the applicable Registration Agency and the process for doing so;

(6) The term of the registered apprenticeship program, including the beginning date and expected duration of the registered apprenticeship program, the beginning date of the on-the-job training, and the duration of the probationary period for the apprenticeship program;

(7) A detailed statement of the entry wage, subsequent graduated scale of increasing wages to be paid to the apprentice over the term of the apprenticeship, the journeyworker wage, and any fringe benefits;

(8) A disclosure of the expected minimum number of hours that are allocated by the program to the on-the-job training component during the apprenticeship term, and to the related instruction component of the apprenticeship during that term;

(9) A description of the methods used during the course of the apprenticeship to measure progress on competency attainment and the program's end-point assessment;

(10) A description of any supportive services that may be available to the apprentice including childcare, transportation, equipment, tools, or any other supportive service provided by the sponsor or a partnering organization to address potential barriers to participation or completion;

(11) The nature and amount of any unreimbursed costs, expenses, or fees that the apprentice may incur during their participation in the registered apprenticeship program;

(12) A description of any recognized postsecondary credits, credentials, and occupational qualifications that the apprentice will receive or be eligible to receive upon successful program completion, as well as a description of any additional conditions or requirements that the apprentice must fulfill to satisfy any applicable Federal, State, or local qualification and licensure requirements to engage in the occupation;

(13) A statement by the parties to the agreement that they will adhere to the applicable requirements of part 30 of this title and, where applicable, an approved State EEO plan;

(14) A statement addressing:

(i) Whether the apprentice is paid wages and fringe benefits during the related instruction component of the program;

(ii) If wages are paid for related instruction, what the wage rate is; and

(iii) Whether the related instruction is provided during work hours.

(15) Contact information (name, address, phone, and email if appropriate) of the appropriate authority designated under the program to receive, process, and make disposition of controversies or disputes arising out of the apprenticeship agreement when the controversies or disputes cannot be addressed locally or resolved in accordance with the established procedure or applicable collective bargaining provisions; and

(16) A description of the processes and procedures for granting advanced standing or credit consistent with the requirements of § 29.8(a)(20).

(d) A registered apprenticeship program sponsor, or a participating employer in the sponsor's program, cannot include in the apprenticeship agreement or otherwise impose on apprentices a non-compete provision or other provision restricting the apprentice's ability to compete directly with the program sponsor or participating employer or to seek or accept employment with another employer prior to the completion of the registered apprenticeship program.

(e) A registered apprenticeship program sponsor, or a participating employer in the sponsor's program, cannot include in the apprenticeship agreement or otherwise impose on apprentices a non-disclosure provision that prevents the worker from working in the same field after the conclusion of the worker's employment with the employer, or that restricts an apprentice's ability to file a complaint with a Registration Agency or other governmental body concerning possible violations of this part or of part 30 of this title. Subject to these restrictions, a sponsor or participating employer may include a non-disclosure provision that relates to the protection of the sponsor's or participating employer's confidential business information or trade secrets.

(f) The program sponsor must submit a completed copy of the executed apprenticeship agreement for each apprentice registered, to the program's Registration Agency within 30 days of execution.

(g) The apprenticeship agreement may be cancelled during the probationary period specified in the agreement by either party without cause.

(h) After the probationary period of the apprenticeship concludes, the apprenticeship agreement:

(1) May be cancelled at the request of the apprentice at any time; or

(2) May be suspended or cancelled by the program sponsor only for good cause. When cancelling an agreement, the sponsor must provide written notice to the apprentice explaining the cause for the cancellation and must provide written notice to the Registration Agency of the cancellation.

§ 29.10 Program registration.

(a) To apply for registration, a prospective program sponsor must submit electronically to a Registration Agency an application that includes:

(1) A work process schedule and related instruction outline that is consistent with an occupation deemed suitable for registered apprenticeship by the Administrator;

(2) Standards of apprenticeship for the proposed program;

(3) The apprenticeship agreement for the apprenticeship program;

(4) A written plan for the equitable recruitment and retention of apprentices, including those from underserved communities;

(5) Information showing that the prospective program sponsor possesses and can maintain the financial capacity

and other resources necessary to operate the proposed program;

(6) A disclosure in writing of all instances where a Federal, State, or local government agency has issued a final agency determination that the prospective sponsor (or any of its officers or employees) has violated any applicable laws pertaining to occupational safety and health, labor standards (including wage and hour requirements), financial mismanagement or abuse, EEO, protections for employees against harassment or assault, or other applicable laws governing workplace practices or conduct. Such disclosure must include a description of the violation, as well as the actions taken by the prospective sponsor to remedy the violation;

(7) Union participation provisions, if applicable:

(i) In instances where an apprenticeship program is proposed for registration by a sponsor, employer, or employers' association and the standards of apprenticeship, collective bargaining agreement, or other instrument provides for participation by a labor union in any manner in the operation of the substantive matters of the apprenticeship program (and where such participation is exercised), written acknowledgement of union agreement or lack of objection to the registration is required.

(ii) Where no such participation is evidenced and practiced, the sponsor, employer, or employers' association must simultaneously furnish to an existing union, which is the collective bargaining agent of the employees to be trained, a copy of its application for registration and of the apprenticeship program. The Registration Agency must provide for receipt of union comments, if any, within 45 days before final action on the application for registration or approval.

(8) A description of how the sponsor will implement, upon registration, the affirmative steps to provide EEO in apprenticeship required by § 30.3(b) of this title. This description must, at a minimum:

(i) Identify the individual or individuals who will be responsible and accountable for overseeing the sponsor's commitment to equal opportunity in registered apprenticeship;

(ii) Identify the publications or other documents where the sponsor's EEO pledge will be published and the physical or digital locations where the sponsor's EEO pledge will be posted;

(iii) Describe the planned schedule for orientation and information sessions for individuals connected with the administration or operation of the apprenticeship program, including all apprentices and journeyworkers who regularly work with apprentices, to inform and remind such individuals of the sponsor's EEO policy with regard to apprenticeship;

(iv) Provide a list of current recruitment sources that will generate referrals from all demographic groups within the relevant recruitment area, including the identity of a contact person, mailing address, telephone number, and email address for each recruitment source;

(v) Describe the sponsor's procedures to ensure that its apprentices are not harassed or otherwise subjected to discrimination because of their race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability and to ensure that its apprenticeship program is free from intimidation and retaliation. This description must specifically include:

(A) The planned schedule and content source for the required anti-harassment training to all individuals connected with the administration or operation of the apprenticeship program; and

(B) The sponsor's procedures for handling and resolving complaints about harassment and intimidation.

(b) A complete electronic application for registration that includes all of the requirements of paragraph (a) of this section will be reviewed within 90 calendar days by the Registration Agency, which will approve the application if:

(1) The occupation covered by the proposed program has been determined by the Administrator to be suitable for registered apprenticeship training pursuant to § 29.7. The Administrator may, in their sole discretion, determine that a work process schedule and related instruction outline submitted for registration substantially differs from those previously approved as suitable for registered apprenticeship such that the application for registration must first undergo a suitability determination pursuant to § 29.7;

(2) The work process schedule proposed for that occupation has been determined to provide training in the specific skills and competencies associated with the approved occupation;

(3) The applicant's work process schedule and related instruction outline would provide an apprentice with a portable set of occupational skills and competencies that are readily transferable between employers within the same industry or sector;

(4) The standards of apprenticeship submitted are consistent with § 29.8;

(5) The apprenticeship agreement adheres to the requirements of § 29.9;

(6) The sponsor possesses the financial capacity and other resources necessary to operate the proposed program;

(7) The Registration Agency finds that any types of misconduct or violations of law acknowledged by the applicant for registration pursuant to paragraph (a)(6) of this section have been satisfactorily addressed and cured by the applicant, and therefore would not pose a significant ongoing risk to the welfare of apprentices who elect to enroll in the program;

(8) If applicable, the union participation requirements of paragraph (a)(7) of this section are satisfied; and

(9) The sponsor's submission is found by the Registration Agency to be satisfactory under paragraphs (a)(4) and (8) of this section.

(c) Applications for new programs that the Registration Agency determines meet the required standards for program registration will be given a Certificate of Registration and provided provisional registration. In instances where a Registration Agency declines to register a program, the Registration Agency will provide a written explanation of the reasons why it determined the application does not meet the requirements of this subpart, and how any deficiencies could be cured, to the applicant. Applicants denied approval may resubmit consistent with the requirements of this subpart.

(d) The Registration Agency must review all provisionally registered programs for compliance with the requirements of this part and of part 30 of this title within 2 years of the program's registration date or at the end of the first training cycle, whichever is sooner. At that time:

(1) A program that is in compliance with the requirements of this part and part 30 of this title:

(i) Will be made permanent if the program's first full training cycle has been completed; or

(ii) Will, if the program's first full training cycle has not been completed, continue to be provisionally registered through the program's first full training cycle, upon which they will receive a subsequent program review.

(2) A program that is not in compliance with this part and part 30 of this title during the provisional registration period will be subject to the deregistration procedures at § 29.20.

(3) After a program receives permanent registration, subsequent program reviews are conducted by the

Registration Agency as provided in § 29.19.

(e) If a registered apprenticeship program does not have at least one apprentice enrolled and participating in the apprenticeship program, and registered with the Registration Agency, the Registration Agency may initiate deregistration proceedings as described in § 29.20. This does not apply during the following periods of time, which may not exceed 1 year:

(1) Between the date when a program is registered and the date of registration for its first apprentice(s); or

(2) Between the date that a program graduates an apprentice and the date of registration for the next apprentice(s) in the program.

(f) Any sponsor proposals for modification(s) or change(s) to standards of apprenticeship or certified National Guidelines for Apprenticeship Standards for a registered program must be submitted to the Registration Agency. The Registration Agency must make a determination on whether such submissions are consistent with the requirements of this part and part 30 of this title and, if so, will approve such submissions within 90 calendar days from the date of receipt of a complete submission. If approved, the modification(s) or change(s) will be recorded and acknowledged within calendar 90 days of approval as an amendment to such program. If not approved, the sponsor must be notified of the disapproval and the reasons therefore and provided the appropriate technical assistance.

§ 29.11 Program standards adoption agreement.

(a) *Program standards adoption agreements between sponsors and participating employers.* The terms and conditions of a program standards adoption agreement must include a provision that the participating employer will:

(1) Adopt and comply with the sponsor's registered standards of apprenticeship;

(2) Comply with all other applicable requirements in this part; and

(3) Cooperate with, and provide assistance to, the program sponsor to meet the program sponsor's obligations under this part and part 30 of this title, including by providing any apprenticeship-related data and records necessary to assess compliance with these regulatory provisions.

(b) *Transmission of the adoption agreement to the Registration Agency.* Each executed program standards adoption agreement must be transmitted to the Registration Agency by the program sponsor within 30 days of the execution of the agreement.

(c) *Suspension or cancellation of adoption agreement.* A program standards adoption agreement:

(1) May be cancelled by the participating employer upon providing 30 days' written notice to the sponsor; or

(2) Must be suspended or cancelled by the program sponsor if the program sponsor determines that the participating employer failed to satisfy the program standards adoption agreement's provisions of this section.

(i) The program sponsor must provide written notice of any suspension or cancellation to the participating employer, all apprentices affected by the suspension or cancellation, and to the applicable Registration Agency. The notice must explain the reason for the suspension or cancellation.

(ii) If the suspension or cancellation results in an interruption or cessation of training for apprentices, the program sponsor must make reasonable efforts to place such individuals with another of the sponsor's participating employers or a different registered apprenticeship program in the same occupation.

(iii) In instances where a program sponsor fails to suspend or cancel a program standards adoption agreement as required by paragraph (c)(2) of this section, the Registration Agency may initiate deregistration proceedings against the sponsor pursuant to § 29.20.

§ 29.12 Qualifications of apprentice trainers and providers of related instruction.

