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Contents

Federal Register

Vol. 89, No. 136

Tuesday, July 16, 2024

Agency for International Development

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Legislative and Public Affairs Bureau, 57843

Agriculture Department

See Animal and Plant Health Inspection Service

See Economic Research Service

See Food and Nutrition Service

See Rural Housing Service

Air Force Department

NOTICES

Licenses; Exemptions, Applications, Amendments etc.,
57879–57880

Animal and Plant Health Inspection Service

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National Veterinary Services Laboratories Request Forms,
57843–57844

Bureau of Safety and Environmental Enforcement

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Operations in the Outer Continental Shelf for Minerals
Other than Oil, Gas, and Sulphur, 57940–57941
Safety and Environmental Management Systems, 57939–
57940

Census Bureau

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Construction Progress Reporting Survey, 57850–57851

Centers for Disease Control and Prevention

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57897–57900

Centers for Medicare & Medicaid Services

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57901–57903
Application:
DNV Healthcare USA Inc. for Continued Approval of Its
Psychiatric Hospital Accreditation Program, 57900–
57901

Coast Guard

RULES

Safety Zone:
Atlantic Ocean, Virginia Beach Oceanfront, VA; Air
Show, 57732–57734
Hemingway Paddleboard Race, Key West, FL, 57732

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57918–57921

Commerce Department

See Census Bureau

See Foreign-Trade Zones Board

See Industry and Security Bureau

See International Trade Administration

See National Institute of Standards and Technology

See National Oceanic and Atmospheric Administration

See Patent and Trademark Office

Community Living Administration

NOTICES

Award a Single-Source Supplement:
National Paralysis Resource Center, 57903

Comptroller of the Currency

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Community Reinvestment Act Regulation, 57992–57994

Defense Department

See Air Force Department

PROPOSED RULES

Assistance to Non-Government, Entertainment-Oriented
Media Productions, 57810–57819

Delaware River Basin Commission

NOTICES

Hearings, Meetings, Proceedings, etc.:
Business Meeting and Public Hearing, 57880

Economic Research Service

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57844–57845

Energy Department

See Federal Energy Regulatory Commission

NOTICES

Fusion Energy Public-Private Consortium Framework,
57880–57881

Environmental Protection Agency

RULES

Air Quality State Implementation Plans; Approvals and Promulgations:
Florida; General Provisions Repeals and Amendments,
57734–57736
Georgia; Revisions to the State Implementation Plan
Gasoline Transport Vehicles and Vapor Collection
Systems Rule, 57736–57737
National Emission Standards for Hazardous Air Pollutants:
Lime Manufacturing Plants Technology Review, 57738–
57740
Pesticide Tolerance; Exemptions, Petitions, Revocations,
etc.:
Gluconobacter Cerinus Strain BC18B and Hanseniaspora
Uvarum Strain BC18Y, 57773–57775
Trichoderma Atroviride Strain K5 NRRL B–50520,
57770–57773

Pesticides:

Agricultural Worker Protection Standard, Reconsideration of the Application Exclusion Zone Amendments; Submission to the Secretary of Agriculture, 57770

PROPOSED RULES

Air Quality State Implementation Plans; Approvals and Promulgations:

California; Mojave Desert Air Quality Management District, 57819–57823

Tennessee; Nitrogen Oxides SIP Call Alternative Monitoring and Domtar Paper Company, LLC, 57823–57828

Outer Continental Shelf Air Regulations Update to Include New Jersey State Requirements, 57828–57832

Pesticide Tolerance; Exemptions, Petitions, Revocations, etc.:

Polytetrafluoroethylene; Revocation of the Tolerance Exemption When Used as an Inert Ingredient in Pesticide Products, 57832–57834

NOTICES

Cancellation Order:

Certain Pesticide Registrations and/or Amendments to Terminate Uses, 57889–57892

Planned Change Request for Waste Isolation Pilot Plant Replacement Panels 11 and 12, 57887–57888

Export-Import Bank**NOTICES**

Meetings; Sunshine Act, 57892

Federal Aviation Administration**RULES**

Airspace Designations and Reporting Points:

Fayetteville Regional/Grannis Field and Pope AFB, Fayetteville, NC, 57728–57729

Airworthiness Directives:

International Aero Engines, LLC, 57725–57728

Various Airplanes, 57721–57725

Removal of Check Pilot Medical Certificate Requirement; Correction, 57729–57730

PROPOSED RULES

Airworthiness Directives:

Embraer S.A. (Type Certificate Previously Held by Yabora Industria Aeronautica S.A.) Airplanes, 57795–57798

Federal Communications Commission**RULES**

Sponsorship Identification Requirements for Foreign Government-Provided Programming, 57775–57793

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57892–57893

Hearings, Meetings, Proceedings, etc.:

Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States, 57893–57894

Federal Emergency Management Agency**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Community Assistance Contact Reports, Community Assistance Visit Reports, and National Flood Insurance Program Compliance Audit Reports, 57921–57923

Individual and Community Preparedness Division Youth Preparedness Council Application Form, 57923

Federal Energy Regulatory Commission**NOTICES**

Combined Filings, 57881–57887

Filing:

Entergy Services, LLC, 57886

Hearings, Meetings, Proceedings, etc.:

Reliability Technical Conference, 57884

Institution of Section 206 Proceeding and Refund Effective Date:

Kestrel Acquisition LLC, 57882–57883

Permits; Applications, Issuances, etc.:

Turnagain Arm Tidal Energy Corp., 57887

Staff Attendance:

Technical Talk with ReliabilityFirst, 57885

Federal Labor Relations Authority**NOTICES**

Opportunity to Submit Amici Curiae Briefs in a Representation Proceeding, 57894–57895

Federal Maritime Commission**NOTICES**

Fiscal Year 2022 Service Contract Inventory Analysis, 57895–57896

Federal Motor Carrier Safety Administration**NOTICES**

National Hazardous Materials Route Registry, 57987–57988

Federal Railroad Administration**NOTICES**

Petition for Amendment of Waiver of Compliance, 57988

Fish and Wildlife Service**PROPOSED RULES**

Endangered and Threatened Species:

90-Day Finding and 12-Month Determination on a Petition to Revise Critical Habitat for Sonora Chub, 57838–57842

NOTICES

Environmental Assessments; Availability, etc.:

Alliant Energy, Iowa and Minnesota, 57937–57939

Food and Drug Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Premarket Tobacco Product Applications and

Recordkeeping Requirements, 57907–57913

Substantial Equivalence Reports for Tobacco Products, 57903–57907

Food and Nutrition Service**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

2027 Farm to School Census, 57845–57850

Foreign Assets Control Office**NOTICES**

Sanctions Actions, 57994

Foreign-Trade Zones Board**NOTICES**

Proposed Production Activity:

AESC US LLC, Foreign-Trade Zone 78, Smyrna, TN, 57852

LG Energy Solution Arizona, Inc., Foreign-Trade Zone 75, Queen Creek, AZ, 57851–57852

General Services Administration**RULES**

Federal Management Regulation:

Accessibility Standard for Pedestrian Facilities in the
Public Right-of-Way; Correction, 57775**NOTICES**

Requests for Nominations:

Acquisition Policy Federal Advisory Committee, 57896–
57897**Geological Survey****NOTICES**Draft National Spatial Data Infrastructure Strategic Plan,
57939**Great Lakes St. Lawrence Seaway Development
Corporation****NOTICES**

Hearings, Meetings, Proceedings, etc.:

Great Lakes St. Lawrence Seaway Development Corp.,
57991–57992**Health and Human Services Department***See* Centers for Disease Control and Prevention*See* Centers for Medicare & Medicaid Services*See* Community Living Administration*See* Food and Drug Administration*See* Health Resources and Services Administration*See* National Institutes of Health*See* Substance Abuse and Mental Health Services
Administration**PROPOSED RULES**Increase Flexibility for Tribes in Child Care and
Development Fund Eligibility, 57835–57838**NOTICES**

Hearings, Meetings, Proceedings, etc.:

Advisory Committee on Blood and Tissue Safety and
Availability, 57914**Health Resources and Services Administration****NOTICES**Agency Information Collection Activities; Proposals,
Submissions, and Approvals:Ryan White HIV/AIDS Program Client-Level Data
Reporting System, 57913–57914**Homeland Security Department***See* Coast Guard*See* Federal Emergency Management Agency**Housing and Urban Development Department****PROPOSED RULES**

Single Family Sale Program, 57798–57810

NOTICESAgency Information Collection Activities; Proposals,
Submissions, and Approvals:

Eviction Protection Grant Program, 57925–57926

Implementation of the Violence Against Women

Reauthorization Act of 2013, 57927–57937

Request for Termination of Multifamily Mortgage

Insurance, 57926–57927

Housing and Urban Development-Held Healthcare Loan
Sale, 57924–57925**Industry and Security Bureau****NOTICES**

Denial of Export Privileges:

Robert Wise, 57852–57853

Ruben Arnulfo Chavarin, 57853–57854

Interior Department*See* Bureau of Safety and Environmental Enforcement*See* Fish and Wildlife Service*See* Geological Survey**International Trade Administration****NOTICES**Antidumping or Countervailing Duty Investigations, Orders,
or Reviews, 57854–57855Antidumping or Countervailing Duty Investigations, Orders,
or Reviews:Certain Low Speed Personal Transportation Vehicles
from the People's Republic of China, 57870–57874

Certain Steel Nails from Taiwan, 57856–57860

Sales at Less Than Fair Value; Determinations,

Investigations, etc.:

Certain Low Speed Personal Transportation Vehicles
from the People's Republic of China, 57865–57870Large Top Mount Combination Refrigerator-Freezers from
Thailand, 57860–57865**International Trade Commission****NOTICES**Antidumping or Countervailing Duty Investigations, Orders,
or Reviews:

Tungsten Shot from China, 57941–57942

Investigations; Determinations, Modifications, and Rulings,
etc.:Certain Eye Cosmetics and Packaging Therefor, 57942–
57943**Justice Department****NOTICES**

Proposed Consent Decree:

Clean Air Act, 57943–57944

Labor Department*See* Occupational Safety and Health Administration*See* Workers Compensation Programs Office**Maritime Administration****NOTICES**

Coastwise Endorsement Eligibility Determination for a

Foreign-Built Vessel:

Hibiki (Motor), 57989–57990

Hearings, Meetings, Proceedings, etc.:

U.S. Merchant Marine Academy Board of Visitors,
57988–57989**National Credit Union Administration****NOTICES**

Meetings; Sunshine Act, 57946

National Highway Traffic Safety Administration**PROPOSED RULES**

Federal Motor Vehicle Safety Standards:

Seating Systems, 57998–58038

NOTICES

Hearings, Meetings, Proceedings, etc.:

Federal Interagency Committee on Emergency Medical
Services, 57991National Emergency Medical Services Advisory Council,
57990–57991

National Institute of Standards and Technology**NOTICES**

Hearings, Meetings, Proceedings, etc.:
Industrial Advisory Committee, 57874–57875
National Artificial Intelligence Advisory Committee,
57874

National Institutes of Health**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
NeuroBioBank Tissue Access Request Form, 57915
Hearings, Meetings, Proceedings, etc.:
National Cancer Institute, 57917
National Center for Complementary and Integrative
Health, 57917
National Heart, Lung, and Blood Institute, 57914–57916
National Institute on Minority Health and Health
Disparities, 57915–57916

National Oceanic and Atmospheric Administration**RULES**

Fisheries of the Northeastern United States:
Atlantic Sea Scallop Fishery; Closure of the Area I, Area
II, and New York Bight Scallop Access Areas to
General Category Individual Fishing Quota Scallop
Vessels, 57793–57794
Summer Flounder Fishery; Quota Transfer from Virginia
to Massachusetts, 57794

NOTICES

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Application for Appointment in the NOAA
Commissioned Officer Corps, 57878–57879
Atlantic Highly Migratory Species Individual Bluefin
Quota Tracking and Appeals, 57876–57877
Management and Oversight of the National Estuarine
Research Reserve System, 57875–57876
Pacific Islands Region Seabird-Fisheries Interaction
Recovery Reporting, 57877–57878
Hearings, Meetings, Proceedings, etc.:
Gulf of Mexico Fishery Management Council; Correction,
57878

Nuclear Regulatory Commission**RULES**

Miscellaneous Corrections, 57717–57721

NOTICES

Request for Membership Application:
Advisory Committee on Reactor Safeguards, 57946–57947

Occupational Safety and Health Administration**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Permit-Required Confined Spaces Standard, 57944–57946

Patent and Trademark Office**NOTICES**

Performance Review Board Members, 57879

Postal Service**NOTICES**

International Product Change:
Priority Mail Express International, Priority Mail
International and First-Class Package International
Service Agreement, 57947, 57950
Privacy Act; Systems of Records; Correction, 57947–57950

Rural Housing Service**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 57850

Securities and Exchange Commission**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 57952
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe Exchange, Inc.; Withdrawal, 57960
MIAX PEARL, LLC, 57974–57978
Nasdaq GEMX, LLC, 57952–57956, 57971–57973
Nasdaq ISE, LLC, 57964–57967
Nasdaq MRX, LLC, 57956–57959, 57961–57964
Nasdaq PHLX LLC, 57967–57971
National Securities Clearing Corp., 57959–57960
NYSE American LLC, 57950–57951
The Nasdaq Stock Market LLC, 57978–57982

Small Business Administration**NOTICES**

Disaster Declaration:
Iowa, 57982–57983
Texas, 57982

State Department**NOTICES**

Culturally Significant Objects Imported for Exhibition:
Ancient Thrace and the Classical World: Treasures from
Bulgaria, Romania, and Greece, 57983
The Legacy of Vesuvius: Bourbon Discoveries on the Bay
of Naples, 57985
Venice and the Ottoman Empire, 57985
Sanctions Action, 57983–57985

**Substance Abuse and Mental Health Services
Administration****NOTICES**

Hearings, Meetings, Proceedings, etc.:
Center for Mental Health Services National Advisory
Council, 57917–57918

Susquehanna River Basin Commission**NOTICES**

Permits; Applications, Issuances, etc.:
General, 57986–57987
Projects Approved:
Consumptive Uses of Water, 57986

Transportation Department

See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Federal Railroad Administration
See Great Lakes St. Lawrence Seaway Development
Corporation
See Maritime Administration
See National Highway Traffic Safety Administration

Treasury Department

See Comptroller of the Currency
See Foreign Assets Control Office

United States Institute of Peace**NOTICES**

Hearings, Meetings, Proceedings, etc.:
Board of Directors, 57994

Veterans Affairs Department**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Designation of Certifying Official(s), 57995
Interest Rate Reduction Refinancing Loan Worksheet,
57994–57995
Pre and Post Independent Living Assessment, 57996
Student Beneficiary Report—Restored Entitlement
Program for Survivors, 57995–57996

Workers Compensation Programs Office**RULES**

Claims for Compensation under the Energy Employees
Occupational Illness Compensation Program Act,
57730–57731

Separate Parts In This Issue**Part II**

Transportation Department, National Highway Traffic
Safety Administration, 57998–58038

Reader Aids

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

10 CFR

50 57717
52 57717
54 57717

14 CFR

39 (2 documents) 57721,
57725
71 57728
121 57729

Proposed Rules:

39 57795

20 CFR

30 57730

24 CFR**Proposed Rules:**

203 57798
206 57798
291 57798

32 CFR**Proposed Rules:**

238 57810

33 CFR

165 (2 documents) 57732

40 CFR

52 (2 documents) 57734,
57736
63 57738
170 57770
180 (2 documents) 57770,
57773

Proposed Rules:

52 (2 documents) 57819,
57823
55 57828
180 57832

41 CFR

102–76 57775

45 CFR**Proposed Rules:**

98 57835

47 CFR

73 57775

49 CFR**Proposed Rules:**

571 57998

50 CFR

648 (2 documents) 57793,
57794

Proposed Rules:

17 57838

Rules and Regulations

Federal Register

Vol. 89, No. 136

Tuesday, July 16, 2024

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

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 52, and 54

[NRC-2024-0091]

RIN 3150-AL15

Miscellaneous Corrections

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to make miscellaneous corrections. These changes include clarifying language and correcting grammatical and typographical errors, punctuation, references, and terms. This document is necessary to inform the public of these non-substantive amendments to the NRC's regulations.

DATES: This final rule is effective on August 15, 2024.

ADDRESSES: Please refer to Docket ID NRC-2024-0091 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2024-0091. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407; email: Dawn.Forder@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

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FOR FURTHER INFORMATION CONTACT:

Tricia Lizama, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-4110; email: TriciaDolores.Lizama@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is amending its regulations in parts 50, 52, and 54 of title 10 of the *Code of Federal Regulations* (10 CFR). The NRC is making these amendments to clarify language and correct grammatical and typographical errors, punctuation, references, and terms.

10 CFR Parts 50 and 54

Correct Grammatical Errors. This final rule revises § 50.10(e)(1)(iii) to remove periods and adjust capitalization to reflect that this paragraph contains a continuous list of items required for issuance of a limited work authorization.

Remove Outdated Term. This final rule revises § 50.30(d) to remove references to "an amendment to an application for a license to construct and operate a production or utilization facility" as this appears to be an outdated license application type (*i.e.*, a forerunner to the current combined license).

Correct Term. This final rule amends § 50.33(j) and § 54.17(f) by removing the undefined term "other defense information." The term dates to an Atomic Energy Commission (AEC) amendment of this section on January 19, 1956 (21 FR 355, 357) and was not changed with the promulgation of 10 CFR part 95 (45 FR 14476; March 5, 1980) after the establishment of the NRC and the 1975 reissuance of the former AEC regulations. This final rule replaces the outdated term with the term "classified National Security

Information," for consistency with other use of this term in parts 50 and 54.

Clarify Language and Correct Punctuation

This final rule revises the first sentence of § 50.36b(b) to clarify the potential for removal of the authority to operate the reactor when a final, legally effective order to permanently cease operations comes into effect under § 50.82(a)(1) or § 52.110(a). This final rule also revises the second sentence to add a comma before the word "which."

Correct Grammatical and Typographical Errors. This final rule revises the introductory text of § 50.43(e) to replace the word "which" with the word "that," and to replace a period with a comma and adjust capitalization to eliminate two incomplete sentences.

Clarify Language. This final rule revises § 50.55(e)(2)(i) to clarify the scope of license holders that are subject to this regulation (*i.e.*, the regulations are only applicable to holders of a construction permit, combined license, or a manufacturing license and not all licensees subject to the regulations in 10 CFR part 50). This final rule also clarifies the introductory text of paragraph (e)(3)(iii) and paragraph (e)(4)(ii) by adding "or manufactured reactor" because the § 21.3 definition of "basic component" does not appear to be broad enough to include the term. Finally, this final rule updates the initial notification requirements in paragraph (e)(5)(i) to reflect that emails are also a permissible initial notification method in addition to facsimile and phone notification options.

This final rule amends § 50.59(c)(1)(i) by replacing the phrase "A change" with "An amendment" to avoid using the defined term "change" that is used elsewhere in this section.

Correct References and Grammatical Error. This final rule revises § 50.82(a) by adding the actual effective date of the Decommissioning of Nuclear Power Reactors final rule in paragraph (a)(1)(iii), removing the incorrect reference to § 50.2 in the introductory text to paragraph (a)(6), and correcting the placement of the semicolon at the end of paragraph (a)(8)(i)(B).

Correct Reference. This final rule amends § 50.100 to change the reference to § 50.42(a) to instead reference § 50.42. The provisions in § 50.42(a) were moved to § 50.42 by 73 FR 44619, July 31, 2008 and the reference to § 50.42(a) is no longer valid.

Correct Typographical Error. This final rule amends § 50.109(a)(4) by correcting “appropriated documented evaluation” to read “appropriate documented evaluation.”

10 CFR Parts 50 and 52

Clarify Language and Correct Punctuation. This final rule amends § 50.37 by adding the word “or” and commas, and § 52.54(c) by adding commas, to correct drafting errors and ensure parallel language. The preamble for the rulemaking that modified the parallel language in 10 CFR parts 50 and 52, Licenses, Certifications, and Approvals for Nuclear Power Plants, provides a discussion on the intended language for these sections (72 FR 49352; August 28, 2007).

10 CFR Part 52

Clarify Language. This final rule amends § 52.26(b) by adding the words “early site” to the phrase “if a timely application for renewal of the permit has been docketed” to clarify that the term “permit” refers to the early site permit and not to the construction permit for which an application was submitted.

This final rule revises the introductory text of § 52.31(a) to clarify that it is a criterion for renewal and § 52.31(b) to reflect that the provisions in § 52.31(a) are applicable to the Commission and not to the applicant for renewal of an early site permit.

This final rule amends § 52.39(c) by removing the word “should” to improve the clarity of the paragraph and § 52.39(e) by replacing the word “including” with the word “or” to clarify the relationship between the early site permit and the site safety analysis report.

Correct Reference. This final rule revises the reference in § 52.91(b) to clarify that the sole activities permitted under paragraph (a) of this section are the submittal of an application for a limited work authorization under § 50.10.

Correct Grammatical Error. This final rule amends § 52.103(b)(2) by removing the word “that,” which is already included in the introductory text of paragraph (b).

Remove References and Correct Punctuation. This final rule amends § 52.110(e) to remove the incorrect reference to § 50.2 and the introductory text of § 52.110(f) to remove the incorrect reference to § 52.1, since neither reference contains a definition for “decommissioning activities.” This final rule also amends § 52.110(h)(1)(ii) to correct the placement of the semicolon.

Correct Punctuation. This final rule amends § 52.158(a)(1)(i) to replace the semicolon after “manufacturing license” with a comma.

Correct Term. This final rule amends § 52.177(d) by removing the term “permit” and adding the term “license” to reflect that a manufacturing license is considered a license in accordance with the definitions in § 52.1.

II. Rulemaking Procedure

Under section 553(b) of the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive publication in the **Federal Register** of a notice of proposed rulemaking and opportunity for comment requirements if it finds, for good cause, that it is impracticable, unnecessary, or contrary to the public interest. As authorized by 5 U.S.C. 553(b)(3)(B), the NRC finds good cause to waive notice and opportunity for comment on these amendments, because notice and opportunity for comment is unnecessary. The amendments will have no substantive impact and are of a minor and administrative nature dealing with corrections to certain CFR sections or are related only to management, organization, procedure, and practice. Specifically, the revisions clarify language and correct grammatical and typographical errors, punctuation, references, and terms. The Commission is exercising its authority under 5 U.S.C. 553(b) to publish these amendments as a final rule. The amendments are effective August 15, 2024. These amendments do not require action by any person or entity regulated by the NRC and do not change the substantive responsibilities of any person or entity regulated by the NRC.

III. Backfitting and Issue Finality

The NRC has determined that the corrections in this final rule would not constitute backfitting as defined in § 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests.” These corrections also would not constitute forward fitting as that term is defined and described in MD 8.4 or affect the issue finality of any approval issued under 10 CFR part 52. The amendments are non-substantive in nature, including clarifying language and correcting grammatical and typographical errors, punctuation, references, and terms. They impose no new requirements and make no substantive changes to the regulations. The corrections do not involve any provisions that would impose backfits as defined in 10 CFR chapter I, or that

would be inconsistent with the issue finality provisions in 10 CFR part 52. For these reasons, the issuance of this final rule would not constitute backfitting or be inconsistent with any of the issue finality provisions in 10 CFR part 52. Therefore, the NRC has not prepared any additional documentation for this correction rulemaking addressing backfitting or issue finality.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885).

V. National Environmental Policy Act

The NRC has determined that this final rule is the type of action described in § 51.22(c)(2), which categorically excludes from environmental review rules that are corrective or of a minor, nonpolicy nature and do not substantially modify existing regulations. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

VI. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

VII. Congressional Review Act

This final rule is not a rule as defined in the Congressional Review Act (5 U.S.C. 801–808).

List of Subjects

10 CFR Part 50

Administrative practice and procedure, Antitrust, Backfitting, Classified information, Criminal penalties, Education, Emergency planning, Fire prevention, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements, Whistleblowing.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Combined license, Early site permit, Emergency planning, Fees, Inspection, Issue finality, Limited work authorization, Manufacturing license, Nuclear power plants and

reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Penalties, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 54

Administrative practice and procedure, Age-related degradation, Backfitting, Classified information, Criminal penalties, Environmental protection, Nuclear power plants and reactors, Penalties, Radiation protection, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 50, 52, and 54:

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 1. The authority citation for part 50 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 101, 102, 103, 104, 105, 108, 122, 147, 149, 161, 181, 182, 183, 184, 185, 186, 187, 189, 223, 234 (42 U.S.C. 2014, 2131, 2132, 2133, 2134, 2135, 2138, 2152, 2167, 2169, 2201, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); Nuclear Waste Policy Act of 1982, sec. 306 (42 U.S.C. 10226); National Environmental Policy Act of 1969 (42 U.S.C. 4332); 44 U.S.C. 3504 note; Sec. 109, Pub. L. 96–295, 94 Stat. 783.

■ 2. In § 50.10, revise paragraph (e)(1)(iii) to read as follows:

§ 50.10 License required; limited work authorization.

* * * * *

(e) * * *

(1) * * *

(iii) The Director determines that the applicable standards and requirements of the Act, and the Commission's regulations applicable to the activities to be conducted under the limited work authorization, have been met; the applicant is technically qualified to engage in the activities authorized; and issuance of the limited work authorization will provide reasonable assurance of adequate protection to public health and safety and will not be inimical to the common defense and security; and

* * * * *

■ 3. In § 50.30, revise paragraph (d) to read as follows:

§ 50.30 Filing of application; oath or affirmation.

* * * * *

(d) *Application for operating licenses.* The holder of a construction permit for a production or utilization facility shall, at the time of submission of the final safety analysis report, file an application for an operating license. The application shall state the name of the applicant, the name, location and power level, if any, of the facility and the time when the facility is expected to be ready for operation and may incorporate by reference any pertinent information submitted in accordance with § 50.33 with the application for a construction permit.

* * * * *

§ 50.33 [Amended]

■ 4. In § 50.33, amend paragraph (j) by removing the term “other defense information” wherever it appears and adding in its place the term “classified National Security Information”.

■ 5. In § 50.36b, revise and republish paragraph (b) to read as follows:

§ 50.36b Environmental conditions.

* * * * *

(b) Each license authorizing operation of a production or utilization facility, including a combined license under part 52 of this chapter, and each license for a nuclear power reactor facility that no longer authorizes operation of the reactor under § 50.82(a)(1) or § 52.110(a) of this chapter has been submitted, which is of a type described in § 50.21(b)(2) or (3) or § 50.22 or is a testing facility, may include conditions to protect the environment during operation and decommissioning. These conditions are to be set out in an attachment to the license, which is incorporated in and made a part of the license. These conditions will be derived from information contained in the environmental report or the supplement to the environmental report submitted pursuant to §§ 51.50 and 51.53 of this chapter as analyzed and evaluated in the NRC record of decision, and will identify the obligations of the licensee in the environmental area, including, as appropriate, requirements for reporting and keeping records of environmental data, and any conditions and monitoring requirement for the protection of the nonaquatic environment.

■ 6. Revise and republish § 50.37 to read as follows:

§ 50.37 Agreement limiting access to Classified Information.

As part of its application and in any event before the receipt of Restricted

Data or classified National Security Information or the issuance of a license, construction permit, early site permit, or standard design approval, or before the Commission has adopted a final standard design certification rule under part 52 of this chapter, the applicant shall agree in writing that it will not permit any individual to have access to, or any facility to possess, Restricted Data or classified National Security Information until the individual and/or facility has been approved for access under the provisions of 10 CFR parts 25 and/or 95. The agreement of the applicant becomes part of the license, or construction permit, or standard design approval.

■ 7. In § 50.43, revise paragraph (e) introductory text to read as follows:

§ 50.43 Additional standards and provisions affecting class 103 licenses and certifications for commercial power.

* * * * *

(e) Applications for a design certification, combined license, manufacturing license, operating license or standard design approval that propose nuclear reactor designs that differ significantly from light-water reactor designs that were licensed before 1997, or use simplified, inherent, passive, or other innovative means to accomplish their safety functions will be approved only if:

* * * * *

■ 8. In § 50.55, revise and republish paragraphs (e)(2)(i), (3)(iii) introductory text, (4)(ii), and (5)(i) to read as follows:

§ 50.55 Conditions of construction permits, early site permits, combined licenses, and manufacturing licenses.

* * * * *

(e) * * *

(2) * * *

(i) Each individual, partnership, corporation, dedicating entity, or other entity subject to the regulations in this part (*i.e.*, holders of a construction permit, combined license, or a manufacturing license) must post current copies of the regulations in this part, Section 206 of the Energy Reorganization Act of 1974 (ERA), and procedures adopted under the regulations in this part. These documents must be posted in a conspicuous position on any premises within the United States where the activities subject to this part are conducted.

* * * * *

(3) * * *

(iii) Ensure that a director or responsible officer of the holder of a facility construction permit subject to this part, combined license (until the Commission makes the finding under 10 CFR 52.103(g)), and manufacturing license under 10 CFR part 52 is informed as soon as practicable, and, in all cases, within the 5 working days after completion of the evaluation described in paragraph (e)(3)(i) or (e)(3)(ii) of this section, if the construction or manufacture of a facility or activity or manufactured reactor, or a basic component supplied for such facility or activity—

* * * * *

(4) * * *

(ii) The holder of a facility construction permit subject to this part, combined license, or manufacturing license, who obtains information reasonably indicating the existence of any defect found in the construction or manufacture, or any defect found in the final design of a facility or manufactured reactor as approved and released for construction or manufacture, must notify the Commission of the defect through a director or responsible officer or designated person as discussed in paragraph (e)(4)(v) of this section.

* * * * *

(5) * * *

(i) Initial notification by email, which is the preferred method of notification, or facsimile to the NRC Operations Center at (301) 816-5151 or by telephone at

(301) 816-5100 within 2 days following receipt of information by the director or responsible corporate officer under paragraph (e)(3)(iii) of this section, on the identification of a defect or a failure to comply. Verification that the email or facsimile has been received should be made by calling the NRC Operations Center. This paragraph does not apply to interim reports described in paragraph (e)(3)(ii) of this section.

* * * * *

§ 50.59 [Amended]

■ 9. In § 50.59, amend paragraph (c)(1)(i) by removing the text “A change” and adding in its place the text “An amendment”.

■ 10. In § 50.82, revise and republish paragraphs (a)(1), (6), and (8)(i) to read as follows:

§ 50.82 Termination of license.

* * * * *

(a) * * *

(1)(i) When a licensee has determined to permanently cease operations the

licensee shall, within 30 days, submit a written certification to the NRC, consistent with the requirements of § 50.4(b)(8);

(ii) Once fuel has been permanently removed from the reactor vessel, the licensee shall submit a written certification to the NRC that meets the requirements of § 50.4(b)(9); and

(iii) For licensees whose licenses have been permanently modified to allow possession but not operation of the facility, before August 28, 1996, the certifications required in paragraphs (a)(1)(i) through (ii) of this section shall be deemed to have been submitted.

* * * * *

(6) Licensees shall not perform any decommissioning activities that—

(i) Foreclose release of the site for possible unrestricted use;

(ii) Result in significant environmental impacts not previously reviewed; or

(iii) Result in there no longer being reasonable assurance that adequate funds will be available for decommissioning.

* * * * *

(8)(i) Decommissioning trust funds may be used by licensees if—

(A) The withdrawals are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in § 50.2;

(B) The expenditure would not reduce the value of the decommissioning trust below an amount necessary to place and maintain the reactor in a safe storage condition if unforeseen conditions or expenses arise; and

(C) The withdrawals would not inhibit the ability of the licensee to complete funding of any shortfalls in the decommissioning trust needed to ensure the availability of funds to ultimately release the site and terminate the license.

* * * * *

§ 50.100 [Amended]

■ 11. In § 50.100, remove the reference “§ 50.42(a)” and add in its place the reference “§ 50.42”.

§ 50.109 [Amended]

■ 12. In § 50.109, amend paragraph (a)(4) introductory text by removing the text “appropriated documented evaluation” and adding in its place the text “appropriate documented evaluation”.

PART 52—LICENSES, CERTIFICATIONS, AND APPROVALS FOR NUCLEAR POWER PLANTS

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

Authority: Atomic Energy Act of 1954, secs. 103, 104, 147, 149, 161, 181, 182, 183, 185, 186, 189, 223, 234 (42 U.S.C. 2133, 2134, 2167, 2169, 2201, 2231, 2232, 2233, 2235, 2236, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); 44 U.S.C. 3504 note.

§ 52.26 [Amended]

■ 14. In § 52.26, amend paragraph (b) by removing the phrase “if a timely application for renewal of the permit has been docketed” and adding in its place the phrase “if a timely application for renewal of the early site permit has been docketed”.

■ 15. Revise and republish § 52.31 to read as follows:

§ 52.31 Criteria for renewal.

(a) The Commission shall grant the renewal only if it determines that:

(1) The site complies with the Act, the Commission’s regulations, and orders applicable and in effect at the time the site permit was originally issued; and

(2) Any new requirements the Commission may wish to impose are:

(i) Necessary for adequate protection to public health and safety or common defense and security;

(ii) Necessary for compliance with the Commission’s regulations, and orders applicable and in effect at the time the site permit was originally issued; or

(iii) A substantial increase in overall protection of the public health and safety or the common defense and security to be derived from the new requirements, and the direct and indirect costs of implementation of those requirements are justified in view of this increased protection.