(a) Registered apprenticeship program sponsors and participating employers must ensure that any journeyworkers providing on-the-job training to apprentices possess, at a minimum, the following qualifications:

(1) A mastery of the relevant skills, techniques, and competencies of the occupation;

(2) Up-to-date knowledge of the latest advances in technical knowledge and skills necessary to maintain proficiency and expertise in the occupation;

(3) Ability to effectively communicate and demonstrate the range of specialized practical knowledge, work processes, skills, and techniques necessary to acquire full proficiency in the occupation;

(4) Ability to apply industry-recognized methods for objectively and fairly evaluating and monitoring the progress of the apprentice during the apprenticeship term, including the ability to assess the attainment of competencies of apprentices acquired during their on-the-job training;

(5) Ability to relate the conceptual and theoretical knowledge acquired by apprentices in their related instruction to the successful performance of job-related tasks that are ordinarily performed by workers in the covered occupation; and

(b) Registered apprenticeship program sponsors and participating employers must further ensure that the trainer establishes a safe and inclusive training environment that promotes the effective development of apprentices from all backgrounds; in addition, the trainer must also have completed all of the required anti-harassment training required under part 30 of this title and must not have a record of substantiated noncompliance with EEO requirements.

(c) Registered apprenticeship program sponsors must ensure that providers of related instruction possess, at a minimum, the following qualifications:

(1) Serve as a faculty member or instructor at an accredited postsecondary institution, or meet the State's certification requirements for a vocational-technical instructor in the State in which the apprenticeship program is registered; or be a subject-matter expert, which is an individual, such as a journeyworker, who is recognized within an industry as having expertise in a specific occupation; and

(2) Have received previous training in teaching techniques and adaptable learning styles.

§ 29.13 Development of National Occupational Standards for Apprenticeship.

(a) *In general.* To facilitate the growth of high-quality registered apprenticeship programs, the Administrator will oversee the development of and updates to industry-validated, portable, and rigorous National Occupational Standards for Apprenticeship suitable for adoption by program sponsors.

(b) *Development and approval.* Each set of new or updated National Occupational Standards for Apprenticeship and related work process schedules will be reviewed and approved by the Administrator to ensure that each of the proposed National Occupational Standards satisfies the following criteria:

(1) The associated occupation has been determined suitable for registered apprenticeship training by the Administrator pursuant to § 29.7;

(2) The proposed work process schedule framework associated with the occupation under consideration has been documented as nationally applicable;

(3) The proposed standards include a nationally applicable curriculum

framework for the provision of related instruction; and

(4) The proposed standards describe the nationally applicable methods for conducting ongoing evaluations of apprentices to assess the successful attainment of the skills and competencies required under the framework, including the development of nationally applicable end-point assessments.

(c) *Approval.* The Administrator will solicit public comment to assist in evaluating that the National Occupation Standards for Apprenticeship satisfy the criteria in paragraph (b) of this section. Such solicitations will be made available for public comment for at least 30 days. A determination regarding the National Occupations Standards for Apprenticeship will be made within 90 days of its submission for public comment, though the Administrator may extend this period. The Administrator may also consider data and other relevant information to assist in evaluating whether the requirements in § 29.13(b) are satisfied. The Administrator will maintain an up-to-date publicly available list of all National Occupational Standards for Apprenticeship determinations.

§ 29.14 National Program Standards for Apprenticeship.

(a) *In general.* National Program Standards for Apprenticeship must:

(1) Train apprentices for an occupation that is not ordinarily subject to Federal, State, or local licensing requirements;

(2) Be national or multistate in their design, suitability, and scope; and

(3) Satisfy the applicable requirements of this part and part 30 of this title.

(b) *Scope of registration.* National Program Standards for Apprenticeship that meet the requirements in paragraph (a) of this section will be approved and registered on a nationwide basis for Federal purposes by the Administrator. In instances where the Administrator declines to register a proposed set of National Program Standards for Apprenticeship, the Administrator will provide a written explanation of the reasons for the unfavorable determination.

(c) *Reciprocity of registration.* SAAs must accord reciprocal approval and registration to National Program Standards for Apprenticeship approved under this section.

(d) *Alignment with National Occupational Standards for Apprenticeship.* For those occupations where National Occupational Standards for Apprenticeship currently exist, a program sponsor seeking registration of its National Program Standards for Apprenticeship must use such National Occupational Standards. Sponsors are allowed to modify the National Occupational Standards for Apprenticeship to meet their needs provided that the Administrator determines that the submission substantially aligns with the National Occupational Standards.

§ 29.15 National Guidelines for Apprenticeship Standards.

(a) *In general.* National Guidelines for Apprenticeship Standards must:

(1) Be national in their applicability and scope with respect to the covered occupation;

(2) Be suitable for either adoption or adaptation by State or local affiliates of the program sponsor, and

(3) Satisfy the applicable requirements of this part and of part 30 of this title.

(b) *Recognition of National Guidelines for Apprenticeship Standards.* National Guidelines for Apprenticeship Standards that meet the requirements in paragraph (a) of this section will be recognized by the Administrator, which will issue a Certificate of Recognition to the submitting organization. If the Administrator determines the National Guidelines for Apprenticeship Standards do not satisfy the requirements in paragraph (a) of this section, the Administrator will provide a written explanation of the reasons for the unfavorable determination.

(c) *Local registration required.* National Guidelines for Apprenticeship Standards recognized under this section may be used as the basis for standards of apprenticeship submitted by a State or local affiliate of the organization receiving recognition to the applicable State Registration Agency for approval and registration of the individual program in a given State.

(d) *Resubmission of National Guidelines for Apprenticeship Standards.* National Guidelines for Apprenticeship Standards recognized by the Administrator must be resubmitted for approval by the Administrator:

(1) When the standards have been amended consistent with § 29.8(b); and

(2) Every 5 years, beginning on the date of the most recent approval by the Administrator.

(e) *Alignment with National Occupational Standards for Apprenticeship.* For those occupations where National Occupational Standards for Apprenticeship currently exist, a program sponsor seeking certification of its National Guidelines for Apprenticeship Standards must use such National Occupational Standards. Sponsors are allowed to modify the National Occupational Standards for Apprenticeship to meet their needs provided that the Administrator determines that the submission substantially aligns with the National Occupational Standards.

§ 29.16 End-point assessment and Certificate of Completion.

(a) Prior to an apprentice's completion of the registered apprenticeship program, the program sponsor must arrange for an end-point assessment to objectively measure the apprentice's acquisition of the relevant knowledge, skills, and competencies necessary to demonstrate proficiency in the occupation covered by the program.

(b) An apprentice who is not successful in completing the end-point assessment must be offeredat least one additional opportunity to complete the assessment at the apprentice's request.

(c) The sponsor must inform all apprentices of their right to request a reasonable accommodation prior to the administration of the assessment.

(d) Each apprentice whom the sponsor determines has successfully met the on-the-job training and related instruction requirements of a registered apprenticeship program and completes the end-point assessment will be awarded a Certificate of Completion by the appropriate Registration Agency.

§ 29.17 Complaints.

(a) This section is not applicable to any complaint concerning discrimination or other EEO matters; all such complaints must be submitted, processed, and resolved in accordance with applicable provisions in part 30 of this title, or applicable provisions of a State EEO plan adopted pursuant to part 30 of this title and approved by the Department.

(b) Except for matters described in paragraph (a) of this section and matters covered by a collective bargaining agreement, a complainant or their authorized representative may submit a complaint regarding any dispute arising under an apprenticeship agreement or alleging a violation of this part to the sponsor or to the Registration Agency that registered the apprenticeship program for review.

(c) A complaint must be filed with the Registration Agency within 300 calendar days after the conclusion of the events that gave rise to the dispute or the alleged violation of this part. However, for good cause shown, the Registration Agency may extend the filing time.

(d) All complaints must be submitted in writing by the complainant or their authorized representative, and must describe the dispute, including all relevant facts and documents. Each written complaint must contain the following information:

(1) A means of contacting the complainant or the authorized representative;

(2) The identity of the individual or entity that is alleged to be responsible for the conduct giving rise to the complaint; and

(3) A short description of the events, facts, or circumstances giving rise to the complaint, including a discussion of when the events giving rise to the complaint took place.

(e) Requirements of the Registration Agency with respect to complaints are as follows:

(1) The investigation of a complaint filed under this part will be undertaken by the Registration Agency and will proceed as expeditiously as possible. In conducting complaint investigations, the Registration Agency must:

(i) Provide written notice to the complainant and the authorized representative, if any, acknowledging receipt of the complaint;

(ii) Initiate an investigation upon receiving a complete complaint;

(iii) Complete a thorough investigation of the allegations of the complaint and develop a complete case record that must contain, but is not limited to, the name, address, and telephone number of each person interviewed, the interview statements, copies, transcripts, or summaries (where appropriate) of pertinent documents, and a narrative report of the investigation with references to exhibits and other evidence that relate to the alleged violations; and

(iv) Provide written notification of the Registration Agency's findings to both the respondent and the complainant.

(2) The Registration Agency will protect the identity of the complainant to the extent practicable.

(3) The Registration Agency will review all complaints. Where a report of findings from a complaint investigation indicates a violation of the requirements of this part or the apprenticeship agreement, the Registration Agency will attempt to resolve the violation as expeditiously as possible.

(f) Nothing in this section precludes an apprentice from pursuing any other remedy authorized under another Federal, State, or local law.

(g) An SAA may adopt a complaint investigation procedure differing in detail from that given in this section, provided that such a procedure has previously been reviewed and approved, pursuant to § 29.27, by the Administrator.

(h) A participant in a registered apprenticeship program may not be intimidated, threatened, coerced, retaliated against, or discriminated against because the individual has:

(1) Filed a complaint alleging a violation of this part or an apprenticeship agreement;

(2) Opposed a practice prohibited by the provisions of this part or an apprenticeship agreement;

(3) Furnished information to, or assisted or participated in any manner in, any investigation, compliance review, proceeding, or hearing under this part; or

(4) Otherwise exercised any rights and privileges under the provisions of this part or an apprenticeship agreement.

(i) Any sponsor that permits such retaliation under paragraph (h) of this section in its registered apprenticeship program, including by participating employers, and fails to take appropriate steps to remedy such activity will be subject to deregistration under § 29.20(a) and other appropriate remedies.

§ 29.18 Recordkeeping by registered programs.

(a) *General obligation.* The program sponsor, and any participating employer, is responsible for maintaining any records that the Registration Agency considers necessary to determine whether the sponsor has complied or is complying with the requirements of this part and any applicable Federal or State laws. Such records include, but are not limited to, records relating to:

(1) Employment decisions, such as the hiring or placement, promotion, demotion, transfer, layoff, termination, right of return from layoff, and rehiring of apprentices;

(2) Information related to the operation of the registered apprenticeship program, including but not limited to:

(i) Information related to the qualification, recruitment, employment, and training of apprentices, such as the apprenticeship program standards, apprenticeship agreements, completion records, cancellation and suspension records, and compliance review files;

(ii) Records pertaining to each apprentice's performance and progress in both the on-the-job training and related instruction components of the registered apprenticeship program, and records related to the apprentice end-point assessments;

(iii) If applicable, any records pertaining to an apprentice's attainment of an interim credential, postsecondary academic credit, or any other interim milestones attained during the course of an apprentice's participation in the program;

(iv) For each apprentice, the number of hours of on-the-job training, the number of hours of related instruction, the total number of hours worked, and the wages and fringe benefits paid for all hours;

(v) Any records, including personnel records, applicable to non-EEO complaints filed with the Registration Agency pursuant to § 29.17;

(vi) All records related to the safety record of the sponsor and all participating employers in the sponsor's program, where applicable, including records relating to any safety and health training provided to apprentices, incident logs required to be maintained under applicable Federal or State occupational safety and health laws, as well as current worker's compensation documentation;

(vii) Any records required to be maintained by a program sponsor under part 30 of this title;

(viii) Any records required to be maintained under title 38, United States Code, in order for veterans and other individuals eligible for educational assistance under such title to use such assistance for enrollment in registered apprenticeship programs; and

(ix) Any records demonstrating program compliance with registered apprenticeship requirements to meet Federal purposes as defined in this part.

(b) *Maintenance of records.*The records required by this part and any other information relevant to compliance with these regulations by a program sponsor (and any participating employer) must be maintained for 5 years from the date of the making of the record or the personnel action involved, whichever occurs later. Failure to preserve complete and accurate records as required by paragraph (a) of this section constitutes noncompliance with this part.

(c) *Access to records.*The program sponsor (and any participating employer)must allow the Registration Agency access to the records described in paragraph (a) of this section upon request for the purpose of conducting program reviews and investigating complaints arising under this part; such program reviews and investigations may involve the inspecting and copying of books, accounts, records (including electronic records), and any other material the Registration Agency deems relevant to the review or investigation and pertinent to compliance with this part. Upon request, the program sponsor (and any participating employer) must

provide the Registration Agencyinformation about all format(s), including specific electronic formats, in which its records and other information are available. Information obtained in this manner will be used only in connection with the administration of this part or other applicablelaws.

(d) *Format of records and other information.* Forms, records, and any other documents used and maintained by the program sponsor (and any participating employer) in the administration of this part may exist in paper or electronic form or a combination thereof. Regardless of the medium, these records must be available and accessible as required under paragraph (c) of this section for oversight and compliance purposes.

§ 29.19 Program reviews.

(a) After an apprenticeship program has received permanent registration status as described in § 29.10, the Registration Agency must conduct periodic reviews of the apprenticeship program (which may include any participating employers in the sponsor's program) not less frequently than every 5 years, except as described in paragraph (b) of this section.

(b) The Registration Agency must conduct reviews of a program in instances where the Registration Agency receives credible information or allegations that the program is not being operated in accordance with either its program standards or the requirements set forth in this part or in part 30 of this title, or at the request of the Administrator.

(c) In conducting program reviews, Registration Agencies may consider all information and data that is relevant to any actual or potential areas of noncompliance. As part of a review of data, the Registration Agency must review the program's performance under § 29.25(b).

(d) Sponsors and participating employers are required to cooperate with requests for interviews or documentation from the Registration Agency. Sponsors and participating employers must not impede a Registration Agency's ability to interview prospective, current, or former apprentices.

(e) Upon completion of a program review, the Registration Agency must present a written Notice of Program Review Findings to the sponsor using the contact information listed in the registered standards. If the program review indicates a failure to comply with this part or with part 30 of this title, the required notice will include:

(1) The deficiency or deficiencies identified;

(2) How to cure or remedy the deficiency or deficiencies;

(3) A requirement that the sponsor must develop and submit a compliance action plan pursuant to paragraph (f) of this section; and

(4) A statement that the administrative actions described in § 29.20 may be undertaken if compliance is not achieved within the required timeframe.

(f)(1) When a sponsor receives a Notice of Program Review Findings that indicates a failure to comply with this part, the sponsor must, within 45 calendar days of notification, either develop and submit for approval by the Registration Agency a compliance action plan that meets the requirements of paragraph (f)(2) of this section or submit a written rebuttal to the Findings. Registration Agencies may extend this deadline one time by up to 45 calendar days for good cause upon request of the sponsor.

(2) If the Registration Agency upholds the findings after considering the sponsor's rebuttal, the Registration Agency must provide the sponsor written notice of its determination, including the reasons for the determination. Upon receipt, the sponsor must develop, and submit to the Registration Agency for approval, a compliance action plan within 45 calendar days of receiving the final notice. The compliance action plan must include, at a minimum, the following provisions:

(i) A specific commitment, in writing, to correct or remediate identified deficiency(ies) and area(s) of noncompliance;

(ii) The precise actions to be taken for each deficiency identified;

(iii) The time period within which each cited deficiency will be remedied and any corrective program changes implemented; and

(iv) The name of the individual(s) responsible for correcting each deficiency identified.

(g) The Registration Agency will evaluate the sponsor's compliance action plan. The Registration Agency will elect one of the following of three responses to the compliance action plan and will notify the sponsor in writing accordingly.

(1) The Registration Agency may approve the compliance action plan, determine that the Program is now in compliance, and terminate the program review process.

(2) The Registration Agency may approve the compliance action plan but continue the program review process until the compliance action plan is appropriately implemented.

(3) The Registration Agency may reject the compliance action plan and either work with the sponsor to revise the compliance action plan or initiate deregistration under § 29.20.

§ 29.20 Deregistration of a registered program.

(a) *In general.* Where the Registration Agency, as a result of a program review or complaint investigation, or on any other basis, determines that the sponsor, or any participating employer in the sponsor's program, is not operating the registered apprenticeship program in accordance with this part, the Registration Agency must notify the program sponsor in writing of the specific violation(s) identified and may proceed with any or a combination of the following:

(1) Offer the sponsor or participating employer technical assistance to promote compliance with this part;

(2) Require the sponsor to submit a compliance action plan pursuant to § 29.19(f);

(3) Suspend the sponsor's right to register new apprentices for a specified time period; or

(4) Deregister the program pursuant to paragraph (b) of this section.

(b) *Deregistration by the Registration Agency for cause.* The Registration Agency may deregister an apprenticeship program when the apprenticeship program is not being operated in accordance with the requirements of this part or of part 30 of this title, and the program either has failed to correct specific violations identified by the Registration Agency or has failed to submit or implement an approved compliance action plan within the timeframes established in this part. The Registration Agency will send a Notice of Deregistration to the sponsor that includes the reasons for deregistration and the right to request a hearing before the Office of Administrative Law Judges (OALJ) or request review by the Administrator in accordance with this section.

(c) *Voluntary deregistration at the request of the sponsor.* The Registration Agency will deregister an apprenticeship program, and provide written confirmation to the sponsor of such deregistration, after the Registration Agency has received a written request for deregistration from the program sponsor that includes:

(1) The effective date of the requested deregistration; and

(2) A statement that within 15 calendar days of the date of the written

request the sponsor will notify all apprentices:

(i) That sponsor has requested that their program be deregistered and the effective date;

(ii) That deregistration automatically deprives the apprentice of individual registration;

(iii) That the deregistration of the program removes the apprentice from coverage for Federal purposes; and

(iv) That the apprentice will be referred to the Registration Agency for information about potential transfer to other registered apprenticeship programs.

(d) *Review of deregistration by the Administrator, Office of Apprenticeship.*

(1) If a former sponsor wishes to request review by the Administrator, the former sponsor must do so by submitting an electronic request for review in writing within 30 calendar days from the date of the Notice of Deregistration. The request for review must include any additional relevant facts or documents that exist as of the date of the request. Statements concerning interviews, meetings, and conferences must include the time, date, place, and persons present.

(2) If the Registration Agency that issued the Notice of Deregistration is an SAA, the former sponsor must simultaneously furnish a copy of the request for review and all supporting facts and documentation to the Administrator. The SAA must transmit to the Administrator within 15 calendar days of receiving the request for review copies of records containing all pertinent facts concerning the deficiencies identified, including the Notice of Deregistration, and copies of all relevant documents and records that were before the SAA at the time of its decision. The Administrator may request additional information from the former sponsor, the SAA, or both.

(3) If the Registration Agency that issued the Notice of Deregistration is OA, OA will compile from within its own files records of all pertinent facts concerning the deficiencies identified, including the Notice of Deregistration and any new information provided by the former sponsor. The Administrator may request additional information from the sponsor.

(4) After reviewing a request for review, the Administrator will issue a final decision that includes the reasons for the decision as quickly as practicable after receipt of all information.

(5) Except as provided in paragraph (d)(6) of this section, the sponsor may request a hearing before the Department's OALJ within 15 calendar days of receipt of the Administrator's final decision. If a hearing is not requested within 15 calendar days, the Administrator's decision is the final determination of the Department and no appeal to OALJ will be considered.

(6) Where the basis for deregistration is a failure to respond to multiple attempts by the Registration Agency to contact the sponsor or failure to register at least one apprentice, the Administrator's decision is the final determination of the Department and the sponsor cannot request a hearing with OALJ.

(e) *Requests for hearings.*

(1) A request for a hearing must be sent to OALJ within 15 calendar days of receiving a Notice of Deregistration from OA or receiving the Administrator's final decision. Where an SAA is the Registration Agency, a sponsor must request Review of Deregistration by the Administrator and receive the Administrator's final decision before requesting a hearing with OALJ.

(2) A copy of the request for a hearing must be simultaneously sent to the Administrator and the Associate Solicitor for Employment and Training Legal Services, Office of the Solicitor, U.S. Department of Labor. The Administrator will promptly provide the OALJ with the administrative file containing all documents relied on by the Administrator.

(3) Hearings requested under paragraph (e)(1) of this section must be conducted as set forth in § 29.21.

§ 29.21 Hearings on deregistration.

(a) The procedures contained in part 18 of this title will apply to the disposition of the request for hearing except that:

(1) The Administrative Law Judge will receive, and make part of the record, documentary evidence offered by any party and accepted at the hearing. Copies thereof will be made available by the party submitting the documentary evidence to any party to the hearing upon request.

(2) Technical rules of evidence will not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination will be applied, where reasonably necessary, by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence.

(3) The request for a hearing will not be considered to be a complaint to which an answer is required.

(4) The Administrative Law Judge may authorize discovery and the filing of pre-hearing motions, and so limit them to the types and quantities that in the Administrative Law Judge's discretion will contribute to a fair hearing without unduly burdening the parties.

(b) The Administrative Law Judge must issue a written decision within 90 calendar days of the close of the hearing record. The Administrative Law Judge must uphold the Administrator's decision unless it is shown by the sponsor to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law. The Administrative Law Judge's decision constitutes final agency action unless, within 15 calendar days from receipt of the decision, a party dissatisfied with the decision files a petition for review with the Administrative Review Board (ARB) in accordance with part 26 of this title, specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged is deemed to have been waived. A copy of the petition for review must be served on the opposing party at the same time in accordance with part 26 of this title. Thereafter, the decision of the Administrative Law Judge remains final agency action unless the ARB, within 30 calendar days of the filing of the petition for review, notifies the parties that it has accepted the case for review. The ARB may set a briefing schedule or decide the matter on the record. The ARB must issue a decision in any case it accepts for review within 180 calendar days of the close of the record. If a decision is not so issued, the Administrative Law Judge's decision constitutes final agency action.

§ 29.22 Reinstatement of program registration.

Any apprenticeship program deregistered under § 29.20 may be reinstated at any time upon presentation of adequate evidence to the Registration Agency that the apprenticeship program is operating in accordance with this part and part 30 of this title.

§ 29.23 Exemptions.

Requests for exemption from any provision of this subpart must be made in writing to the Administrator and must contain a statement of reasons supporting the request. The Administrator may only grant exemptions for good cause and may not grant exemptions with respect to requirements set forth outside of this subpart, including requirements set forth in other applicable Federal, State, or local laws.

Subpart B—Career and Technical Education Apprenticeship

§ 29.24 Registration of career and technical education apprenticeship programs.

(a) *Required coordination.*

(1) *Coordination activities.* The Registration Agency and the State CTE Agency must coordinate on the overall administration of registered CTE apprenticeship programs in each State, including the process of program approvals, program reviews, data collection, technical assistance, and compliance activities to ensure that both parties work cooperatively to support LEAs, IHEs, and their intermediaries in the coordination of registered CTE apprenticeship programs while ensuring that programs meet the requirements of this part. Nothing in this subpart alters the existing authorities of the State CTE Agency for implementation and oversight of Perkins, which is not governed by these regulations, and the Registration Agency for oversight of any registered apprenticeship program.

(2) *Written agreement.* The State CTE Agency and Registration Agency must enter into a written agreement for the Statewide coordination and operation of registered CTE apprenticeship programs in the State. The written agreement must describe the roles and responsibilities of each agency. In order for an SAA to establish registered CTE apprenticeship programs in its State, it must include such a written agreement as part of the State Apprenticeship Plan it submits to OA for approval.

(b) *Approval of industry skills frameworks.*

(1) To facilitate the design and implementation of registered CTE apprenticeship programs, the Administrator will oversee the development of and updates to industry-validated, portable, and rigorous industry skills frameworks, which will be used by States and sponsors. Each set of new or updated industry skills frameworks must be reviewed by the Administrator, and will be approved as suitable for use in registered CTE apprenticeship programs if the industry skills framework:

(i) Provides a structure for developing the professional behaviors, workplace competencies, and theoretical knowledge required by an industry;

(ii) Describes skills and competencies that have been validated by the industry under consideration as nationally applicable and widely recognized across the industry;

(iii) Describes skills and competencies that are specified in an on-the-job training outline and obtained through the attainment of at least 900 hours of on-the-job training;

(iv) Aligns with a CTE program as approved by a State CTE Agency; and

(v) Details industry-validated methods for ongoing evaluations to assess the attainment of competency benchmarks by a CTE apprentice.