(b) A denial of renewal under the provisions of § 52.31(a) does not bar the permit holder or another applicant from filing a new application for the site which proposes changes to the site or the way that it is used to correct the deficiencies cited in the denial of the renewal.

■ 16. In § 52.39, revise and republish paragraphs (c)(2) and (e) to read as follows:

§ 52.39 Finality of early site permit determinations.

* * * * *

(c) * * *

(2) Any person may file a petition requesting that the site characteristics, design parameters, or terms and conditions of the early site permit be modified, or that the permit be suspended or revoked. The petition will be considered in accordance with § 2.206 of this chapter. Before construction commences, the

Commission shall consider the petition and determine whether any immediate action is required. If the petition is granted, an appropriate order will be issued. Construction under the construction permit or combined license will not be affected by the granting of the petition unless the order is made immediately effective. Any change required by the Commission in response to the petition must meet the requirements of paragraph (a)(1) of this section.

* * * * *

(e) *Early site permit amendment.* The holder of an early site permit may not make changes to the early site permit, or the site safety analysis report, without prior Commission approval. The request for a change to the early site permit must be in the form of an application for a license amendment and must meet the requirements of 10 CFR 50.90 and 50.92.

* * * * *

■ 17. In § 52.54, revise and republish paragraph (c) to read as follows:

§ 52.54 Issuance of standard design certification.

* * * * *

(c) After the Commission has adopted a final design certification rule, the applicant shall not permit any individual to have access to, or any facility to possess, Restricted Data or classified National Security Information until the individual and/or facility has been approved for access under the provisions of 10 CFR parts 25 and/or 95, as applicable.

§ 52.91 [Amended]

■ 18. In § 52.91, amend paragraph (b) by removing the text “paragraph (a) of this section” and adding in its place the text “a limited work authorization issued under § 50.10 of this chapter”.

§ 52.103 [Amended]

■ 19. In § 52.103, amend paragraph (b)(2) by removing the word “that”.

■ 20. In § 52.110, revise and republish paragraphs (e), (f), and (h)(1) to read as follows:

§ 52.110 Termination of license.

* * * * *

(e) Licensees shall not perform any major decommissioning activities until 90 days after the NRC has received the licensee’s PSDAR submittal and until certifications of permanent cessation of operations and permanent removal of fuel from the reactor vessel, as required under § 52.110(a)(1), have been submitted.

(f) Licensees shall not perform any decommissioning activities, that—

(1) Foreclose release of the site for possible unrestricted use;

(2) Result in significant environmental impacts not previously reviewed; or

(3) Result in there no longer being reasonable assurance that adequate funds will be available for decommissioning.

* * * * *

(h)(1) Decommissioning trust funds may be used by licensees if—

(i) The withdrawals are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in § 52.1;

(ii) The expenditure would not reduce the value of the decommissioning trust below an amount necessary to place and maintain the reactor in a safe storage condition if unforeseen conditions or expenses arise; and

(iii) The withdrawals would not inhibit the ability of the licensee to complete funding of any shortfalls in the decommissioning trust needed to ensure the availability of funds to ultimately release the site and terminate the license.

* * * * *

■ 21. In § 52.158, revise and republish paragraph (a)(1)(i) to read as follows:

§ 52.158 Contents of application; additional technical information.

* * * * *

(a)(1) *Inspections, tests, analyses, and acceptance criteria (ITAAC).* The proposed inspections, tests, and analyses that the licensee who will be operating the reactor shall perform, and the acceptance criteria that are necessary and sufficient to provide reasonable assurance that, if the inspections, tests, and analyses are performed and the acceptance criteria met:

(i) The reactor has been manufactured in conformity with the manufacturing license, the provisions of the Act, and the Commission’s rules and regulations; and

(ii) The manufactured reactor will be operated in conformity with the approved design and any license authorizing operation of the manufactured reactor.

* * * * *

§ 52.177 [Amended]

■ 22. In § 52.177, amend paragraph (d) by removing the term “permit” and adding in its place the term “license”.

PART 54—REQUIREMENTS FOR RENEWAL OF OPERATING LICENSES FOR NUCLEAR POWER PLANTS

■ 23. The authority citation for part 54 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 102, 103, 104, 161, 181, 182, 183, 186, 189, 223, 234 (42 U.S.C. 2132, 2133, 2134, 2136, 2137, 2201, 2231, 2232, 2233, 2236, 2239, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); 44 U.S.C. 3504 note.

Section 54.17 also issued under E.O. 12829, 58 FR 3479, 3 CFR, 1993 Comp., p. 570; E.O. 13526, 75 FR 707, 3 CFR, 2009 Comp., p. 298; E.O. 12968, 60 FR 40245, 3 CFR, 1995 Comp., p. 391.

§ 54.17 [Amended]

■ 24. In § 54.17, amend paragraph (f) by removing the term “other defense information” wherever it appears and adding in its place the term “classified National Security Information”.

Dated: July 8, 2024.

For the Nuclear Regulatory Commission.

Cindy K. Bladey,

Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2024–15234 Filed 7–15–24; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1990; Project Identifier AD–2023–00734–A; Amendment 39–22784; AD 2024–14–03]

RIN 2120–AA64

Airworthiness Directives; Various Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for various airplanes modified with a certain configuration of the Garmin GFC 500 Autopilot System installed per Supplemental Type Certificate (STC) No. SA01866WI. This AD was prompted by a report of an un-commanded automatic pitch trim runaway when the autopilot was first engaged. This AD requires updating the applicable Garmin GFC 500 Autopilot System software for your airplane and prohibits installing earlier versions of that software. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 20, 2024.

ADDRESSES:
AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1990; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Christopher Withers, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (316) 946–4190; email: *christopher.d.withers@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to various airplanes modified with a certain configuration of the Garmin GFC 500 Autopilot System

installed per STC No. SA01866WI. The NPRM published in the **Federal Register** on October 10, 2023 (88 FR 69891). The NPRM was prompted by a report of an un-commanded automatic pitch trim runaway when the autopilot was first engaged. In the NPRM, the FAA proposed to require updating the applicable Garmin GFC 500 Autopilot System software for your airplane and prohibit installing earlier versions of that software.

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to various airplanes modified with a certain configuration of the Garmin GFC 500 Autopilot System installed per STC No. SA01866WI. The SNPRM published in the **Federal Register** on April 17, 2024 (89 FR 27398). The SNPRM was prompted by comments received on the NPRM. The SNPRM proposed to revise the applicability by removing certain airplane models and adding other airplane models, revised paragraph (e) of the proposed AD to clarify that certain hardware failures affected the primary pitch servo and added Note 1 to paragraph (g) of the proposed AD. The FAA is issuing this AD to address

autopilot software that does not properly handle certain hardware failures of the primary pitch servo. The unsafe condition, if not addressed, could result in un-commanded automatic pitch trim runaway and loss of control of the airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received one comment from the National Transportation Safety Board (NTSB). The NTSB supported the SNPRM without change.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting the AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. This AD is adopted as proposed in the SNPRM.

Costs of Compliance

The FAA estimates that this AD affects 5,900 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Update autopilot software	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$501,500

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–14–03 Various Airplanes:
Amendment 39–22784; Docket No. FAA–2023–1990; Project Identifier AD–2023–00734–A.

(a) Effective Date
This airworthiness directive (AD) is effective August 20, 2024.

(b) Affected ADs
None.

(c) Applicability

This AD applies to all airplane models specified in Table 1 to paragraph (c) of this AD, certificated in any category, having a Garmin GFC 500 Autopilot System that

includes an optional GSA 28 pitch trim servo installed per Supplemental Type Certificate No. SA01866WI using Master Drawing List 005-01264-00, Revisions 1 through 76.

BILLING CODE 4910-13-P

Table 1 to Paragraph (c)—Applicable Airplane Models

Type certificate holder	Airplane model
Commander Aircraft Corporation	112B, 112TC, 112TCA, 114, 114A, 114B, and 114TC
DAHER AEROSPACE	TB 20 and TB 21
Mooney International Corporation	M20C, M20D, M20E, M20F, M20G, M20J, M20K, M20M, M20R, and M20S
Piper Aircraft, Inc.	PA-24, PA-24-250, and PA-24-260
Piper Aircraft, Inc.	PA-28-140, PA-28-150, PA-28-151, PA-28-160, PA-28-161, PA-28-180, PA-28-181, PA-28-201T, PA-28-235, PA-28-236, PA-28R-180, PA-28R-200, PA-28R-201, PA-28R-201T, PA-28RT-201, and PA-28RT-201T
Piper Aircraft, Inc.	PA-30 and PA-39
Piper Aircraft, Inc.	PA-32-260, PA-32-300, PA-32-301, PA-32-301FT, PA-32-301T, PA-32-301XTC, PA-32R-300, PA-32RT-300, PA-32RT-300T, PA-32R-301 (HP), PA-32R-301 (SP), and PA-32R-301T
Textron Aviation Inc. (type certificate previously held by Beech Aircraft Corporation, Raytheon Aircraft Company, Hawker Beechcraft Corporation, and Beechcraft Corporation)	19A, B19, M19A, A23A, A23-19, A23-24, B23, C23, A24, A24R, B24R, and C24R
Textron Aviation Inc. (type certificate previously held by Beech Aircraft Corporation, Raytheon Aircraft Company, Hawker Beechcraft Corporation, and Beechcraft Corporation)	C35, D35, E35, F35, and G35
Textron Aviation Inc. (type certificate previously held by Beech	35-33, 35-A33, 35-B33, 35-C33, 35-C33A, 36, A36, A36TC, B36TC, E33, E33A, E33C, F33, F33A, F33C, G33, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B

Type certificate holder	Airplane model
Aircraft Corporation, Raytheon Aircraft Company, Hawker Beechcraft Corporation, and Beechcraft Corporation)	
Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company)	172D, 172E, 172F, 172G, 172H, 172I, 172K, 172L, 172M, 172N, 172P, 172Q, 172R, and 172S
Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company)	F172E, F172F, F172G, F172H, F172K, F172L, F172M, F172N, F172P
Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company)	172RG, P172D, and R172K
Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company)	FR172K
Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company)	177B
Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company)	177RG
Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company)	F177RG
Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company)	182E, 182F, 182G, 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q, 182R, 182S, 182T, F182P, F182Q, FR182, R182, T182, T182T, and TR182
Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company)	206H, P206C, P206D, P206E, T206H, TP206C, TP206D, TP206E, TU206C, TU206D, TU206E, TU206F, TU206G, U206C, U206D, U206E, U206F, and U206G
Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company)	210D, 210E, 210F, 210G, 210H, 210J, 210K, 210L, 210M, 210N, T210F, T210G, T210H, T210J, T210K, T210L, T210M, and T210N

(d) Subject

Joint Aircraft System Component (JASC)
Code 2210, Autopilot System.

(e) Unsafe Condition

This AD was prompted by a report of an un-commanded automatic pitch trim runaway when the autopilot was first engaged. The FAA is issuing this AD to address autopilot software that does not properly handle certain hardware failures of the primary pitch servo. The unsafe condition, if not addressed, could result in un-commanded automatic pitch trim runaway and loss of control of the airplane.

(f) Compliance

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

(g) Required Action

Within 12 months after the effective date of this AD, update the Garmin GFC 500 Autopilot System software applicable to your airplane to a version that is not 8.01 or earlier for the G5, not version 9.01 or earlier for the G3X Touch, and not version 2.59 or earlier for the GI 275.

Note 1 to paragraph (g): The software update can be done using Garmin Mandatory STC Service Bulletin 22123, Rev A, dated January 3, 2023. This AD also allows the installation of versions other than those listed in Garmin Mandatory STC Service Bulletin 22123, Rev A, dated January 3, 2023, provided those versions are not listed in paragraph (g) of this AD.

(h) Installation Prohibition

As of the effective date of this AD, do not install Garmin GFC 500 Autopilot System Software that is version 8.01 or earlier for the G5, version 9.01 or earlier for the G3X Touch, or version 2.59 or earlier for the GI 275, on any airplane.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Central Certification Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the Central Certification Branch, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to wichita-cos@faa.gov.

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

(j) Additional Information

(1) For more information about this AD, contact Christopher Withers, Aviation Safety Engineer, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (316) 946-4190; email: christopher.d.withers@faa.gov.

(2) For material identified in this AD that is not incorporated by reference, contact Garmin International, Attention: Garmin

Aviation Support, 1200 E 151st Street, Olathe, KS 66062; phone: (866) 739-5687; website: support.garmin.com/en-US/aviation/.

(k) Material Incorporated by Reference

None.

Issued on July 10, 2024.

James D. Foltz,

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

[FR Doc. 2024-15529 Filed 7-15-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2024-0763; Project Identifier AD-2023-00924-E; Amendment 39-22785; AD 2024-14-04]

RIN 2120-AA64

Airworthiness Directives; International Aero Engines, LLC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all International Aero Engines, LLC (IAE LLC) Model PW1122G-JM, PW1124G1-JM, PW1124G-JM, PW1127G1-JM, PW1127G1A-JM, PW1127G1B-JM, PW1127G-JM, PW1127GA-JM, PW1129G-JM, PW1130G-JM, PW1133G-JM, and PW1133GA-JM engines. This AD was prompted by an in-flight shutdown (IFSD) caused by the fracture of a low-pressure compressor (LPC) 1st-stage integrally bladed rotor (IBR-1). This AD requires removal and replacement of affected LPC key washers and affected LPC IBR-1 and installation of inlet guide vane (IGV) spacers. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 20, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2024-0763; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Carol Nguyen, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238-7655; email: carol.nguyen@faa.gov.

SUPPLEMENTARY INFORMATION:**Background**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all IAE LLC Model PW1122G-JM, PW1124G1-JM, PW1124G-JM, PW1127G1-JM, PW1127G1A-JM, PW1127G1B-JM, PW1127G-JM, PW1127GA-JM, PW1129G-JM, PW1130G-JM, PW1133G-JM, and PW1133GA-JM engines. The NPRM published in the **Federal Register** on March 25, 2024 (89 FR 20551). The NPRM was prompted by an incident involving an Airbus Model A320neo airplane powered by IAE LLC Model PW1127G-JM engines that experienced an IFSD. A manufacturer investigation determined that the IFSD was caused by a fractured LPC IBR-1, which resulted from an aerodynamic excitation. The most likely cause of the aerodynamic excitation was a misaligned IGV located directly upstream of the IBR-1. As a result, Pratt & Whitney (PW) redesigned the LPC IGV arm assembly by adding a spacer to provide additional torque capability and to prevent a misaligned vane. PW also redesigned the IBR-1 to better withstand an aerodynamic excitation from a misaligned IGV. In the NPRM, the FAA proposed to require removal and replacement of affected LPC key washers and affected LPC IBR-1 and installation of LPC IGV spacers. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive**Comments**

The FAA received comments from four commenters. The commenters were the Air Line Pilots Association, International (ALPA), All Nippon Airways CO., LTD. (ANA), Delta Air Lines, Inc (DAL), and Frontier Airlines (Frontier). ALPA supported the NPRM without change. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Update Paragraph (g)(1)

Frontier requested that the FAA update paragraph (g)(1) of the proposed AD to read as follows: "For engines that are pre-PW Service Bulletin (SB) PW1000G-C-72-00-0180-00A-930A-D, Issue No. 001, dated October 10, 2020 (PW SB PW1000G-C-72-00-0180-00A-

930A–D) with installed LPC key washers having P/N 5375416, at the next engine shop visit after the effective date of this AD, remove the affected LPC key washers and replace them with LPC key washers and LPC IGV spacers that are eligible for installation.” Frontier noted that tracking installed washers on engines is very difficult since they are not tracked parts, and post service bulletin engines have LPC key washers and LPT IGV spacers that are eligible for installation.

The FAA agrees to update paragraph (g)(1) of this AD to include reference to engines that have not incorporated PW SB PW1000G–C–72–00–0180–00A–930A–D.

Request To Update Paragraph (g)(2)

Frontier requested that the FAA update paragraph (g)(2) of the proposed AD to read as follows: “For engines that are pre-service bulletin SB PW1000G–C–72–00–0189–00A–930A–D, with an installed LPC IBR–1 having PN 5373831, at the next piece-part exposure after effective date of this AD, remove the affected LPC IBR–1 and replace with an LPC IBR–1 eligible for installation.”

The FAA disagrees with the request because the LPC IBR–1 is a tracked life-limited part, so adding qualifying language for “pre-PW SB PW1000G–C–72–00–0189–00A–930A–D” engines is unnecessary. The FAA did not change this AD as a result of this comment.

Request To Add “Credit for Previous Actions” Paragraph

DAL requested that the FAA add a “Credit for Previous Actions” paragraph to the proposed AD to allow credit for the actions required by paragraph (g)(1) if PW SB PW1000G–C–72–00–0180–00A–930A–D was previously accomplished. ANA also requested that accomplishment of PW SB PW1000G–C–72–00–0180–00A–930A–D be accepted as credit for paragraph (g)(1) of the proposed AD, and accomplishment of PW SB PW1000G–C–72–00–0189–00A–930A, Issue 001, dated January 26, 2022, PW SB PW1000G–C–72–00–0189–00A–930A, Issue 002, dated March 15, 2022, and PW SB PW1000G–C–72–00–0189–00A–930A, Issue 003, dated November 28, 2022, be accepted as credit for paragraph (g)(2) of the proposed AD if these actions were performed before the effective date of the proposed AD. DAL noted that because the proposed AD does not provide credit for installing the post-SB spacers and washers, operators must

physically verify that all 61 spacers are present and all 61 washers are post-SB on all engines, regardless of whether or not the engine records show accomplishment of PW SB PW1000G–C–72–00–0180–00A–930A–D. DAL also noted that this is a very manual, time-intensive task that should be avoided considering PW SB PW1000G–C–72–00–0180–00A–930A–D installs key washers P/N 5375416 and LPC spacers P/N 5375433, and those parts comply with the “part eligible for installation” definitions listed in paragraphs (h)(3) and (h)(4) of the proposed AD.

The FAA disagrees with the request to add a “Credit for Previous Actions” paragraph to this AD. This AD references affected engines with specific P/Ns installed in paragraph (g) of this AD, and if the service bulletins related to this AD have already been performed on the engine, then the affected P/Ns are no longer installed and the AD is no longer applicable to those engines. Therefore, previous credit is not necessary because the engine no longer has an affected P/N installed. The FAA notes that paragraph (g)(1) of this AD has been changed to reference PW SB PW1000G–C–72–00–0180–00A–930A–D and to reduce the burden on operators. The FAA did not change this AD as a result of this comment.

Request To Clarify Meaning of “At the Next Piece-Part Exposure”

ANA requested that the FAA clarify the meaning of “at the next piece-part exposure” in paragraph (g)(2) of the proposed AD. ANA asks if LPC IBR–1 is already separated from the LPC module and assembly has already begun by the effective date of this AD, should the requirement of paragraph (g)(2) not be performed in this shop visit? ANA also wondered about the same scenario if the assembly had not begun by the effective date of this AD.

To clarify, the FAA’s meaning of “at the next piece-part exposure” covers both cases. Paragraph (h)(2) of this AD defines a “piece-part exposure” as when the LPC IBR–1 is separated from the LPC module. The FAA considers the “next” exposure to include any separation of the LPC IBR–1 from the LPC module after the effective date of this AD. If the LPC IBR–1 is assembled into the module on the effective date of this AD, then it is not a “piece-part exposure.” If the LPC IBR–1 is separated from the LPC module after the effective date of the AD, then paragraph (g)(2) of this AD will need to be performed

because it will meet the definition of “piece-part exposure”. The FAA is not concerned if the assembly of the LPC module has started or not.

The FAA did not change this AD as a result of this comment.

Request To Clarify “Major Mating Engine Flanges”

ANA requested that the FAA clarify if “major mating engine flanges” referenced in paragraph (h)(1) of the proposed AD are considered as flanges E through P.

To clarify, the FAA considers the major mating engine flanges referenced in paragraph (h)(1) of this AD as flanges E through P, inclusive. The FAA did not change this AD as a result of this comment.

Request To Clarify “Induction of an Engine”

ANA requested that the FAA clarify the meaning of “induction of an engine” in paragraph (h)(1) of the proposed AD. ANA asked if an engine is already in-shop for maintenance involving the separation of pairs of major mating engine flanges at the effective date of this AD, does paragraph (g)(1) need to be performed in this shop visit?

To clarify, the FAA’s meaning of “induction of an engine” when using the example provided by ANA is: “if the engine was already at an engine shop visit on the effective date of this AD, the requirements of paragraph (g)(1) would apply at the next engine shop visit after the effective date of this AD.” The FAA did not change this AD as a result of this comment.

Conclusion

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

Costs of Compliance

The FAA estimates that this AD affects 215 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace LPC IBR-1	1 work-hours × \$85 per hour = \$85	\$36,350	\$36,435	\$7,833,525
Replace IGV key washers and install IGV spacers.	20 work-hours × \$85 per hour = \$1,700	4,392	6,092	1,309,780

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024-14-04 International Aero Engines, LLC: Amendment 39-22785; Docket No. FAA-2024-0763; Project Identifier AD-2023-00924-E.

(a) Effective Date

This airworthiness directive (AD) is effective August 20, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to International Aero Engines Model PW1122G-JM, PW1124G1-JM, PW1124G-JM, PW1127G1-JM, PW1127G1A-JM, PW1127G1B-JM, PW1127G-JM, PW1127GA-JM, PW1129G-JM, PW1130G-JM, PW1133G-JM, and PW1133GA-JM engines.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an in-flight shutdown caused by the fracture of a low-pressure compressor (LPC) 1st-stage integrally bladed rotor (IBR-1). The FAA is issuing this AD to prevent the failure of the LPC IBR-1. The unsafe condition, if not addressed, could result in damage to the engine, damage to the airplane, and possible loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For affected engines that have not incorporated Pratt & Whitney Service Bulletin PW1000G-C-72-00-0180-00A-930A-D (initial issue or any revision), and with installed LPC key washers having part number (P/N) 5375416, at the next engine shop visit after the effective date of this AD, remove the affected LPC key washers and replace them with LPC key washers and LPC inlet guide vane (IGV) spacers that are eligible for installation.

(2) For affected engines with an installed LPC IBR-1 having P/N 5373831, at the next piece-part exposure after the effective date of this AD, remove the affected LPC IBR-1 and replace with an LPC IBR-1 eligible for installation.

(h) Definitions

For the purposes of this AD:

(1) An "engine shop visit" is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, except that the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance does not constitute an engine shop visit.

(2) A "piece-part exposure" is when the LPC IBR-1 is separated from the LPC module.

(3) "LPC key washers eligible for installation" are any LPC key washers having P/N 5375434 or later-approved P/N.

(4) "LPC IGV spacers eligible for installation" are any LPC IGV spacers having P/N 5375433 or later-approved P/N.

(5) An "LPC IBR-1 eligible for installation" is any LPC IBR-1 having P/N 5373841 or later-approved P/N.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR-520 Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of AIR-520 Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to: AMOC@faa.gov.

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

(j) Additional Information

For more information about this AD, contact Carol Nguyen, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (781) 238-7655; email: carol.nguyen@faa.gov.

(k) Material Incorporated by Reference

None.

Issued on July 10, 2024.

Peter A. White,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024–15466 Filed 7–15–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–1088; Airspace

Docket No. 24–AWA–2]

RIN 2120–AA66

Amendment of Class C Airspace; Fayetteville Regional/Grannis Field and Pope AFB, Fayetteville, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Fayetteville Regional/Grannis Field and Pope AFB, NC, Class C airspace descriptions to update the geographic coordinates of each airport reference point (ARP) and update the Pope AFB airport name to match the FAA's National Airspace System Resources (NASR) database information. Additionally, this action amends the airspace description by updating the header format. This action does not change the boundaries, altitudes, or operating requirements of the Class C airspace areas.

DATES: Effective date 0901 UTC, October 31, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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

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 Fayetteville Regional/Grannis Field and Pope AFB, NC, Class C airspace descriptions.

History

During a review of the Fayetteville Regional/Grannis Field and Pope AFB, NC, Class C airspace descriptions, the FAA identified the need to update the name of the Pope AFB, update ARP geographic coordinates for the Fayetteville Regional/Grannis Field, Gray's Creek airport, and Pope AFB, and to update the text header format for the Fayetteville Regional/Grannis Field and Pope AFB Class C airspace descriptions as published in FAA Order JO 7400.11H.

Incorporation by Reference

Class C airspace areas are published in paragraph 4000 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by amending the Fayetteville Regional/Grannis Field and Pope AFB, NC, Class C airspace descriptions as published in FAA Order JO 7400.11H, Airspace Designations and Reporting Points.

In the description of Fayetteville Regional/Grannis Field the ARP geographic coordinates for the Fayetteville Regional/Grannis Field are updated from “lat. 34°59'29" N, long. 78°52'48" W” to “lat. 34°59'28" N, long. 078°52'49" W.” The ARP geographic coordinates for the Gray's Creek Airport are updated from “lat. 34°53'04" N, long. 78°50'08" W” to “lat. 34°53'37" N, long. 078°50'37" W” which matches the FAA's NASR database information. Additionally, the airport name is removed from the first line in the text header of the description leaving the city and state which align with the current formatting standard.

In the description of Pope AFB, the name “Pope AFB” is changed to “Pope AAF” to match the Airport Master Record database. The ARP geographic coordinates are updated from “lat. 35°10'16" N, long. 79°00'52" W” to “lat. 35°10'15" N, long. 079°00'52" W” which matches the FAA's NASR database information. Additionally, the airport name is removed from the first line in the text header of the description leaving the city and state which align with the current formatting standard. In the body of the Class C description, the name “Pope AFB” is changed to “Pope AAF.”

This action consists of administrative changes only and does not affect the boundaries, altitudes, or operating requirements of 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 DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of amending the Fayetteville Regional/Grannis Field and Pope AFB, NC, Class C airspace descriptions to update geographic coordinates of the

ARP and update the name of Pope AFB to match the FAA's NASR database information, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact statement.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, effective September 15, 2023, is amended as follows:

Paragraph 4000 Class C Airspace.

* * * * *

ASO NC C Fayetteville, NC [Amended]

Fayetteville Regional/Grannis Field, NC
(Lat. 34°59'28" N, long. 078°52'49" W)
Gray's Creek Airport

(Lat. 34°53'37" N, long. 078°50'37" W)

That airspace extending upward from the surface to and including 4,200 feet MSL within a 5-mile radius of the Fayetteville Regional/Grannis Field excluding that airspace below 1,400 feet MSL within a 1.5-mile radius of Gray's Creek Airport; and that airspace within a 10-mile radius of the airport extending upward from 1,400 feet MSL to and including 4,200 feet MSL, excluding that airspace contained within Restricted Areas R–5311A, B and C when they are active.

* * * * *

ASO NC C Fayetteville, NC [Amended]

Pope AAF, NC

(Lat. 35°10'15" N, long. 079°00'52" W)

That airspace extending upward from the surface to and including 4,200 feet MSL within a 5-mile radius of the Pope AAF, excluding that airspace below 1,400 feet MSL contained in the Simmons Army Air Field, NC, Class D airspace area, and excluding that airspace contained within Restricted Areas R–5311A, B and C when they are active; and that airspace within a 10-mile radius of Pope AAF extending upward from 2,000 feet MSL to and including 4,200 feet MSL, beginning at the northern boundaries of R–5311A, B and C clockwise to the 020° bearing from the airport; and that airspace extending upward from 1,400 feet MSL to and including 4,200 feet MSL within a 10-mile radius of the airport beginning at the 020° bearing from the airport clockwise to the northern boundaries of R–5311A, B and C, excluding that airspace contained in R–5311A, B and C when they are active and excluding that airspace contained in the Fayetteville Regional/Grannis Field Airport, NC, Class C airspace area.

* * * * *

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

Brian Eric Konie,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2024–15558 Filed 7–15–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. FAA–2019–0360; Amdt. No. 121–392A]

RIN 2120–AL12

Removal of Check Pilot Medical Certificate Requirement; Correction

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

ACTION: Final rule; correction.

SUMMARY: On June 24, 2024, the Federal Aviation Administration (FAA) published the final rule entitled

Removal of Check Pilot Medical Certificate Requirement. In that final rule, the FAA made two errors in the amendatory instructions. This correction corrects those errors.

DATES: This correction is effective July 18, 2024.

FOR FURTHER INFORMATION CONTACT:

Joshua Jackson, Aviation Safety Inspector, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: 202–267–8166; email: joshua.jackson@faa.gov.

SUPPLEMENTARY INFORMATION:

As discussed in the notice of proposed rulemaking (NPRM),¹ the regulations establishing the requirements for flight instructors and check airmen in 14 CFR parts 121 and 135 are unclear regarding the medical certificate requirements when flight instructors or check airmen perform their duties in aircraft. The regulations indicate that flight instructors conducting flight training and check airmen administering checks in aircraft must hold a third-class medical certificate when not serving as a required flightcrew member. Elsewhere, however, the regulations also state that no medical certificate is required unless the flight instructor or check airman is serving as a required crewmember. Additionally, part 135 check pilots (aircraft) were held to different medical certification standards than part 121 check pilots and flight instructors and part 135 flight instructors.²

On June 18, 2024, the FAA published a final rule in the **Federal Register** to resolve the discrepancy in the pertinent regulations by clarifying that flight instructors, check pilots, and check flight engineers must hold the appropriate medical certificate only when serving as required flightcrew members in an aircraft.³ The final rule also includes nonsubstantive nomenclature changes and reorganizes certain sections of parts 121 and 135.

In publishing the final rule, the FAA made two inadvertent errors in the amendatory instructions of the

¹ *Removal of Check Pilot Medical Certificate Requirement* notice of proposed rulemaking, 84 FR 25499 (Jun. 3, 2019).

² Specifically, § 135.337(b)(5) states that a check airman (aircraft) must hold at least a third-class medical certificate unless serving as a required crewmember and the exception in § 135.337(e) that a check airman who does not hold the appropriate medical certificate may serve as a check airman, but not a required flightcrew member, applies only to check airmen (simulators). This differs from how the regulations treat part 121 check airmen and flight instructors and part 135 flight instructors.

³ *Removal of Check Pilot Medical Certificate Requirement* final rule, 89 FR 51415 (Jun. 18, 2024).

regulatory text. This rule corrects those errors.

Correction

In FR Doc. 2024–12621 appearing on page 51415 in the **Federal Register** of Tuesday, June 18, 2024, the following corrections are made:

§ 121.419 [Corrected]

■ 1. On page 51427, in the third column, in part 121, in amendment 16, the instruction “a. Revising paragraphs (c) and (f); and” is corrected to read “a. Revising paragraphs (c) introductory text and (f); and”.

Appendix F to Part 121 [Corrected]

■ 2. On page 51429, in the first column, in part 121, in amendment 33, the instruction “b. Revising paragraph II.(c)(2) in the table;” is corrected to read “b. Revising paragraph II.(c) in the table;”.

Issued under the authority of 49 U.S.C. 106(f) in Washington, DC.

Brandon Roberts,

Executive Director, Office of Rulemaking.

[FR Doc. 2024–15256 Filed 7–15–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Part 30

RIN 1240-AA19

Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act

AGENCY: Office of Workers' Compensation Programs, Department of Labor.

ACTION: Final rule.

SUMMARY: The Office of Workers' Compensation Programs (OWCP) is publishing this final rule to update its criteria for establishing beryllium sensitivity. This change brings OWCP's regulations into alignment with a statutory provision that was enacted as part of the National Defense Authorization Act for Fiscal Year 2024 on December 22, 2023. The new provision provides an additional way by which both previously ineligible and new claimants can establish beryllium sensitivity due to occupational exposure to beryllium.

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

FOR FURTHER INFORMATION CONTACT: Rachel D. Pond, Director, Division of

Energy Employees Occupational Illness Compensation, Office of Workers' Compensation Programs by mail at U.S. Department of Labor, Room C–3510, 200 Constitution Avenue NW, Washington, DC 20210; by email at DEEOIC-public@dol.gov (please put “RIN 1240-AA19” in the subject line); or by telephone at 202–693–0081 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Part B of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), 42 U.S.C. 7384 *et seq.*, provides uniform lump-sum payments and medical benefits to covered employees or, where applicable, to their survivors of the Department of Energy (DOE), its predecessor agencies and certain of its vendors, contractors and subcontractors who were diagnosed with a radiogenic cancer, chronic beryllium disease, beryllium sensitivity or chronic silicosis, as a result of exposure to radiation, beryllium, or silica while employed at covered facilities. Part B of EEOICPA also provides smaller uniform lump-sum payments and medical benefits to individuals found eligible by the Department of Justice for an award under section 5 of the Radiation Exposure Compensation Act (RECA), 42 U.S.C. 2210 (note), or, where applicable, to their survivors. Part E of EEOICPA provides variable lump-sum payments (based on a worker's permanent impairment and/or qualifying calendar years of established wage-loss) and medical benefits for covered DOE contractor employees and, where applicable, provides variable lump-sum payments to survivors of such employees (based on a worker's death due to a covered illness and any qualifying calendar years of established wage-loss). Part E also provides these same payments and benefits to uranium miners, millers and ore transporters covered by section 5 of RECA and, where applicable, to survivors of such employees.

A claimant who successfully establishes a claim under Part B for beryllium sensitivity is eligible for medical monitoring (including all tests for chronic beryllium disease), treatment and therapy for this illness effective on the date of filing. Previously, a claimant could establish beryllium sensitivity under Part B by presenting one abnormal beryllium lymphocyte proliferation test (BeLPT) that was performed on blood or lung lavage cells. Section 5501(b) of Public Law 118–31, the National Defense Authorization Act for Fiscal Year 2024, amended section 7384l(8)(A) of

EEOICPA to provide that beryllium sensitivity can now also be established by submitting three borderline BeLPTs performed on blood cells over a period of three years.

OWCP has already aligned its case adjudication procedures with this new statutory provision by issuing EEOICPA Bulletin No. 24–01 on January 30, 2024. This final rule will also bring OWCP's regulations into conformance with both the above amendment to EEOICPA and its procedures. Specifically, OWCP is amending §§ 30.5(h) and (p)(1), 30.205(b)(1) and 30.207(b) of 20 CFR part 30 by adding new text to incorporate the recently enacted amendment to EEOICPA, that an alternative to establishing beryllium sensitivity can be by submitting three borderline beryllium LPTs performed on blood cells over a period of 3 years.

OWCP's implementation of this action without opportunity for public comment is based on the good cause exception in 5 U.S.C. 553(b)(B), in that seeking public comment is impracticable, unnecessary, and contrary to the public interest. Pursuant to 5 U.S.C. 553(d)(3), an agency may “for good cause found” also dispense with the 30-day delay in the effective date of a rule. OWCP has determined that seeking public comment is both impracticable and unnecessary because it has no discretion to change an entitlement criterion enacted by Congress. Thus, this rule merely aligns the regulations with the self-effectuating changes provided by the National Defense Authorization Act for Fiscal Year 2024. Furthermore, OWCP finds that seeking public comment and delaying this rule's effective date would be contrary to the public interest because it would cause confusion regarding the availability of benefits to newly eligible claimants seeking compensation for beryllium sensitivity under Part B of EEOICPA if the four sections listed above are not updated expeditiously to reflect their eligibility.

Executive Orders 12866: Regulatory Planning and Review; Executive Order 14094: Modernizing Regulatory Review; and Executive Order 13563: Improving Regulation and Regulatory Review

The Office of Management and Budget has determined that this rule is not a significant regulatory action under Executive Order 12866, and a Regulatory Impact Analysis is not required. No action is warranted for Executive Order 13563 as the rule is not significant and no Regulatory Impact Analysis is required.

Regulatory Flexibility Act of 1980

An analysis under the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (RFA), 5 U.S.C. 601–612, is not needed for this rule. The RFA imposes certain requirements on Federal agency rules that are subject to the notice and comment requirements of 5 U.S.C. 553(b). OWCP is invoking the good cause exception to notice-and-comment procedures for this final rule. Accordingly, OWCP is not required to either certify that the final rule would not have a significant economic impact on a substantial number of small entities or conduct a regulatory flexibility analysis.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, requires that OWCP consider the impact of paperwork and other information collection burdens imposed on the public. OWCP has determined that this final rule does not require any collection of information or alter any existing information collections.

Unfunded Mandates Reform Act of 1995 and Executive Order 13132

OWCP has reviewed this final rule in accordance with the requirements of Executive Order No. 13132, 64 FR 43225 (Aug. 10, 1999), and the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*, and has found no potential or substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. As there is no Federal mandate contained herein that could result in increased expenditures by State, local, or Tribal governments or by the private sector, OWCP has not prepared a budgetary impact statement.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This regulatory action does not have Tribal implications, as specified in Executive Order 13175, 65 FR 67249 (Nov. 9, 2000), which focuses on policy directives that burden or otherwise interfere with Tribal self-government and sovereignty by limiting the administrative discretion of Tribal governments. OWCP has determined that the final rule does not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and the Indian Tribes, or on the distribution

of power and responsibilities between the Federal Government and Indian Tribes. Because this rulemaking does not in any way impinge on an aspect of Tribal self-government or sovereignty, Executive Order 13175 does not apply to this action.

Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

OWCP has reviewed this final rule in accordance with Executive Order 12630, 53 FR 8859 (Mar. 15, 1988), and has determined that it does not contain any “policies that have takings implications” in regard to the “licensing, permitting, or other condition requirements or limitations on private property use, or that require dedications or exactions from owners of private property.”

Executive Order 13211: Energy Supply, Distribution, or Use

OWCP has reviewed this final rule and has determined that the provisions of Executive Order 13211, 66 FR 28355 (May 18, 2001), are not applicable as there are no direct or implied effects on energy supply, distribution, or use.

List of Subjects in 20 CFR Part 30

Administrative practice and procedure, Cancer, Claims, Kidney diseases, Leukemia, Lung diseases, Miners, Radioactive materials, Tort claims, Underground mining, Uranium, Workers' compensation.

Text of the Rule

For the reasons stated in the preamble, OWCP amends 20 CFR part 30 as follows:

PART 30—CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000, AS AMENDED

■ 1. The authority citation for part 30 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3716 and 3717; 42 U.S.C. 7384d, 7384t, 7384u and 7385s–10; Executive Order 13179, 65 FR 77487, 3 CFR, 2000 Comp., p. 321; Secretary of Labor's Order No. 10–2009, 74 FR 58834.

■ 2. Amend § 30.5 by revising paragraphs (h) and (p)(1) to read as follows:

§ 30.5 What are the definitions used in this part?

* * * * *

(h) *Beryllium sensitization or sensitivity* means that the individual has either:

(1) An abnormal beryllium lymphocyte proliferation test (LPT) performed on either blood or lung lavage cells; or

(2) Three borderline beryllium LPTs performed on blood cells over a period of 3 years.

* * * * *

(p) * * *

(1) Beryllium sensitivity as established by either:

(i) An abnormal beryllium LPT performed on either blood or lung lavage cells; or

(ii) Three borderline beryllium LPTs performed on blood cells over a period of 3 years.

* * * * *

■ 3. Amend § 30.205 by revising paragraph (b)(1) to read as follows:

§ 30.205 What are the criteria for eligibility for benefits relating to beryllium illnesses covered under Part B of EEOICPA?

* * * * *

(b) * * *

(1) Beryllium sensitivity as established by either:

(i) An abnormal beryllium LPT performed on either blood or lung lavage cells; or

(ii) Three borderline beryllium LPTs performed on blood cells over a period of 3 years.

* * * * *

■ 4. Amend § 30.207 by revising paragraph (b) to read as follows:

§ 30.207 How does a claimant prove a diagnosis of a beryllium disease covered under Part B?

* * * * *

(b) Beryllium sensitivity or sensitization is established with either:

(1) An abnormal beryllium LPT performed on either blood or lung lavage cells; or

(2) Three borderline beryllium LPTs performed on blood cells over a period of 3 years.

* * * * *

Signed at Washington, DC, this tenth day of July 2024.

Christopher J. Godfrey,
Director, Office of Workers' Compensation Programs.

[FR Doc. 2024–15512 Filed 7–15–24; 8:45 am]

BILLING CODE 4510–CR–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165****[Docket No. USCG–2024–0575]****Safety Zone; Hemingway Paddleboard Race, Key West, FL****AGENCY:** Coast Guard, DHS.**ACTION:** Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Hemingway Paddleboard Race, Key West, Florida to provide for the safety of life on the navigable waterways during this event. This action is necessary to ensure the safety of event participants and spectators. During the enforcement period, no person or vessel may enter, transit through, anchor in, or remain within the regulated area without approval from the Captain of the Port Key West or a designated representative.

DATES: The regulation in 33 CFR 165.786 will be enforced for the location identified in Item 7.1 of the Table to § 165.786, from 5:30 p.m. through 6:30 p.m. on July 20, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Hailye Wilson, Sector Key West Waterways Management Department, Coast Guard; telephone 305–292–8768; email: hailye.m.wilson@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in 33 CFR 165.786, Table to § 165.786, Item 7.1, for the Annual Hemingway Paddleboard Race in Key West, Florida from 5:30 p.m. until 6:30 p.m. July 20, 2024. This action is being taken to provide for the safety of life on navigable waterways during this event. The regulation for recurring marine events within Sector Key West Captain of the Port (COTP) zone, Table to § 165.786, Item 7.1, specifies the location of the regulated area for the Hemingway Sunset Run and Paddleboard Race event. During the enforcement period, no person or vessel may enter, transit through, anchor in, or remain within the established regulated areas without approval from the Captain of the Port Key West or 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 notification of enforcement in the **Federal Register**, the Coast Guard will provide notice of the

regulated area by Local Notice to Mariners and Broadcast Notice to Mariners. If the Captain of the Port Key West determines that the regulated area need not be enforced for the full duration stated in this publication, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: July 11, 2024.

Jason D. Ingram,

Captain U.S. Coast Guard, Captain of the Port Key West.

[FR Doc. 2024–15574 Filed 7–15–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165****[Docket Number USCG–2024–0346]****RIN 1625–AA00****Safety Zone; Atlantic Ocean, Virginia Beach Oceanfront, VA; Air Show****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters in the vicinity of the Virginia Beach, VA oceanfront. This action is necessary to provide for the safety of life on these navigable waters during an air show. This temporary rule prohibits persons and vessels from entry in the safety zone unless authorized by the Captain of the Port Sector Virginia (COTP) or a designated representative.

DATES: This rule is effective August 20, 2024, through August 21, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2024–0346 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email CDR Patrick Grizzle, Sector Virginia, Prevention Department, U.S. Coast Guard, Telephone: 757–668–5580, email: VirginiaWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section

U.S.C. United States Code

II. Background Information and Regulatory History

On April 4, 2024, the National Air, Sea, and Space Foundation notified the Coast Guard that the 2024 NATO Joint Power Demo Air Show will be occurring Tuesday, August 20, 2024, to Wednesday, August 21, 2024. The air show includes an aerial performance area over a portion of the Virginia Beach oceanfront, where high powered jet aircraft will perform aerobatic maneuvers. In response, on May 17, 2024, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Safety Zone; Atlantic Ocean, Virginia Beach Oceanfront, VA; Air Show” (89 FR 43350). There, we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this air show. During the comment period that ended June 17, 2024, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port, Sector Virginia (COTP) has determined that potential hazards associated with the airshow beginning August 20, 2024 through August 21, 2024, will be a safety concern for anyone within the following points: 36°53′10″ N, 075°58′57″ W; 36°53′27″ N, 075°57′22″ W; 36°51′31″ N, 075°56′48″ W; 36°51′14″ N, 075°58′23″ W. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published May 17, 2024. There are no changes in the regulatory text of this rule from the rule proposed in the NPRM.

This rule establishes a safety zone from August 20, 2024, until August 21, 2024. The safety zone would cover all navigable waters from the shoreline of the Atlantic Ocean at the Virginia Beach Oceanfront contained within the following points: 36°53′10″ N, 075°58′57″ W; 36°53′27″ N, 075°57′22″ W; 36°51′31″ N, 075°56′48″ W; 36°51′14″ N, 075°58′23″ W. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the air show. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size and location of the regulated area. Vessel traffic will be able to safely transit around this safety zone which would only impact a small, designated area of the Atlantic Ocean during an air show. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule

would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or

more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves This proposed rule involves a safety zone for each day of the two-day event, that would prohibit entry within a small portion of the Atlantic Ocean at the Virginia Beach Oceanfront. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

Marine safety, Navigation, Security Measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0346 to read as follows:

§ 165.T05–0346 Safety Zone; Atlantic Ocean, Virginia Beach Oceanfront, VA; Air Show

(a) *Location.* The following area is a safety zone: all navigable waters from the shoreline of the Atlantic Ocean at the Virginia Beach Oceanfront contained within the following points: 36°53'10" N, 075°58'57" W; 36°53'27" N, 075°57'22" W; 36°51'31" N, 075°56'48" W; 36°51'14" N, 075°58'23" W.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port, Sector Virginia (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF–FM Channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from August 20, 2024, through August 21, 2024.

Dated: July 9, 2024.

P.M. Britton,

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

[FR Doc. 2024–15551 Filed 7–15–24; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2023–0211; FRL–11927–02–R4]

Air Plan Approval; FL; General Provisions Repeals and Amendments

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 Florida Department of Environmental Protection (FDEP) on August 12, 2022, for the purpose of removing several obsolete, duplicative, or unnecessary rules from the general provisions portion of the Florida SIP.

EPA is approving this revision pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective August 15, 2024.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2023–0211. All documents in the docket are listed on the *regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information 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 electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sarah LaRocca, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8994. Ms. LaRocca can also be reached via electronic mail at *larocca.sarah@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is approving changes to the Florida SIP submitted by the State on August 12, 2022, to remove several obsolete, duplicative, or unnecessary rules from the Florida SIP. Specifically, the changes address Rules 62–204.100, Florida Administrative Code (F.A.C.), *Purpose and Scope*; 62–204.200, F.A.C., *Definitions*; 62–204.220, F.A.C., *Ambient Air Quality Protection*; 62–204.240, F.A.C., *Ambient Air Quality Standards*; 62–204.260, F.A.C., *Prevention of Significant Deterioration Maximum Allowable Increases (PSD Increments)*; and 62–204.400, F.A.C., *Public Notice and Hearing Requirements for State Implementation Plan Revisions*.¹ To support the removal

of these rules from the SIP, Florida's August 12, 2022, submittal provides justifications to demonstrate, pursuant to CAA section 110(l), that the removal would not interfere with any applicable requirement concerning attainment of the National Ambient Air Quality Standards (NAAQS) and reasonable further progress (RFP) or any other applicable requirement of the CAA.

Through a notice of proposed rulemaking (NPRM) published on May 15, 2024 (89 FR 42410), EPA proposed to approve the removal of Rules 62–204.100, F.A.C., *Purpose and Scope*; 62–204.200, F.A.C., *Definitions*; 62–204.220, F.A.C., *Ambient Air Quality Protection*; 62–204.240, F.A.C., *Ambient Air Quality Standards*; 62–204.260, F.A.C., *Prevention of Significant Deterioration Maximum Allowable Increases (PSD Increments)*; and 62–204.400, F.A.C., *Public Notice and Hearing Requirements for State Implementation Plan Revisions*, from the Florida SIP. EPA's rationale for approving the removal of these rules is described in the May 15, 2024, NPRM. Comments on the May 15, 2024, NPRM were due on or before June 14, 2024. EPA received three comments on the NPRM. Two of the comments received on the May 15, 2024, NPRM are not relevant to this action. The third comment is addressed below. All three comments are available in the docket for this action.

II. Response to Comments

EPA received one relevant comment on its May 15, 2024, NPRM. EPA has summarized and responded to the comment below.

Comment: The commenter recommends “leaving the rules defined as ‘unnecessary’ to better protect the environment.”

Response: The commenter does not explain how requiring Florida to maintain unnecessary rules in its SIP would better protect the environment, nor why EPA's reasons for approving the changes as required by the CAA is incorrect.

Additionally, EPA disagrees with the commenter's cursory statement. A SIP is a federally enforceable plan for each State that identifies how that State will attain and maintain the NAAQS. In formulating its SIP, each State is given wide discretion so long as it is consistent with all applicable requirements of the CAA, including section 110(l), and EPA must approve

withdrew the changes to Rules 62–204.320, 62–204.340, and 62–204.360 from EPA's consideration. EPA intends to address the changes to Rule 62–204.500 in a separate rulemaking.

¹ FDEP's August 12, 2022, SIP Revision also included changes to Rules 62–204.320, 62–204.340, 62–204.360, and 62–204.500. Florida subsequently

SIP revisions that meet these requirements. See CAA sections 110(a), (k). EPA initially incorporated Rules 62–204.100, 62–204.200, 62–204.220, 62–204.240, 62–204.260, and 62–204.400 into the SIP in 1999, as part of Florida's measures to attain and maintain the NAAQS. See 64 FR 32346. The SIP revision at issue subsequently removes Rules 62–204.100, 62–204.200, 62–204.220, 62–204.240, 62–204.260, and 62–204.400. The State has determined that these rules are unnecessary for one or more of the following reasons: they do not contain any requirements; certain definitions are not required to be part of the Florida SIP or are redundant due to subsequent changes in the SIP; and certain requirements are covered elsewhere in another SIP-approved Rule or in the Code of Federal Regulations. EPA has determined that this revision meets all applicable requirements of the CAA. Therefore, EPA must approve the revision.

III. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. EPA is finalizing the removal of Rules 62–204.100, *Purpose and Scope*; 62–204.200, *Definitions*; 62–204.220, *Ambient Air Quality Protection*; 62–204.240, *Ambient Air Quality Standards*; 62–204.260, *Prevention of Significant Deterioration Maximum Allowable Increases (PSD Increments)*; and 62–204.400, *Public Notice and Hearing Requirements for State Implementation Plan Revisions*, from the Florida SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51, and as discussed in Section I of this preamble. EPA has made and will continue to make the State Implementation Plan generally available at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Final Action

EPA is approving the August 12, 2022, Florida SIP revision consisting of the removal of Rules 62–204.100, *Purpose and Scope*; 62–204.200, *Definitions*; 62–204.220, *Ambient Air Quality Protection*; 62–204.240, *Ambient Air Quality Standards*; 62–204.260, *Prevention of Significant Deterioration Maximum Allowable Increases (PSD Increments)*; and 62–204.400, *Public Notice and Hearing Requirements for State Implementation Plan Revisions*, from the Florida SIP.

V. Statutory and Executive Language

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. See 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.”

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 9, 2024.

Jeanne Gettle,

Acting Regional Administrator, Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart K—Florida

§ 52.520 [Amended]

- 2. In § 52.520(c), amend the table by removing the entries for “62–204.100,”

“62–204.200,” “62–204.220,” “62–204.240,” “62–204.260,” and “62–204.400.”

[FR Doc. 2024–15416 Filed 7–15–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2023–0518; FRL–11955–02–R4]

Air Plan Approval; GA; Revisions to the State Implementation Plan Gasoline Transport Vehicles and Vapor Collection Systems Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Georgia State Implementation Plan (SIP) submitted by the Georgia Department of Natural Resources Environmental Protection Division (GA EPD) on September 28, 2023, for the purpose of clarifying requirements for gasoline transport vehicles and making minor administrative changes. EPA is approving Georgia’s September 28, 2023, SIP revision pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective August 15, 2024.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2023–0518. All documents in the docket are listed on the [regulations.gov](https://www.regulations.gov) website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information 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 electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Weston Freund, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8773. Mr. Freund can also be reached via electronic mail at freund.weston@epa.gov.

SUPPLEMENTARY INFORMATION:

I. This Action

EPA is approving a SIP revision submitted by the GA EPD on September 28, 2023, amending Rule 391–3–1–.02(2)(ss), *Gasoline Transport Vehicles and Vapor Collection Systems*,¹ to clarify requirements for tank labeling and increase consistency with other rules. EPA is approving these changes because they are administrative in nature and would therefore not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA.²

Through a notice of proposed rulemaking (NPRM), published on May 17, 2024, (89 FR 43357), EPA proposed to approve the September 28, 2023, changes to Georgia Rule 391–3–1–.02(2)(ss), *Gasoline Transport Vehicles and Vapor Collection Systems*. The details of Georgia’s submission, as well as EPA’s rationale for approving the changes, are described in more detail in the May 17, 2024, NPRM. Comments on the May 17, 2024, NPRM were due on or before June 16, 2024. No comments were received on the NPRM, adverse or otherwise.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, as discussed in Section I of this preamble, EPA is finalizing the incorporation by reference of Georgia Rule 391–3–1–.02(2)(ss), *Gasoline Transport Vehicles and Vapor Collection Systems*, which changes “paragraph” to “subparagraph” in Rule 391–3–1–.02(2)(ss)1., adds “(month and year)” to Rule 391–3–1–.02(2)(ss)1.(ii),

¹ Table 1 to Paragraph (c)—EPA-Approved Georgia Regulations at 40 CFR 52.570(c) incorrectly refers to Rule 391–3–1–.02(2)(ss) as “Gasoline Transport Systems and Vapor Collection Systems” rather than “Gasoline Transport Vehicles and Vapor Collection Systems” as approved October 13, 1992. See 57 FR 46780. In addition to the changes described herein, EPA is correcting the title of Rule 391–3–1–.02(2)(ss) in 40 CFR 52.570(c) to accurately reflect the title as approved on October 13, 1992.

² See CAA section 110(l).

changes “subparagraph” to lower case in Rule 391–3–1–.02(2)(ss)2.(ii), and changes “section” to “paragraph” in Rule 391–3–1–.02(2)(ss)3., state effective on September 17, 2023. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 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 State implementation plan, 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.³

III. Final Action

EPA is approving the aforementioned Georgia SIP revision consisting of administrative changes to Rule 391–3–1–.02(2)(ss), *Gasoline Transport Vehicles and Vapor Collection Systems*, for the reasons discussed above.

IV. 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. See 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);

³ See 62 FR 27968 (May 22, 1997).

- 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.”

GA EPD did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ 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 September 16, 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 9, 2024.

Jeananne Gettle

Acting Regional Administrator, Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart L—Georgia

■ 2. In § 52.570(c), amend table 1 by revising the entry for “391–3–1–.02(2)(ss)” to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
391–3–1–.02(2)(ss).	Gasoline Transport Vehicles and Vapor Collection Systems.	09/17/2023	7/16/2024 [Insert first page of Federal Register citation].	
* * *	* * *	* * *	* * *	* * *

* * *

[FR Doc. 2024–15397 Filed 7–15–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2017-0015; FRL-5948.1-03-OAR]

RIN 2060-AV59

National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes our amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants (Lime Manufacturing NESHAP). Specifically, we are finalizing maximum achievable control technology (MACT) standards for hydrogen chloride (HCl), mercury, organic HAP, and dioxin/furans (D/F).

DATES: This final rule is effective on September 16, 2024. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of September 16, 2024.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA-HQ-OAR-2017-0015. All documents in the docket are listed on the <https://www.regulations.gov/> website. Although listed, some information is not publicly available, e.g., Confidential Business Information 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 electronically through <https://www.regulations.gov/>, or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact U.S. EPA, Attn: Mr. Brian Storey, Mail Drop: D243-04, 109 T.W. Alexander Drive, P.O. Box 12055, RTP, North Carolina 27711; telephone number:

(919) 541-1103; and email address: storey.brian@epa.gov.

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this document the use of “we,” “us,” or “our” is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

CAA Clean Air Act
CFR Code of Federal Regulations
DB dead burned dolomitic lime
D/F dioxin/furans
DL dolomitic lime
DSI dry sorbent injection
EJ environmental justice
EPA Environmental Protection Agency
ESP electrostatic precipitator
FF fabric filter
FR Federal Register
g/dscm grams of pollutant per dry standard cubic meter of air
HAP hazardous air pollutant(s)
HBEL health-based emission limit
HCl hydrogen chloride
IQV intra-quarry variability
lb/MMton pounds of pollutant per million tons of lime produced at the kiln
lb/tsf pounds of pollutant per ton of stone feed
MACT maximum achievable control technology
NESHAP national emission standards for hazardous air pollutants
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
PM particulate matter
ppmvd parts per million by volume, dry
PR preheater rotary kiln
PRA Paperwork Reduction Act
PSH process stone handling
QL quick lime
RDL representative detection level
RFA Regulatory Flexibility Act
RTR residual risk and technology review
SR straight rotary kiln
SSM startup, shutdown, and malfunction
TEF toxicity equivalence factors
THC total hydrocarbons
tpy tons of pollutant per year
UMRA Unfunded Mandates Reform Act
UPL upper predictive limit
VK vertical kiln
VCS voluntary consensus standards

Background information. On January 5, 2023 (88 FR 805), the EPA proposed revisions to the Lime Manufacturing NESHAP to complete the technology review, originally promulgated on July 24, 2020 (85 FR 44960), by finalizing emission standards for 4 unregulated HAP. Based on the information available to EPA in 2023 at the time of the proposal, the EPA certified the rule as not having a significant economic

impact on a substantial number of small entities (No SISNOSE). Following the publication of the NPRM, EPA received additional data and feedback via public comments regarding the Agency’s economic analysis, including information on the impacts to businesses that would be affected by the proposed rule. Our initial review of this updated information indicated that estimates of the control costs developed to support the proposal may have been understated and that there could accordingly be significant economic impacts to small businesses. On February 9, 2024 (89 FR 9088), the EPA published a supplemental proposal to address information received from public commenters and other sources of information, including the small business review panel. The supplemental proposal addressed regulatory flexibilities raised during outreach to the small businesses impacted by proposed revisions to the Lime Manufacturing NESHAP. In this action, we are finalizing decisions and revisions to the rule based on the public comments received regarding both the January 5, 2023, proposed rule and the February 9, 2024, supplemental proposal. We summarize some of the more significant comments we received regarding the proposed and supplemental rule amendments and provide our responses in this preamble. A summary of all other public comments and the EPA’s responses to those comments is available in the document titled “Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Amendments”, included in the docket for this rulemaking (Docket ID No. EPA-HQ-OAR-2017-0015).

Organization of this document. The information in this preamble is organized as follows:

- I. General Information
 - A. Does this action apply to me?
 - B. Where can I get a copy of this document and other related information?
 - C. Judicial Review and Administrative Reconsideration
- II. Background
 - A. What is the statutory authority for this action?
 - B. What is the lime manufacturing source category and how does the NESHAP regulate HAP emissions from the source category?
 - C. What changes did we propose for the lime manufacturing source category in our January 5, 2023, and February 9, 2024, proposals?
 - D. What outreach did we conduct following the January 5, 2023, proposal?

- III. What is the rationale for our final decisions and amendments for the Lime Manufacturing source category?
- A. Hydrogen Chloride Emission Standards
- B. Mercury Emission Standards
- C. Organic HAP Emission Standards
- D. Dioxin/Furan Emission Standards
- E. What other changes have been made to the NESHAP?
- F. Severability of Standards
- G. What are the effective and compliance dates of the standards?
- IV. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted
- A. What are the affected facilities?
- B. What are the air quality impacts?
- C. What are the cost impacts?
- D. What are the economic impacts?
- E. What are the benefits?

- F. What analysis of environmental justice did we conduct?
- G. What analysis of children's environmental health did we conduct?
- V. Statutory and Executive Order Reviews
- A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
- B. Paperwork Reduction Act (PRA)
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act (UMRA)
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
- G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

- H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
- K. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source category and NESHAP	NAICS code ¹
Lime Manufacturing	32741, 33111, 3314, 327125

¹ North American Industry Classification System (NAICS).

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source category listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: <https://www.epa.gov/stationary-sources-air-pollution/lime-manufacturing-plants-national-emission-standards-hazardous>. Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by September 16, 2024. Under CAA section 307(b)(2), the requirements established by this final rule may not be

challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

For major sources, the Clean Air Act (CAA) section 112(d)(2) provides that

the technology-based NESHAP must reflect the maximum degree of emission reductions of HAP achievable after considering cost, energy requirements, and non-air quality health and environmental impacts. These standards are commonly referred to as MACT standards. CAA section 112(d)(3) also establishes a minimum control level for MACT standards, known as the MACT “floor.” The EPA must also consider control options that are more stringent than the floor, commonly referred to as “beyond-the-floor” (BTF) standards. Costs may not be considered when setting the MACT floor and may only be considered when determining whether BTF standards are appropriate. The EPA considered BTF standards but did not elect to set BTF standards in this rulemaking.

On January 5, 2023, the EPA proposed amendments to the Lime Manufacturing NESHAP to address unregulated emissions of HAP from the Lime Manufacturing source category. On February 9, 2024, the EPA supplemented its proposed amendments based on information received from commenters and other sources of information, including the small business review panel. In this document, the EPA proposed revisions to the proposed MACT standards for HCl, mercury, organic HAP, and D/F for the Lime Manufacturing source category pursuant to the Clean Air Act (CAA) sections 112(d)(2) and (3). The EPA is finalizing these amendments to the NESHAP to ensure that all emissions of

HAP from sources in the source category are regulated.

In setting standards for major source categories under CAA section 112(d), the EPA has the obligation to address all HAP listed under CAA section 112(b).¹ In the *Louisiana Environmental Action Network v. EPA* decision issued on April 21, 2020, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) held that the EPA has an obligation to address unregulated emissions from a major source category when the Agency conducts the 8-year technology review required by CAA section 112(d)(6).² These amendments address currently unregulated emissions of HAP from the lime manufacturing source category.

B. What is the Lime Manufacturing source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Lime Manufacturing NESHAP on January 5, 2004 (69 FR 394). The standards are codified at 40 CFR part 63, subpart AAAAA. The lime manufacturing industry consists of facilities that use a lime kiln to produce lime product from limestone by calcination. The source category covered by this MACT standard currently includes 34 facilities.

As promulgated in 2004, the current Lime Manufacturing NESHAP regulates HAP emissions from all new and existing lime manufacturing plants that are major sources, co-located with major sources, or are part of major sources. A lime manufacturing plant is defined as any plant which uses a lime kiln to produce lime product from limestone or other calcareous material by calcination. The NESHAP specifically excludes lime kilns that use only calcium carbonate waste sludge from water softening processes as the feedstock. In addition, lime manufacturing plants located at pulp and paper mills or at beet sugar factories are not subject to the NESHAP. Lime manufacturing operations at pulp and paper mills are subject to the NESHAP for combustion sources at kraft, soda, and sulfite pulp and paper mills.³ Lime manufacturing operations at beet sugar processing plants are not subject to the Lime Manufacturing NESHAP because beet sugar lime kiln

exhaust is typically routed through a series of gas washers to clean the exhaust gas prior to process use. Other lime manufacturing plants that are part of multiple operations, such as (but not limited to) those at steel mills and magnesia production facilities, are subject to the Lime Manufacturing NESHAP.

The current Lime Manufacturing NESHAP defines the affected source as each lime kiln and its associated cooler and each individual processed stone handling (PSH) operations system. The PSH operations system includes all equipment associated with PSH operations beginning at the process stone storage bin(s) or open storage pile(s) and ending where the process stone is fed into the kiln. It includes man-made process stone storage bins (but not open process stone storage piles), conveying system transfer points, bulk loading or unloading systems, screening operations, surge bins, bucket elevators, and belt conveyors.

The current Lime Manufacturing NESHAP established particulate matter (PM) emission limits for lime kilns, coolers, and PSH operations with stacks. The NESHAP also established opacity limits for kilns equipped with electrostatic precipitators (ESP) and fabric filters (FF) and scrubber liquid flow limits for kilns equipped with wet scrubbers. Particulate matter serves as a surrogate for the non-mercury metal HAP. The NESHAP also regulates opacity or visible emissions from most of the PSH operations, with opacity also serving as a surrogate for HAP metals.

The PM emission limit for existing kilns and coolers is 0.12 pounds PM per ton of stone feed (lb/tsf) for kilns using dry air pollution control systems (e.g., dry scrubbers, fabric filters, baghouses) prior to January 5, 2004. Existing kilns that have installed and are operating wet scrubbers prior to January 5, 2004, must meet an emission limit of 0.60 lb/tsf. Kilns which meet the criteria for the 0.60 lb/tsf emission limit must continue to use a wet scrubber for PM emission control in order to be eligible to meet the 0.60 lb/tsf limit. If at any time such a kiln switches to a dry control, it would become subject to the 0.12 lb/tsf emission limit, regardless of the type of control device used in the future. The PM emission limit for all new kilns and lime coolers is 0.10 lb/tsf. As a compliance option, these emission limits (except for the 0.60 lb/tsf limit) may be averaged across kilns and coolers at the lime manufacturing plant. If the lime manufacturing plant has both new and existing kilns and coolers, then the emission limit would be an average of the existing and new kiln PM

emissions limits, weighted by the annual actual production rates of the individual kilns, except that no new kiln may exceed the PM emission level of 0.10 lb/tsf. Existing kilns that have installed and are operating wet scrubbers prior to January 5, 2004, and that are required to meet a 0.60 lb/tsf emission limit must meet that limit individually, and they may not be included in any averaging calculations.

Emissions from PSH operations that are vented through a stack are subject to a limit of 0.05 grams PM per dry standard cubic meter (g/dscm) and 7 percent opacity. Stack emissions from PSH operations that are controlled by wet scrubbers are subject to the 0.05 g PM/dscm limit but are not subject to the opacity limit. Fugitive emissions from PSH operations are subject to a 10 percent opacity limit.

For each building enclosing any PSH operation, each of the affected PSH operations in the building must comply individually with the applicable PM and opacity emission limitations. Otherwise, there must be no visible emissions from the building, except from a vent, and the building's vent emissions must not exceed 0.05 g/dscm and 7 percent opacity. For each fabric filter that controls emissions from only an individual, enclosed processed stone storage bin, the opacity must not exceed 7 percent. For each set of multiple processed stone storage bins with combined stack emissions, emissions must not exceed 0.05 g/dscm and 7 percent opacity. The current Lime Manufacturing NESHAP does not allow averaging of PSH operations.

The 2020 amendments finalized the residual risk and technology review (RTR) conducted for the Lime Manufacturing NESHAP. The July 24, 2020, RTR (85 FR 44960) found that the Lime Manufacturing NESHAP provided an ample margin of safety to protect public health, that more stringent standards were not necessary to prevent an adverse environmental effect, and that there were no developments in practices, processes, or control technologies that would warrant revisions to the standards. In addition, the 2020 RTR addressed periods of startup, shutdown, and malfunction (SSM) by removing any exemptions during SSM operations. Lastly, the 2020 amendments included provisions requiring electronic reporting.