(2) The Administrator will solicit public comment to assist in evaluating an industry skills framework's suitability for registered CTE apprenticeship in paragraph (b)(1) of this section. Such solicitations will be made available for public comment for at least 30 days. A determination regarding the industry skills framework will be made within 90 days of its submission for public comment, though the Administrator may extend this period. The Administrator may also consider data and other relevant information to assist in evaluating an industry skills framework's suitability for registered CTE apprenticeship. The Administrator will maintain an up-to-date public list of all industry skills frameworks and decisions.

(c) *Standards of registered CTE apprenticeship.* Each registered CTE apprenticeship program must have a written set of standards of registered CTE apprenticeship that will govern the conduct and operation of that program; such standards must include the following provisions:

(1) An on-the-job training outline that aligns with an approved industry skills framework;

(2) A description of the CTE apprenticeship-related instruction provided, including the approved CTE program associated with the registered CTE apprenticeship program. This description must include a statement as to whether time the apprentice spends in the CTE apprenticeship-related instruction component of the apprenticeship training will be counted as hours worked, and if so, what the wage rate and fringe benefits will be for those hours. The CTE apprenticeship-related instruction must also:

(i) Be a minimum of 540 hours in duration;

(ii) Result in the awarding of at least 12 postsecondary credit hours; and

(iii) Lead to proficiency in the skills and competencies described in the industry skills framework.

(3) A description of recognized postsecondary credit hours and credentials that are awarded, including any associate or baccalaureate degree associated with the program, and the name of the entity(ies) issuing the credential(s) or certificate(s);

(4) A description of how completion of the program will result in CTE apprentices' selection into an apprenticeship program registered under subpart A of this part (including any advanced standing granted), enrollment in a postsecondary educational program, or employment;

(5) A description of the employment in which CTE apprentices will be employed in on-the-job training. The on-the-job training must:

(i) Be a minimum of 900 hours in duration; and

(ii) Lead to proficiency in the skills and competencies described in the industry skills framework;

(6) The wage(s) that the CTE apprentice will receive from the employer participating in the registered CTE apprenticeship program, which must meet the following requirements:

(i) The CTE apprentice is paid a progressively increasing schedule of wages that is consistent with the industry skills and competencies required; and

(ii) The entry wage is not less than the minimum wage prescribed by the Fair Labor Standards Act, where applicable, unless a higher wage is required by other applicable Federal law, State or local law, or respective regulations, or by the terms of an applicable collective bargaining agreement.

(7) The program's specific numeric ratio of CTE apprentices to journeyworkers.

(i) The ratio must be consistent with the proper safety, health, supervision, and training of the CTE apprentice.

(ii) A sponsor must use a ratio that is:

(A) Consistent with the provisions of any applicable collective bargaining agreements, as well as any applicable Federal and State laws governing such ratios; and

(B) Specific and clearly described as to its application to a particular workforce, workplace, worksite, job site, department, or plant.

(8) A probationary period that may not exceed 30 days;

(9) An attestation by the sponsor, supported by any available documentation, that the program will provide adequate, safe, and accessible facilities and equipment for the training and supervision of CTE apprentices that are compliant with all applicable Federal, State, and local disability, occupational safety, and occupational health laws;

(10) An attestation by the sponsor that the program will provide adequate, industry-recognized safety training for CTE apprentices on the job and in CTE apprenticeship-related instruction;

(11) The minimum qualifications, if any, required by a sponsor and its participating employers for persons

entering the registered CTE apprenticeship program;

(12) The sponsor's procedures for the selection of CTE apprentices, which must comply with the requirements for the selection of apprentices set forth in part 30 of this title;

(13) A list of supportive services that may be available to the CTE apprentice during their registered CTE apprenticeship program, including whether the services are provided by the sponsor or partner organization;

(14) The process by which the sponsor will reduce the usual term of on-the-job training or CTE apprenticeship-related instruction as a result of a registered CTE apprentice's prior learning, training, or acquired experience, or as a result of accelerated progress in the attainment of occupational competencies that is made by an apprentice during their participation in the registered CTE apprenticeship program. Such process must:

(i) Involve a fair, transparent, and equitable process for objectively identifying, assessing, and documenting a registered CTE apprentice's prior learning, training, or acquired experience, as well as for measuring any accelerated progress in the attainment of occupational competencies in the sponsor's registered CTE apprenticeship program; and

(ii) Result in advanced standing or credit and an increased wage for a CTE apprentice that is commensurate with any progression granted by the sponsor.

(15) Documentation that the qualifications and experience of the trainers and instructors that provide on-the-job training and CTE apprenticeship-related instruction to CTE apprentices satisfy the requirements of § 29.12;

(16) The identity of the Registration Agency and the State CTE Agency;

(17) The sponsor's equal opportunity pledge, pursuant to § 30.3(c) of this title, as well as an attestation that the program will be operated in accordance with the provisions of part 30 of this title, and, where applicable, an approved State EEO plan; and

(18) Contact information (name, address, telephone number, and email address) for the appropriate individual with authority under the program to receive, process, and make disposition of complaints.

(d) *Registered CTE apprenticeship program sponsors.*

(1) *Eligible registered CTE apprenticeship program sponsors.* The following organizations and entities are eligible to serve as a sponsor of a registered CTE apprenticeship program:

(i) An LEA that is an eligible recipient as defined under Perkins;

(ii) An institution of higher education that is an eligible institution as defined under Perkins;

(iii) A State CTE Agency or other State government agency that shares responsibility for CTE in the State; and

(iv) An intermediary organization designated by the State CTE Agency, State Educational Agency, LEA, or IHE, pursuant to an agreement, that has expertise in organizing and coordinating registered CTE apprenticeship programs or registered apprenticeship programs, including:

(A) The local affiliate of a labor organization (such as a joint apprenticeship and training committee);

(B) An employer;

(C) The local affiliate of a trade or industry organization;

(D) A local workforce development board;

(E) An IHE;

(F) An LEA; and

(H) Any other public, private, or not-for-profit entity that has experience coordinating Perkins funding.

(2) *Sponsor program registration.* To apply for registration, a prospective program sponsor must submit electronically to a Registration Agency an application that includes:

(i) An on-the-job training outline that aligns with an associated industry skills framework;

(ii) A CTE apprenticeship-related instruction outline;

(iii) Standards of registered CTE apprenticeship for the proposed program;

(iv) The CTE apprenticeship agreement for the registered CTE apprenticeship program;

(v) A written plan that includes the following:

(A) A description of how the program will ensure the students who are selected to participate in the registered CTE apprenticeship program reflect a diverse and inclusive cross-section of the current student body enrollment of the participating secondary or postsecondary school(s) consistent with the requirements of part 30 of this title;

(B) A description of how the CTE program's training and curriculum align with an approved industry skills framework;

(C) A description of the secondary credits or recognized postsecondary credit hours and credentials the program may provide, including how the program confers such credits and credentials, and its usefulness for CTE apprentices' entry into employment, a registered apprenticeship program under subpart A, or a postsecondary educational program;

(D) A description from the sponsor of how they will ensure each employer has an established record of maintaining a safe and inclusive workplace that is free from discrimination, violence, harassment, intimidation, and retaliation against employees;

(E) A description of how the CTE apprentices participating in the program will have access to a broad range of career services and supportive services that enable participation in, and successful completion of, the registered CTE apprenticeship program;

(F) A description of the routine monitoring and oversight conducted by the sponsor of all aspects of the registered CTE apprenticeship program; and

(G) A description of how the sponsor will implement, upon registration, the affirmative steps to provide EEO in apprenticeship required by § 30.3(b) of this title. This description must at a minimum:

(*1*) Identify the individual or individuals who will be responsible and accountable for overseeing the sponsor's commitment to equal opportunity in registered CTE apprenticeship;

(*2*) Identify the publications or other documents where the sponsor's equal opportunity pledge will be published and the physical or digital locations where the sponsor's equal opportunity pledge will be posted;

(*3*) Describe the planned schedule for orientation and information sessions for individuals connected with the administration or operation of the registered CTE apprenticeship program, including all CTE apprentices and journeyworkers who regularly work with CTE apprentices, to inform and remind such individuals of the sponsor's EEO policy with regard to registered CTE apprenticeship;

(*4*) Provide a list of current recruitment sources that will generate referrals from all demographic groups within the relevant recruitment area, including the identity of a contact person, mailing address, telephone number, and email address for each recruitment source; and

(*5*) Describe the sponsor's procedures to ensure that its CTE apprentices are not harassed or otherwise subjected to discrimination because of their race, color, religion, national origin, sex, sexual orientation, age (40 or older), genetic information, or disability and to ensure that its apprenticeship program is free from intimidation and retaliation. This description must specifically include:

(*i*) The planned schedule and content source for the required anti-harassment training to all individuals connected

with the administration or operation of the registered CTE apprenticeship program; and

(*ii*) The sponsor's procedures for handling and resolving complaints about harassment and intimidation.

(vi) An assurance that the specific commitments, roles, and responsibilities assumed by employers, secondary schools, LEAs, postsecondary educational institutions, intermediaries, and others with respect to the operation of the registered CTE apprenticeship program are formalized through memoranda of understanding or other written agreements; and

(vii) An assurance that, consistent with § 29.18, the sponsor will maintain any required records that the Registration Agency considers necessary to determine whether the sponsor has complied or is complying with the requirements of this part and any applicable Federal or State laws.

(3) *Additional responsibilities for intermediaries serving as a sponsor.* If an intermediary is the sponsor pursuant to an agreement with the State CTE Agency, State Educational Agency, LEA, or IHE, the intermediary must ensure compliance with this subpart and coordinate with the relevant LEAs, secondary school(s), postsecondary educational institutions, community colleges, or CTE providers to ensure all requirements above, as well as any additional requirements established by the State CTE Agency, State Educational Agency, LEA or IHE, are met.

(4) *Sponsor standards adoption agreements.*

(i) *Terms and conditions of adoption agreement.* The registered CTE apprenticeship program sponsor must ensure that the terms and conditions of a sponsor standards adoption agreement include a provision that each participating employer will:

(A) Adopt and comply with the sponsor's standards of registered CTE apprenticeship;

(B) Comply with all other applicable requirements of this part; and

(C) Cooperate with, and provide assistance to, the program sponsor to meet the sponsor's obligations under this part and part 30 of this title, including by providing any apprenticeship-related data and records necessary to assess compliance with these regulatory provisions.

(ii) *Transmission of adoption agreement to Registration Agency.* Each executed sponsor standards adoption agreement must be transmitted to the Registration Agency by the program sponsor within 30 days of the execution of the agreement.

(iii) *Suspension or cancellation of adoption agreement.*

(A) A sponsor standards adoption agreement:

(*1*) May be canceled by the participating employer upon providing 30 days' written notice to the sponsor; and

(*2*) Must be suspended or cancelled by the program sponsor if the program sponsor determines that the participating employer failed to satisfy the sponsor standards adoption agreement's provisions of this section.

(B) The program sponsor must provide written notice of any suspension or cancellation to the participating employer, all CTE apprentices affected by the suspension or cancellation, and the applicable Registration Agency. The notice must explain the reason for the suspension or cancellation.

(C) If the suspension or cancellation results in an interruption or cessation of training for CTE apprentices, the program sponsor must make reasonable efforts to place such individuals with another of the sponsor's participating employers.

(D) In instances where a program sponsor fails to suspend or cancel a sponsor standards adoption agreement as required by paragraph (d)(4)(iii)(A)(*2*) of this section, the Registration Agency may initiate deregistration proceedings against the program pursuant to § 29.20.

(e) *CTE apprenticeship agreement.*

(1) All CTE apprenticeship programs registered by a Registration Agency must develop and establish a written CTE apprenticeship agreement that contains the terms and conditions of the employment, education, and training of the CTE apprentice. Such agreement must be signed prior to the start of the registered CTE apprenticeship term by:

(i) The CTE apprentice;

(ii) The CTE apprentice's parent or legal guardian, if the CTE apprentice is under 18 years of age;

(iii) The program sponsor;

(iv) The secondary or postsecondary institution in which the CTE apprentice is enrolled as a student; and

(v) Any participating employers in the program that have adopted the sponsor's standards adoption agreement.