C. What changes did we propose for the lime manufacturing source category in our February 9, 2024, proposal?

On February 9, 2024, the EPA published a supplemental proposal in the **Federal Register** for the Lime

¹ *Desert Citizens against Pollution v. EPA*, 699 F.3d 524, 527 (D.C. Cir. 2012) (“[W]e have read subparagraphs (1) and (3) of 40 CFR 112(d) to require the regulation of all HAPs listed in 40 CFR 112(b)(1)”), citing *Nat'l Lime Ass'n v. EPA*, 233 F.3d 625, 633–34 (D.C. Cir. 2000) and *Sierra Club v. EPA*, 479 F.3d 875, 883 (D.C. Cir. 2007).

² *Louisiana Environmental Action Network v. EPA*, 955 F.3d 1088 (D.C. Cir. 2020).

³ 66 FR 3180, January 12, 2001.

Manufacturing NESHAP, 40 CFR part 63, subpart AAAAA, in which the EPA proposed setting MACT standards for

HCl, mercury, organic HAP, and D/F. Table 2 includes a summary of the

MACT standards in the February 9, 2024, supplemental proposal.

TABLE 2—SUMMARY OF NEW AND EXISTING SOURCE LIMITS FOR THE LIME MANUFACTURING NESHAP INCLUDED IN THE FEBRUARY 9, 2024, SUPPLEMENTAL PROPOSAL

Pollutant	Kiln type ¹	Lime produced ²	New source limit	Existing source limit	Unit of measure
Hydrogen Chloride	SR	QL	0.015	0.52	lb/ton lime produced.
	SR	DL, DB	1.7	2.3	lb/ton lime produced.
	PR	QL	0.096	0.096	lb/ton lime produced.
	PR	DL, DB	0.39	0.39	lb/ton lime produced.
	VK	QL	0.021	0.021	lb/ton lime produced.
	VK	DL, DB	0.39	0.39	lb/ton lime produced.
Mercury	All	All	27	34	lb/MMton lime produced.
Organic HAP ³	All	All	1.7	1.7	ppmvd at 7 percent O ₂ .
Dioxin/Furan	All	All	0.037	0.037	ng/dscm (TEQ) at 7 percent O ₂ .

¹ Straight rotary kiln (SR), preheater rotary kiln (PR), vertical kiln (VK).

² Dolomitic lime (DL), quick lime (QL), dead burned dolomitic lime (DB).

³ Organic HAP include formaldehyde, acetaldehyde, toluene, benzene, xylenes (a mixture of o, m, and p isomers), styrene, ethyl benzene, and naphthalene.

D. What outreach did we conduct following the January 5, 2023, proposal?

The EPA convened a Small Business Advocacy Review (SBAR) Panel to obtain advice and recommendations from small entity representatives (SERs) that could be subject to the Lime Manufacturing NESHAP requirements. On August 3, 2023, the EPA's Small Business Advocacy Chairperson convened the Panel, which consisted of the Chairperson, the Director of the Sector Policies and Programs Division within the EPA's Office of Air Quality Planning and Standards, the Administrator of the Office of Information and Regulatory Affairs within OMB, and the Chief Counsel for Advocacy of the Small Business Administration (SBA).

Prior to convening the Panel, the EPA conducted outreach and solicited comments from the SERs. After the Panel was convened, the Panel provided additional information to the SERs and requested their input. The Panel's review identified several significant alternatives for consideration by the Administrator of the EPA which would accomplish the stated objectives of the CAA and would minimize economic impacts of the proposed rule on small entities.

The SBAR Panel recommended several flexibilities including the consideration of health-based standards for HCl, an intra-quarry variability (IQV) for mercury, an aggregated organic HAP emission standard, retaining subcategorization for HCl numeric emissions limits, and work practice standards for D/F in place of a numeric limit. The EPA is including some of these flexibilities as a part of this final rule, including subcategorization of HCl emission limits, an IQV factor for mercury, and an aggregated organic

HAP emission limit. A copy of the full SBAR Panel Report is available in the docket of this rulemaking (Docket ID No. EPA-HQ-OAR-2017-0015).

III. What is the rationale for our final decisions and amendments for the Lime Manufacturing source category?

The EPA is finalizing MACT standards for HCl, mercury, organic HAP, and D/F within the Lime Manufacturing source category pursuant to the Clean Air Act (CAA) sections 112(d)(2) and (3). Additionally, we are finalizing an emissions averaging compliance alternative that allows lime manufacturing facilities to demonstrate compliance with the HCl and mercury standards by averaging emissions of each pollutant across existing kilns located at the same facility. This section provides a description of what we proposed and what we are finalizing, a summary of key comments and responses, and the EPA's rationale for the final decisions and amendments. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the document *Summary of Public Comments and Responses for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing*, which is available in the docket for this action.

A. Hydrogen Chloride Emission Standards

1. What comments did we receive on the hydrogen chloride emission standards, and what are our responses?

The following key comments were received regarding the HCl emission standards as proposed in the January 5, 2023, proposal, and February 9, 2024, supplemental proposal. The EPA responses to each comment are

included. All comments regarding HCl not discussed in this section, and the EPA's responses can be found in the document *Summary of Public Comments and Responses for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing*, which is available in the docket for this action.

Comment: While the EPA received comments in support of the subcategorization of HCl emission standards by kiln type and lime produced, the EPA also received opposing comments which state that the proposed subcategories by lime produced for HCl are unlawful because they are not based on differences in the class, type, or size of lime kilns. Commenter stated that the CAA section 112(d)(1) allows the EPA only to distinguish between "classes, types, and sizes" of sources in setting emission standards for a category.

Response: The EPA disagrees with the commenter. The EPA determined that subcategorization by lime produced was warranted because the characteristics of DL and QL are different, where DL is made from naturally occurring limestone with a higher percentage of magnesium chloride, and QL has a lower chloride content. Given that HCl emissions from a lime manufacturing process are primarily driven by the heating of raw materials being processed in the lime kiln, the EPA finds that these differences in chloride content of the limestone being fed to a kiln as raw material warrant subcategorization. For these reasons the EPA has decided it is warranted to set subcategorizations by the type of lime produced (e.g., DL, QL).

Comment: In the February 9, 2024, supplemental proposal, the EPA asked for public comment on the use of a health-based emission limit (HBEL), under CAA section 112(d)(4), when

determining the appropriate emission standards for HCl. The EPA received comments on the supplemental proposal both supporting setting an HBEL and against setting an HBEL for HCl. Commenters supporting an HBEL for HCl agreed with the EPA's assertion that HCl is a "threshold pollutant" and stated that current levels of HCl emissions from lime kilns are well below the threshold levels of concern for human receptors. In support, commenters supporting the use of an HBEL cited the 2020 RTR, where the EPA found that the risks of lime manufacturing under the current MACT standards were acceptable and that the current NESHAP provides an ample margin of safety to protect public health. Commenters opposed to the use of an HBEL for HCl stated that the EPA had not provided substantial evidence that HCl is not carcinogenic. Therefore, they stated, HCl cannot be a threshold pollutant, and the EPA cannot establish an HBEL for HCl.

Response: The EPA acknowledges comments received on whether it is appropriate to consider HCl a threshold pollutant as defined under the CAA section 112(d)(4). The EPA is mindful that, in *Sierra Club v. Environmental Protection Agency*, 895 F.3d 1 (D.C. Cir. 2018), the court determined that the rulemaking record did not show that HCl is not a carcinogen. 895 F.3d at 11. Based on the science and methods developed over the last 33 years, we

believe the issue in setting a standard under CAA section 112(d)(4) is not necessarily whether HCl is a carcinogen but rather whether HCl has a threshold with an ample margin of safety. Thus, in the supplemental proposal, we stated that a chemical's mechanism of action (e.g., mutagenic, or non-mutagenic) is an important consideration when determining if a pollutant has a threshold.

The EPA agrees with commenters' assertions⁴ that we cannot claim that mutagenicity is the sole test to determine whether a pollutant has a threshold, for cancer or other adverse health effects.

We acknowledge industry comments in support of an HBEL and that current HCl emissions based upon the 2020 RTR are at levels that were acceptable with an ample margin of safety. However, considering the other comments received, we have decided not to promulgate an HBEL for HCl.

2. What did we propose and what are the final hydrogen chloride emission standards in this final rule?

Emissions data collected in support of the 2020 RTR indicated the presence of HCl, using EPA Methods 320 and 321. Additionally, the EPA evaluated the types of kilns and lime produced for which data was available. From our discussions with industry representatives, and our review of the HCl emissions data, we found that the

configuration of the different types of kilns warranted subcategorization by kiln configuration. In the final rule amendments, we have subcategorized the HCl MACT standards by the following kiln types: straight rotary kiln (SR), preheater rotary kiln (PR), and vertical kiln (VK). In addition, due to the different residence times of the raw materials within the heating zone of the kiln during the production of lime, the 3 types of lime produced also warranted subcategorization by lime type. We have also subcategorized the HCl MACT standards by the following types of lime produced: dolomitic lime (DL), quick lime (QL), and dead burned dolomitic lime (DB).

To account for variability in the lime manufacturing operations and resulting emissions, the stack test data were used to calculate the HCl MACT floor limits based on the 99 percent upper predictive limit (UPL). In some instances, subcategorization resulted in limited datasets, and a single dataset was used to calculate both existing and new source HCl MACT floor limits. In these instances, the existing source HCl MACT floor limit is the same as the new source HCl MACT floor limit. The HCl MACT floor limits were calculated based on units of pounds of pollutant per ton of lime produced (lb/ton lime produced). Table 3 summarizes the new and existing source emission limits for HCl in the final amendments to the Lime Manufacturing NESHAP.

TABLE 3—SUMMARY OF FINAL NEW AND EXISTING SOURCE LIMITS FOR HYDROGEN CHLORIDE

Kiln type ¹	Lime produced ²	New source limit (lb/ton lime produced)	Existing source limit (lb/ton lime produced)
SR	QL	0.015	0.52
SR	DL, DB	1.7	2.3
PR	QL	0.096	0.096
PR	DL, DB	0.39	0.39
VK	QL	0.021	0.021
VK	DL, DB	0.39	0.39

¹ Straight rotary kiln (SR), preheater rotary kiln (PR), vertical kiln (VK).

² Dolomitic lime (DL), quick lime (QL), dead burned dolomitic lime (DB).

B. Mercury Emission Standards

1. What comments did we receive on the mercury emission standards, and what are our responses?

The following key comments were received regarding the mercury emission standards as proposed in the January 5, 2023, proposal, and February 9, 2024, supplemental proposal. The EPA responses to each comment are

included. For all comments regarding mercury not discussed in this section, and the EPA's responses can be found in the document *Summary of Public Comments and Responses for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing*, which is available in the docket for this action.

Comment: Commenters supported the use of an intra-quarry variability factor

(IQV) for mercury but commented that the February 9, 2024, supplemental proposal should be adjusted to allow sources more flexibility in meeting the mercury standards. In a separate comment, a commenter suggested that the EPA should collect additional data to support variability in the quarry data.

Response: The final rule includes an IQV factor based on our statistical analysis of the quarry data provided by

⁴ Refer to document titled "Summary of Public Comments and Responses for National Emission

Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Amendments", section 2,

comment 1, which is available in the docket for this action.

National Lime Association (NLA) for the Carmeuse Maysville and Graymont Eden lime manufacturing facilities. Case law on the use of an IQV factor in a rule requires the EPA to only consider quarry data representing the facilities that are in the MACT floor pool (“best performers”). The MACT floor pool in the lime source category consisted of two facilities: the Carmeuse Maysville and Graymont Eden lime manufacturing facilities. The quarry data from these 2 facilities were used to calculate the IQV factor in the February 9, 2024, supplemental proposal. No other quarry data were provided for the Carmeuse Maysville or Graymont Eden facilities during the public comment period, and, therefore, the quarry data of the Carmeuse Maysville and Graymont Eden facilities used to propose the IQV factor in the February 9, 2024, supplemental proposal was also used to set the IQV factor in this final rule.

2. What did we propose and what are the final mercury emission standards in this final rule?

Emissions data collected in support of the 2020 RTR based on EPA Methods 29 and 30B indicated the presence of mercury in emissions from lime manufacturing facilities. In the February 9, 2024, proposal the EPA evaluated the use of an intra-quarry variability (IQV)

factor to be applied in the mercury UPL calculations to account for the naturally occurring variability in mercury content of the raw materials. Consistent with the approach followed in the Portland Cement Manufacturing NESHAP, 40 CFR part 63, subpart LLL, and the Brick and Structural Clay Products NESHAP, 40 CFR part 63, subpart JJJJJ, the IQV factor accounts for this variability in the mercury content of the raw material over geological time. For the reasons explained in the supplemental proposal, we are using an IQV factor in calculating the final mercury MACT standards.

As part of the evaluation of a mercury standard with the inclusion of an IQV factor, the EPA reevaluated whether a separate subcategory was necessary for kilns producing DB, as proposed in the January 5, 2023, proposed amendments. To do this, we first developed standards based on no subcategorization and the application of an IQV factor. The result of this analysis was 27 lb Hg/MMton for new sources and 34 lb Hg/MMton for existing sources. The EPA determined, based on the available test data, that kilns producing DB would be able to comply with the existing source standard after the application of air pollution controls. This determination differs from the evaluation the EPA performed when setting subcategories

for HCl, where the chloride content of the raw materials indicated significant differences in the HCl emissions from the lime kilns. For consideration of mercury subcategories, after the application of an IQV factor, the new and existing mercury emission limits for kilns producing DL and QL were found to be similar to the emission limits for kilns producing DB lime, and therefore no subcategorization was determined to be needed due to these negligible differences in emissions between the types of lime produced. No additional data were provided during the supplemental proposal that would suggest or warrant setting subcategories for mercury. Therefore, we determined in this final action to not create subcategories based on stone produced in setting mercury emission limits.

To account for variability in the lime manufacturing operations and resulting emissions, the stack test data were used to calculate the mercury MACT floor limits based on the 99 percent UPL. The mercury MACT floor limits were calculated in units of pounds of pollutant per million tons of lime produced (lb/MMton lime produced). The final mercury emission limits for new and existing sources, including the IQV factor and without subcategories, are included in table 4.

TABLE 4—SUMMARY OF FINAL NEW AND EXISTING SOURCE LIMITS FOR MERCURY

Kiln type	Lime produced	New source limit (lb/MMton lime produced)	Existing source limit (lb/MMton lime produced)
All	All	27	34

C. Organic HAP Emission Standards

1. What comments did we receive on the organic HAP emission standards, and what are our responses?

The following key comments were received regarding the THC and organic HAP emission standards as proposed in the January 5, 2023, proposal, and February 9, 2024, supplemental proposal, respectively. The EPA responses to each comment are included. For all comments not discussed in this section, and the EPA's responses, can be found in the document *Summary of Public Comments and Responses for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing*, which is available in the docket for this action.

Comment: Commenters stated that the measured detection levels (MDL) used to calculate the aggregate organic HAP

limit of the February 9, 2024, supplemental proposal should be summed on the same basis of moisture and oxygen. Commenters stated that the detection limit values do not appear to contain a correction for moisture, which can cause a significant difference in the final result. Similarly, as the final results are all to be corrected to a 7 percent oxygen concentration, an average oxygen concentration adjustment should also be made to the MDL values used for the floor calculation. Commenters argue that as this total result may contain some mix of detected and non-detected compounds, the MDL used for this standard setting should include this adjustment criteria.

Response: The EPA agrees with the commenters that the representative detection level (RDL) for the EPA Method 320 results should be adjusted to dry (EPA Method 18 results are

already dry), and that the final organic HAP RDL should be corrected to 7 percent oxygen prior to comparing to the UPL. We have revised the memo and the RDL accordingly as well as correcting the emission limits for the new value.

2. What did we propose and what are the final organic HAP emission standards in this final rule?

The 2020 RTR emissions data included the results of testing 34 kiln exhaust stacks for the presence of total hydrocarbons (THC) using EPA Method 25A. In addition, industry stakeholders provided emissions testing data that identified specific non-dioxin organic HAP. Based on an assessment of the available test data, the EPA identified 8 specific pollutants that were consistently emitted by the Lime Manufacturing source category. These include formaldehyde, acetaldehyde,

toluene, benzene, xylenes (a mixture of o, m, and p isomers), styrene, ethyl benzene, and naphthalene. The EPA determined from the 2020 RTR emissions data that the emissions of these 8 pollutants were consistently being emitted by the source category. Although the data suggested that other organic HAP were being emitted, the data indicated that the 8 pollutants were consistently being emitted by all sources for which we had data. Furthermore, the EPA determined that controlling the emissions of these 8 pollutants from a lime manufacturing facility would also control the facility's emissions of these other organic HAP. For these reasons, the EPA is finalizing the use of an

aggregated emission limit for the 8 organic HAP identified in the data analysis as a surrogate for total organic HAP, which by controlling the emissions of these 8 pollutants from a lime manufacturing facility emission source (*i.e.*, lime kiln) a facility will also control the facility's emissions of any other organic HAP from the same source. Refer to the memorandum "Final Maximum Achievable Control Technology (MACT) Floor Analysis for the Lime Manufacturing Plants Industry," which is available in the docket for this action (Docket ID No. EPA-HQ-OAR-2017-0015). For each of the 8 organic HAP, the EPA calculated the emission limit value

equivalent to 3 times the representative detection level (3xRDL) of the test method. The total of these was then compared to UPL calculations for the 8 pollutants. The new and existing UPLs were calculated based on a ranking of the average emission rates for the 8 organic HAP. In all cases for both new and existing sources, the 3xRDL value, which represents the lowest value that can be accurately measured, was above the calculated UPL. We are accordingly finalizing the MACT floor at this level. The new and existing source organic HAP MACT floor limits are summarized in table 5.

TABLE 5—SUMMARY OF FINAL NEW AND EXISTING SOURCE LIMITS FOR ORGANIC HAP

Kiln type	Lime reduced	New source limit ¹ (ppmvd at 7 percent O ₂)	Existing source limit ¹ (ppmvd at 7 percent O ₂)
All	All	2.6	2.6

¹ New and existing source organic HAP emission limit defined as the sum of 8 organic HAP identified as: formaldehyde, acetaldehyde, toluene, benzene, xylenes (a mixture of o, m, and p isomers), styrene, ethyl benzene, and naphthalene.

D. Dioxin/Furan Emission Standards

1. What comments did we receive on the dioxin/furan emission standards, and what are our responses?

The following key comments were received regarding the D/F emission standards as proposed in the January 5, 2023, proposal, and February 9, 2024, supplemental proposal. The EPA responses to each comment are included. For all comments regarding D/F not discussed in this section, and the EPA's responses, can be found in the document *Summary of Public Comments and Responses for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing*, which is available in the docket for this action.

Comment: Commenters indicated that in the absence of adequate data to set a numeric standard, the D.C. Circuit has upheld the EPA's promulgation of a non-numeric work practice standard. *Chesapeake Climate Action Network v. EPA*, 952 F.3d 310, 315 (D.C. Cir. 2020). Commenters stated that the EPA repeatedly and consistently informed them that the Agency was planning to issue a work practice for D/F because the D/F data showed that more than 55 percent of test results were non-detect. Commenters stated that they had multiple conversations with the EPA on the form a work practice could take, and that they submitted a suggested work practice (Docket ID No. EPA-HQ-OAR-2017-0015-0090). Commenters

reiterated that due to extremely low D/F emissions, an appropriate work practice would require sources to properly operate the air pollution control devices already in place to control particulate matter.

Response: As described in the memorandum "Final Maximum Achievable Control Technology (MACT) Floor Analysis for the Lime Manufacturing Plants Industry," which is available in the docket for this action (Docket ID No. EPA-HQ-OAR-2017-0015), half of the available test data was greater than the minimum detection limit, as determined according to the June 5, 2014, memorandum titled "Determination of 'non-detect' from EPA Method 29 (multi-metals) and EPA Method 23 (dioxin/furan) test data when evaluating the setting of MACT floors versus establishing work practice standards" (Docket ID No. EPA-HQ-OAR-2017-0015-0117) (Johnson 2014). Further, the EPA had in its possession data showing that at least one kiln emitted D/F at a level above 3xRDL. These facts demonstrates that the requirements to promulgate work practice standard (*i.e.*, that it is infeasible to measure emissions) has not been met. In accordance with CAA section 112(h), a work practice must be consistent with the requirements of setting emission standards detailed in section 112(d) of the CAA, (*i.e.*, it represents the average emissions performance for 12 percent of the best performing sources for existing sources,

or the best performing source for new sources). No data was provided by the commenter's referenced material of a work practice which showed it represented the performance of the best performing sources; therefore, the EPA cannot determine if a work practice would be consistent with the requirements of section 112(d). As a general matter, lime production and kiln operations are not typical combustion sources where the majority of emissions are generated by the raw materials being heated in the kiln and for these reasons, the EPA did not set an alternative work practice standard in the final rule.

2. What did we propose and what are the final dioxin/furan emission standards in this final rule?

The 2020 RTR emissions data indicated the presence of D/F using EPA Method 23. The EPA followed the guidance of the Johnson 2014 memorandum (Docket ID No. EPA-HQ-OAR-2017-0015-0117), in using detection limits as an indicator of the measurable presence of a given pollutant, specifically where multi-component samples, such as with D/F congeners, are the pollutants of concern. Additionally, the EPA used the procedures laid out in the December 13, 2011, memorandum titled "Data and procedure for handling below detection level data in analyzing various pollutant emissions databases for MACT and RTR emissions limits" (Docket ID No. EPA-HQ-OAR-2017-0015-0119). Similar to

organic HAP, and in accordance with these guidance documents, the new and existing UPL for D/F were compared to the emission limit value determined to

be equivalent to 3xRDL of the test method, and the 3xRDL value was found to be greater than the UPL. Therefore, the MACT floor limit for D/

F was set based on the 3xRDL value of the test method. The D/F MACT floor limits for new and existing sources are summarized in table 6.

TABLE 6—SUMMARY OF FINAL NEW AND EXISTING SOURCE LIMITS FOR DIOXIN/FURANS

Kiln type	Lime produced	New source limit	Unit of measure	Existing source limit	Unit of measure
All	All	0.037	ng/dscm (TEQ) @7 percent O ₂ .	0.037	ng/dscm (TEQ) @7 percent O ₂ .

E. What other changes have been made to the NESHAP?

1. What comments did we receive on the January 5, 2023, proposed rule and February 9, 2024, supplemental proposal, and what are our responses?

The following key comments were received regarding other changes proposed in the January 5, 2023, proposal, and February 9, 2024, supplemental proposal. The EPA responses to each comment are included. For all comments not discussed in this section, and the EPA's responses, see the document *Summary of Public Comments and Responses for Proposed Amendments to the National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing*, which is available in the docket for this action.

Comment: Commenters state that the EPA should allow for emissions averaging for organic HAP and for D/F. The commenters also suggest emissions averaging between subcategories, and between new and existing sources. Lastly, commenters stated that the requirement to submit an emission averaging plan for approval is unnecessary and unduly burdensome.

Response: The EPA disagrees with the commenters that the suggested revisions

to the proposed emissions averaging compliance option would be appropriate. The EPA has generally imposed limits on the scope and nature of emissions averaging programs to assure that such programs achieve at least equivalent reductions in emissions as the primary standards. These limits include: (1) no averaging between different pollutants; (2) no averaging between sources that are not part of the same affected facility; (3) no averaging between individual sources within a single major source if the individual sources are not subject to the same NESHAP; and (4) no averaging between existing sources and new sources. The emissions averaging allowed under the emissions averaging compliance option in this final action fully satisfies each of these criteria. The EPA has included emissions averaging provisions for single kilns producing multiple types of lime as product.

The EPA disagrees with the commenter that the emissions averaging should include organic HAP and D/F. The organic HAP and D/F emission limits include multiple pollutants and congeners, and facilities will emit various combinations of these groups of pollutants. We find that emissions averaging is not appropriate for these groupings of pollutants in this source

category. Consistent with emissions averaging programs in other source categories, the EPA is finalizing the emissions averaging compliance option as proposed, with restrictions against averaging between new and existing sources, or between subcategories. Although the requirement to submit an emissions averaging plan for approval is being finalized as proposed, the EPA has adjusted the deadline for submitting the emissions averaging plan from 180 days to 60 days before the compliance demonstration making the emissions averaging plan less burdensome.

2. What changes are included in this final rule?

We are finalizing an emissions averaging compliance alternative that allows lime manufacturing facilities to demonstrate compliance with the HCL and mercury standards by averaging emissions of each pollutant across existing kilns located at the same facility. Under these emissions averaging compliance alternative, a facility with more than one existing kiln may average emissions across the kilns located at the facility provided that the overall average emissions from the kilns demonstrating compliance under this provision do not exceed the limits included in table 7.

TABLE 7—EMISSIONS AVERAGING COMPLIANCE ALTERNATIVE FOR HCL AND MERCURY

Pollutant	Kiln type ¹	Lime produced ²	Emissions averaging alternative limit	Unit of measure
Hydrogen Chloride	SR	DL, DB	2.1	lb/ton lime produced.
	SR	QL	0.47	lb/ton lime produced.
	PR	DL, DB	0.36	lb/ton lime produced.
	PR	QL	0.087	lb/ton lime produced.
	VK	DL, DB	0.36	lb/ton lime produced.
	VK	QL	0.019	lb/ton lime produced.
Mercury	All	All	31	lb/MMton lime produced.

¹ Straight rotary kiln (SR), preheater rotary kiln (PR), vertical kiln (VK).

² Dolomitic lime (DL), quick lime (QL), dead burned dolomitic lime (DB).

The emission limits included in table 7 reflect a 10 percent adjustment factor to the MACT floor standard. We expect that these emission limits would result

in reductions of HCL and mercury greater than those achieved by application of the MACT floor on a unit-by-unit basis.

The emissions averaging program has restrictions. First, emissions averaging is not allowed between different pollutants. Second, emissions averaging

is only permissible among individual existing affected units at a single lime manufacturing plant. Third, emissions averaging is only permitted among kilns in the same subcategory. Lastly, new affected sources cannot use emissions averaging for compliance purposes.

We are finalizing a requirement for each facility intending to use this emissions averaging program to develop an emissions averaging plan that identifies: (1) all units in the averaging group; (2) the control technology installed; (3) the process parameter(s) that will be monitored; (4) the specific control technology or pollution prevention measure to be used; (5) the test plan for measuring the HAP being averaged; and (6) the operating parameters to be monitored for each control device.

F. Severability of Standards

This final rule includes MACT standards promulgated under CAA section 112(d)(2)–(3). We intend each separate portion of this rule to operate independently of and to be severable from the rest of the rule. Each set of standards rests on stand-alone scientific determinations that do not rely on judgments made in other portions of the rule. The EPA also finds that the implementation of each set of CAA 112(d)(2)–(3) MACT standards, including monitoring, record keeping, and reporting requirements, is independent. Thus, each aspect of the EPA's overall approach to this source category could be implemented even in the absence of any one or more of the other elements included in this final rule. Accordingly, the EPA finds that each set of standards in this final rule is severable from and can operate independently of each other set of standards.

G. What are the effective and compliance dates of the standards?

The revisions to the MACT standards being promulgated in this action are effective on July 16, 2024. The compliance date for existing sources is July 16, 2027. New sources must comply with all of the standards immediately upon the effective date of the standard, July 16, 2024, or upon startup, whichever is later.

IV. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

The following analyses of costs and benefits, and environmental, economic, and environmental justice impacts are presented for the purpose of providing the public with an understanding of the potential consequences of this final

action. The EPA's obligation to conduct an analysis of the potential costs and benefits under Executive Order 12866 is distinct from its obligation in setting standards under CAA section 112 to take costs into account.

A. What are the affected facilities?

Currently, 34 major sources subject to the Lime Manufacturing NESHAP are operating in the United States. An affected source under the NESHAP is a lime manufacturing plant that is a major source, or that is located at, or is a part of, a major source of HAP emissions, unless the lime manufacturing plant is located at a kraft pulp mill, soda pulp mill, sulfite pulp mill, beet sugar manufacturing plant, or only processes sludge containing calcium carbonate from water softening processes. A lime manufacturing plant is an establishment engaged in the manufacture of lime products (calcium oxide, calcium oxide with magnesium oxide, or dead burned dolomite) by calcination of limestone, dolomite, shells, or other calcareous substances. A major source of HAP is a plant site that emits or has the potential to emit any single HAP at a rate of 10 tons or more, or any combination of HAP at a rate of 25 or more per year from all emission sources at the plant site.

The Lime Manufacturing NESHAP applies to each existing or new lime kiln and their associated cooler(s). In addition, the NESHAP applies to each PSH operation located at the plant. This includes storage bins, conveying systems and transfer points, bulk loading and unloading operations, screening operations, surge bins, and bucket elevators.

B. What are the air quality impacts?

This action finalizes standards for HCl, mercury, organic HAP, and D/F that will limit emissions and require, in some cases, the installation of additional controls at lime manufacturing plants at major sources. Compliance with the emission standards set in this final rule will result in a combined reduction of total HAP of 893 tons of HAP per year. Specifically, the emission standards of this action will reduce HCl emissions by 884 tons per year (tpy). The emission standards of this action will reduce mercury emissions by 457 lbs per year (0.23 tpy). The emission standards of this action will reduce organic HAP emissions by 8 tpy. Finally, the emission standards of this action will reduce D/F emissions by $9.5 \times 10 - 5$ lbs per year ($4.7 \times 10 - 8$ tpy).

Indirect or secondary air emissions impacts are impacts that would result

from the increased electricity usage associated with the operation of control devices (e.g., increased secondary emissions of criteria pollutants from power plants). These secondary impacts typically include the energy needed to power the control devices, solid waste and wastewater generated from operation of the control devices, and air emissions that result from the generation of electricity used to operate the control devices. Secondary emissions typically include carbon monoxide (CO), nitrogen dioxide (NO₂), particulate matter (PM), particulate matter less than 2.5 microns (PM_{2.5}), sulfur dioxide (SO₂), carbon dioxide (CO₂), methane (CH₄), and nitrous oxide (N₂O). However, the extent of the increase in these pollutants is highly dependent on the type of fuel used in the EGUs. The EPA does not have any information that suggests that facilities in the lime manufacturing source category generate their own electricity and did not receive any new information about the source of electricity for these facilities from the request for comments in the supplemental proposal. Refer to the "Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants," in the docket for a detailed discussion of the analyses performed on potential secondary impacts and estimates of the total energy, solid waste, and wastewater impacts associated with the estimated controls required for compliance with the final standards (Docket ID No. EPA-HQ-OAR-2017-0015).

C. What are the cost impacts?

This action finalizes emission limits for new and existing sources in the Lime Manufacturing source category. Although the action contains requirements for new sources and we requested comment on new construction or plans for expanding facilities/operations; we are not aware of any new sources being constructed now or planned in the next 3 years, and, consequently, we did not estimate any cost impacts for new sources. We lack the data and modeling necessary to predict changes in the demand for lime manufacturing facilities due to other rulemakings or funded construction projects from the Inflation Reduction Act or Infrastructure Investment and Jobs Act. We estimate the total capital investment for existing sources in the Lime Manufacturing source category to be \$485,000,000 and the total annualized cost of the final rule to be \$166,000,000 per year. The annual costs

are expected to be based on operation and maintenance of the added control systems. A memorandum titled “Final Cost Impacts for the Lime Manufacturing Plants Industry” includes details of our cost assessment and is included in the docket for this rulemaking (Docket ID No. EPA-HQ-OAR-2017-0015).

D. What are the economic impacts?

For this action, the EPA estimated the cost of installing additional air pollution control devices in order to comply with the February 9, 2024, proposed emission limits. This includes both the capital costs of the initial installation and subsequent operation and maintenance costs. The EPA lacks the information necessary to independently assess the downtime loss of production due to capital improvements or deferred maintenance that would be associated with these controls for each affected facility. The assumed equipment life of the recommended controls for this NESHAP is twenty years. This default equipment life is based on information in the EPA Air Pollution Control Cost Manual. To assess the potential economic impacts, the expected annual cost was compared to the total sales revenue for the ultimate owners of affected facilities. For this rule, the expected annual cost is \$4,900,0000 (on average) for each facility, with an estimated nationwide annual cost of \$166,000,000 per year in perpetuity. The 34 affected facilities are owned by 11 parent companies, and the total costs associated with the final amendments to the rule are expected to be greater than 1 percent of annual sales revenue per ultimate owner.

Because the total costs associated with the proposed amendments are expected to be greater than 1 percent of annual sales revenue per owner in the Lime Manufacturing source category, there are economic impacts from these proposed amendments on the 3 affected facilities that are owned by 2 small entities. Refer to section IV.C. of this preamble for a detailed description of the small business outreach and regulatory flexibility analysis performed in conjunction with this rule.

The EPA predicts that the affected sources in the Lime Manufacturing source category will be able to pass on some of their compliance costs to their customers. International trade of lime products is limited and there are no readily available cost-competitive substitutes for lime.