(2) A copy of the signed CTE apprenticeship agreement and the program's standards of registered CTE apprenticeship must be given to the CTE apprentice, and their parent or legal guardian if applicable, prior to the start date of the registered CTE apprenticeship term.

(3) At a minimum, the CTE apprenticeship agreement must contain the following:

(i) Contact information and identifying information for the CTE apprentice, including the apprentice's date of birth and, on a voluntary basis, their Social Security number;

(ii) Contact information for the Registration Agency, program sponsor, and participating employer(s);

(iii) An identification of the job or occupation the CTE apprentice will be employed in, as well as copies of the associated industry skills framework and CTE apprenticeship-related instruction outline;

(iv) The incorporation, either directly or by reference, of the program's standards of CTE apprenticeship;

(v) A description of the respective roles, duties, and responsibilities of the CTE apprentice, the program sponsor, and the participating employer, during the registered CTE apprenticeship program. With respect to sponsors and participating employers, these responsibilities must include providing information to CTE apprentices regarding their rights and protections under Federal, State, and local laws, including their right to file complaints with the applicable Registration Agency and the process for doing so;

(vi) The term of the registered CTE apprenticeship, including the beginning date and expected duration of the registered CTE apprenticeship program, the beginning date of the on-the-job training, and a probationary period that does not exceed 30 days;

(vii) A detailed statement of the entry wage and the subsequent graduated scale of increasing wages to be paid to the CTE apprentice over the registered CTE apprenticeship term;

(viii) A disclosure of the expected minimum number of hours allocated by the program to the on-the-job training component during the registered CTE apprenticeship term, and to the CTE apprenticeship-related instruction component of the registered CTE apprenticeship program during that term;

(ix) A description of the methods used during the course of the registered CTE apprenticeship program to measure progress on competency attainment;

(x) A description of any supportive services that may be available to the CTE apprentice including, childcare, transportation, equipment, tools, or any other supportive service provided by the sponsor or a partnering organization to address potential barriers to participation or completion;

(xi) The nature and amount of any unreimbursed costs, expenses, or fees that the CTE apprentice may incur during their participation in the program;

(xii) A description of any secondary or postsecondary credits or credentials that the CTE apprentice will receive upon successful program completion;

(xiii) A statement by the parties to the agreement that they will adhere to the requirements of part 30 of this title;

(xiv) A statement addressing:

(A) Whether the CTE apprentice is paid wages and fringe benefits during the CTE apprenticeship-related instruction component of the program;

(B) If wages are paid for CTE apprenticeship-related instruction, what the wage rate is; and

(C) Whether the CTE apprenticeship-related instruction is provided during work hours.

(xv) Contact information (name, address, phone, and email if appropriate) of the appropriate authority designated under the program to receive, process, and make disposition of controversies or disputes arising out of the CTE apprenticeship agreement when the controversies or disputes cannot be addressed locally or resolved in accordance with the established procedure or applicable collective bargaining provisions; and

(xvi) The consent of the CTE apprentice, or their parent or guardian, if the CTE apprentice is under 18 and not in attendance at a postsecondary institution, permitting the secondary or postsecondary institution in which the CTE apprentice is enrolled as a student to disclose individual apprentice level information to the program sponsor, to the entity designating any intermediary organization as a sponsor, to participating employers, to the Registration Agency and the Department, if OA is not the Registration Agency, and to any other institution involved in administering the registered CTE apprenticeship program, as required under subpart B of this part.

(4) A registered CTE apprenticeship program sponsor, or a participating employer in the sponsor's program, cannot include in the CTE apprenticeship agreement or otherwise impose on CTE apprentices a non-compete provision or other provision that restricts an apprentice's labor market mobility, including a provision restricting the apprentice's ability to seek or accept employment with another employer prior to the completion of the registered CTE apprenticeship program.

(5) A registered CTE apprenticeship program sponsor, or a participating employer in the sponsor's program, cannot include in the CTE apprenticeship agreement or otherwise impose on CTE apprentices a non-disclosure provision that prevents the worker from working in the same field after the conclusion of the worker's employment with the employer, or that restricts an apprentice's ability to file a complaint with a Registration Agency or other governmental body concerning possible violations of this part or of part 30 of this title. Subject to these restrictions, a sponsor or participating employer may include a non-disclosure provision that relates to the protection of the sponsor's or participating employer's confidential commercial information or trade secrets.

(6) The program sponsor must submit a completed copy of the executed CTE apprenticeship agreement for each CTE apprentice registered to the program's Registration Agency within 30 days of execution.

(f) *Certificate of completion of registered CTE apprenticeship.* CTE apprentices who are enrolled in the registered CTE apprenticeship program and who are successful in meeting the CTE apprenticeship-related instruction and the on-the-job training outlined in the industry skills framework will receive a certificate of completion of registered CTE apprenticeship from the Registration Agency.

(g) *Administrative requirements of the Registration Agency.*

(1) *CTE apprenticeship program registration.* The Registration Agency will evaluate the written application submitted by a CTE apprenticeship program sponsor.

(i) The Registration Agency must review an application submitted by a sponsor consistent with paragraph (d)(2) of this section and provide a determination on whether the program is eligible for program registration within 90 days of receipt of a complete application.

(ii) The Registration Agency will inform applicants in writing of all decisions regarding program registration.

(iii) If the Registration Agency denies the application, it must explain in writing the reasons for the denial.

(2) *Technical assistance and other support.* The Registration Agency is responsible for providing outreach, technical assistance, and any other services to potential sponsors, participating employers, and other potential partners to support the adoption of registered CTE apprenticeship as well as to ensure compliance with the requirements of this subpart.

(3) *Complaints.* The complaint investigation and anti-retaliation provisions in § 29.17 apply to this subpart, except that a Registration Agency may refer complaints under this subsection to the State CTE Agency as appropriate.

(4) *Program reviews.*

(i) For program reviews under this subpart, the process described in § 29.19 applies.

(ii) Program reviews should be done in coordination with the relevant State CTE Agency pursuant to the written agreement described in paragraph (a)(2) of this section.

(iii) The result of any program review conducted under paragraph (g)(4) of this section will not impact an entity's eligibility for funding under the Perkins program.

(5) *Deregistration of a CTE apprenticeship program.* The deregistration process described in § 29.20 will apply to this subpart.

(6) *Hearings on deregistration.* The hearing process described in § 29.21 will apply to this subpart.

(7) *Reinstatement of program registration.* The reinstatement process described in § 29.22 will apply to this subpart.

(8) *Recognition of Registration Agencies for CTE apprenticeship.*

(i) OA may serve as the Registration Agency within States where the Administrator has not recognized an SAA to register CTE apprenticeship programs, provided a written agreement has been signed between OA and the State's respective State CTE Agency as described in paragraph (a)(2) of this section.

(ii) SAAs recognized or seeking recognition as a Registration Agency under subpart C of this part will be recognized to register CTE apprenticeship programs provided the following criteria are met:

(A) The State's proposed or current apprenticeship laws for CTE apprenticeship meet or exceed the requirements for protecting the safety and welfare of CTE apprentices set forth in this subpart;

(B) A written agreement has been signed between the SAA and the State CTE Agency as described in paragraph (a)(2) of this section;

(C) The State has submitted its relevant apprenticeship laws and CTE engagement strategies as described in its State Apprenticeship Plan submission or a modification as described in subpart C of this part; and

(D) The Administrator has approved the State Apprenticeship Plan for both recognition as an SAA, and for recognition to register CTE apprenticeship programs.

(9) *Collection of data and quality metrics concerning CTE apprenticeship.*

(i) *CTE apprentice information.*

(A) Within 30 calendar days of the start of a CTE apprentice's term, the

program sponsor must submit to its Registration Agency in a format prescribed by the Administrator:

(*1*) Individual apprentice record level information in accordance with any applicable Federal laws, rules and regulations (which includes sec. 444 of the General Education Provisions Act, as amended, commonly known as the Family Educational Rights and Privacy Act (FERPA)), including demographic information, education level, and veteran status;

(*2*) The industry skills framework and occupation, if applicable, in which the CTE apprentice is to be trained;

(*3*) The beginning date and term (duration) of the registered CTE apprenticeship program and the graduated schedule of wages; and

(*4*) Any additional CTE apprentice-related information that the Administrator considers appropriate or necessary for the efficient operation of the National Apprenticeship System.

(B) At the end of each academic semester, the program sponsor must report a change in a CTE apprentice's status, including additional receipt of services and attainment of outcomes, to its Registration Agency in a manner prescribed by the Administrator regarding the following apprentice outcomes and services:

(*1*) Change in registered CTE apprenticeship status (completion or cancellation);

(*2*) Credentials attained during participation;

(*3*) Change in employment or education status after participation;

(*4*) Wage progression during participation;

(*5*) Supportive services provided; and

(*6*) Any additional outcomes or services information that the Administrator considers appropriate or necessary for the efficient operation of the National Apprenticeship System.

(ii) *Program sponsor information and quality metrics.*

(A) Within 30 days of the change in status and no less than on an annual basis, for each registered CTE apprenticeship program and industry skills framework in which CTE apprentices are being trained, a program sponsor must report to the Registration Agency, in a manner prescribed by the Administrator, the following information:

(*1*) Up-to-date contact information for each employer participating in the registered CTE apprenticeship program and, if applicable, the collective bargaining signatories;

(*2*) Up-to-date copies of any agreements the sponsor has with each employer participating in the registered CTE apprenticeship program and with each CTE apprentice;

(*3*) Information about which employers participating in the registered CTE apprenticeship program have canceled their participation in a program;

(*4*) Up-to-date information about the program's coordination with credentialing agencies;

(*5*) Up-to-date contact information for those individual(s) designated and authorized under the registered CTE apprenticeship program to receive, process, and make disposition of complaints filed by CTE apprentices under both this part and part 30 of this title;

(*6*) All unreimbursed costs to the CTE apprentice; and

(*7*) Any additional sponsor- or program-level information that the Administrator considers appropriate or necessary for the efficient operation of the National Apprenticeship System.

(B) On an annual basis, for each registered CTE apprenticeship program and industry skills framework, the following quality metrics will be calculated by the Registration Agency, in a format prescribed by the Administrator:

(*1*) The total number of new and active CTE apprentices annually training in the sponsor's program under a CTE apprenticeship agreement;

(*2*) The total number of CTE apprentices who successfully completed the sponsor's program annually;

(*3*) The annual completion rate for CTE apprentices;

(*4*) The cohort completion rate for registered CTE apprentices, which must be calculated by comparing the number of apprentices in a designated apprenticeship cohort who successfully completed the sponsor's requirements and attained a certificate of completion of registered CTE apprenticeship with the number of apprentices in that cohort who initially began training in the program;

(*5*) The placement rate of exiters in registered apprenticeship programs under subpart A of this part, postsecondary educational programs, or employment, at the time of program completion;

(*6*) The percentage of exiters that receive at least one recognized postsecondary credential at time of exit;

(*7*) Wage at exit; and

(*8*) Any additional sponsor- or program-level information that the Administrator considers appropriate or necessary for the efficient operation of the National Apprenticeship System.

(iii) *Information and reports to be made publicly available by the Registration Agency.*

(A) The Administrator will make on an annual basis general information relating to registered CTE apprenticeship programs along with the information described in paragraph (g)(9)(ii) of this section publicly available. Upon request of the sponsor, the Administrator may decide not to make the information described in paragraph (g)(9)(ii) of this section publicly available for good cause.

(B) Unless otherwise prohibited by Federal law, the Administrator will make publicly available a national summary report of CTE apprentices and their outcomes, disaggregated by race, ethnicity, sex, disability status, and other categories determined by the Administrator.

(C) In addition to the metrics in paragraph (g)(9)(iii)(B) of this section, the Registration Agency must use supplemental sources, such as wage records and surveys, to calculate at a national or State level at least the following additional metrics:

(*1*) The placement and retention rate in postsecondary educational programs, registered apprenticeship programs, or employment, calculated 6 and 12 months after program completion;

(*2*) The annualized average and median earnings of a registered CTE apprenticeship program's former apprentices, calculated over the 6-month period after registered apprenticeship completion; and

(*3*) The percentage of all completers of a registered CTE apprenticeship program who, at 1 year after program completion, are earning an income that allows them to support themselves and their families, or have been placed in a postsecondary educational program or career pathway program.