The economic analysis indicates that, under the final amendments on an annual basis, domestic lime production is estimated to decline by 212,000

metric tons (1.4 percent), imports are estimated to increase by 37,000 metric tons (11.5 percent), and exports are estimated to decline by 22,000 metric tons (6.6 percent), resulting in an estimated net decline in the quantity of lime distributed to the domestic market by about 164,000 metric tons (1.0 percent). While the compliance costs are expected to have effects on the lime market, the impact estimates suggest that affected sources are not likely to face severe competition from foreign lime producers or from substitutes for their product. The magnitude of the impact estimates do not suggest that the compliance costs are likely to induce any changes to the market structure for lime through changes such as diversification or consolidation.

Information on our cost impact estimates on the sources in the Lime Manufacturing source category is available in the document titled “Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants,” which is included in the docket for this rulemaking (Docket ID No. EPA-HQ-OAR-2017-0015).

E. What are the benefits?

The EPA did not monetize the benefits from the estimated emission reductions of HAP associated with this final action. The EPA currently does not have sufficient methods to monetize benefits associated with HAP reductions, and risk reductions for this rulemaking. However, we estimate that the final rule amendments would reduce emissions by 893 tons per year and thus lower risk of serious adverse health effects (such as cancer and neurodevelopmental toxicity) in communities near lime manufacturing plants. These unquantified benefits would be particularly impactful to pregnant women, infants and children in these communities, since these life stages are especially susceptible to exposures to chemicals such as carcinogens and neurodevelopmental toxicants. It is reasonable to expect that the emissions reductions from this rule would reduce the incidence of adverse effects among the exposed populations. Monetization of the benefits of reductions in cancer incidences requires several important inputs, including central estimates of cancer risks, estimates of exposure to carcinogenic HAP, and estimates of the value of an avoided case of cancer (fatal and non-fatal). We expect these emissions reductions to have beneficial effects on air quality and public health for populations exposed to emissions from

lime manufacturing facilities. Due to methodology and data limitations, we did not attempt to monetize the health benefits of reductions in HAP in this analysis. We have determined that quantification of those benefits cannot be accomplished for this final rule. Instead, we are providing a qualitative discussion of the health effects associated with reductions in HAP emitted from sources subject to control under the final action.

Information on our qualitative discussion of the health effects associated with HAP emitted from sources in the Lime Manufacturing source category is available in the document titled “Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants,” which is included in the docket for this rulemaking (Docket ID No. EPA-HQ-OAR-2017-0015).

F. What analysis of environmental justice did we conduct?

For purposes of analyzing regulatory impacts, the EPA relies upon its June 2016 “Technical Guidance for Assessing Environmental Justice in Regulatory Analysis,” which provides recommendations that encourage analysts to conduct the highest quality analysis feasible, recognizing that data limitations, time, resource constraints, and analytical challenges will vary by media and circumstance. The technical guidance states that a regulatory action may involve potential EJ concerns if it could: (1) Create new disproportionate impacts on communities with EJ concerns; (2) exacerbate existing disproportionate impacts on communities with EJ concerns; or (3) present opportunities to address existing disproportionate impacts on communities with EJ concerns through this action under development.

The EPA’s EJ technical guidance states that “[t]he analysis of potential EJ concerns for regulatory actions should address 3 questions: (A) Are there potential EJ concerns associated with environmental stressors affected by the regulatory action for population groups of concern in the baseline? (B) Are there potential EJ concerns associated with environmental stressors affected by the regulatory action for population groups of concern for the regulatory option(s) under consideration? (C) For the regulatory option(s) under consideration, are potential EJ concerns

created or mitigated compared to the baseline?”⁵

The environmental justice analysis is presented for the purpose of providing the public with as full as possible an understanding of the potential impacts of this final action. The EPA notes that analysis of such impacts is distinct from the determinations finalized in this action under CAA section 112, which are based solely on the statutory factors the EPA is required to consider under those sections.

To examine the potential for any EJ issues that might be associated with lime manufacturing facilities, we performed a proximity demographic analysis, which is an assessment of individual demographic groups of the populations living within 5 km (~3.1

miles) and 50 km (~31 miles) of the facilities. The EPA then compared the data from this analysis to the national average for each of the demographic groups. In this preamble, we focus on the proximity results for the populations living within 5 km (~3.1 miles) of the facilities. The results of this proximity analysis for populations living within 50 km are included in the technical document titled *Analysis of Demographic Factors for Populations Living Near Lime Manufacturing Facilities*, which is available in the docket for this action.

The results (see table 8) show that for populations within 5 km of the 34 lime manufacturing facilities, the following demographic groups were above the national average: Hispanic/Latino (37

percent versus 19 percent nationally), linguistically isolated households (21 percent versus 5 percent nationally), people living below the poverty level (27 percent versus 13 percent nationally), and people without a high school diploma (17 percent versus 12 percent nationally). A summary of the proximity demographic assessment performed for the major source lime manufacturing facilities is included as table 8. The methodology and the results of the demographic analysis are presented in the report *Analysis of Demographic Factors for Populations Living Near Lime Manufacturing Facilities*, available in this docket for this action (Docket ID No. EPA-HQ-OAR-2017-0015).

TABLE 8—PROXIMITY DEMOGRAPHIC ASSESSMENT RESULTS FOR MAJOR SOURCE LIME MANUFACTURING FACILITIES

Demographic group	Nationwide	Population within 5 km of facilities
Total Population	328,016,242	473,343
Race and Ethnicity by Percent		
White	60 percent	50 percent.
Black	12 percent	9 percent.
American Indian and Alaska Native	0.7 percent	0.9 percent.
Hispanic or Latino (includes white and nonwhite)	19 percent	37 percent.
Other and Multiracial	8 percent	3 percent.
Income by Percent		
Below Poverty Level	13 percent	27 percent.
Above Poverty Level	87 percent	73 percent.
Education by Percent		
Over 25 and without a High School Diploma	12 percent	17 percent.
Over 25 and with a High School Diploma	88 percent	83 percent.
Linguistically Isolated by Percent		
Linguistically Isolated	5 percent	21 percent.

Notes:

- Nationwide population and demographic percentages are based on the Census' 2015–2019 American Community Survey 5-year block group averages and include Puerto Rico. Demographic percentages based on different averages may differ. The total population counts within 5 km of all facilities are based on the 2010 Decennial Census block populations.
- Minority population is the total population minus the white population.
- To avoid double counting, the “Hispanic or Latino” category is treated as a distinct demographic category for these analyses. A person is identified as one of five racial/ethnic categories above: White, Black, Native American, Other and Multiracial, or Hispanic/Latino. A person who identifies as Hispanic or Latino is counted as Hispanic/Latino for this analysis, regardless of what race this person may have also identified as in the Census.

The human health risk estimated for this source category for the July 24, 2020, RTR (85 FR 44960) was determined to be acceptable, and the standards were determined to provide an ample margin of safety to protect public health. Specifically, the maximum individual cancer risk was 1-in-1 million for actual emissions (2-in-

1 million for allowable emissions) and the noncancer hazard indices for chronic exposure were well below 1 (0.04 for actual emissions, 0.05 for allowable emissions). The noncancer hazard quotient for acute exposure was 0.6, also below 1. The final revisions to the NESHAP subpart AAAAA will reduce emissions by 893 tons of HAP

per year, and therefore, further improve human health exposures for the populations and individuals most exposed to this pollution, including communities with environmental justice concerns. The proposed changes will have beneficial effects on air quality and public health for populations exposed to

⁵ “Technical Guidance for Assessing Environmental Justice in Regulatory Analysis,” U.S. EPA, June 2016. Quote is from Section 3—Key

Analytic Considerations, page 11. <https://www.epa.gov/environmentaljustice/technical->

[guidance-assessing-environmental-justice-regulatory-analysis](https://www.epa.gov/environmentaljustice/technical-guidance-assessing-environmental-justice-regulatory-analysis).

emissions from lime manufacturing facilities.

G. What analysis of children's environmental health did we conduct?

In the July 24, 2020, final Lime Manufacturing NESHAP RTR (85 FR 44960), the EPA conducted a residual risk assessment and determined that risk from the Lime Manufacturing source category was acceptable, and the standards provided an ample margin of safety to protect public health. This action finalizes first-time emissions standards for HCl, mercury, organic HAP, and D/F. Specifically, compliance with the emission standards set in this final rule will result in a combined reduction of total HAP of 893 tons of HAP per year.

This action's health and risk assessments are protective of the most vulnerable populations, including children, due to how we determine exposure and through the health benchmarks that we use. Specifically, the risk assessments we perform assume a lifetime of exposure, in which populations are conservatively presumed to be exposed to airborne concentrations at their residence continuously, 24 hours per day for a 70-year lifetime, including childhood. With regards to children's potentially greater susceptibility to noncancer toxicants, the assessments rely on the EPA's (or comparable) hazard identification and dose-response values that have been developed to be protective for all subgroups of the general population, including children. For example, mercury exposure is of particular importance to children, infants, and the developing fetus given the developmental neurotoxicity of mercury. In addition, children may be more vulnerable to corrosive agents, such as HCl, than adults because of the relatively smaller diameter of their airways. Children may also be more vulnerable to gas exposure because of increased minute ventilation per kg and failure to evacuate an area promptly when exposed. For more information on the risk assessment methods, see the risk report for the 2020 RTR rule, which is available in the docket (Docket ID No. EPA-HQ-OAR-2017-0015).

V. Statutory and Executive Order Reviews

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

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

This final action is significant under E.O. 12866 Section 3(f)(1) as amended by E.O. 14094. Accordingly, the EPA has prepared a Regulatory Impact Analysis (RIA). Documentation of any changes made in response to the Executive Order 12866 review is available in the docket. The EPA prepared an economic analysis of the potential impacts associated with this action. This analysis is included in the document titled "Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants" and is also available in the docket (Docket ID No. EPA-HQ-OAR-2017-0015).

B. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2072.11. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The final rule ICR describes changes to the reporting and recordkeeping requirements for the Lime Manufacturing Plants NESHAP associated with the incorporation of reporting and recordkeeping requirements associated with the new and existing source MACT standards for HCl, mercury, organic HAP, and D/F.

Respondents/affected entities:

Owners or operators of lime manufacturing plants that are major sources, or that are located at, or are part of, major sources of HAP emissions, unless the lime manufacturing plant is located at a kraft pulp mill, soda pulp mill, sulfite pulp mill, sugar beet manufacturing plant, or only processes sludge containing calcium carbonate from water softening processes.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart AAAAA).

Estimated number of respondents: 34.
Frequency of response: The frequency of responses varies depending on the burden item.

Total estimated burden: 8,392 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$1,190,000 (per year), includes \$335,000 annualized

capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

Pursuant to sections 603 and 609(b) of the RFA, the EPA prepared an initial regulatory flexibility analysis (IRFA) for the February 9, 2024, supplemental proposal and convened a Small Business Advocacy Review (SBAR) Panel to obtain advice and recommendations from small entity representatives that potentially would be subject to the rule's requirements. Summaries of the IRFA and Panel recommendations are presented in the February 9, 2024, supplemental proposal (89 FR 9088).

As required by section 604 of the RFA, the EPA prepared a final regulatory flexibility analysis (FRFA) for this action. The FRFA addresses the issues raised by public comments on the IRFA for the proposed rule. The complete FRFA is available for review in the memorandum "Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants," which is included in the docket for this rulemaking (Docket ID No. EPA-HQ-OAR-2017-0015) and is summarized here.

1. Statement of Need and Rule Objectives

This industry is regulated by the EPA because pollutants emitted from lime manufacturing facilities are considered to cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health. This action establishes standards for currently unregulated pollutants: hydrogen chloride, mercury, organic HAP, and dioxin/furans. The decision in *Louisiana Environmental Action Network v. EPA*, 955 F.3d 1088 (D.C. Cir. 2020) concluded that the EPA is required to address regulatory gaps (*i.e.*, "gap-filling") when conducting NESHAP reviews.

2. Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis (IRFA) and EPA Response

While the EPA did not receive any comments specifically in response to the IRFA, we did receive comments from the Office of Advocacy within the Small Business Administration (SBA), and a summary of the major comments and our responses is provided in the next section. The issues raised by SBA were also reflected in comments from small businesses and organizations with small business interests.

3. SBA Office of Advocacy Comments and EPA Response

The SBA's Office of Advocacy (hereafter referred to as "Advocacy") provided substantive comments on the January 5, 2023, Proposal and the February 9, 2024, supplemental proposal. Advocacy stated that while the amendments contain many positive recommendations from the 2023 SBAR panel conducted on EPA's proposed changes to the NESHAP for lime manufacturing plants, they recommend additional refinements.

In response to Advocacy's comments, the EPA recognizes the impacts the emission standards will have on the industry and specifically to small businesses. The EPA has incorporated regulatory flexibilities into the final rule where warranted to address the impacts on small businesses in the source category. These flexibilities include subcategorization of HCl emission limits, an IQV factor for mercury, and an aggregated organic HAP emission limit. The EPA has worked with the lime manufacturing industry, and with the small businesses within the source category, to ensure the emission standards being finalized are accurate and representative of lime manufacturing operations. We disagree with Advocacy about setting health-based standards for HCl for reasons discussed in section III.A of this preamble. Additionally, we disagree with Advocacy that the EPA does not have enough information to set D/F emission standards, as discussed in section III.D of this preamble.

More detailed responses to Advocacy's comments can be found in the document *Summary of Public Comments and Responses for National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants Amendments*, available in the docket for this rulemaking.

4. Estimate of the Number of Small Entities to Which the Final Rule Applies

For purposes of assessing the impacts of this rule on small entities, a small entity is defined as a small business in the lime manufacturing industry whose parent company has revenues or numbers of employees below the SBA Size Standards for the relevant NAICS code. A complete list of those NAICS codes and SBA Size Standards is available in section 6 of the document titled "Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants," available in the docket for this rulemaking. The EPA estimates there are 34 affected facilities owned by 11 different parent companies. Two of the ultimate parent companies owning affected facilities are small entities. These small entities operate three facilities with a total of five kilns. They represent less than 5 percent of the total production capacity of the source category.

5. Projected Reporting, Recordkeeping and Other Compliance Requirements of the Final Rule

Under the rule requirements, small entities will be required to comply with the four emission standards in the final rule, which may require the use of one or more control devices new to the small entity. Small entities will also need to demonstrate compliance with the emission standards through the use of periodic performance testing and parametric monitoring. See section 6 of the document titled "Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants," available in the docket for this rulemaking, for more information on the characterization of the impacts under the rule.

6. Steps Taken To Minimize Economic Impact to Small Entities

a. Small Business Advocacy Review Panel

As required by section 609(b) of the RFA, the EPA convened a Small Business Advocacy Review (SBAR) Panel to obtain advice and recommendations from small entity representatives (SERs) that potentially would be subject to the rule's requirements. On July 21, 2023, the EPA's Small Business Advocacy Chairperson convened the Panel. In light of the SERs' feedback and comments, the Panel considered the regulatory flexibility issues and elements of an IRFA specified by RFA/

Small Business Regulatory Enforcement and Fairness Act and developed the findings and discussion summarized in the SBAR Panel Report. The report was finalized on November 6, 2023, and transmitted to the EPA Administrator for consideration. A copy of the full SBAR Panel Report is available in the rulemaking docket.

b. Alternatives Considered

The SBAR Panel recommended several flexibilities including the consideration of health-based standards for HCl, an IQV for mercury, an aggregated organic HAP emission standard, retaining subcategorization for HCl numeric emissions limits, and work practice standards for D/F in a place of a numeric limit. The EPA included some of these flexibilities as a part of this final rule.

As discussed in section III.A of this preamble, the EPA is not considering a health-based standard for HCl. The final rule does include an IQV factor for mercury and an aggregate organic HAP emission limit, as discussed in sections III.B and III.C of this preamble. However, as discussed in section III.D of this preamble, the EPA did not receive data supporting a work practice standard for D/F, and, therefore, the EPA is not finalizing a work practice standard for D/F in this action.

In addition, the EPA is preparing a Small Entity Compliance Guide to help small entities comply with this rule. The Small Entity Compliance Guide will be available on the same date as the date of publication of the final rule or as soon as possible after that date and will be available on the rule web page at: <https://www.epa.gov/stationary-sources-air-pollution/lime-manufacturing-plants-national-emission-standards-hazardous>.

D. Unfunded Mandates Reform Act (UMRA)

This action contains a Federal mandate that may result in expenditures of \$183 million in 2023\$ (\$100 million in 1995\$ adjusted for inflation using the gross domestic product (GDP) implicit price deflator) or more as described in UMRA, 2 U.S.C. 1531–1538, for the private sector in any one year. Accordingly, the EPA has prepared a written statement required under section 202 of UMRA. The statement is included in the document titled "Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants," included in the docket for this rulemaking (Docket ID No. EPA–HQ–

OAR–2017–0015), and briefly summarized here.

The EPA has concluded that this final rule may require expenditures of \$100 million or more in any one year by the private sector. Such expenditures may include capital costs of purchasing and installing control technologies to meet the amended standards under the final rule. See section 6 of the document titled “Regulatory Impact Analysis for the Final Amendments to the National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Plants,” *available in the docket for this rulemaking*, for more information on the characterization of the economic impacts, including capital cost inputs, under the rule.

E. Executive Order 13132: Federalism

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

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

This action does not have Tribal implications as specified in Executive Order 13175. The EPA does not know of any lime manufacturing facilities owned or operated by Indian Tribal governments. Thus, Executive Order 13175 does not apply to this action.

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

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is subject to Executive Order 13045 because it is a significant regulatory action under section 3(f)(1) of Executive Order 12866, and the EPA believes that the environmental health or safety risk addressed by this action may have a disproportionate effect on children. For example, mercury exposure is of particular importance to children, infants, and the developing fetus given the developmental neurotoxicity of mercury. In addition, children may be more vulnerable to corrosive agents, such as HCl, than adults because of the relatively smaller diameter of their airways. Children may also be more vulnerable to gas exposure because of

increased minute ventilation per kg and failure to evacuate an area promptly when exposed. Accordingly, we have evaluated the environmental health or safety effects of the air emissions from lime manufacturing on children.

The results of this evaluation are contained in the docket of this rulemaking (Docket ID No. EPA–HQ–OAR–2017–0015).

This action is preferred over other regulatory options analyzed because this action finalizes emission standards for 4 previously unregulated pollutants; therefore, the rule includes health benefits to children by reducing the level of HAP emissions emitted from the lime manufacturing process.

Furthermore, EPA’s *Policy on Children’s Health* also applies to this action. Information on how the Policy was applied is available under “What analysis of children’s environmental health did we conduct?” in this preamble.

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

This action is not a “significant energy action” because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. In this final action, the EPA is setting emission standards for 4 previously unregulated pollutants. This does not impact energy supply, distribution, or use.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. Therefore, the EPA conducted searches for the Lime Manufacturing NESHAP through the Enhanced National Standards Systems Network (NSSN) Database managed by the American National Standards Institute (ANSI). We also conducted a review of voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for EPA Methods 23, 25A, 29, 30B, 320, and 321. During the EPA’s VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA’s referenced method, the EPA ordered a copy of the standard and reviewed it as a potential equivalent method. We reviewed all potential standards to determine the practicality of the VCS for this rule. This review requires significant method validation data that meet the requirements of EPA Method 301 for accepting alternative

methods or scientific, engineering, and policy equivalence to procedures in the EPA referenced methods. The EPA may reconsider determinations of impracticality when additional information is available for any particular VCS.

Two VCS were identified as acceptable alternatives to the EPA test methods for this final rule. The VCS ASTM D6784–16, “Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),” is an acceptable alternative to EPA Method 29 (portion for mercury only) as a method for measuring mercury. The VCS ASTM D6348–12e1, “Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy,” is an acceptable alternative to EPA Method 320 with certain conditions. Detailed information on the VCS search and determination can be found in the memorandum, “Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: Lime Manufacturing Technology Review”, which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2017–0015).

The EPA is incorporating by reference the VCS ASTM D6348–12 (Reapproved 2020), “Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy,” as an acceptable alternative to EPA Method 320 (referenced in NESHAP subparts F and U) with caveats requiring inclusion of selected annexes to the standard as mandatory. This ASTM procedure uses an extractive sampling system that routes stationary source effluent to an FTIR spectrometer for the identification and quantification of gaseous compounds. We note that we proposed VCS ASTM D6348–12e1 as an alternative to EPA Method 320; however, since proposal, a newer version of the method (VCS ASTM D6348–12 (Reapproved 2020)) is now available, and we have determined it to be equivalent to EPA Method 320 with caveats. The VCS ASTM D6348–12 (Reapproved 2020) method is an extractive FTIR Spectroscopy-based field test method and is used to quantify gas phase concentrations of multiple target compounds in emission streams from stationary sources. When using ASTM D6348–12 (Reapproved 2020), the following conditions must be met: (1) Annexes A1 through A8 to ASTM D6348–12 (Reapproved 2020) are mandatory; and (2) in ASTM D6348–12

(Reapproved 2020) Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5). For the test data to be acceptable for a compound, %R must be $70\% \leq R \leq 130\%$. If the %R value does not meet this criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (i.e., the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation:

$$\text{Reported Results} = ((\text{Measured Concentration in Stack}) / (\%R) \times 100.$$

The EPA is incorporating by reference the VCS ASTM D6784–16), “Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method),” as an acceptable alternative to EPA Method 29 (portion for mercury only) as a method for measuring elemental, oxidized, particle-bound, and total mercury concentrations ranging from approximately 0.5 to 100 micrograms per normal cubic meter. This test method describes equipment and procedures for obtaining samples from effluent ducts and stacks, equipment and procedures for laboratory analysis, and procedures for calculating results. VCS ASTM D6784–16 allows for additional flexibility in the sampling and analytical procedures for the earlier version of the same standard VCS ASTM D6784–02 (Reapproved 2008). ASTM D6784–16 allows for the use of either an EPA Method 17 sampling configuration with a fixed (single) point where the flue gas is not stratified, or an EPA Method 5 sampling configuration with a multi-point traverse. These methods are available at ASTM International, 1850 M Street NW, Suite 1030, Washington, DC 20036. See <https://www.astm.org/>. The standards are available to everyone at a cost determined by ASTM. The costs of obtaining these methods are not a significant financial burden, making the methods reasonably available.

Additionally, the EPA is incorporating by reference “Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2,3,7,8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds” (EPA/100/R–10/005 December 2010), which is the source of the toxicity equivalence

factors (TEF) for dioxins and furans used in calculating the toxic equivalence quotient of the proposed dioxin and furan standard. This document describes the EPA’s updated approach for evaluating the human health risks from exposures to environmental media containing dioxin-like compounds. The EPA recommends that the TEF methodology, a component mixture method, be used to evaluate human health risks posed by these mixtures, using TCDD as the index chemical. The EPA recommends the use of the consensus TEF values for 2,3,7,8-tetrachlorodibenzo-p-dioxin and dioxin-like compounds published in 2005 by the World Health Organization. This is the international method of expressing toxicity equivalents for dioxins/furans where a recommended TEF is multiplied by each individual compound’s (congener) emission concentration to calculate the 2,3,7,8-Tetrachlorodibenzo-p-dioxin toxicity equivalents (TEQ). To estimate risk associated with the mixture, the dose-response function for the index chemical is evaluated at this sum, which is an estimate of the total index chemical equivalent dose for the mixture components being considered. The document is available on the EPA website, <https://www.epa.gov/risk/documents-recommended-toxicity-equivalency-factors-human-health-risk-assessments-dioxin-and>.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation’s Commitment to Environmental Justice for All

The EPA anticipates that the human health or environmental conditions that exist prior to this action result in or have the potential to result in disproportionate and adverse human health or environmental effects on communities with environmental justice (EJ) concerns. The assessment of populations in close proximity of lime manufacturing facilities shows Hispanic and linguistically isolated groups are higher than the national average (see section IV.F. of the preamble). The higher percentages are driven by 4 of the 34 facilities in the source category.

The EPA anticipates this action is likely to reduce existing disproportionate and adverse effects on communities with EJ concerns. The EPA is finalizing MACT standards for HCl, mercury, organic HAP, and D/F. The EPA expects that the 4 facilities would have to implement control measures to reduce emissions to comply with the

MACT standards and that HAP exposures for the people living near these facilities (including those communities with EJ concerns) would decrease.

The information supporting this Executive order review is contained in section IV.F of the preamble.

K. Congressional Review Act (CRA)

This action is subject to the CRA., and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action meets the criteria set forth in 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Michael S. Regan,
Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Amend § 63.14 by revising paragraphs (i)(89) and (105) and (o)(1) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(i) * * *

(89) ASTM D6348–12 (Reapproved 2020), Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012, IBR approved for §§ 63.109(a); 63.365(b); 63.509(a); 63.7322(d), (e), and (g); 63.7825(g) and (h); table 5 to subpart AAAAA.

* * * * *

(105) ASTM D6784–16, Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury in Flue Gas Generated from Coal-Fired Stationary Sources (Ontario Hydro Method), Approved March 1, 2016; IBR approved for §§ 63.1450(d); 63.7322(c); table 5 to subpart UUUUU; appendix A

to subpart UUUUU; table 5 to subpart AAAAA; 63.9621.

* * * * *

(o) * * *

(1) EPA/100/R-10/005, Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2, 3, 7, 8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds, December 2010; IBR approved for §§ 63.1450(f); 63.1459; table 2 to subpart QQQ; table 1 to subpart AAAAA. (Available at <https://www.epa.gov/sites/default/files/2013-09/documents/tefs-for-dioxin-epa-00-r-10-005-final.pdf>.)

* * * * *

Subpart AAAAA—National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants

- 3. Amend § 63.7082 by:
 - a. Revising paragraph (b);
 - b. Redesignating paragraphs (c) through (j) as paragraphs (d) through (k);
 - c. Adding new paragraph (c); and
 - d. Revising newly redesignated paragraph (f).

The revisions and addition read as follows:

§ 63.7082 What part of my plant does this subpart cover?

* * * * *

(b) For purposes of complying with the PM emissions limitations of this subpart, a new lime kiln is a lime kiln, and (if applicable) its associated lime cooler, for which construction or reconstruction began after December 20, 2002, if you met the applicability criteria in § 63.7081 at the time you began construction or reconstruction.

(c) For the purposes of complying with the HCl, mercury, organic HAP, and D/F emissions limitations of this subpart, a new lime kiln is a lime kiln (only) for which construction or reconstruction began after January 5, 2023, if you met the applicability criteria in § 63.7081 at the time you began construction or reconstruction.

* * * * *

(f) An existing lime kiln is any lime kiln, and (when complying with PM emissions limitations) its associated lime cooler, that does not meet the definition of a new kiln of paragraphs (b) and (c) of this section.

* * * * *

- 4. Amend § 63.7083 by:
 - a. Revising paragraphs (a) and (b);
 - b. Redesignating paragraphs (c) through (e) as paragraphs (e) through (g); and
 - c. Adding new paragraphs (c) and (d) and paragraph (h).

The revisions and additions read as follows:

§ 63.7083 When do I have to comply with this subpart?

(a) If you have a new affected source, you must comply with this subpart according to paragraphs (a)(1) and (2) of this section.

(1) If you start up your affected source before January 5, 2004, you must comply with the PM emission limitations no later than January 5, 2004, and you must have completed all applicable performance tests no later than July 5, 2004, except as noted in paragraphs (g)(1) and (2) of this section.

(2) If you start up your affected source after January 5, 2004, then you must comply with the PM emission limitations for new affected sources upon startup of your affected source and you must have completed all applicable performance tests no later than 180 days after startup, except as noted in paragraphs (g)(1) and (2) of this section.

(b) If you have an existing affected source you must comply with the applicable PM emission limitations for the existing affected source, and you must have completed all applicable performance tests no later than January 5, 2007, except as noted in paragraphs (g)(1) and (2) of this section.

(c) If you start up your affected source after July 16, 2024, then you must comply with all emission limitations for new affected sources upon startup of your affected source and you must have completed all applicable performance tests no later than 180 days after startup, except as noted in paragraphs (h)(1) and (2) of this section.

(d) If you have an existing affected source you must comply with all applicable emission limitations for the existing affected source, and you must have completed all applicable performance tests no later than July 16, 2027, except as noted in paragraphs (h)(1) and (2) of this section.

* * * * *

(h)(1) If your affected source commenced construction or reconstruction on or before January 5, 2023, then the compliance date for HCl, mercury, total organic HAP, and D/F emissions limitations is July 16, 2027.

(2) If your affected source commenced construction or reconstruction after July 16, 2024, then the compliance date for HCl, mercury, total organic HAP, and D/F emissions limitations is July 16, 2024, or the date of initial startup, whichever is later.

- 5. Amend § 63.7090 by adding paragraph (d) to read as follows:

§ 63.7090 What emission limitations must I meet?

* * * * *

(d) For those LMP using emissions averaging for either HCl emission limits or mercury emission limits in accordance with the procedures in § 63.7114(b) and (c), must not exceed the applicable emission limits in table 9 to this subpart.

- 6. Amend § 63.7100 by revising paragraph (a) to read as follows:

§ 63.7100 What are my general requirements for complying with this subpart?

(a) Prior to the relevant compliance date for your source as specified in § 63.7083(e), you must be in compliance with the emission limitations (including operating limits) in this subpart at all times, except during periods of startup, shutdown, and malfunction. On and after the relevant compliance date for your source as specified in § 63.7083(e), you must be in compliance with the applicable emission limitations (including operating limits) at all times. You may operate outside of the established operating parameter limit(s) during performance tests in order to establish new operating limits.

* * * * *

- 7. Amend § 63.7110 by adding paragraph (f) to read as follows:

§ 63.7110 By what date must I conduct performance tests and other initial compliance demonstrations?

* * * * *

(f) If your affected source commenced construction or reconstruction before July 16, 2024, you must demonstrate initial compliance with the emission limitation in this subpart no later than July 16, 2027, or within 180 calendar days after startup of the source, whichever is later, according to §§ 63.7(a)(2)(ix) and 63.7114.

- 8. Amend § 63.7112 by:
 - a. Revising paragraphs (b), (d), and (j)(1); and
 - c. Adding paragraphs (n) and (o).

The revisions and additions read as follows:

§ 63.7112 What performance tests, design evaluations, and other procedures must I use?

* * * * *

(b) Prior to the relevant compliance date for your source as specified in § 63.7083(e), each performance test must be conducted according to the requirements in § 63.7(e)(1) and under the specific conditions specified in table 5 to this subpart. Beginning July 16, 2024, each performance test must include the methods specified in rows

19–24 of table 5 to this subpart. On and after the relevant compliance date for your source as specified in § 63.7083(e), each performance test must be conducted based on representative performance (*i.e.*, performance based on normal operating conditions) of the affected source and under the specific conditions in table 5 to this subpart. Representative conditions exclude periods of startup and shutdown. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include

in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests. Performance tests conducted in accordance with table 5 are not required to be performed at the same time.

* * * * *

(d) Except for opacity and VE observations, you must conduct three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at

least 1 hour or as specified in table 5 to this subpart.

* * * * *

(j) * * *

(1) Continuously record the parameter during the performance test and include the parameter record(s) in the performance test report.

* * * * *

(n) The emission rate of mercury and hydrogen chloride (HCl) from each lime kiln (and each lime cooler as applicable) must be computed for each run using equation 4 to this paragraph (n):

Equation 4 to Paragraph (n)

$$E = \frac{(C_k Q_k + C_c Q_c)}{KP} \quad (Eq. 4)$$

Where:

E = Emission rate of mercury, pounds per thousand tons (lb/MMton) of lime produced or HCl pounds per ton (lb/ton) of lime produced.

C_k = Concentration in the kiln effluent of mercury, micrograms/dry standard cubic feet (µg/dscf) or HCl, parts per million by volume on a dry basis (ppmvd).

Q_k = Volumetric flow rate of kiln effluent gas, dry standard cubic feet per hour (dscf/hr).

C_c = Concentration in the cooler effluent of mercury, µg/dscf or HCl, ppmvd. This value is zero if there is not a separate cooler exhaust to the atmosphere.

Q_c = Volumetric flow rate of cooler effluent gas, dscf/hr. This value is zero if there is not a separate cooler exhaust to the atmosphere.

P = Lime production rate, tons per hour (ton/hr).

K = Conversion factor, for mercury, 4.4x10⁸ micrograms per pound (µg/lb) for HCL 1.09x10⁷ ppmvd HCL per lb/dscf HCL.

(o) The concentration of total hydrocarbons and dioxins/furans shall be correct to 7 percent oxygen using equation 5 to this paragraph (o):

Equation 5 to Paragraph (o)

$$C_{7\%} = C_{unc} * \frac{13.9}{(20.9 - C_{O_2})} \quad (Eq. 5)$$

Where:

C_{7%} = concentration of total hydrocarbons ppmv as propane on a dry basis or dioxins/furans in ng/dscm corrected to 7 percent oxygen.

C_{unc} = uncorrected total hydrocarbon concentration, ppmv as propane on a dry basis or dioxins/furans in ng/dscm.

C_{O₂} = concentration of oxygen (percent).

■ 9. Amend § 63.7113 by adding paragraphs (h) and (i) to read as follows:

§ 63.7113 What are my monitoring installation, operation, and maintenance requirements?

* * * * *

(h) For each mass flow rate monitor used for measuring the dry sorbent injection rate (*e.g.*, sorbent, activated carbon, etc.) you must meet the requirements of (h)(1) through (3) of this section.

(1) Locate the device in a position(s) that provides a representative measurement of the total sorbent injection rate.

(2) Install and calibrate the device in accordance with manufacturer's procedures and specifications.

(3) At least annually, calibrate the device in accordance with the manufacturer's procedures and specifications.

(i) For each temperature monitoring device installed to monitor the temperature of a thermal oxidizer, you must meet the requirements of (i)(1) through (3) of this section.

(1) Install the temperature monitoring device in the fire box or in the ductwork immediately downstream of the fire box in a position before any substantial heat exchange occurs.

(2) The temperature measurement system must be capable of measuring the temperature over a range that extends at least 20 percent beyond the normal expected operating range and has an accuracy of ±1 percent of temperature measured or 2.8 degrees Celsius (5 degrees Fahrenheit) whichever is greater. The data recording system associated with affected CPMS must have a resolution that is equal to or better than one-half of the required system accuracy.

(3) The calibration reference for the temperature measurement must be a National Institute of Standards and Technology (NIST) calibrated reference thermocouple-potentiometer system, NIST traceable certified reference thermocouple, or alternate reference, subject to approval by the Administrator.

(4) The calibration of all thermocouples and other temperature sensors must be verified at least once every three months.

■ 10. Amend § 63.7114 by:

■ a. Redesignating paragraphs (b) and (c) as paragraphs (d) and (e); and

■ b. Adding new paragraphs (b) and (c). The additions read as follows:

§ 63.7114 How do I demonstrate initial compliance with the emission limitations standard?

* * * * *

(b) For those LMP that comply with either the HCl emissions limit or the mercury emission limit using emissions averaging, the average HCl or mercury emissions determined according to the procedures in § 63.7112(n), must not

exceed the applicable emission limit in table 9 to this subpart.

(c) For those LMP that comply with either the HCl emissions limit or the mercury emission limit using emissions averaging, you must comply with the requirements in paragraphs (c)(1) through (4) of this section.

(1) You must complete the stack testing required in paragraph § 63.7112(n) for all lime kilns you wish to include in the emission average before submitting the implementation plan required in paragraph (c)(2) of this section.

(2) You must develop and submit to the applicable regulatory authority for review and approval, an implementation plan for emission averaging no later than 180 days before the date you intend to demonstrate compliance using the emission averaging option. You must include the information contained in paragraphs (c)(2)(i) through (iii) of this section in your implementation plan.

(i) Identification of all lime kilns in the averaging group, including the lime kiln subcategory, type of lime produced, typical stone production rate, control technology installed, and types of fuel(s) that will be burned.

(ii) The HCl or mercury emission rate for each lime kiln for each of the fuels identified in paragraph (c)(2)(i) of this section.

(iii) The date on which you are requesting emission averaging to commence.

(3) The regulatory authority shall review and approve or disapprove the plan according to the following criteria:

(i) Whether the content of the plan includes all the information specified in paragraph (c)(2) of this section; and

(ii) Whether the plan presents sufficient information to determine that compliance will be achieved and maintained.

(4) The applicable regulatory authority shall not approve an emission averaging implementation plan containing any of the following provisions:

(i) Averaging between emissions of differing pollutants;

(ii) Averaging that includes lime kilns constructed or reconstructed on or after July 16, 2024; or

(iii) Averaging between lime kilns located at different facilities.

(iv) Averaging between lime kilns in different subcategories.

* * * * *

■ 11. Amend § 63.7121 by adding paragraph (g) to read as follows:

§ 63.7121 How do I demonstrate continuous compliance with the emission limitations standard?

* * * * *

(g) If you elect to comply with either the HCl emission limit or the mercury emission limit in table 9 to this subpart using emissions averaging in accordance with an implementation plan approved under the provisions in § 63.7114(c) you must comply with the requirements in paragraphs (g)(1) through (8) of this section.

(1) For lime kilns included in the emissions averaging group that are equipped with dry sorbent injection (DSI) or activated carbon injection (ACI) systems, you must comply with the requirements in § 63.7113(h).

(2) For kilns included in the emissions averaging group that use a control device or method other than DSI or ACI, you must comply with your site-specific monitoring plan of this section, in accordance with the requirements of § 63.7100(d).

(3) Calculate the monthly production-weighted average emission rate using the HCl or mercury emission rate determined during the last performance test and the actual production data for each kiln included in the emissions averaging option, as shown in equation 1 to this paragraph (g)(3).

Equation 1 to Paragraph (g)(3)

$$E_g = \frac{\sum_{k=1}^n (E_k \times P_k)}{\sum_{k=1}^n (P_k)} \quad (Eq. 1)$$

Where:

E_g = Monthly production-weighted average emission rate for month “g” for the group of kilns;

E_k = Average emission rate for kilns “k”, as determined during the last compliance stack test;

P_k = Total monthly production of lime produced for kilns “k”; and

n = Number of kilns in the averaging group.

(4) Until 12 monthly weighted average emission rates have been accumulated, the monthly weighted average emissions rate, calculated as shown in paragraph (g)(3) of this section, must not exceed the emission limit in table 9 to this subpart in any calendar month.

(5) After 12 monthly weighted average emission rates have been accumulated, for each subsequent calendar month, you must use equation 2 to this

paragraph (g)(5) to calculate the 12-month rolling average of the monthly weighted average emission rates for the current month and the previous 11 months. The 12-month rolling weighted average emissions rate for the kilns included in the group must not exceed the emission limits in table 9 to this subpart.

Equation 2 to Paragraph (g)(5)

$$E_{avg} = \frac{\sum_{i=1}^{12} E_i}{12} \quad (Eq. 2)$$

Where:

E_{avg} = 12-month rolling average emission rate.

E_i = Monthly weighted average for month “i” calculated as shown in equation 1 to paragraph (g)(3) of this section.

(6) For those kilns that produce multiple types of lime in the HCl subcategory (e.g., high calcium quick lime and dolomitic quick lime) you must establish a kiln-specific emission

limit using equation 3 to this paragraph (g)(6).

Equation 3 to Paragraph (g)(6)

$$EL_K = (P_{QL} \times EL_{QL}) + (P_{DL} \times EL_{DL}) \quad (Eq. 3)$$

Where:

EL_K = kiln-specific allowable emission limit, lb/yr.

P_{QL} = Actual 12-month production of high calcium quick lime, ton lime produced/yr.

EL_{QL} = Emission limit for high calcium quick lime taken from table 9 to this subpart, lb HCl/ton lime produced.

P_{DL} = Actual 12-month production of dolomitic quick lime, ton lime produced/yr.

EL_{DL} = Emission limit for dolomitic quick lime taken from table 9 to this subpart, lb HCl/ton lime produced.

(7) For those kilns that produce multiple types of lime in the HCl

subcategory, after the close of each calendar month compliance with the kiln-specific emission limit developed in this paragraph (g) would be calculated using equation 4 to this paragraph (g)(7).

Equation 4 to Paragraph (g)(7)

$$E_K = (P_{QL} \times TER_{QL}) + (P_{DL} \times TER_{DL})$$

(Eq. 4)

Where:

E_K = Average emission rate for kiln "k", as determined during the last compliance stack test, lb HCl/ton production.

P_{QL} = Actual 12-month production of high calcium quick lime, ton lime produced/yr.

E_{QL} = Average emission rate for kiln "k" while producing high calcium quick lime, as determined during the last compliance stack test.

P_{DL} = Actual 12-month production of dolomitic quick lime, ton lime produced/yr.

E_{DL} = Average emission rate for kiln "k" while producing dolomitic quick lime, as determined during the last compliance stack test, lb HCl/ton production.

(8) For those kilns that produce multiple types of lime in the HCl subcategory, compliance using the emissions averaging provisions is demonstrated when E_K, as determined using equation 4 to paragraph (g)(7) of this section, is less than E_{LK}, as determined using equation 3 to paragraph (g)(6) of this section.

■ 12. Amend § 63.7131 by revising paragraphs (d)(3), (e)(12), (g), and (h)(3) to read as follows:

§ 63.7131 What reports must I submit and when?

* * * * *

(d) * * *

(3) An estimate of the quantity of each regulated pollutant emitted over a non-opacity or VE emission limit, and a description of the method used to estimate the emissions.

(e) * * *

(12) An estimate of the quantity of each regulated pollutant emitted over a non-opacity or VE emission limit, and a description of the method used to estimate the emissions.

* * * * *

(g) If you are required to submit reports following the procedure specified in this paragraph (g), you must submit reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). You must use the appropriate electronic report template

on the CEDRI website (<https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri>) for this subpart. The date report templates become available will be listed on the CEDRI website. The report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as Confidential Business Information (CBI). Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information in the report, you must submit a complete file, including information claimed to be CBI, to the EPA following the procedures in this paragraph (g). Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available. You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described earlier in this paragraph (g).

(1) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the Office of Air Quality Planning and Standards (OAQPS) CBI Office at the email address oaqpscbi@epa.gov, and as described above, should include clear CBI markings and be

flagged to the attention of the Lime Manufacturing Sector Lead. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email oaqpscbi@epa.gov to request a file transfer link.

(2) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Lime Manufacturing Sector Lead. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

(h) * * *

(3) *Confidential business information (CBI)*. (i) The EPA will make all the information submitted through CEDRI available to the public without further notice to you. Do not use CEDRI to submit information you claim as CBI. Although we do not expect persons to assert a claim of CBI, if you wish to assert a CBI claim for some of the information submitted under paragraph (a)(1) or (2) of this section, you must submit a complete file, including information claimed to be CBI, to the EPA.

(ii) The file must be generated using the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website.

(iii) Clearly mark the part or all of the information that you claim to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

(iv) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address oaqpscbi@epa.gov, and as

described above, should include clear CBI markings and be flagged to the attention of the Group Leader, Measurement Policy Group. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email oaqpscbi@epa.gov to request a file transfer link.

(v) If you cannot transmit the file electronically, you may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Group Leader, Measurement Policy Group. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

(vi) All CBI claims must be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(vii) You must submit the same file submitted to the CBI office with the CBI omitted to the EPA via the EPA's CDX as described in paragraphs (h)(1) and (2) of this section.

* * * * *

§ 63.7142 [Amended]

- 13. Amend § 63.7142 by:
 - a. Removing “, or” at the end of paragraph (a)(3) and adding a period in its place; and
 - b. Removing paragraph (a)(4).
- 14. Amend § 63.7143 by:
 - a. Adding, in alphabetical order, definitions for “Dry sorbent injection (DSI)” and “Lime produced”;
 - b. Removing the definition for “Lime product”; and
 - c. Adding, in alphabetical order, definition for “TEQ” and “Total Organic HAP”.

The additions read as follows:

§ 63.7143 What definitions apply to this subpart?

* * * * *

Dry sorbent injection (DSI) means an add-on air pollution control system in which sorbent (e.g., conventional activated carbon, Trona, hydrated lime, sodium carbonate, etc.) is injected into the flue gas stream upstream of a PM control device to react with and neutralize acid gases (such as SO₂ and HCl) or mercury in the exhaust stream forming a dry powder material that may be removed in a primary or secondary PM control device.

* * * * *

Lime produced refers to the production of lime from the lime kiln consisting of high-calcium quick lime, dolomitic quick lime and/or dead burned dolomitic lime.

* * * * *

TEQ means the international method of expressing toxicity equivalents for

dioxins and furans as defined in EPA/100/R-10/005, December 2010 (incorporated by reference—see § 63.14). The TEFs used to determine the dioxin and furan TEQs are listed in table 11 to this subpart.

Total Organic HAP means, for the purposes of this subpart, the sum of the concentrations of compounds of formaldehyde, acetaldehyde, toluene, benzene, m-xylene, p-xylene, o-xylene, styrene, ethyl benzene, and naphthalene as measured by EPA Test Method 320 or Method 18 of appendix A to this part or a combination of these methods, as appropriate. If measurement results for any pollutant are reported as below the method detection level (e.g., laboratory analytical results for one or more sample components are below the method defined analytical detection level), you must use the method detection level as the measured emissions level for that pollutant in calculating the total organic HAP value. The measured result for a multiple component analysis (e.g., analytical values for multiple Method 18 fractions) may include a combination of method detection level data and analytical data reported above the method detection level. The owner or operator of an affected source may request the use of other test methods to make this determination under § 63.7(e)(2)(ii) and (f).

* * * * *

- 15. Revise tables 1 through 6, 8, and 9 to subpart AAAAA to read as follows:

TABLE 1 TO SUBPART AAAAA OF PART 63—EMISSION LIMITS

[As required in § 63.7090(a), you must meet each emission limit in the following table that applies to you, except for kilns and coolers during startup and shutdown (see table 2 to this subpart for emission limits for kilns and coolers during startup and shutdown).]

For . . .	You must meet the following emission limit
1. All existing lime kilns and their associated lime coolers that did not have a wet scrubber installed and operating prior to January 5, 2004.	PM emissions must not exceed 0.12 pounds per ton of stone feed (lb/tsf).
2. All existing lime kilns and their associated lime coolers that have a wet scrubber, where the scrubber itself was installed and operating prior to January 5, 2004.	PM emissions must not exceed 0.60 lb/tsf. If, at any time after January 5, 2004, the kiln changes to a dry control system, then the PM emission limit in item 1 of this table 1 applies, and the kiln is hereafter ineligible for the PM emission limit in item 2 of this table 1 regardless of the method of PM control.
3. All new lime kilns and their associated lime coolers.	PM emissions must not exceed 0.10 lb/tsf.
4. All existing and new lime kilns and their associated coolers at your LMP, and you choose to average PM emissions, except that any kiln that is allowed to meet the 0.60 lb/tsf PM emission limit is ineligible for averaging.	Weighted average PM emissions calculated according to equation 2 to § 63.7112(f)(1) must not exceed 0.12 lb/tsf (if you are averaging only existing kilns) or 0.10 lb/tsf (if you are averaging only new kilns). If you are averaging existing and new kilns, your weighted average PM emissions must not exceed the weighted average emission limit calculated according to equation 3 to § 63.7112(g), except that no new kiln and its associated cooler considered alone may exceed an average PM emissions limit of 0.10 lb/tsf.
5. New straight rotary lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 1.7 lb/ton of lime produced.
6. Existing straight rotary lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 2.3 lb/ton of lime produced.

TABLE 1 TO SUBPART AAAAA OF PART 63—EMISSION LIMITS—Continued

[As required in § 63.7090(a), you must meet each emission limit in the following table that applies to you, except for kilns and coolers during startup and shutdown (see table 2 to this subpart for emission limits for kilns and coolers during startup and shutdown).]

For . . .	You must meet the following emission limit
7. New straight rotary lime kilns and their associated coolers producing high-calcium quick lime.	HCl emissions must not exceed 0.015 lb/ton of lime produced.
8. Existing straight rotary lime kilns and their associated coolers producing high-calcium quick lime.	HCl emissions must not exceed 0.52 lb/ton of lime produced.
9. All preheater rotary lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 0.39 lb/ton of lime produced.
10. All preheater rotary lime kilns and their associated coolers producing high-calcium quick lime.	HCl emissions must not exceed 0.096 lb/ton of lime produced.
11. All vertical lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 0.39 lb/ton of lime produced.
12. All vertical lime kilns and their associated coolers producing high-calcium quick lime.	HCl emissions must not exceed 0.021 lb/ton of lime produced.
13. All new lime kilns and their associated coolers.	Mercury emissions must not exceed 27 lb/MMton of lime produced.
14. All existing lime kilns and their associated coolers.	Mercury emissions must not exceed 34 lb/MMton of lime produced.
15. All lime kilns and their associated coolers ...	Total Organic HAP emissions must not exceed 2.6 ppmvd @7% O ₂ .
16. All lime kilns and their associated coolers ...	D/F emissions must not exceed 0.037 ng/dscm (TEQ) ¹ @7% O ₂ .
17. Stack emissions from all PSH operations at a new or existing affected source.	PM emissions must not exceed 0.05 grams per dry standard cubic meter (g/dscm).
18. Stack emissions from all PSH operations at a new or existing affected source, unless the stack emissions are discharged through a wet scrubber control device.	Emissions must not exceed 7 percent opacity.
19. Fugitive emissions from all PSH operations at a new or existing affected source, except as provided by item 8 of this table 1.	Emissions must not exceed 10 percent opacity.
20. All PSH operations at a new or existing affected source enclosed in a building.	All of the individually affected PSH operations must comply with the applicable PM and opacity emission limitations in items 5 through 7 of this table 1, or the building must comply with the following: There must be no VE from the building, except from a vent; and vent emissions must not exceed the stack emissions limitations in items 5 and 6 of this table 1.
21. Each FF that controls emissions from only an individual, enclosed storage bin.	Emissions must not exceed 7 percent opacity.
22. Each set of multiple storage bins at a new or existing affected source, with combined stack emissions.	You must comply with the emission limits in items 5 and 6 of this table 1.

¹ Determined using the toxic equivalency factors listed in Table 2 of Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2, 3, 7, 8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds (incorporated by reference, see § 63.14). When calculating TEQ, zero may be used for congeners that are below the estimated detection level (EDL).

TABLE 2 TO SUBPART AAAAA OF PART 63—STARTUP AND SHUTDOWN EMISSION LIMITS FOR KILNS AND COOLERS

[As required in § 63.7090(b), on and after the relevant compliance date for your source as specified in § 63.7083(e), you must meet each emission limit in the following table that applies to you.]

For . . .	You must meet the following emission limit	You have demonstrated compliance, if after following the requirements in § 63.7112 . . .
1. All new and existing lime kilns and their associated coolers equipped with an FF or an ESP during each startup.	Emissions must not exceed 15 percent opacity (based on startup period block average).	i. Installed, maintained, calibrated and operated a COMS as required by the general provisions of subpart A of this part and according to PS-1 of appendix B to 40 CFR part 60, except as specified in § 63.7113(g)(2); ii. Collected the COMS data at a frequency of at least once every 15 seconds, determining block averages for each startup period and demonstrating for each startup block period the average opacity does not exceed 15 percent.
2. All existing lime kilns and their associated coolers that have a wet scrubber during each startup.	See item 2.b of table 3 to this subpart for emission limit	See item 1 of table 6 to this subpart for requirements for demonstrating compliance.

TABLE 2 TO SUBPART AAAAA OF PART 63—STARTUP AND SHUTDOWN EMISSION LIMITS FOR KILNS AND COOLERS—
Continued

[As required in § 63.7090(b), on and after the relevant compliance date for your source as specified in § 63.7083(e), you must meet each emission limit in the following table that applies to you.]

For . . .	You must meet the following emission limit	You have demonstrated compliance, if after following the requirements in § 63.7112 . . .
3. All new and existing lime kilns and their associated coolers equipped with an FF or an ESP during shutdown.	Emissions must not exceed 15 percent opacity (based on 6-minute average opacity for any 6-minute block period does not exceed 15 percent).	i. Installed, maintained, calibrated and operated a COMS as required by the general provisions of subpart A of this and according to PS-1 of appendix B to 40 CFR part 60, except as specified in § 63.7113(g)(2); ii. Collecting the COMS data at a frequency of at least once every 15 seconds, determining block averages for each 6-minute period and demonstrating for each 6-minute block period the average opacity does not exceed 15 percent.
4. All existing lime kilns and their associated coolers that have a wet scrubber during shutdown.	See item 2.b of table 3 to this subpart for emission limit	See item 1 of table 6 to this subpart for requirements for demonstrating compliance.
5. All new and existing lime kilns that use dry sorbent injection or carbon injection during startup and shutdown.		When a lime kiln is in startup or shutdown (as defined in § 63.7143), the operating limits for sorbent and/or carbon injection do not apply in table 3 to this subpart, and the lime kiln operator shall ensure that sorbent or carbon injection is in operation until the unit is no longer in startup or shutdown. During startup and shutdown, the control device shall be operated in accordance with manufacturer's recommendations or by a site-specific operating procedure for startup and shutdown events.
6. All new and existing lime kilns that use a thermal oxidizer during startup and shutdown.		6. When a lime kiln is in startup or shutdown (as defined in § 63.7143), the temperature limits for a thermal oxidizer in table 3 to this subpart do not apply and the lime kiln operator shall ensure that the thermal oxidizer is in operation until the unit is no longer in startup or shutdown. During startup and shutdown, the control device shall be operated in accordance with manufacturer's recommendations or by a site-specific operating procedure for startup and shutdown events.

TABLE 3 TO SUBPART AAAAA OF PART 63—OPERATING LIMITS

[As required in § 63.7090(b), you must meet each operating limit in the following table that applies to you, except for kilns and coolers during startup and shutdown (See table 2 to this subpart for operating limits during startup and shutdown).]

For . . .	You must . . .
1. Each lime kiln and each lime cooler (if there is a separate exhaust to the atmosphere from the associated lime cooler) equipped with an FF.	Maintain and operate the FF such that the BLDS or PM detector alarm condition does not exist for more than 5 percent of the total operating time in a 6-month period; and comply with the requirements in § 63.7113(d) through (f) and table 6 to this subpart. In lieu of a BLDS or PM detector maintain the FF such that the 6-minute average opacity for any 6-minute block period does not exceed 15 percent; and comply with the requirements in § 63.7113(f) and (g) and table 6 to this subpart.
2. Each lime kiln equipped with a wet scrubber.	a. Maintain the 3-hour block exhaust gas stream pressure drop across the wet scrubber greater than or equal to the greater of the pressure drop operating limit established during the most recent performance test for PM and HCl; and b. Maintain the 3-hour block scrubbing liquid flow rate greater than or equal to the greater of the flow rate operating limit established during the most recent performance test for PM and HCl.
3. Each lime kiln equipped with an electrostatic precipitator.	Install a PM detector and maintain and operate the ESP such that the PM detector alarm is not activated and alarm condition does not exist for more than 5 percent of the total operating time in a 6-month period, and comply with § 63.7113(e); or, maintain the ESP such that the 6-minute average opacity for any 6-minute block period does not exceed 15 percent, and comply with the requirements in § 63.7113(g); and comply with the requirements in § 63.7113(f) and table 6 to this subpart.
4. Each PSH operation subject to a PM limit which uses a wet scrubber.	Maintain the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the greater of the pressure drop operating limit established during the performance test for PM and HCl; and maintain the 3-hour block average scrubbing liquid flow rate greater than or equal to the greater of the flow rate operating limit established during the performance test for PM and HCl.
5. All affected sources	Prepare a written OM&M plan; the plan must include the items listed in § 63.7100(d) and the corrective actions to be taken when required in table 6 to this subpart.

TABLE 3 TO SUBPART AAAAA OF PART 63—OPERATING LIMITS—Continued

[As required in § 63.7090(b), you must meet each operating limit in the following table that applies to you, except for kilns and coolers during startup and shutdown (See table 2 to this subpart for operating limits during startup and shutdown).]

For . . .	You must . . .
6. Each emission unit equipped with an add-on air pollution control device.	a. Vent captured emissions through a closed system, except that dilution air may be added to emission streams for the purpose of controlling temperature at the inlet to an FF; and b. Operate each capture/collection system according to the procedures and requirements in the OM&M plan.
7. Each lime kiln equipped with dry sorbent injection.	Maintain the 3-hour block dry sorbent flow rate greater than or equal to the flow rate operating limit established during the most recent performance test for HCl.
8. Each lime kiln equipped with a thermal oxidizer.	Maintain the 3-hour block average combustion chamber temperature greater or equal to the greater of the combustion chamber operating limit established in the most recent performance test for total organic HAP and D/F.
9. Each lime kiln equipped with activated carbon injection.	Maintain the 3-hour block activated carbon injection flow rate greater than or equal to the greater of the flow rate operating limit established during the most recent performance test for total organic HAP, D/F, and mercury.

TABLE 4 TO SUBPART AAAAA OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITS

[As required in § 63.7114, you must demonstrate initial compliance with each emission limitation that applies to you, according to the following table.]

For . . .	For the following emission limit . . .	You have demonstrated initial compliance, if after following the requirements in § 63.7112 . . .
1. All new or existing lime kilns and their associated lime coolers (kilns/coolers).	Emission limits as identified in table 1 to this subpart, or a weighted average calculated according to equation 3 to § 63.7112.	The kiln outlet PM, HCl, mercury, and Total Organic HAP, and dioxins and furans emissions (and if applicable, summed with the separate cooler PM emissions), based on the PM emissions measured using Method 5 or 5D in appendix A to 40 CFR part 60, HCl measured using Method 320 or 321 in appendix A to this part, mercury measured using Method 29 or 30B 5D in appendix A to 40 CFR part 60, and the stone feed rate measurement over the period of initial performance test and Total Organic HAP measured using Method 18 5D in appendix A to 40 CFR part 60 and/or Method 320 in appendix A to this part and dioxins and furans measured using Method 23 in appendix A to 40 CFR part 60, do not exceed the emission limit; if the lime kiln is controlled by an FF or ESP and you are opting to monitor PM emissions with a BLDS or PM detector, you have installed and are operating the monitoring device according to the requirements in § 63.7113(d) or (e), respectively; and if the lime kiln is controlled by an FF or ESP and you are opting to monitor PM emissions using a COMS, you have installed and are operating the COMS according to the requirements in § 63.7113(g). If the kiln is equipped with a dry sorbent injection system, you have a record of the dry sorbent and/or carbon injection flow rate operating parameter over the 3-hour performance test during which emissions did not exceed the emissions limitation. If the kiln is equipped with a thermal oxidizer, you have a record of the combustion chamber operating temperature operating parameter over the 3-hour performance test during which emissions did not exceed the emissions limitation.
2. Stack emissions from all PHS operations at a new or existing affected source.	PM emissions must not exceed 0.05 g/dscm	The outlet PM emissions, based on Method 5 or Method 17 in appendices A–3 and A–6, respectively, to 40 CFR part 60, over the period of the initial performance test do not exceed 0.05 g/dscm; and if the emission unit is controlled with a wet scrubber, you have a record of the scrubber's pressure drop and liquid flow rate operating parameters over the 3-hour performance test during which emissions did not exceed the emissions limitation.

TABLE 4 TO SUBPART AAAAA OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITS—Continued

[As required in § 63.7114, you must demonstrate initial compliance with each emission limitation that applies to you, according to the following table.]

For . . .	For the following emission limit . . .	You have demonstrated initial compliance, if after following the requirements in § 63.7112 . . .
3. Stack emissions from all PSH operations at a new or existing affected source, unless the stack emissions are discharged through a wet scrubber control device.	Emissions must not exceed 7 percent opacity	Each of the thirty 6-minute opacity averages during the initial compliance period, using Method 9 in appendix A-4 to 40 CFR part 60, does not exceed the 7 percent opacity limit. At least thirty 6-minute averages must be obtained.
4. Fugitive emissions from all PSH operations at a new or existing affected source.	Emissions must not exceed 10 percent opacity	Each of the 6-minute opacity averages during the initial compliance period, using Method 9 in appendix A-4 to 40 CFR part 60, does not exceed the 10 percent opacity limit.
5. All PSH operations at a new or existing affected source, enclosed in building.	All of the individually affected PSH operations must comply with the applicable PM and opacity emission limitations for items 2 through 4 of this table 4, or the building must comply with the following: There must be no VE from the building, except from a vent, and vent emissions must not exceed the emission limitations in items 2 and 3 of this table 4.	All the PSH operations enclosed in the building have demonstrated initial compliance according to the applicable requirements for items 2 through 4 of this table 4; or if you are complying with the building emission limitations, there are no VE from the building according to item 18 of table 5 to this subpart and § 63.7112(k), and you demonstrate initial compliance with applicable building vent emissions limitations according to the requirements in items 2 and 3 of this table 4.
6. Each FF that controls emissions from only an individual storage bin.	Emissions must not exceed 7 percent opacity	Each of the ten 6-minute averages during the 1-hour initial compliance period, using Method 9 in appendix A-4 to 40 CFR part 60, does not exceed the 7 percent opacity limit.
7. Each set of multiple storage bins with combined stack emissions.	You must comply with emission limitations in items 2 and 3 of this table 4.	You demonstrate initial compliance according to the requirements in items 2 and 3 of this table 4.
8. All new or existing lime kilns and their associated lime coolers (kilns/coolers).	You must meet the emission limitations for HCl, mercury, total organic HAP, and dioxins and furans in items 5 through 16 of table 1 to this subpart.	The kiln outlet HCl, mercury, total organic HAP, and D/F emissions (and if applicable, summed with the separate cooler emissions), based on the emissions measured according to table 5 to this subpart over the period of the initial performance test do not exceed the applicable limits in items 5 through 16 of table 1 to this subpart. If the emission unit is controlled with a wet scrubber, during the HCl performance test you have a record of the scrubber's pressure drop and liquid flow rate operating parameters over the performance test during which emissions did not exceed the HCl emissions limitation. If the emission unit is controlled with a dry sorbent injection, during the HCl performance test you have a record of the dry sorbent flow rate operating parameter over the HCl performance test during which emissions did not exceed the HCl emissions limitation. If the emission unit is controlled with a thermal oxidizer, during the total organic HAP and D/F performance test(s) you have a record of the temperature operating parameter over the total organic HAP and D/F performance test during which emissions did not exceed the total organic HAP and D/F emissions limitation(s). If the emission unit is controlled with an activated carbon injection, during the total organic HAP, D/F, and mercury performance test(s) you have a record of the temperature operating parameter over the total organic HAP, D/F, and mercury performance test(s) during which emissions did not exceed the total organic HAP, D/F, and mercury emissions limitation(s).

TABLE 5 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS
 [As required in § 63.7112, you must conduct each performance test in the following table that applies to you.]

For . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Select the location of the sampling ports and the number of traverse points.	Method 1 or 1A of appendix A–1 to 40 CFR part 60; and § 63.6(d)(1)(i).	Sampling sites must be located at the outlet of the control device(s) and prior to any releases to the atmosphere.
2. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Determine velocity and volumetric flow rate.	Method 2, 2A, 2C, 2D, 2F, or 2G in appendices A–1 and A–2 to 40 CFR part 60.	Not applicable.
3. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Conduct gas molecular weight analysis.	Method 3, 3A, or 3B in appendix A–2 to 40 CFR part 60.	You may use manual procedures (but not instrumental procedures) of ASME PTC 19.10–1981—Part 10 (see § 63.14 for availability) as an alternative to using Method 3B.
4. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler.	Measure moisture content of the stack gas.	Method 4 in appendix A–3 to 40 CFR part 60.	Not applicable.
5. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler, and which uses a negative pressure PM control device.	Measure PM emissions	Method 5 in appendix A–3 to 40 CFR part 60.	Conduct the test(s) when the source is operating at representative operating conditions in accordance with § 63.7(e) before the relevant compliance date for your source as specified in §§ 63.7083(e) and 63.7112(b) on and after the relevant compliance date for your source as specified in § 63.7083(e); the minimum sampling volume must be 0.85 dry standard cubic meter (dscm) (30 dry standard cubic foot (dscf)); if there is a separate lime cooler exhaust to the atmosphere, you must conduct the Method 5 test of the cooler exhaust concurrently with the kiln exhaust test.
6. Each lime kiln and each associated lime cooler, if there is a separate exhaust to the atmosphere from the associated lime cooler, and which uses a positive pressure FF or ESP.	Measure PM emissions	Method 5D in appendix A–3 to 40 CFR part 60.	Conduct the test(s) when the source is operating at representative operating conditions in accordance with § 63.7(e) before the relevant compliance date for your source as specified in §§ 63.7083(e) and 63.7112(b) on and after the relevant compliance date for your source as specified in § 63.7083(e); If there is a separate lime cooler exhaust to the atmosphere, you must conduct the Method 5 or 5D test of the separate cooler exhaust concurrently with the kiln exhaust test. Refer to item 5 of this table for sampling time and volume requirements.
7. Each lime kiln	Determine the mass rate of stone feed to the kiln during the kiln performance test.	Any suitable device	Calibrate and maintain the device according to manufacturer's instructions; the measuring device used must be accurate to within ± 5 percent of the mass rate of stone feed over its operating range.
8. Each lime kiln equipped with a wet scrubber.	Establish the operating limit for the average gas stream pressure drop across the wet scrubber during the PM and HCl performance test(s).	Data for the gas stream pressure drop measurement device during the kiln performance test.	The continuous pressure drop measurement device must be accurate within plus or minus 1 percent; you must collect the pressure drop data during the period of the performance test and determine the operating limit according to § 63.7112(j).
9. Each lime kiln equipped with a wet scrubber.	Establish the operating limit for the average liquid flow rate to the scrubber during the PM and HCl performance test(s).	Data from the liquid flow rate measurement device during the kiln performance test.	The continuous scrubbing liquid flow rate measuring device must be accurate within plus or minus 1 percent; you must collect the flow rate data during the period of the performance test and determine the operating limit according to § 63.7112(j).
10. Each lime kiln equipped with a FF or ESP that is monitored with a PM detector.	Have installed and have operating the BLDS or PM detector prior to the PM performance test.	Standard operating procedures incorporated into the OM&M plan.	According to the requirements in § 63.7113(d) or (e), respectively.
11. Each lime kiln equipped with a FF or ESP that is monitored with a COMS.	Have installed and have operating the COMS prior to the performance test.	Standard operating procedures incorporated into the OM&M plan and as required by the general provisions of subpart A of this part and according to PS–1 of appendix B to 40 CFR part 60, except as specified in § 63.7113(g)(2).	According to the requirements in § 63.7113(g).
12. Each stack emission from a PSH operation, vent from a building enclosing a PSH operation, or set of multiple storage bins with combined stack emissions, which is subject to a PM emission limit.	Measure PM emissions	Method 5 or Method 17 in appendices A–3 and A–6 to 40 CFR part 60.	The sample volume must be at least 1.70 dscm (60 dscf); for Method 5, if the gas stream being sampled is at ambient temperature, the sampling probe and filter may be operated without heaters; and if the gas stream is above ambient temperature, the sampling probe and filter may be operated at a temperature high enough, but no higher than 121 °C (250 °F), to prevent water condensation on the filter (Method 17 may be used only with exhaust gas temperatures of not more than 250 °F).