(D) The Administrator may also conduct evaluations and longitudinal studies to assess the impact and improve the effectiveness of registered CTE apprenticeship programs.

(E) The Registration Agency may decide to withhold from publication certain information contained in paragraphs (g)(9)(iii)(A), (B), and (C) of this section for good cause.

(iv) *Reporting.* Sponsors must report the information described in paragraphs (g)(9)(i) and (ii) of this section in a manner prescribed by the Registration Agency.

(v) *Reporting requirements for State Apprenticeship Agencies.*

(A) SAAs with an approved State Apprenticeship Plan to serve as a Registration Agency for CTE apprenticeship are required to collect

the information from sponsors described in paragraphs (g)(9)(i) and (ii) of this section.

(B) No less frequently than on a quarterly basis, SAAs must report the information collected from sponsors discussed in paragraphs (g)(9)(i) and (ii)(A) of this section.

(C) On an annual basis, the SAA will report the information collected under paragraph (g)(9)(ii)(B) of this section to the Administrator.

(D) The Administrator will make the information collected from paragraph (g)(9)(iii) of this section publicly available.

(E) SAAs may meet these requirements by either:

(*1*) Utilizing a Department-provided case management system; or

(*2*) Maintaining a State system that is capable of reporting individual apprentice record level information to OA in a manner prescribed by the Administrator, and that meets minimum security requirements as prescribed by the Administrator.

(10) *Exemptions.* Requests for exemption from any provision of this subpart must be made in writing to the Administrator and must contain a statement of reasons.

Subpart C—Administration and Coordination of the National Apprenticeship System

§ 29.25 Collection of data and quality metrics concerning apprenticeship.

(a) *Apprentice information.*

(1) Within 30 calendar days of the start of an apprentice's participation in a registered apprenticeship program, the program sponsor must submit to its Registration Agency, in a format prescribed by the Administrator, the following information:

(i) Individual apprentice level information that includes demographic information, education level, and veteran status;

(ii) Receipt of pre-apprenticeship services prior to participation in apprenticeship, if applicable;

(iii) The occupation in which the apprentice is to be trained;

(iv) The date the individual became an apprentice;

(v) The beginning date and term (duration) of the apprenticeship, the date of the beginning of on-the-job training, the full graduated schedule of wages including the journeyworker wage, and the approximate time to be spent in each work process in the occupation; and

(vi) Any additional apprentice-related information required by the Administrator.

(2) Within 30 calendar days of a change in an apprentice's status, the program sponsor must submit the following information to its Registration Agency:

(i) Change in apprenticeship status (completion, transfer, suspension, or cancellation);

(ii) Interim credentials attained;

(iii) Employment status;

(iv) Wage progression;

(v) Supportive services provided; and

(vi) Any additional apprentice outcomes or services information required by the Administrator.

(b) *Program sponsor information and quality metrics.*

(1) Within 30 days of the change in status, for each registered apprenticeship program and occupation, a program sponsor must report to the Registration Agency, in a manner prescribed by the Administrator, the following information:

(i) Up-to-date contact information for the program sponsor (including headquarters);

(ii) Up-to-date contact information for each participating employer in the program and, if applicable, the collective bargaining signatories;

(iii) An up-to-date copy of the program standards adoption agreement with the sponsor for each participating employer;

(iv) Information about which participating employers have canceled their participation in a program;

(v) Up-to-date information about the program's coordination with credentialing agencies;

(vi) Up-to-date contact information for those individual(s) designated and authorized under the registered apprenticeship program to receive, process, and make disposition of complaints filed by apprentices under both this part and part 30 of this title;

(vii) All unreimbursed costs to the apprentice; and

(viii) Any additional sponsor or program level information required by the Administrator.

(2) On an annual basis, for each registered apprenticeship program and occupation, in a format prescribed by the Administrator, the following quality metrics will be calculated:

(i) The total number of apprentices served annually in the sponsor's program under an apprenticeship agreement;

(ii) The total number of apprentices who successfully completed the sponsor's program annually;

(iii) The annual completion rate for apprentices.

(iv) The cohort completion rate for apprentices, which must be calculated by comparing the number of apprentices in a designated apprenticeship cohort who successfully completed the sponsor's requirements and attained a Certificate of Completion with the number of apprentices in that cohort who initially began training in the program;

(v) The median length of time for program completion;

(vi) The employment retention rate at the time of exit;

(vii) The percentage of exiters that receive at least one interim credential at time of exit;

(viii) The percentage of exiters that enter postsecondary education or a career pathway program at time of exit;

(ix) Apprentice wage at time of exit;

(x) Information and data relating to any pre-apprenticeship programs with which the sponsor has established a documented partnership; and

(xi) Any additional sponsor or program level information required by the Administrator.

(c) *Information and reports to be made publicly available by the Registration Agency.*

(1) The Registration Agency will make publicly available on an annual basis general information relating to registered apprenticeship programs along with the information described in paragraph (b)(2) of this section.

(2) The Registration Agency will make publicly available an annual State or national summary report of apprentices and their outcomes, disaggregated by race, ethnicity, sex, disability status, and other categories determined by the Administrator.

(3) In addition to the metrics in paragraph (c)(2) of this section, the Registration Agency must use supplemental sources, such as wage records and surveys, to calculate at a national or State level, at least the following additional metrics:

(i) The post-apprenticeship employment retention rate, calculated 6 and 12 months after program exit;

(ii) The annualized average and median earnings of a registered apprenticeship program's former apprentices, calculated over the 6-month period after program completion;

(iii) The percentage of all completers of a registered apprenticeship program who, at 1 year after program completion, are earning an income that allows them to support themselves and their families, have been placed in a postsecondary educational program, or a career pathway program; and

(iv) Registration Agency metrics including median time for registration, number of programs approved and denied registration, and post-

registration customer satisfaction ratings of sponsors for technical assistance and other services provided in relation to registration activities from the Registration Agency.

(4) The Administrator may also conduct evaluations and longitudinal studies to assess the impact and improve the effectiveness of registered apprenticeship programs.

(5) The Registration Agency may decide to withhold from publication certain information contained in paragraphs (c)(1), (2), and (3) of this section for good cause.

§ 29.26 Roles and responsibilities of State Apprenticeship Agencies.

(a) *In general.* An SAA, recognized by the Administrator pursuant to § 29.27(c), is authorized to undertake, for Federal purposes, the following actions regarding registered apprenticeship programs within that State:

(1) Implementing apprenticeship-related laws and policies, provided that the Administrator has previously approved such laws pursuant to § 29.27(c)(1) or § 29.27(c)(2);

(2) Reviewing, approving, disapproving, and amending standards of apprenticeship submitted by potential or existing program sponsors, and registering apprenticeship programs within 90 days of a complete submission for Federal purposes in that State;

(3) Prescribing the content of apprenticeship agreements, and registering apprentices who have signed valid apprenticeship agreements with registered apprenticeship program sponsors and participating employers;

(4) Providing technical assistance to registered apprenticeship program sponsors, participating employers, registered apprentices, intermediaries, and other apprenticeship stakeholders;

(5) Collecting and reporting to OA any apprenticeship-related data from program sponsors, participating employers, and individual apprentices described in §§ 29.25 and 29.28;

(6) Conducting program reviews of approved registered apprenticeship programs;

(7) Establishing policies and procedures to promote EEO for apprentices and applicants for apprenticeship in registered apprenticeship programs consistent with the requirements in part 30 of this title;

(8) Establishing the basic standards, criteria, and requirements for program registration, and providing for the suspension or deregistration of programs;

(9) Establishing a process for the registration, suspension, or cancellation of apprenticeship agreements;

(10) Investigating complaints filed under this part or part 30 of this title; and

(11) Functioning as a Registration Agency for registered CTE apprenticeship programs pursuant to § 29.24.

(b) *Nondelegable duties of State Apprenticeship Agencies.* In order for a State to be eligible to obtain or maintain full or provisional recognition status as described in § 29.27(c), a State cannot delegate, assign, devolve, or relinquish any of the functions that are the responsibility of the SAA under paragraph (a) of this section, including any matters relating to the intake, evaluation, approval, registration, monitoring, oversight, suspension, or deregistration of apprenticeship programs and standards of apprenticeship within that State, to any external third-party entity, including a State Apprenticeship Council established pursuant to paragraph (c) of this section.

(c) *Requirement to establish State Apprenticeship Councils.* An SAA is required under this rule to establish and maintain a State Apprenticeship Council, which must operate under the direction of the SAA. The State Apprenticeship Council may provide the SAA with written, nonbinding advice, recommendations, research, and reports concerning apprenticeship-related matters, and on the submission of the State Apprenticeship Plan.

(1) *Composition.* Members of the State Apprenticeship Council must be individuals who are familiar with occupations suitable for registered apprenticeship, apprenticeship programs, and opportunities across a wide range of industries and sectors. A State Apprenticeship Council must be fairly balanced and inclusive of underserved communities, with an equal number of—

(i) Employers or representatives of employer organizations, including from sectors and occupations where apprenticeship is not currently widespread;

(ii) Representatives of labor organizations or joint labor-management organizations, including from non-traditional apprenticeship industries or occupations; and

(iii) Other members representing the general public, which must at least include:

(A) One representative who represents the State's workforce development system; and

(B) One representative of a secondary or postsecondary education system who is familiar with registered apprenticeship.

(2) *Limitations on State Apprenticeship Councils.* A State Apprenticeship Council is ineligible for recognition as an SAA under this part and is prohibited under this part from assuming or discharging the functions described in paragraph (a) of this section.

(d) *Reciprocity of registration.* An SAA must establish a process for providing approval to apprentices, apprenticeship programs, and standards of apprenticeship that are registered in other States by OA or by an SAA for Federal purposes. Such a process must provide a timely response to a request for reciprocity no later than 45 days after receipt of a program sponsor's application for reciprocity. The reciprocity process established by an SAA must:

(1) Ensure that the program sponsor meets the statutory and regulatory wage and hour requirements and apprentice-to-journeyworker ratios of the State in which reciprocal approval is sought;

(2) Ensure that the program and individual apprentices who will work in the State are properly registered with the SAA; and

(3) Ensure that the program sponsor develop standards that prepare apprentices to meet or exceed the minimum requirements of State or local occupation licensure, if applicable.

§ 29.27 Recognition of State Apprenticeship Agencies.

(a) *Application for recognition as a State Apprenticeship Agency.* To obtain recognition or seek renewal of recognition as an SAA for Federal purposes, a State governmental entity must submit a State Apprenticeship Plan addressing the requirements described in paragraph (b) of this section.

(1) *Timing.* States seeking to obtain or renew recognition as an SAA must submit a State Apprenticeship Plan beginning December 31, 2026. Recognition, either full or provisional, will be granted for a period of 4 years from the date of the Administrator's approval.

(i) State Apprenticeship Plans must be submitted to the Administrator at least 120 days prior to the date when an SAA is seeking recognition.

(ii) State governmental entities recognized by the Administrator as an SAA prior to the effective date of this rule must submit a State Apprenticeship Plan described in paragraph (b) of this section no later than September 1, 2026,

to be considered for recognition after December 31, 2026. The period of recognition for this submission is for the time period covering January 1, 2027, through June 30, 2030.

(iii) Subsequent State Apprenticeship Plan submissions are for 4-year periods beginning July 1, 2030.

(iv) State Apprenticeship Plans submitted and approved outside of the time periods described in paragraphs (a)(1)(ii) and (iii) of this section must still submit a State Apprenticeship Plan to the Administrator consistent with the timing described in either paragraph (a)(1)(ii) or (iii) of this section.

(2) *Modifications to approved State Apprenticeship Plans.*

(i) An approved State Apprenticeship Plan requires modification and resubmission:

(A) When changes in Federal or State law or policy substantially affect the roles and responsibilities of the SAA described in § 29.26;

(B) When proposed State laws may affect an SAA's compliance with the requirements of paragraph (b) of this section;

(C) When there are significant changes in the strategies, goals, and priorities upon which the State Apprenticeship Plan is based; and

(D) When there are significant changes in the statewide vision, strategies, policies, operational procedures, or organizational structure of the SAA.