TABLE 5 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

[As required in § 63.7112, you must conduct each performance test in the following table that applies to you.]

For . . .	You must . . .	Using . . .	According to the following requirements . . .
13. Each stack emission from a PSH operation, vent from a building enclosing a PSH operation, or set of multiple storage bins with combined stack emissions, which is subject to an opacity limit.	Conduct opacity observations ..	Method 9 in appendix A–4 to 40 CFR part 60.	The test duration must be for at least 3 hours and you must obtain at least thirty, 6-minute averages.
14. Each stack emissions source from a PSH operation subject to a PM or opacity limit, which uses a wet scrubber.	Establish the average gas stream pressure drop across the wet scrubber during the PM and HCl performance test(s).	Data for the gas stream pressure drop measurement device during the PSH operation stack performance test.	The pressure drop measurement device must be accurate within plus or minus 1 percent; you must collect the pressure drop data during the period of the performance test and determine the operating limit according to § 63.7112(j).
15. Each stack emissions source from a PSH operation subject to a PM or opacity limit, which uses a wet scrubber.	Establish the operating limit for the average liquid flow rate to the scrubber during the PM and HCl performance test(s).	Data from the liquid flow rate measurement device during the PSH operation stack performance test.	The continuous scrubbing liquid flow rate measuring device must be accurate within plus or minus 1 percent; you must collect the flow rate data during the period of the performance test and determine the operating limit according to § 63.7112(j).
16. Each FF that controls emissions from only an individual, enclosed, new or existing storage bin.	Conduct opacity observations ..	Method 9 in appendix A–4 to 40 CFR part 60.	The test duration must be for at least 1 hour and you must obtain ten 6-minute averages.
17. Fugitive emissions from any PSH operation subject to an opacity limit.	Conduct opacity observations ..	Method 9 in appendix A–4 to 40 CFR part 60.	The test duration must be for at least 3 hours, but the 3-hour test may be reduced to 1 hour if, during the first 1-hour period, there are no individual readings greater than 10 percent opacity and there are no more than three readings of 10 percent during the first 1-hour period.
18. Each building enclosing any PSH operation, that is subject to a VE limit.	Conduct VE check	The specifications in § 63.7112(k).	The performance test must be conducted while all affected PSH operations within the building are operating; the performance test for each affected building must be at least 75 minutes, with each side of the building and roof being observed for at least 15 minutes.
19. Each lime kiln	Measure hydrogen chloride	Method 320 or 321 of appendix A to this part or ASTM 6348–12 (Reapproved 2020) ^{1 2} .	The test duration must be at least one hour. HCl must be used for the analyte spiking. For a positive pressure FF or ESP, determine the number of sampling points per the stratification check procedures of section 8.1.2 of Method 7E in appendix A–4 to 40 CFR part 60 using the sample points determined using the procedures of Section 8 of EPA Method 5D.
20. Each lime kiln	Measure mercury	Method 29 or 30B of appendix A–8 to 40 CFR part 60 or ASTM D6784–16 ² .	For Method 29 and ASTM D6784–16 ² the test duration must be at least two hours and the sample volume must be at least 1.70 dscm (60 dscf). For Method 30B, the test duration must be at least one hour and the sample volume at least 100 liters. For a positive pressure FF or ESP, use the procedures of Section 8 of EPA Method 5D for sampling points.
21. Each lime kiln	Measure total organic HAP ³	Method 18 and/or 320 in appendix A to 40 CFR part 60 and/or ASTM D6348–12 (Reapproved 2020) ¹ .	The test duration must be at least 1 hour. For EPA Method 320 and ASTM D6348–12 (Reapproved 2020), for a positive pressure FF or ESP, determine the number of sampling points per the stratification check procedures of section 8.1.2 of Method 7E using the sample points determined using the procedures of Section 8 of EPA Method 5D.
22. Each lime kiln	Measure dioxins/furans	Method 23 in appendix A–7 to 40 CFR part 60.	The test duration must be at least 3 hours and the must be at least 3 dscm (106 dscf). For a positive pressure FF or ESP, use the procedures of Section 8 of EPA Method 5D for sampling points.
23. Each lime kiln equipped with dry sorbent injection.	Establish the operating limit for the dry sorbent flow rate during the HCl performance test.	Data for the dry sorbent flow rate device during the HCl performance test.	The flow monitor must meet the criteria in § 63.7113(h); you must collect the dry sorbent flow rate data during the period of the HCl performance test and determine the operating limit according to § 63.7112(j).
24. Each lime kiln equipped with a thermal oxidizer.	Establish the operating limit for the combustion chamber temperature during the total organic HAP and D/F performance test(s).	Data for the temperature device during the total organic HAP and D/F performance test(s).	The temperature device must meet the criteria in § 63.7113(i); you must collect the temperature data during the period of the total organic HAP and D/F performance test(s) and determine the operating limit according to § 63.7112(j).
25. Each lime kiln equipped with activated carbon injection.	Establish the operating limit for the combustion chamber temperature during the total organic HAP, D/F, and mercury performance test(s).	Data for the activated carbon flow rate device during the total organic HAP, D/F, and mercury performance test(s).	The flow monitor must meet the criteria in § 63.7113(h); you must collect the activated carbon flow rate data during the period of the total organic HAP, D/F, and mercury performance test(s) and determine the operating limit according to § 63.7112(j).

¹ When using ASTM D6348–12 (Reapproved 2020) the test plan preparation and implementation in the Annexes to ASTM D6348–12 (Reapproved 2020), annexes A1 through A8 are mandatory. In ASTM D6348–12 (Reapproved 2020) Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be 70% ≥ R ≤ 130%. If the %R value does not meet this criterion for a target compound, the test data is not acceptable for that compound and the test must be repeated for that analyte (i.e., the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound according to: Reported Results = ((Measured Concentration in Stack)/(%R)) × 100.

² Incorporated by reference, see § 63.14.

³ Total Organic HAP is the sum of the concentrations of compounds of formaldehyde, acetaldehyde, toluene, benzene, m-xylene, p-xylene, o-xylene, styrene, ethyl benzene, and naphthalene.

TABLE 6 TO SUBPART AAAAA OF PART 63—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS

[As required in § 63.7121, you must demonstrate continuous compliance with each operating limit listed in Table 3 to subpart AAAAA that applies to you, according to the following table.]

For . . .	For the following operating limit . . .	You must demonstrate continuous compliance by . . .
1. Each lime kiln controlled by a wet scrubber.	Maintain the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the performance test; and maintain the 3-hour block average scrubbing liquid flow rate greater than or equal to the flow rate operating limit established during the performance test.	Collecting the wet scrubber operating data according to all applicable requirements in § 63.7113 and reducing the data according to § 63.7113(a); maintaining the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the performance test; and maintaining the 3-hour block average scrubbing liquid flow rate greater than or equal to the flow rate operating limit established during the performance test (the continuous scrubbing liquid flow rate measuring device must be accurate within $\pm 1\%$ and the continuous pressure drop measurement device must be accurate within $\pm 1\%$).
2. Each lime kiln or lime cooler equipped with a FF and using a BLDS, and each lime kiln equipped with an ESP or FF using a PM detector.	a. Maintain and operate the FF or ESP such that the bag leak or PM detector alarm, is not activated and alarm condition does not exist for more than 5 percent of the total operating time in each 6-month period.	i. Operating the FF or ESP so that the alarm on the bag leak or PM detection system is not activated and an alarm condition does not exist for more than 5 percent of the total operating time in each 6-month reporting period; and continuously recording the output from the BLD or PM detection system; and ii. Each time the alarm sounds and the owner or operator initiates corrective actions within 1 hour of the alarm, 1 hour of alarm time will be counted (if the owner or operator takes longer than 1 hour to initiate corrective actions, alarm time will be counted as the actual amount of time taken by the owner or operator to initiate corrective actions); if inspection of the FF or ESP system demonstrates that no corrective actions are necessary, no alarm time will be counted.
3. Each stack emissions source from a PSH operation subject to an opacity limit, which is controlled by a wet scrubber.	Maintain the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the performance test; and maintain the 3-hour block average scrubbing liquid flow rate greater than or equal to the flow rate operating limit established during the performance test.	Collecting the wet scrubber operating data according to all applicable requirements in § 63.7113 and reducing the data according to § 63.7113(a); maintaining the 3-hour block average exhaust gas stream pressure drop across the wet scrubber greater than or equal to the pressure drop operating limit established during the performance test; and maintaining the 3-hour block average scrubbing liquid flow rate greater than or equal to the flow rate operating limit established during the performance test (the continuous scrubbing liquid flow rate measuring device must be accurate within $\pm 1\%$ and the continuous pressure drop measurement device must be accurate within $\pm 1\%$).
4. For each lime kiln or lime cooler equipped with a FF or an ESP that uses a COMS as the monitoring device.	a. Maintain and operate the FF or ESP such that the average opacity for any 6-minute block period does not exceed 15 percent.	i. Installing, maintaining, calibrating and operating a COMS as required by the general provisions of subpart A of this part and according to PS-1 of appendix B to 40 CFR part 60, except as specified in § 63.7113(g)(2); and ii. Collecting the COMS data at a frequency of at least once every 15 seconds, determining block averages for each 6-minute period and demonstrating for each 6-minute block period the average opacity does not exceed 15 percent.
7. Each lime kiln equipped with dry sorbent and/or activated carbon injection.	Maintain the 3-hour block dry sorbent and/or activated carbon flow rate greater than or equal to the stack flow rate operating limit established during the most recent performance test..	Collecting the dry sorbent and/or activated carbon injection operating data according to all applicable requirements in § 63.7113 and reducing the data according to § 63.7113(a); maintaining the 3-hour block average injection flow rate greater than or equal to the injection flow rate operating limit established during the performance test.
8. Each lime kiln equipped with a thermal oxidizer.	Maintain the 3-hour block average combustion chamber temperature greater than or equal to the combustion chamber operating limit established in the most recent performance test.	Collecting the thermal oxidizer operating data according to all applicable requirements in § 63.7113 and reducing the data according to § 63.7113(a); maintaining the 3-hour block average combustion chamber temperature greater than or equal to the combustion chamber operating limit established during the performance test.

* * * * *

TABLE 8 TO SUBPART AAAAA OF PART 63—REQUIREMENTS FOR REPORTS
 [As required in § 63.7131, you must submit each report in the following table that applies to you.]

You must submit a . . .	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. If there are no deviations from any emission limitations (emission limit, operating limit, opacity limit, and VE limit) that applies to you, a statement that there were no deviations from the emission limitations during the reporting period; b. If there were no periods during which the CMS, including any operating parameter monitoring system, was out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CMS was out-of-control during the reporting period; c. If you have a deviation from any emission limitation (emission limit, operating limit, opacity limit, and VE limit) during the reporting period, the report must contain the information in § 63.7131(d); d. If there were periods during which the CMS, including any operating parameter monitoring system, was out-of-control, as specified in § 63.8(c)(7), the report must contain the information in § 63.7131(e); and e. Before the relevant compliance date for your source as specified in § 63.7083(e), if you had a startup, shutdown or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in § 63.10(d)(5)(i). On and after the relevant compliance date for your source as specified in § 63.7083(e), if you had a startup, shutdown or malfunction during the reporting period and you failed to meet an applicable standard, the compliance report must include the information in § 63.7131(c)(3).	Semiannually according to the requirements in § 63.7131(b). Semiannually according to the requirements in § 63.7131(b). Semiannually according to the requirements in § 63.7131(b). Semiannually according to the requirements in § 63.7131(b). Semiannually according to the requirements in § 63.7131(b).
2. Before the relevant compliance date for your source as specified in § 63.7083(e), an immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP.	Actions taken for the event	By fax or telephone within 2 working days after starting actions inconsistent with the SSMP.
3. Before the relevant compliance date for your source as specified in § 63.7083(e), an immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP.	The information in § 63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority. See § 63.10(d)(5)(ii).
4. Performance Test Report	The information required in § 63.7(g) and § 63.7112(h).	According to the requirements of § 63.7131.

TABLE 9 TO SUBPART AAAAA OF PART 63—EMISSIONS AVERAGING EMISSION LIMITS

[As required in § 63.7090(d), if you are using emissions averaging for either HCl emission limits or mercury emission limits you must meet each emission limit in the following table that applies to you.]

For . . .	You must meet the following emission limit
1. Existing straight rotary lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 2.1 lb/ton of lime produced.
2. Existing straight rotary lime kilns and their associated coolers producing high-calcium quick lime.	HCl emissions must not exceed 0.047 lb/ton of lime produced.
3. Existing preheater rotary lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 0.36 lb/ton of lime produced.
4. Existing preheater rotary lime kilns and their associated coolers producing high-calcium quick lime.	HCl emissions must not exceed 0.087 lb/ton of lime produced.
5. All vertical lime kilns and their associated coolers producing dolomitic quick lime and/or dead burned dolomitic lime.	HCl emissions must not exceed 0.36 lb/ton of lime produced.
6. All vertical lime kilns and their associated coolers producing high-calcium quick lime	HCl emissions must not exceed 0.019 lb/ton of lime produced.

TABLE 9 TO SUBPART AAAAA OF PART 63—EMISSIONS AVERAGING EMISSION LIMITS—Continued

[As required in § 63.7090(d), if you are using emissions averaging for either HCl emission limits or mercury emission limits you must meet each emission limit in the following table that applies to you.]

For . . .	You must meet the following emission limit
7. Existing lime kilns and their associated coolers	Mercury emissions must not exceed 31 lb/MMton of lime produced.

■ 16. Add tables 10 and 11 to subpart AAAAA to read as follows:

TABLE 10 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA

[As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table.]

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.1(a)(1) through (4)	Applicability	Yes.	§§ 63.7081 and 63.7142 specify additional applicability determination requirements.
§ 63.1(a)(5)		No.	
§ 63.1(a)(6)	Applicability	Yes.	
§ 63.1(a)(7) through (9)		No.	
§ 63.1(a)(10) through (14)	Applicability	Yes.	
§ 63.1(b)(1)	Initial Applicability Determination ..	Yes	Area sources not subject to this subpart, except all sources must make initial applicability determination.
§ 63.1(b)(2)		No.	
§ 63.1(b)(3)	Initial Applicability Determination ..	Yes.	
§ 63.1(c)(1)	Applicability After Standard Established.	Yes.	
§ 63.1(c)(2)	Permit Requirements	No	
§ 63.1(c)(3) and (4)		No.	Additional definitions in § 63.7143.
§ 63.1(c)(5)	Area Source Becomes Major	Yes.	
§ 63.1(c)(6)	Reclassification	Yes.	
§ 63.1(d)		No.	
§ 63.1(e)	Applicability of Permit Program	Yes.	
§ 63.2	Definitions	Yes	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7100 for general duty requirement.
§ 63.3(a) through (c)	Units and Abbreviations	Yes.	
§ 63.4(a)(1) and (2)	Prohibited Activities	Yes.	
§ 63.4(a)(3) through (5)		No.	
§ 63.4(b) and (c)	Circumvention, Severability	Yes.	
§ 63.5(a)(1) and (2)	Construction/Reconstruction	Yes.	
§ 63.5(b)(1)	Compliance Dates	Yes.	
§ 63.5(b)(2)		No.	
§ 63.5(b)(3) and (4)	Construction Approval, Applicability.	Yes.	
§ 63.5(b)(5)		No.	
§ 63.5(b)(6)	Applicability	Yes.	
§ 63.5(c)		No.	
§ 63.5(d)(1) through (4)	Approval of Construction/Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction.	Yes.	
§ 63.5(f)(1) and (2)	Approval of Construction/Reconstruction.	Yes.	
§ 63.6(a)	Compliance for Standards and Maintenance.	Yes.	
§ 63.6(b)(1) through (5)	Compliance Dates	Yes.	
§ 63.6(b)(6)		No.	
§ 63.6(b)(7)	Compliance Dates	Yes.	
§ 63.6(c)(1) and (2)	Compliance Dates	Yes.	
§ 63.6(c)(3) and (4)		No.	
§ 63.6(c)(5)	Compliance Dates	Yes.	
§ 63.6(d)		No.	
§ 63.6(e)(1)(i)	General Duty to Minimize Emissions.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	

TABLE 10 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued
[As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table.]

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.6(e)(1)(ii)	Requirement to Correct Malfunctions ASAP.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	[Reserved]. On and after the relevant compliance date for your source as specified in § 63.7083(e), the OM&M plan must address periods of startup and shutdown. See § 63.7100(d).
§ 63.6(e)(1)(iii)	Operation and Maintenance Requirements.	Yes.	
§ 63.6(e)(2)	Startup, Shutdown Malfunction Plan.	No	
§ 63.6(e)(3)		Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	
§ 63.6(f)(1)	SSM exemption	No	See § 63.7100. For periods of startup and shutdown, see § 63.7090(c).
§ 63.6(f)(2) and (3)	Methods for Determining Compliance.	Yes.	See § 63.7100. For periods of startup and shutdown, see § 63.7090(c).
§ 63.6(g)(1) through (3)	Alternative Standard	Yes.	
§ 63.6(h)(1)	SSM exemption	No	
§ 63.6(h)(2)	Methods for Determining Compliance.	Yes.	
§ 63.6(h)(3)	Opacity/VE Standards	No.	This requirement only applies to opacity and VE performance checks required in table 5 to this subpart.
§ 63.6(h)(4) through (h)(5)(i)		Yes	
§ 63.6(h)(5)(ii) and (iii)	Opacity/VE Standards	No	
§ 63.6(h)(5)(iv)	Opacity/VE Standards	No.	
§ 63.6(h)(5)(v)	Opacity/VE Standards	Yes.	§ 63.7110 specifies deadlines; § 63.7112 has additional specific requirements.
§ 63.6(h)(6)	Opacity/VE Standards	Yes.	
§ 63.6(h)(7)	COM Use	Yes.	
§ 63.6(h)(8)	Compliance with Opacity and VE	Yes.	
§ 63.6(h)(9)	Adjustment of Opacity Limit	Yes.	
§ 63.6(i)(1) through (14)	Extension of Compliance	Yes.	
§ 63.6(i)(15)	Extension of Compliance	No.	
§ 63.6(i)(16)		Yes.	
§ 63.6(j)	Exemption from Compliance	Yes.	
§ 63.7(a)(1) through (3)	Performance Testing Requirements.	Yes	
§ 63.7(b)	Notification	Yes.	
§ 63.7(c)	Quality Assurance/Test Plan	Yes.	
§ 63.7(d)	Testing Facilities	Yes.	
§ 63.7(e)(1)	Conduct of Tests	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	
§ 63.7(e)(2) through (4)	Conduct of Tests	Yes.	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7112(b).
§ 63.7(f)	Alternative Test Method	Yes.	
§ 63.7(g)	Data Analysis	Yes.	
§ 63.7(h)	Waiver of Tests	Yes.	
§ 63.8(a)(1)	Monitoring Requirements	Yes	See § 63.7113.
§ 63.8(a)(2)	Monitoring	Yes.	
§ 63.8(a)(3)	Monitoring	No.	Flares not applicable.
§ 63.8(a)(4)		No	
§ 63.8(b)(1) through (3)		Yes.	

TABLE 10 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued

[As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table.]

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.8(c)(1)(i)	CMS Operation/Maintenance	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7100 for OM&M requirements.
§ 63.8(c)(1)(ii)	CMS Spare Parts	Yes.	
§ 63.8(c)(1)(iii)	Requirement to Develop SSM Plan for CMS.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), no longer required.
§ 63.8(c)(2) and (3)	CMS Operation/Maintenance	Yes.	
§ 63.8(c)(4)	CMS Requirements	No	See § 63.7121.
§ 63.8(c)(4)(i) and (ii)	Cycle Time for COM and CEMS ..	Yes	No CEMS are required under this subpart; see § 63.7113 for CPMS requirements.
§ 63.8(c)(5)	Minimum COM procedures	Yes	COM not required.
§ 63.8(c)(6)	CMS Requirements	No	See § 63.7113.
§ 63.8(c)(7) and (8)	CMS Requirements	Yes.	
§ 63.8(d)(1) and (2)	Quality Control	Yes	See also § 63.7113.
§ 63.8(d)(3)	Quality Control	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	
§ 63.8(e)	Performance Evaluation for CMS	Yes	See also § 63.7113.
§ 63.8(f)(1) through (5)	Alternative Monitoring Method	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test for CEMS.	No	No CEMS required in this subpart.
§ 63.8(g)(1) through (5)	Data Reduction; Data That Cannot Be Used.	No	See data reduction requirements in §§ 63.7120 and 63.7121.
§ 63.9(a)	Notification Requirements	Yes	See § 63.7130.
§ 63.9(b)	Initial Notifications	Yes.	
§ 63.9(c)	Request for Compliance Extension.	Yes.	
§ 63.9(d)	New Source Notification for Special Compliance Requirements.	Yes.	
§ 63.9(e)	Notification of Performance Test ..	Yes.	
§ 63.9(f)	Notification of VE/Opacity Test	Yes	This requirement only applies to opacity and VE performance tests required in table 5 to this subpart. Notification not required for VE/opacity test under table 7 to this subpart.
§ 63.9(g)	Additional CMS Notifications	No	Not required for operating parameter monitoring.
§ 63.9(h)(1) through (3)	Notification of Compliance Status	Yes.	
§ 63.9(h)(4)		No.	
§ 63.9(h)(5) and (6)	Notification of Compliance Status	Yes.	
§ 63.9(i)	Adjustment of Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information ...	Yes.	
§ 63.9(k)	Electronic reporting procedures ...	Yes	Only as specified in § 63.9(j).
§ 63.10(a)	Recordkeeping/Reporting General Requirements.	Yes	See §§ 63.7131 through 63.7133.
§ 63.10(b)(1)	Records	Yes.	
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	

TABLE 10 TO SUBPART AAAAA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART AAAAA—Continued
[As required in § 63.7140, you must comply with the applicable General Provisions requirements according to the following table.]

Citation	Summary of requirement	Am I subject to this requirement?	Explanations
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet a Standard.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7132 for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
§ 63.10(b)(2)(iii)	Maintenance Records	Yes.	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7100 for OM&M requirements.
§ 63.10(b)(2)(iv) and (v)	Actions Taken to Minimize Emissions During SSM.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	
§ 63.10(b)(2)(vi) through (xii)	Recordkeeping for CMS	Yes.	See § 63.7132.
§ 63.10(b)(2)(xiii)	Records for Relative Accuracy Test.	No.	
§ 63.10(b)(2)(xiv)	Records for Notification	Yes.	
§ 63.10(b)(3)	Applicability Determinations	Yes.	
§ 63.10(c)	Additional CMS Recordkeeping ..	No	
§ 63.10(d)(1)	General Reporting Requirements	Yes.	
§ 63.10(d)(2)	Performance Test Results	Yes.	
§ 63.10(d)(3)	Opacity or VE Observations	Yes	For the periodic monitoring requirements in table 7 to this subpart, report according to § 63.10(d)(3) only if VE observed and subsequent visual opacity test is required.
§ 63.10(d)(4)	Progress Reports	Yes.	On and after the relevant compliance date for your source as specified in § 63.7083(e), see § 63.7131 for malfunction reporting requirements.
§ 63.10(d)(5)(i)	Periodic Startup, Shutdown, Malfunction Reports.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	
§ 63.10(d)(5)(ii)	Immediate Startup, Shutdown, Malfunction Reports.	Yes before the relevant compliance date for your source as specified in § 63.7083(e). No on and after the relevant compliance date for your source as specified in § 63.7083(e).	See specific requirements in this subpart, see § 63.7131.
§ 63.10(e)	Additional CMS Reports	No	
§ 63.10(f)	Waiver for Recordkeeping/Reporting.	Yes.	Flares not applicable.
§ 63.11(a) and (b)	Control Device and Work Practice Requirements.	No	
§ 63.12(a) through (c)	State Authority and Delegations ...	Yes.	
§ 63.13(a) through (c)	State/Regional Addresses	Yes.	
§ 63.14(a) and (b)	Incorporation by Reference	No.	
§ 63.15(a) and (b)	Availability of Information and Confidentiality.	Yes.	
§ 63.16	Performance Track Provisions	Yes.	

TABLE 11 TO SUBPART AAAAA OF PART 63—TOXICITY EQUIVALENCE FACTORS (TEFs) FOR HUMAN HEALTH RISK ASSESSMENT OF POLYCHLORINATED DIBENZO-P-DIOXINS, DIBENZOFURANS, AND DIOXIN-LIKE POLYCHLORINATED BIPHENYLS

Dioxin/Furan	2005 TEFs ¹
2,3,7,8-TCDD	1
1,2,3,7,8-PeCDD	1
1,2,3,4,7,8-HxCDD	0.1

TABLE 11 TO SUBPART AAAAA OF PART 63—TOXICITY EQUIVALENCE FACTORS (TEFs) FOR HUMAN HEALTH RISK ASSESSMENT OF POLYCHLORINATED DIBENZO-P-DIOXINS, DIBENZOFURANS, AND DIOXIN-LIKE POLYCHLORINATED BIPHENYLS—Continued

Dioxin/Furan	2005 TEFs ¹
1,2,3,6,7,8-HxCDD	0.1
1,2,3,7,8,9-HxCDD	0.1
1,2,3,4,6,7,8-HpCDD	0.01
OCDD	0.0003
2,3,7,8-TCDF	0.1
1,2,3,7,8-PeCDF	0.03
2,3,4,7,8-PeCDF	0.3
1,2,3,4,7,8-HxCDF	0.1
1,2,3,6,7,8-HxCDF	0.1
1,2,3,7,8,9-HxCDF	0.1
2,3,4,6,7,8-HxCDF	0.1
1,2,3,4,6,7,8-HpCDF	0.01
1,2,3,4,7,8,9-HpCDF	0.01
OCDF	0.0003

¹ EPA/100/R-10/005, "Recommended Toxicity Equivalence Factors (TEFs) for Human Health Risk Assessments of 2, 3, 7, 8-Tetrachlorodibenzo-p-dioxin and Dioxin-Like Compounds", December 2010. (See § 63.14 for availability.)

[FR Doc. 2024-14692 Filed 7-15-24; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[EPA-HQ-OPP-2022-0133; FRL-8528-04-OCSPP]

RIN 2070-AK92

Notification of Submission to the Secretary of Agriculture; Draft Final Rule; Pesticides; Agricultural Worker Protection Standard; Reconsideration of the Application Exclusion Zone Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of submission to the Secretary of Agriculture.

SUMMARY: This document notifies the public as required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) that the EPA has forwarded a draft final rule to the U.S. Department of Agriculture (USDA) entitled "Pesticides; Agricultural Worker Protection Standard; Reconsideration of the Application Exclusion Zone Amendments." The draft regulatory document is not available to the public until after it has been signed and made available to the public by EPA.

DATES: See Unit I. under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2022-0133, is available at <https://www.regulations.gov>. That docket contains historical information and this

Federal Register document; it does not contain the draft final rule.

FOR FURTHER INFORMATION CONTACT:

Carolyn Schroeder, Pesticide Re-Evaluation Division (7508M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-2376; email address: schroeder.carolyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?

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

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

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

List of Subjects in 40 CFR Part 170

Environmental protection, Pesticides, Agricultural worker, Pesticide handler, Employer, Farms, Forests, Nurseries, Greenhouses, Worker protection standard.

Dated: July 9, 2024.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2024-15447 Filed 7-15-24; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2020-0700; FRL-10420-01-OCSPP]

Trichoderma atroviride Strain K5 NRRL B-50520; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Trichoderma atroviride* strain K5 NRRL B-50520 in or on all food commodities when used in accordance with label directions and good agricultural practices. Agrauxine Corp., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting the exemption from a requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Trichoderma atroviride* strain K5 NRRL B-50520 under FFDCA when used in

accordance with the terms of the exemption.

DATES: This regulation is effective July 16, 2024. Objections and requests for hearings must be received on or before September 16, 2024, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2020-0700, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and OPP Docket is (202) 566-1744. For the latest status information on EPA/DC services, docket access, visit <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Madison H. Le, Biopesticides and Pollution Prevention Division (7511M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (202) 566-1400; email address: BPPDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

You may access a frequently updated electronic version of 40 CFR part 180 through the Office of the Federal

Register's e-CFR site at <https://ecfr.gov/current/title-40>.

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2020-0700 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before September 16, 2024. EPA's Office of Administrative Law Judges (OALJ), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. See "Revised Order Urging Electronic Service and Filing", dated June 22, 2023, which can be found at <https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf>. Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the OALJ electronically, a person should utilize the OALJ e-filing system at https://yosemite.epa.gov/OA/EAB/EAB-ALJ_upload.nsf.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2020-0700, by one of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <https://www.epa.gov/dockets/where-send-comments-epa-dockets>.

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

II. Background

In the **Federal Register** of December 21, 2021 (86 FR 72200) (FRL-8792-06), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 0F8867) by Agrauxine Corp., 375 Bonnewitz Avenue, Van Wert, OH 45981. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Trichoderma atroviride* strain K5 NRRL B-50520 in or on all food commodities (although not expressly stated in the petition, EPA interpreted the petition as requesting an exemption covering all food commodities). That document referenced a summary of the petition prepared by the petitioner Agrauxine Corp., which is available in the docket via <https://www.regulations.gov>. No comments were received on the notice of filing.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of

infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue” Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider “available information concerning the cumulative effects of [a particular pesticide’s] . . . residues and other substances that have a common mechanism of toxicity.”

EPA evaluated the available toxicological and exposure data on *Trichoderma atroviride* strain K5 NRRL B-50520 and considered its validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on that data can be found within the document entitled “Human Health Risk Assessment of *Trichoderma atroviride* strain K5, a New Active Ingredient, in 86431–GL (Manufacturing-use Product) and 86431–GA (End-use Product) Proposed for Registration and an Associated Petition Requesting a Tolerance Exemption” (*Trichoderma atroviride* strain K5 NRRL B-50520 Human Health Risk Assessment). This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

Based upon its evaluation, EPA concludes that *Trichoderma atroviride* strain K5 NRRL B-50520 is not toxic, pathogenic, or infective via the oral, pulmonary, or injection routes of exposure; and is not expected to be toxic via dermal or inhalation routes of exposure based on the data presented in the three toxicity/pathogenicity studies. Additionally, all three of the toxicity/pathogenicity studies demonstrated a pattern of clearance of *Trichoderma atroviride* strain K5 NRRL B-50520 from the blood and organs of the test animals. Based on lack of adverse effects seen in the available toxicity/pathogenicity data, EPA does not expect any dietary exposure, drinking water exposure, non-occupational and residential exposures resulting from the use of this pesticide to pose any quantifiable risk; thus, no qualitative risk assessment was conducted. Significant dietary and non-occupational exposures to residues of *Trichoderma atroviride* strain K5 NRRL B-50520 are not anticipated because it will be applied via seed or soil-directed treatment, and it is not expected to remain at high levels on plant surfaces or readily percolate through soil before reaching ground water. Although there may be some exposure to residues when

used on food commodities in accordance with label directions and good agricultural practices, there is a reasonable certainty that such exposure will not cause adverse effects. EPA also determined that retention of the Food Quality Protection Act (FQPA) safety factor for infants and children was not necessary as part of the qualitative assessment conducted for *Trichoderma atroviride* strain K5 NRRL B-50520, because there are no threshold levels of concern when used in accordance with label directions and good agricultural practices.

Based upon its evaluation, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Trichoderma atroviride* strain K5 NRRL B-50520. Therefore, an exemption from the requirement of a tolerance is established for residues of *Trichoderma atroviride* strain K5 NRRL B-50520 in or on all food commodities when used in accordance with label directions and good agricultural practices.

B. Analytical Enforcement Methodology

EPA is establishing an exemption from the requirement of a tolerance for residues of *Trichoderma atroviride* strain K5 NRRL B-50520 in or on all food commodities without any numerical limitation and thus an analytical method is not required for enforcement purposes.

IV. Statutory and Executive Order Reviews

This action establishes an exemption from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) nor does it require any special considerations under Executive Order 12898, entitled

“Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, EPA has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: June 24, 2024.

Edward Messina,

Director, Office of Pesticide Programs.

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

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

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

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

■ 2. Add § 180.1397 to subpart D to read as follows:

§ 180.1397 *Trichoderma atroviride* strain K5 NRRL B-50520; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of *Trichoderma atroviride* strain K5 NRRL B-50520 in or on all food commodities when used in accordance with label directions and good agricultural practices.

[FR Doc. 2024-15375 Filed 7-15-24; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2023-0008; FRL-10898-01-OCSPP]

Gluconobacter cerinus Strain BC18B and *Hanseniaspora uvarum* Strain BC18Y; Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes exemptions from the requirement of a tolerance for residues of *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y in or on all food commodities when used in accordance with label directions and good agricultural practices. Danisco US Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting exemptions from the requirement of a tolerance. This regulation eliminates the need to establish maximum permissible levels for residues of *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y when used in accordance with this exemption.