(ii) Modifications may be requested by the SAA for any other reason at any time during the 4-year period of the plan, including:

(A) When the SAA is seeking to change its plan status from provisional to full approval;

(B) When the SAA seeks recognition as a Registration Agency for the purposes of subpart B of this part; or

(C) For any other reason at the discretion of the SAA.

(iii) Modifications to an approved State Apprenticeship Plan must be submitted to the Administrator at least 120 days prior to the requested effective date of the modification.

(iv) Modified State Apprenticeship Plans remain approved until the end of the original cycle of the Plan.

(b) *State Apprenticeship Plan contents.* The State Apprenticeship Plan described in paragraph (a) of this section must include the following:

(1) *Apprenticeship laws.* The State's proposed or current apprenticeship laws, which must include provisions that:

(i) Allow registration for Federal purposes for only those occupations that have been determined suitable for registered apprenticeship pursuant to § 29.7;

(ii) Meet or exceed the requirements for protecting the safety and welfare of apprentices set forth at the following regulatory provisions:

(A) The standards of apprenticeship enumerated at section § 29.8;

(B) The apprenticeship agreement elements identified in § 29.9;

(C) The program registration requirements of § 29.10;

(D) The program standards adoption agreement requirements of § 29.11;

(E) The qualifications of apprentice trainers and providers of related instruction requirements of § 29.12;

(F) The end-point assessment and certification of program completion requirements of § 29.16;

(G) The complaints requirements of § 29.17;

(H) The recordkeeping requirements of § 29.18;

(I) The procedural requirements of §§ 29.19 through 29.22;

(J) The SAA requirements of § 29.26;

(K) The reporting requirements for SAAs of § 29.28; and

(L) The EEO requirements at part 30 of this title.

(2) *Strategic planning elements:*

(i) *Goals for expansion.* A narrative summary of the State's strategic vision and strategy for expanding registered apprenticeship programs, promoting program quality, and for meeting the skilled workforce needs of employers through apprenticeship, including both existing and emerging high-growth industries and occupations as identified by the State. The narrative must include any goals or metrics the State will use to achieve its vision.

(ii) *Promoting registered apprenticeship programs for underserved communities.* A narrative description that addresses the State's strategic plan for increasing access to and support within registered apprenticeship for individuals from underserved communities, which must include:

(A) The current apprentice participants in the State by race, ethnicity, sex, disability status, and veteran status;

(B) The goals and milestones the State will utilize to track progress towards the strategic plan.

(iii) *Aligning education and workforce development activities.* The State must provide a narrative of the strategic alignment of workforce development activities in the State with the SAA, including—

(A) A description of any coordination or leveraging of State planning and registered apprenticeship programs under WIOA and any milestones the State will use to track progress;

(B) A description of any efforts or processes the SAA has developed with the State Workforce Agency to enhance or increase the leveraging of registered apprenticeship programs on the State list of eligible providers of training services under section 122(d) of WIOA;

(C) An assessment of how registered apprenticeship programs in the State meet employers' workforce needs as identified by the State workforce development board or State Workforce Agency;

(D) A description of current activities to coordinate with the State's education system, including institutions of higher education, LEAs, State CTE and Educational Agencies, and other educational entities that support CTE programs and career pathways;

(E) A description of current activities and goals in coordinating with economic development entities in the State; and

(F) A description of the State's strategy for engaging and leveraging intermediaries as defined in § 29.2.

(G) A description of any efforts to align and leverage apprenticeship-related data with education system and workforce development system data.

(3) *Operational planning elements.* States must submit the following information to OA:

(i) *State EEO plan.* In conformity with part 30 of this title, provide a plan that describes how the SAA will promote EEO for apprentices and applicants for apprenticeship in registered apprenticeship programs.

(ii) *Technical assistance.* Describe the State's technical assistance strategies for the period covered in the State Apprenticeship Plan.

(iii) *Data reporting.* Describe the process for meeting quarterly and annual reporting requirements at §§ 29.25 and 29.28, including a description of how the SAA will collect and report apprentice and sponsor records to the Department.

(iv) *Program reviews.* Describe the SAA's plan for conducting program reviews for the period covered in the State Apprenticeship Plan.

(v) *Registration standards.* Describe how the SAA plans to operationalize its policy regarding: establishing the basic standards, criteria, and requirements for program registration; and providing for the temporary suspension, cancellation, or deregistration of programs.

(vi) *Reciprocity.* Describe how the State will operationalize its policy for providing reciprocity for registered apprenticeship programs in accordance with § 29.26(d).

(vii) *State Apprenticeship Council.* Describe how the State Apprenticeship Council is structured consistent with the requirement of § 29.26(b) and (c).

(4) *Assurances.* The State must provide the following assurances and any applicable statutory or regulatory citations:

(i) That the State will provide a process for local registration of National Guidelines for Apprenticeship Standards recognized by the Administrator pursuant to § 29.15.

(ii) That the State has sufficient resources to carry out the functions of an SAA, including outreach and education; registration of programs and apprentices; provision of technical assistance, and monitoring of programs as required to fulfill the requirements of this part.

(iii) That the State will make available on a publicly available website a description of any laws (including regulations), policies, and operational procedures relating to the process of reviewing, registering, and assessing registered apprenticeship programs under the State's apprenticeship system, including those that impose requirements in addition to this rule, as well as any approved State Apprenticeship Plans.

(iv) That the State requires a written assurance from any sponsors registered by the State that they are complying with the requirements of the Support for Veterans in Effective Apprenticeships Act of 2019 (Pub. L. 116–134, 134 Stat. 277, 29 U.S.C. 50c).

(5) *Optional recognition of an SAA for registered CTE apprenticeship.* An SAA seeking recognition to serve as a Registration Agency for registered CTE apprenticeship must submit the following elements:

(i) The State's proposed or current registered CTE apprenticeship laws as described in § 29.24(g)(8).

(ii) A written agreement between the State entity seeking recognition and the State's CTE Agency as described in § 29.24(a)(2).

(iii) A narrative summary of the State's strategic vision and strategy for expanding registered CTE apprenticeship programs under subpart B of this part.

(c) *State apprenticeship recognition designations.* After review of the State Apprenticeship Plan described in paragraph (a) of this section, OA will convey, in writing from the Administrator, one of three designations for Federal purposes:

(1) Full recognition if the Administrator has determined:

(i) The State's apprenticeship laws meet or exceed the minimum standards as described in paragraph (b)(1) of this section.

(ii) The State's Plan includes all strategic planning elements that are complete and responsive to the requirements in paragraph (b)(2) of this section.

(iii) The State's Plan includes all operational elements that are complete and responsive to the requirements in paragraph (b)(3) of this section.

(iv) The State's Plan includes all of the assurances as required in paragraph (b)(4) of this section.

(2) Provisional recognition if the Administrator has determined that the State's apprenticeship laws meet or exceed the minimum standards described in paragraph (b)(1) of this section and that the State's Plan includes all of the assurances described in paragraph (b)(4) of this section, but further determines that:

(i) The strategic planning elements described in paragraph (b)(2) of this section or the operational elements described in paragraph (b)(3) of this section are either incomplete or nonresponsive; and

(ii) Any deficiencies identified in paragraph (c)(2)(i) of this section are resolvable with technical assistance provided by OA and a corrective action plan is submitted by the State and approved by the Administrator. A State may be provisionally recognized for no more than one full planning cycle.

(3) Denial of recognition if the Administrator determines:

(i) That the State's apprenticeship laws do not meet the minimum standards described in paragraph (b)(1) of this section; or

(ii) That the SAA is unable to be fully approved within one full planning cycle after having been provisionally recognized, as described in paragraph (c)(2) of this section.

(iii) The process and procedures for such denial of recognition are described in § 29.29.

(d) *Retention of registration authority of the Office of Apprenticeship.* Notwithstanding any approval of a State Apprenticeship Plan providing recognition to an SAA under this section, the Administrator will retain the authority to register apprenticeship programs and apprentices on both a local and nationwide basis for Federal purposes in any State when the Administrator determines that a sponsor seeking registration has satisfied the requirements for registration described in this part and where such action would further the interests of the National Apprenticeship System.

(e) *Periodic reviews.* OA will monitor and review the compliance of an SAA to ensure that it is operating consistent with its approved State Apprenticeship Plan, in instances where the Administrator determines that such a review is warranted.

(f) *Derecognition of State Apprenticeship Agency's full or provisional recognition status.* The Administrator may derecognize an SAA with full or provisional recognition when the Administrator determines that the SAA is not operating consistent with its approved State Apprenticeship Plan. The processes and procedures for such derecognition are described in § 29.29.

(g) *Suspension of provisionally approved State Apprenticeship Agency.* The Administrator may suspend the authority of a provisionally approved SAA to register new apprenticeship programs for failure to submit, and receive OA's approval of, a corrective action plan as required in paragraph (c)(2) of this section. The Administrator will provide written notice to the provisionally approved SAA of the suspension, which will take effect 30 calendar days after the date of the written notice. The suspension will end upon the State's submission of a corrective action plan.

(h) *Limitation of State activities without recognition.* If OA denies a State Apprenticeship Plan pursuant to paragraph (c)(3) of this section, or derecognizes an SAA pursuant to paragraph (f) of this section, the State must not conduct the activities specified in § 29.26(a) until OA conveys full recognition, as described in paragraph (c)(1) of this section, or provisional recognition, as described in paragraph (c)(2) of this section.

§ 29.28 Reporting requirements for State Apprenticeship Agencies.

(a) SAAs are required to collect the information from sponsors described in § 29.25(a) and (b).

(b) On at least a quarterly basis, SAAs must report the information collected from sponsors described in paragraphs (a) and (b)(1) of § 29.25 to OA.

(c) On an annual basis, the SAA will report the information collected under§ 29.25(b)(2) to the Administrator.

(d) The Administrator will make the information described in paragraph (c) of this section publicly available.

(e) SAAs may meet the requirements in paragraphs (a) through (c) of this section by either:

(1) Utilizing a Department-provided case management system; or

(2) Maintaining a State system that is capable of reporting individual apprentice record level information to OA in a manner prescribed by the Administrator, and that meets minimum

security requirements prescribed by the Administrator.

§ 29.29 Denial of a State Apprenticeship Plan for recognition as a State Apprenticeship Agency and derecognition of existing State Apprenticeship Agencies.

(a) *Process and procedures.*

(1) If the Administrator denies a State Apprenticeship Plan pursuant to § 29.27(c)(3) or derecognizes an SAA pursuant to § 29.27(f), the Administrator will issue a written notice that includes:

(i) The reason(s) for the denial or derecognition;

(ii) The needed remedial measure(s); and

(iii) The timeframe for addressing those measures, which will be no longer than 12 months from the date of the written notice.

(2) If the State has failed to take adequate remedial measures in the timeframe provided in the written notice, the Administrator may issue a final determination that will include the reason(s) for the denial or derecognition and state in the final determination that the State may request a hearing with OALJ within 30 calendar days of the date of the final determination.

(3) Requests for a hearing must be sent to OALJ within 30 calendar days from the date of a final determination from the Administrator. A copy of the request for a hearing must be simultaneously sent to the Administrator, who must transmit it to the Associate Solicitor for Employment and Training Legal Services, Office of the Solicitor, U.S. Department of Labor. The Administrator will promptly provide OALJ with the administrative file containing all documents relied on by the Administrator or designee to deregister the program or to issue the Administrator's final determination.

(4) The procedures contained in part 18 of this title will apply to the disposition of the request for review except that:

(i) The Administrative Law Judge will receive, and make part of the record, documentary evidence offered by any party and accepted at the hearing. Copies thereof will be made available by the party submitting the documentary evidence to any party to the hearing upon request.

(ii) Technical rules of evidence will not apply to hearings conducted under this part, but rules or principles designed to assure the production of the most credible evidence available and to subject testimony to test by cross-examination will be applied, where reasonably necessary, by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence.

(iii) The request for a hearing will not be considered to be a complaint to which an answer is required.

(iv) The Administrative Law Judge may authorize discovery and the filing of pre-hearing motions, and so limit them to the types and quantities in the Administrative Law Judge's discretion will contribute to a fair hearing without unduly burdening the parties.

(5) The Administrative Law Judge must issue a written decision within 90 calendar days of the close of the hearing record. The Administrative Law Judge must uphold the Administrator's decision unless it is shown by the sponsor to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law. The Administrative Law Judge's decision constitutes final agency action of the Department unless, within 15 calendar days from receipt of the decision, a party dissatisfied with the decision files a petition for review with the ARB in accordance with part 26 of this title, specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged is deemed to have been waived. A copy of the petition for review must be served on OA at the same time in accordance with part 26 of this title. Thereafter, the decision of the Administrative Law Judge remains final agency action unless the ARB, within 30 calendar days of the filing of the petition for review, notifies the parties that it has accepted the case for review. The ARB may set a briefing schedule or decide the matter on the record. The ARB must issue a decision in any case it accepts for review within 180 calendars of the close of the record. If a decision is not so issued, the Administrative Law Judge's decision constitutes final agency action.

(6) An SAA may request voluntary withdrawal from its recognition status for Federal purposes at any time. The Administrator will derecognize the SAA after the State sends a formal notice of withdrawal to the Administrator.

(b) *Administrator actions after derecognition.* When an existing SAA has been denied recognition pursuant to § 29.27(c)(3), has been derecognized by OA pursuant to § 29.27(f), or when an SAA voluntary withdraws from recognition as described in paragraph (a)(6) of this section, the Administrator must:

(1) Notify the sponsors in the State of the derecognition and effect public notice of such derecognition.

(2) Notify the sponsors that, 45 calendar days after the date of the determination to derecognize the SAA, the Department will cease to recognize, for Federal purposes, each apprenticeship program previously registered with the SAA, unless within that time, the sponsor submits an application for registration with OA, pursuant to the following:

(i) Within 90 days of receiving the application for registration, the Office of the Apprenticeship will review the application to determine if it meets the requirements for registration described in § 29.10(a).

(ii) OA will approve an application for registration in accordance with the procedures and requirements described in § 29.10(b).

(iii) OA will deny an application for registration if the application does not meet the requirements in § 29.10(b). The procedures described in § 29.10(c) apply to any applications for registration that are declined.

(c) *State obligations after derecognition.* Where an existing SAA has been denied recognition, has been derecognized by OA, or has voluntarily withdrawn from recognition, the State must:

(1) Provide all apprenticeship program standards, apprenticeship agreements, completion records, cancellation and suspension records, EEO compliance review files, and any other documents relating to the State's registered apprenticeship programs, to the Department;

(2) Within 15 calendar days of receiving a final determination, unless the State requests a hearing as described in paragraph (a)(3) of this section, advise all sponsors that any benefits of registration for Federal purposes are no longer available to the apprentices in its apprenticeship program as of 45 calendar days after the date of the Administrator's final determination. The communication from the State must direct that all apprentices are referred to OA for information about potential transfer to other registered apprenticeship programs; and

(3) Cooperate fully with the Administrator during a transition period.

§ 29.30 Apprenticeship requirements in other laws.

The Administrator or recognized SAA may provide a Certificate of Participation to employers and government agencies to demonstrate a program sponsor's or participating employer's compliance with any Federal purpose or State benefit associated with a program's or

apprentice's participation in a registered apprenticeship program. Disclosure of information in accordance with this section must comply with applicable Federal or State information and privacy laws.

PART 30—EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP

■ 2. The authority citation for part 30 continues to read as follows:

Authority: Sec. 1, 50 Stat. 664, as amended (29 U.S.C. 50; 40 U.S.C. 276c; 5 U.S.C. 301); Reorganization Plan No. 14 of 1950, 64 Stat. 1267, 3 CFR 1949–53 Comp. p. 1007.

■ 3. Revise § 30.2 to read as follows:

§ 30.2 Definitions.

The definitions in § 29.2 also apply to this part.

■ 4. Amend § 30.3 by revising paragraph (b)(2)(i) to read as follows:

§ 30.3 Equal opportunity standards applicable to all sponsors.

* * * * *

(b) * * *

(2) * * *

(i) Publish its equal opportunity pledge—set forth in paragraph (c) of this section—in the standards of apprenticeship required under part 29 of this title, and in appropriate publications, such as apprentice and employee handbooks, policy manuals, newsletters, or other documents disseminated by the sponsor or that otherwise describe the nature of the sponsorship;

* * * * *

■ 5. Amend § 30.5 by revising paragraphs (b)(2) and (c)(6) to read as follows:

§ 30.5 Utilization analysis for race, sex, and ethnicity.

* * * * *

(b) * * *

(2) *Schedule of analyses.* Each sponsor is required to conduct an apprenticeship program workforce analysis at each program review, and again if and when 3 years have passed without a program review. This updated workforce analysis should be compared to the utilization goal established at the sponsor's most recent program review to determine if the sponsor is underutilized, according to the process in paragraph (d) of this section.

* * * * *

(c) * * *

(6) Sponsors, working with the Registration Agency, will conduct availability analyses at each program review.

* * * * *

■ 6. Amend § 30.7 by revising paragraph (d)(2)(ii) to read as follows:

§ 30.7 Utilization goals for individuals with disabilities.

* * * * *

(d) * * *

(2) * * *

(ii) *Schedule of evaluation.* The sponsor must conduct its apprentice workforce analysis at each program review, and again if and when 3 years have passed without a program review. This updated workforce analysis, grouped according to major occupation group, should then be compared to the utilization goal established under paragraph (a) of this section.

* * * * *

■ 7. Amend § 30.10 by revising paragraph (a) to read as follows:

§ 30.10 Selection of apprentices.

(a) A sponsor's procedures for selection of apprentices must be included in the written plan for standards of apprenticeship submitted to and approved by the Registration Agency, as required under part 29 of this title.

* * * * *

■ 8. Amend § 30.12 by revising paragraphs (a)(3) and (f) to read as follows:

§ 30.12 Recordkeeping.

(a) * * *

(3) Information relative to the operation of the apprenticeship program, including but not limited to job assignments in all components of the occupation as required under part 29 of this title, promotion, demotion, transfer, layoff, termination, rates of pay, other forms of compensation, conditions of work, hours of work, hours of training provided, and any other personnel records relevant to EEO complaints filed with the Registration Agency under § 30.14 or with other enforcement agencies;

* * * * *

(f) *Access to records.* Each sponsor must permit access during normal business hours to its places of business for the purpose of conducting on-site program reviews and complaint investigations and inspecting and copying such books, accounts, and records, including electronic records, and any other material the Registration Agency deems relevant to the matter under investigation and pertinent to compliance with this part. The sponsor must also provide the Registration Agency access to these materials, including electronic records, off site for purposes of conducting program reviews and complaint investigations. Upon request, the sponsor must provide the Registration Agency information about all format(s), including specific electronic formats, in which its records and other information are available. Information obtained in this manner will be used only in connection with the administration of this part or other applicable EEO laws.

■ 9. Amend § 30.13 by revising the section heading, paragraph (a), the introductory text of paragraph (b) and paragraph (c) to read as follows:

§ 30.13 Program reviews.

(a) *Conduct of program reviews.* The Registration Agency will regularly conduct program reviews to determine if the sponsor maintains compliance with the EEO requirements contained in this part, and will also conduct such reviews when circumstances so warrant. A program review under this part may consist of, but is not limited to, comprehensive analyses and evaluations of each aspect of the apprenticeship program through off-site reviews, such as desk audits of records submitted to the Registration Agency, and on-site reviews conducted at the sponsor's establishment that may involve examination of records required under this part; inspection and copying of documents related to recordkeeping requirements of this part; and interviews with employees, apprentices, journeyworkers, supervisors, managers, and hiring officials.

(b) *Notification of program review findings.* Within 45 days of completing a program review, the Registration Agency must present a written Notice of Program Review Findings to the sponsor's contact person through registered or certified mail, with return receipt requested. If the program review indicates a failure to comply with this part, the Registration Agency will so inform the sponsor in the Notice and will set forth in the Notice the following:

* * * * *

(c) *Compliance.* (1) When a sponsor receives a Notice of Program Review Findings that indicates a failure to comply with this part, the sponsor must, within 45 days of notification, either implement a compliance action plan and notify the Registration Agency of that plan or submit a written rebuttal to the Findings.

* * * * *

■ 10. Amend § 30.14 by revising paragraphs (c)(1)(iv) and (v) and adding paragraph (vi) to read as follows:

§ 30.14 Complaints.

* * * * *

(c) * * *

(1) * * *

(iv) Complete a thorough investigation of the allegations of the complaint and develop a complete case record that must contain, but is not limited to, the name, address, and telephone number of each person interviewed, the interview statements, copies, transcripts, or summaries (where appropriate) of pertinent documents, and a narrative report of the investigation with references to exhibits and other evidence that relate to the alleged violations;

(v) Provide written notification of the Registration Agency's findings to both the respondent and the complainant; and

(vi) Protect the identity of the complainant to the extent practicable.

* * * * *

■ 11. Amend § 30.15 by revising the introductory text and paragraph (b) to read as follows:

§ 30.15 Enforcement actions.

Where the Registration Agency, as a result of a program review, complaint investigation, or other reason, determines that the sponsor is not operating its apprenticeship program in accordance with this part, the Registration Agency must notify the sponsor in writing of the specific violation(s) identified and may:

* * * * *

(b) Suspend the sponsor's right to register new apprentices if the sponsor fails to implement a compliance action plan to correct the specific violation(s) identified within 45 days from the date the sponsor is so notified of the violation(s), or, if the sponsor submits a written response to the findings of noncompliance, fails to implement a compliance action plan within 45 days of receiving the Registration Agency's notice upholding its initial noncompliance findings. If the sponsor has not implemented a compliance action plan within 45 days of notification of suspension, the Registration Agency may institute proceedings to deregister the program in accordance with the deregistration proceedings set forth in part 29 of this title.

* * * * *

■ 12. Amend § 30.17 by revising paragraph (a)(3) to read as follows:

§ 30.17 Intimidation and retaliation prohibited.

(a) * * *

(3) Furnished information to, or assisted or participated in any manner, in any investigation, program review, proceeding, or hearing under this part or any Federal or State equal opportunity law; or

* * * * *

■ 13. Amend § 30.18 by revising paragraphs (a)(1), (3), and (4), (b), (c)(1) and (3), and (d) to read as follows:

§ 30.18 State Apprenticeship Agencies.

(a) *State EEO plan.* (1) Within 1 year of January 18, 2017, unless an extension for good cause is sought and granted by the Administrator, an SAA that seeks to obtain or maintain recognition under part 29 of this title must submit to OA a State EEO plan that:

* * * * *

(3) If the State does not submit a revised State EEO plan that addresses identified nonconformities within 90 days from the date that OA provides the SAA with written notification of the areas of nonconformity, OA will begin the process set forth in part 29 of this title to rescind recognition of the SAA.

(4) An SAA that seeks to obtain or maintain recognition must obtain the Administrator's written concurrence in any proposed State EEO plan, as well as any subsequent modification to that plan, as provided in part 29 of this title.

(b) *Recordkeeping requirements.* A recognized SAA must keep all records pertaining to program reviews, complaint investigations, and any other records pertinent to a determination of compliance with this part. These records must be maintained for 5 years from the date of their creation.

(c) *Retention of authority.* As provided in part 29 of this title, OA retains the full authority to:

(1) Conduct program reviews of all registered apprenticeship programs;

* * * * *

(3) Deregister for Federal purposes an apprenticeship program registered with a recognized SAA as provided in part 29 of this title; and

* * * * *

(d) *Derecognition.* A recognized SAA that fails to comply with the requirements of this section will be subject to derecognition proceedings, as provided in part 29 of this title.

■ 14. Add § 30.20 to read as follows:

§ 30.20 Severability.

Should a court of competent jurisdiction hold any portion of any provision(s) of this part to be invalid, the provision will be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding is one of total invalidity or unenforceability, in which event the provision or subprovision will be severable from this part and will not affect the remainder thereof.

Brent Parton,

Principal Deputy Assistant Secretary for Employment and Training, Labor.

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