DATES: This regulation is effective July 16, 2024. Objections and requests for hearings must be received on or before

September 16, 2024 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2023-0008, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and OPP Docket is (202) 566-1744. Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Madison H. Le, Biopesticides and Pollution Prevention Division (7511M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (202) 566-1400; email address: BPPDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an

objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2023-0008 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before September 16, 2024. EPA's Office of Administrative Law Judges (OALJ), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. See "Revised Order Urging Electronic Service and Filing", dated June 22, 2023, which can be found at <https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf>. Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the OALJ electronically, a person should utilize the OALJ e-filing system at https://yosemite.epa.gov/OA/EAB/EAC-ALJ_upload.nsf.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2023-0008, by one of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <https://>

www.epa.gov/dockets/where-send-comments-epa-dockets.

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

II. Background

In the **Federal Register** of March 24, 2023 (88 FR 17780) (FRL-10579-02), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance exemption petition (PP 1F8927) by Danisco US Inc., 925 Page Mill Road, Palo Alto, CA 94304. The petition requested that 40 CFR part 180 be amended by establishing exemptions from the requirement of a tolerance for residues of the microbial pesticides *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y in or on all food commodities (although not expressly stated in the petition, EPA interpreted the petition as requesting an exemption covering all food commodities). That notice referenced a summary of the petition prepared by the petitioner Danisco US Inc. which is available in the docket via <https://www.regulations.gov>. EPA received no comments in response to the notice of filing.

EPA revised the tolerance exemption expression to specifically include the establishment of exemptions from the requirement of a tolerance for residues of the microbial pesticides *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y in or on all food commodities. The reason for this change is explained in Unit III.C.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account

the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ." Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider "available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity."

EPA evaluated the available toxicological and exposure data on *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y and considered their validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled "Human Health Risk Assessment of *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y, New Active Ingredients, in BC18-C (Manufacturing-use Product) and BC18-WG (End-use Product) Proposed for Registration with Associated Petitions Requesting Tolerance Exemptions" (Human Health Risk Assessment of *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y). This document, as well as other relevant information, is available in the docket for this action as described under

ADDRESSES.

Based upon its evaluation, EPA concludes that *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y were not found to be toxic, pathogenic, or infective in the present acute oral toxicity/pathogenicity studies. Additionally, all presented studies demonstrated a pattern of clearance of *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y from the organs of test animals. Based on lack of adverse effects seen in the available toxicity/pathogenicity data, EPA does not expect any dietary exposure, drinking water exposure, non-occupational and residential exposures resulting from the use of these microbial pesticides to pose any quantifiable risk. Additionally, *Hanseniaspora uvarum* and *Gluconobacter cerinus* naturally occur on fruits, vegetables, and a variety of plant-based foods. Therefore, while products containing that *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y

are intended for application to agricultural commodities, and exposure may occur through consumption of foods, exposure is not expected to be above the levels at which humans are naturally exposed.

Based upon its evaluation in the Human Health Risk Assessment of *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y, which concludes that there are no risks of concern from aggregate exposure to *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y. Therefore, exemptions from the requirement of tolerances are established for residues of *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y in or on all food commodities when used in accordance with label directions and good agricultural practices.

B. Analytical Enforcement Methodology

Analytical methods are not required for *Gluconobacter cerinus* strain BC18B or *Hanseniaspora uvarum* strain BC18Y because EPA is establishing exemptions from the requirement of a tolerance without any numerical limitation.

C. Revisions to the Requested Tolerance Exemption

EPA revised the tolerance exemption expression to specifically include the establishment of the exemptions from the requirement of a tolerance for residues of the microbial pesticides *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y in or on all food commodities. Although not expressly stated in the petition, EPA interpreted the petition as requesting an exemption covering all food commodities.

D. Conclusion

Therefore, exemptions from the requirement of tolerances are established for residues of *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y in or on all food commodities when used in accordance with label directions and good agricultural practices.

IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types

of actions from review under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, EPA has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require EPA’s consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology

Transfer and Advancement Act (15 U.S.C. 272 note).

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: June 17, 2024.

Edward Messina,

Director, Office of Pesticide Programs.

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

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

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

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

- 2. Add § 180.1407 to subpart D to read as follows:

§ 180.1407 *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y; exemptions from the requirement of a tolerance.

Exemptions from the requirement of tolerances are established for residues of *Gluconobacter cerinus* strain BC18B and *Hanseniaspora uvarum* strain BC18Y in or on all food commodities when used in accordance with label directions and good agricultural practices.

[FR Doc. 2024–15376 Filed 7–15–24; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–76

[FMR Case 2023–102–03; Docket No. GSA–FMR–2024–0012; Sequence No. 1]

RIN 3090–AK76

Federal Management Regulation; Accessibility Standard for Pedestrian Facilities in the Public Right-of-Way; Correction

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Final rule; correction.

SUMMARY: The General Services Administration (GSA) is issuing a correction to FMR Case 2023–102–03: Accessibility Standard for Pedestrian Facilities in the Public Right-of-Way. The document contained an incorrect docket number. This document contains the correct docket number.

DATES: Effective September 3, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Coneeney, Director, Real Property Policy Division, Office of Government-wide Policy, at 202–208–2956 or chris.coneeney@gsa.gov, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov. Please cite FMR Case 2023–102–03.

SUPPLEMENTARY INFORMATION:

Correction

In FR Doc. 2024–14424, in the **Federal Register** of July 3, 2024, at 89 FR 55072, correct the docket number in the third column to read “GSA–FMR–2024–0012”.

Mehul Parekh,

Acting Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2024–15372 Filed 7–15–24; 8:45 am]

BILLING CODE 6820–14–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 20–299; FCC 24–61; FR ID 228169]

Sponsorship Identification Requirements for Foreign Government-Provided Programming

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) takes steps to ensure clear and reasonable foreign sponsorship identification rules, which require radio and television broadcast stations to inform audiences when programming aired pursuant to a lease of airtime on the station is sponsored by a foreign governmental entity. The document replaces a previous requirement of the rules with a new approach that provides licensees with two options for demonstrating that they have sought to obtain the information needed to determine whether the programming being provided by a lessee is sponsored

by a foreign governmental entity. The revised approach addresses concerns broadcasters had regarding the burdens and complexity of the rule and clarifies when the rule applies.

DATES: Amending instruction 2 (47 CFR 73.1212(j)(8) and (k)) is effective August 15, 2024, and amending instruction 3 (47 CFR 73.1212(j)(3)) is delayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the effective date. **FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, please contact Radhika Karmarkar of the Media Bureau, Industry Analysis Division, Radhika.Karmarkar@fcc.gov, (202) 418-1523.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order (*Second R&O*), FCC 24-61, in MB Docket No. 20-299, adopted on May 31, 2024, and released on June 10, 2024. The complete text of this document is available electronically via the search function on the FCC's website at <https://docs.fcc.gov/public/attachments/FCC-24-61A1.pdf>.

Synopsis

I. Introduction

1. The *Second R&O* took steps to ensure clear and reasonable foreign sponsorship identification rules. In April 2021, the Commission issued a Report and Order (*First R&O*) (86 FR 32221, June 17, 2021) in the above-captioned proceeding adopting a requirement that radio and television stations broadcast clear disclosures for programming that is provided by a foreign governmental entity and set forth the procedures for exercising reasonable diligence to determine whether such a disclosure is needed. The Commission took this action in response to reports that U.S. broadcast stations were transmitting undisclosed foreign governmental programming, against the backdrop of over ninety years of sponsorship identification regulations that ensure the public is informed when airtime has been purchased on broadcast stations in an effort to persuade audiences.

2. In the *Second R&O*, the Commission addressed a ruling by the U.S. Court of Appeals for the District of Columbia Circuit, *National Association of Broadcasters, et al., v. FCC*, 39 F.4th 817, 820 (D.C. Cir. 2022) (*NAB v. FCC*), that vacated one of the foreign sponsorship identification requirements established in the *First R&O*. The Commission replaced the vacated verification requirement with an approach that avoids the investigatory

obligation on the part of licensees that was at issue in *NAB v. FCC*. The new approach provides licensees with two options for demonstrating that they have met their duty of inquiry in seeking to obtain the information needed to determine whether the programming being provided by a lessee is sponsored by a foreign governmental entity. The adopted approach addresses concerns about burdens and complexity raised by commenters in response to the second notice of proposed rulemaking (*Second NPRM*) (87 FR 68960, November 17, 2022) in the above-captioned proceeding.

3. Furthermore, in this order, the Commission clarified that its foreign sponsorship identification rules do not apply to sales of advertising for commercial goods and services to the extent such programming falls within the exemption contained in 47 CFR 73.1212(f) of its general sponsorship identification rules. In addition, the Commission found that its foreign sponsorship identification rules will not apply to political candidate advertisements, but will apply to issue advertisements and paid public service announcements ("paid PSAs"). It also confirmed that the rule changes do not alter its finding in the *First R&O* that noncommercial and educational broadcast stations (NCEs) are not likely to fall within the ambit of the foreign sponsorship identification rules. The Commission declined to create an exemption from the rules for religious programming and locally produced and/or distributed programming. It also concluded that, when a lessee and licensee enter into recurring leases for the same programming, the licensee will be required to exercise its reasonable diligence obligations under the rule only once per year with respect to that particular lessee and that particular programming. With respect to the adopted rule changes, the Commission grandfathered lease agreements already in effect at the time of the required compliance date for these newly-adopted modifications, determining that such leases will need to come into compliance either at the time of renewal or when the parties to the agreement enter into a new lease. Finally, the Commission clarified the obligations of section 325(c) permittees under the foreign sponsorship identification rules.

II. Background

4. Section 317 of the Communications Act and the Commission's implementing regulations under 47 CFR 73.1212 have long required broadcast licensees to inform their audiences when programming is being aired in

exchange for payment or compensation to the station. While section 310(a) of the Act prohibits foreign governments and their representatives from holding a broadcast license, there is no limitation on their ability to enter into a contract with the licensee of a station to air programming of their choosing, or even to lease the entire capacity of a radio or television station. In the *First R&O*, the Commission amended the then existing sponsorship identification rules by adding a requirement that licensees disclose the identity of any foreign governmental entities that lease time on their stations. The disclosure requirements apply to leased programming because the record in the underlying proceeding identified leased airtime as the primary means by which foreign governmental entities are accessing U.S. airwaves to persuade the American public without adequately disclosing the true sponsor.

5. The *First R&O* defined "foreign governmental entity" using existing definitions, statutes, and regulations. Pursuant to 47 CFR 73.1212(j)(2), the term "foreign governmental entity" "shall include governments of foreign countries, foreign political parties, agents of foreign principals, and United States-based foreign media outlets." Section 73.1212(j)(2)(i) through (iv) of the Commission's rules set out definitions for "government of a foreign country", "foreign political party", "agent of a foreign principal", and "United States-based foreign media outlet".

6. The foreign sponsorship identification rules apply in two circumstances. First, a prescribed disclosure is required when a foreign governmental entity has sponsored, paid for, or furnished programming that is aired on a radio or television station pursuant to a lease agreement. Section 73.1212(j)(1)(i) requires that foreign government-provided programming furnished consistent with § 73.1212(a) include the following disclosure: "The [following/preceding] programming was [sponsored, paid for, or furnished], either in whole or in part, by [name of foreign governmental entity] on behalf of [name of foreign country]." Second, if a foreign governmental entity provides the programming for free, or for nominal compensation, as an inducement to air the programming, the prescribed disclosure is required if the programming is political or involves discussion of a controversial issue.

7. The foreign sponsorship identification rules neither prevent nor restrict the broadcast of foreign government-provided programming, but rather, are intended solely to inform

audiences about the source of any such programming so that they may be more informed and savvy consumers of the material. As the Commission stated in the *First R&O*, “[t]he principle that the public has a right to know the identity of those that solicit their support is a fundamental and long-standing tenet of broadcasting.”

8. Section 317(c) of the Act requires licensees to exercise “reasonable diligence to obtain,” from their employees and persons with whom they deal directly, information to enable the licensees to make the required sponsorship identification announcement. To satisfy this reasonable diligence standard with regard to foreign sponsorship identification, the current rules under 47 CFR 73.1212(j)(3) require a licensee to take each of the following actions, both when entering into a new lease agreement and renewing a lease agreement:

(1) Inform the lessee of the foreign sponsorship disclosure requirement.

(2) Ask the lessee whether it falls into any of the categories that would qualify it as a “foreign governmental entity.”

(3) Ask the lessee whether it knows if any individual/entity further back in the chain of producing/distributing the programming to be aired qualifies as a foreign governmental entity and has provided some type of inducement to air the programming.

(4) Memorialize the above-listed inquiries and retain such memorialization in its records for the remainder of the license term or for one year, whichever is longer.

These requirements apply regardless of whether the programming is provided pursuant to a lease agreement for consideration under section 317(a)(1) or is provided for free or for nominal compensation under section 317(a)(2) and contains political programming or programming involving a controversial issue. The rules also apply to any programming broadcast pursuant to a section 325(c) permit. The Commission initially adopted an additional requirement that, as discussed in further detail below, has been vacated by the U.S. Court of Appeals for the District of Columbia Circuit. *NAB v. FCC*, 39 F.4th at 820.

9. While the reasonable diligence requirements of section 317(c) apply to licensees, section 507 of the Act imposes an obligation on those involved in the production and/or distribution of program matter for broadcast to communicate any information known to them about any money, service or other valuable consideration that any person has paid or agreed to pay for the inclusion of any matter as part of a program. The disclosure obligation

extends beyond the lessee itself to any person connected with the production, preparation, or supply of the programming.

10. On July 19, 2021, the ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Affiliates Association, and NBC Television Affiliates (collectively, the Affiliates) filed a Petition for Clarification. The Affiliates assert that the exemption in the *First R&O* of “traditional, short-form advertising” from the foreign sponsorship identification rules creates confusion because the term has no established meaning in the broadcast industry. In their petition, the Affiliates argue that the Commission should clarify that the foreign sponsorship identification rules do not apply when a licensee sells time to advertisers in the normal course of business, regardless of the advertisement’s length.

11. On August 13, 2021, the National Association of Broadcasters (NAB), the Multicultural Media, Telecom and Internet Council (MMTC), and the National Association of Black Owned Broadcasters (NABOB) (collectively, Petitioners) filed a Petition for Review of the *First R&O* with the D.C. Circuit. Petitioners challenged the Commission’s authority to impose one of the reasonable diligence requirements contained in the *First R&O*. Specifically, in addition to the four reasonable diligence requirements listed above, the *First R&O* had required licensees to confirm the lessee’s status, at the time of entering into a lease agreement and at renewal, by consulting the Department of Justice’s Foreign Agent Registration Act (FARA) website and the Commission’s semi-annual U.S.-based foreign media outlets reports. On July 12, 2022, the D.C. Circuit vacated this verification requirement, holding that it exceeded the Commission’s authority under section 317(c). *NAB v. FCC*, 39 F.4th at 820. The D.C. Circuit stated that section 317(c) imposes on licensees only a duty of inquiry and not a duty of investigation. The court left in place the remaining four requirements needed to satisfy the statutory reasonable diligence standard.

12. On October 6, 2022, the Commission released the *Second NPRM* containing proposals to address the gap left by the D.C. Circuit’s vacatur of the verification requirement contained in the foreign sponsorship identification rules. The *Second NPRM* proposed two alternatives to replace the vacated requirement that licensees independently confirm the lessee’s status. Under the first proposal, each licensee had to certify that it had

informed its lessee of the foreign sponsorship identification rules and obtained, or sought to obtain, a certification from its lessee stating whether the lessee is or is not a “foreign governmental entity.” In turn, the lessee would submit a certification in response to the licensee’s request. To minimize compliance burdens, the Commission proposed that licensees and lessees use standardized certification language, as set forth in the *Second NPRM*. Consistent with the existing requirement that licensees upload into their online public inspection files (OPIFs) their lease agreements, the Commission tentatively concluded that licensees should upload both their own and their lessees’ completed certifications into their OPIFs, along with the associated lease agreements.

13. The *Second NPRM* also contained a second proposal based on an approach raised during oral argument in *NAB v. FCC* as a possible alternative to the rule provision it ultimately vacated. Under this proposal, in lieu of the licensee independently confirming the lessee’s status by checking the Department of Justice’s FARA website, or the Commission’s U.S.-based foreign media outlet reports site, the licensee would ask the lessee to provide screenshots showing the results of the lessee’s search for its name on these sites. In addition, the *Second NPRM* also sought comment on the need to apply the proposals contained therein to section 325(c) permit holders. Finally, it provided another opportunity for comment on the Affiliates’ Petition for Clarification regarding the treatment of advertisements.

III. Discussion

14. The Commission first determined that licensees must pursue one of two approaches to address the gap left by the D.C. Circuit’s vacatur of the independent verification requirement. It then addressed questions raised in the record about the application of the foreign sponsorship identification rules to different types of broadcast programming. It then explained when licensees must comply with the newly-adopted requirements and grandfathers lease agreements already in existence at the time of the compliance date of the new rules for the duration of the lease term, determining that existing leases will have to comply with the new rules at the time of renewal or when the parties enter into a new agreement, whichever is earlier. It clarified that its foreign sponsorship identification rules will not apply to sales of advertising for commercial goods and services to the extent that such programming would

not otherwise be subject to the general sponsorship disclosure rules, as set forth in 47 CFR 73.1212(f). The Commission also found that the foreign sponsorship identification rules will not apply to political candidate advertisements. It did, however, determine that the foreign sponsorship identification rules will apply to issue advertisements and paid PSAs. It found that it is inconsistent with its goal of disclosing the source of foreign government-provided programming, and in some instances the First Amendment, to exclude from the ambit of its rules locally produced and/or locally distributed programming and religious programming. It also described how the requirements laid out in the *Second R&O* will apply to section 325(c) permit holders. Lastly, it found that its actions will not inhibit diverse entrants from participating in the broadcast media marketplace.

A. Obtaining Information From Lessees

15. The *Second R&O* gives broadcast licensees greater flexibility than proposed in the *Second NPRM* with respect to how they must seek to obtain from lessees the information needed to determine whether a foreign sponsorship disclosure is needed. Specifically, a licensee may choose between one of two options to comply with the rule. Neither of these two options imposes an investigatory duty upon licensees or holds them responsible for the truth of the information they obtain. Under the first option, both the licensee and the lessee must complete a written certification either using the standardized certification language contained in Appendices C and D of the *Second R&O*, and set forth below, or using their own language, as long as the certifications written in their own language contain the inquiries set out in 47 CFR 73.1212(j)(3), pursuant to the *First R&O*. Under the second option, the licensee must ask the lessee to provide screenshots showing the search results generated by the lessee's search for its own name on two Federal Government websites.

16. In all other respects, under this second option, the licensee must follow the other requirements contained in the existing foreign sponsorship identification rules. Consistent with the existing foreign sponsorship identification rules, the licensee must inform the lessee about the foreign sponsorship disclosure requirement, inquire whether the lessee is either a "government of a foreign country" or a "foreign political party," and inquire about the lessee's knowledge of anyone

further back in the chain of producing/distributing the programming who qualifies as a "foreign governmental entity" and may have provided an inducement to air the programming such as to trigger the need for a foreign sponsorship disclosure. See 47 CFR 73.1212(j)(i) through (iii). Finally, also consistent with the existing foreign sponsorship identification rules, the licensee must memorialize those inquiries in some manner. Note, however, that the existing "memorialization" requirement has been moved from § 73.1212(j)(3)(v) of the Commission's rules to revised § 73.1212(j)(3)(iv), which replaces the vacated § 73.1212(j)(3)(iv).

17. Given the concerns raised in the record about the burdens associated with the proposals in the *Second NPRM* to replace the independent verification requirement, the requirements adopted in the *Second R&O* offer licensees more flexibility by giving them a choice of approaches and by allowing them to devise their own certification language. Moreover, the Commission reduced compliance burdens and made the new requirements easier to implement by offering simple certification templates. It also allowed a licensee to inquire about a lessee's foreign governmental entity status only once a year when the lessee and programming are the same (e.g., weekly broadcasts of church services from the same church), assuming there is no change in the lessee's status and the lessee has not become aware of any change in the individuals/entities further back in the programming's production/distribution chain that would trigger the need for a foreign sponsorship disclosure.

18. The Commission declined to adopt several proposals contained in the *Second NPRM* in order to address concerns raised in the record about compliance costs and burdens. First, a licensee need not notify the Media Bureau when a lessee fails to respond to the licensee's queries. Second, licensees will not be required to retain certifications and screenshots in the licensees' OPIFs that are hosted by the Commission. Licensees may either file these records in their OPIFs or in their internal files. Finally, if a lessee fails to respond, or fails to respond adequately, to the licensee's request for a certification or screenshots, the licensee is not prohibited from airing the program. Nevertheless, if a question arises later about whether a disclosure was needed, the licensee must be able to demonstrate, in the event of a fact-specific inquiry by the Commission, that it exercised reasonable diligence in seeking the information. As explained

below, the newly-adopted requirements are within the Commission's statutory authority and are consistent with the D.C. Circuit's ruling in *NAB v. FCC*.

1. Licensees Must Comply With One of Two Approaches

19. Licensees will be required to comply with either one of the two approaches described below. Although licensees must choose one of these approaches, they need not choose the same approach for each lease or renewal agreement, even when the same lessee is involved. Compliance with one of these two approaches must be at the time of entering into any new lease agreement or renewing an existing lease agreement, unless the once-a-year exception described below applies. The Commission rejected a suggestion to require certifications of compliance with the foreign sponsorship identification rules only at the time of a licensee's renewal application.

20. *Certification Option.* One option available to licensees is the use of certifications, as described below. The Commission found that the certification option fills the gap left by the D.C. Circuit's vacatur of a licensee's requirement to conduct an independent check, by helping to ensure the credibility of the sponsorship information provided by the lessee in response to the licensee's inquiries. For those who would prefer not to pursue the screenshot option discussed below, the certification approach has the benefit of providing an alternative means of verification. Moreover, certifications have the value of reminding lessees of the foreign sponsorship identification rules and ensuring that they provide above board sponsorship information to broadcasters.

21. The Commission streamlined significantly the certification proposal contained in the *Second NPRM*. Under the adopted certification option, both a licensee and a lessee must complete a certification reflecting the communications and inquiries required under the existing rules. Licensees and lessees will have the option either to use the streamlined standardized certification language set forth in Appendices C and D of the *Second R&O*, and set forth below, or to use language created by the parties. Rather than the two and a half page certifications proposed in the *Second NPRM*, the Commission developed one-page templates for the licensee and lessee certifications, based on a straightforward and familiar "check box" format. While the templates do include citations to the legal sources

defining the various categories of foreign governmental entities, most licensee and lessee employees should be able to complete the forms quickly and readily, based upon their existing knowledge and understanding. The lessee is being asked to sign a certification regarding its own status. The lessee should already know if it is a registered FARA agent, or is listed as a U.S.-based foreign media outlet on the Commission's website, because these registrations/listings are self-reported. Similarly, a lessee should already know if it is a government of a foreign country or a foreign political party. With regard to those further back in the chain of producing and/or distributing the programming, the lessee is being asked only about its actual knowledge at the time it signs the certification. It is highly unlikely that either licensee or lessee should have to engage in any type of research to respond to the queries contained in the certifications. These are the same inquiries the Commission adopted in the *First R&O*, only formatted now as a certification.

22. If licensees and lessees prefer not to use the Commission's templates, they may use their own certification language, provided that language addresses the points listed in 47 CFR 73.1212(j)(3)(i) through (iii). Several commenters expressed concerns that licensees already have developed their own certifications based on the existing foreign sponsorship identification rules and that revising these certifications would be costly. The Commission is persuaded that self-generated certifications can fulfill its certification requirements provided these certifications contain the information and inquiries currently required by the foreign sponsorship identification rules. Specifically, a licensee's certification should confirm that the licensee:

- (1) informed the lessee of the foreign sponsorship disclosure requirement;
- (2) asked the lessee whether it falls into any of the categories that would qualify it as a "foreign governmental entity;"
- (3) asked the lessee whether it knows if any individual/entity further back in the chain of producing and/or distributing the programming to be aired qualifies as a foreign governmental entity and has provided some type of inducement to air the programming;
- (4) sought a written certification in response from the lessee; and
- (5) obtained the necessary information for a disclosure if one is required.

A lessee's certification should convey the information needed to determine whether a disclosure is required and the information needed for a broadcast disclosure if one is required.

23. Regardless of whether the Commission's templates or a licensee's and lessee's own certifications are used, both the licensee's and lessee's certifications must be dated and signed by an employee or other representative of the entity who can attest to the fact that these actions were taken. Irrespective of whether a licensee chooses to use the template certification language or its own language, licensees are encouraged to include a provision in their lease agreements requiring the lessee to notify the licensee about any change in the lessee's status such as to trigger the foreign sponsorship identification rules. Because these certification requirements encapsulate the extant information and inquiry requirements adopted in the *First R&O*, it is unlikely that any preexisting certification language that licensees have employed will require much revision, if any.

24. *Screenshot Option.* As an alternative to the certification option, licensees may choose to ask their lessees for screenshots of lessees' search results of two Federal Government websites. This option essentially replaces the verification requirement that the D.C. Circuit vacated, with the key difference being that the lessee conducts the searches instead of the licensee. The D.C. Circuit determined that it was beyond the scope of section 317(c) to require a licensee to independently verify a lessee's statement that the lessee was not listed in the Department of Justice's FARA database as a FARA agent or in the Commission's U.S.-based foreign media outlet reports. Consequently, consistent with the hypothetical raised during oral argument before the D.C. Circuit in *NAB v. FCC*, the Commission now determined that licensees may ask their lessees to perform those searches and provide screenshots of the search results. Hence, instead of asking the lessee to provide a responsive certification regarding its status, a licensee exercising this option would ask, consistent with the current foreign sponsorship identification rules, whether the lessee is a registered FARA agent or is listed in the Commission's U.S.-based foreign media outlet report. If the lessee responds "no," the licensee would then ask the lessee to provide screenshots showing the results of lessee's searches of both of these websites. As discussed below, licensees choosing this option must still comply with all other aspects of the current rule, as they have been required to do since the compliance date of the *First R&O*. Moreover, consistent with the

First R&O, licensees are encouraged to include in their lease agreements a requirement for lessees to provide notice of any change in status so as to trigger the need for a foreign sponsorship disclosure.

25. Some commenters have objected to the screenshot approach based on erroneous assumptions about what such a search requires. The FARA searches are simple name searches, initiated by merely entering a name in a search box. As with the requirement that the D.C. Circuit vacated, if the name search does not generate any results, no further search is needed. If the name search does generate results, the broadcaster's duty is to exercise reasonable diligence to ascertain whether the lessee is subject to a disclosure requirement—precisely what the statute requires.

26. Moreover, lessees are looking for their own names. A lessee is not doing a FARA database search to learn whether it is registered, such as to necessitate experimenting with different iterations of its name. A lessee, or someone within lessee's organization, would know whether it is a FARA registrant, or U.S.-based foreign media outlet. As such, the lessee will only be providing screenshots if, in response to licensee's queries, the lessee states that it is neither a FARA agent nor a U.S.-based foreign media outlet. In short, the name search only entails confirming that the lessee's status is neither a FARA registrant or a U.S.-based foreign media outlet. The FARA database has different search fields. The FARA website provides for an "Active Registrants" search link, and the Commission recommends that lessees use this link because its rules only cover those FARA agents who are currently registered on the Department of Justice FARA site.

27. Similarly, the Commission's website lists the names of all the entities that have reported as U.S.-based foreign media outlets, and all that is required is a screenshot of this list to show whether the lessee's name appears on the list at the time of the licensee's required inquiries. No searches or copying of multiple Commission reports are required, as the list appears on the Commission's U.S.-based foreign media outlet web page. Lessees need only go to the following link at the time of entering into a lease agreement or at renewal and take one photo: <https://www.fcc.gov/united-states-based-foreign-media-outlets>.

2. Leases Renewed Within a One-Year Period

28. In response to several commenters' request that the Commission clarify the scope of the

term “lease,” the Commission affirmed its position in the *First R&O* that the term applies to any agreement, written or not, where a licensee grants to another party the right to program on its station in exchange for some form of consideration. The term applies irrespective of the terms or duration of the agreement, and regardless of whether the parties label or view the agreement as a time brokerage agreement, a local marketing agreement, or something else. Therefore, an agreement is not excluded from the definition of “lease” for purposes of the foreign sponsorship identification rules merely because it is an informal, short term, and/or week-to-week type of agreement. The Commission addressed the rules’ applicability to certain types of programming, but it clarified that applicability of the rules is not determined by the title, terms, or duration of an agreement.

29. Nevertheless, in response to commenter concerns about frequently having to repeat the certification/screenshot process for short term leases, the Commission concluded that, where a licensee and the same lessee enter into recurring leases for the same programming over a one year period, the licensee need only exercise its reasonable diligence obligations, including the certification or screenshot process, once per year. This modification of the proposals contained in the *Second NPRM* addresses concerns raised in the record about the burdens associated with the production of multiple certifications/screenshots over a limited period of time when the lease concerns both the same lessee and same programming. An example of what is meant by “same lessee” and “same programming” in this context would be House of Worship X leasing time for the live broadcast of its weekly religious service, every Sunday from 11 a.m. till 12 p.m. While the specific broadcasts would differ week to week, the lessee would continue to be House of Worship X and the program would be its live religious service broadcast. By contrast, if House of Worship X decides to use its regular time slot to provide something other than its weekly religious service—e.g., a panel discussion with various civic leaders—that would be considered different programming that would not fall within the one year exemption, and, thus, would require licensee and lessee to engage in the reasonable diligence requirements laid out in the Commission’s rules.

3. Lack of Adequate Response From Lessee

30. The Commission decided not to adopt the notification requirement proposed in the *Second NPRM* that proposed to require licensees to notify the Media Bureau about a lessee’s failure to respond. The Commission recognized that there may be instances when, despite a licensee’s efforts to comply with the foreign sponsorship identification rules, a lessee may fail to respond, or may fail to respond adequately, to a licensee’s queries or request for a certification/screenshots. Thus, if a licensee does not obtain a response, or obtains an inadequate response, from the lessee to its reasonable diligence inquiries, it may continue to air the lessee’s programming and will not be required to report such non-responses to the Commission. If, however, it is determined at a later date that the programming should have included a foreign sponsorship disclosure, the Commission may conduct a fact-specific inquiry to determine whether the licensee met its obligation under section 317(c) to “exercise reasonable diligence to obtain” the necessary information, such as by not making further inquiry of the lessee.

4. Recordkeeping Requirement

31. Licensees must retain all of their certifications and screenshots for the length of the license term or one year, whichever is longer, pursuant to the record retention requirement contained in 47 CFR 73.1212(j)(3)(v). As noted above, under the screenshot approach, licensees must still comply with the pre-existing requirement to inform lessees of the foreign sponsorship identification rules, pursuant to § 73.1212(j)(3)(i), and make the inquiries contained in § 73.1212(j)(3)(ii) through (iii) of the rules. Also, consistent with the pre-existing rules, under the screenshot approach a licensee must still memorialize in some way its compliance with § 73.1212(j)(i) through (iii).

32. Although the *Second NPRM* proposed that licensees retain the certifications and screenshots in their OPIFs, based on commenter concerns, the Commission was persuaded that licensees should have greater flexibility regarding the manner in which these documents are stored. Licensees must already upload their lease agreements into their OPIFs, along with records of any foreign sponsorship identification disclosures. As a result, the public already has a mechanism to determine which programs are provided by foreign

governmental entities. Thus, the Commission found it reasonable to respond to commenter concerns by providing more flexibility regarding retention of the certifications and screenshots than initially proposed. Hence, licensees must retain their certifications and/or screenshots, along with documentation of inquiries that accompany the screenshots, but may elect to do so in either their own OPIFs or in their internal files, provided that licensees make such documents available to the Commission promptly upon request.

5. Legal Authority

33. The newly-adopted regulations are consistent with the Act and the court’s decision in *NAB v. FCC*. The Commission declined to address challenges by commenters to the existing rules not under review in the *Second NPRM*. Commenters’ challenges to the Commission’s authority fall into two categories. First, a number of commenters sought to reopen issues already decided in the *First R&O* under the guise of challenging the Commission’s authority to implement the proposals at issue in the *Second NPRM*. As discussed in more detail below, the Commission previously established in the *First R&O* that licensees must inform their lessees about the foreign sponsorship identification rules and inquire about the status of lessees and those further back in the chain of production and distribution of programming. These issues were not the subject of the *Second NPRM*. Second, commenters also challenged the Commission’s authority to adopt the specific proposals contained in the *Second NPRM*. Below, the Commission first declined to address challenges to those issues previously settled in the *First R&O* before addressing challenges to the Commission’s authority to establish the requirements established in the *Second R&O*.

34. *Challenges to Previously Settled Issues in the First R&O*. More than two years after the Commission adopted the foreign sponsorship identification rules, and after themselves challenging a portion of those rules in court, two commenters filing jointly disputed various requirements that are fundamental to the foreign sponsorship identification rules that the Commission established in the *First R&O*. For example, they contested the requirement that licensees must inform their lessees of the foreign sponsorship identification rules—a rule established in the *First R&O*. Similarly, they challenged the previously established

requirement that a licensee inquire of its lessee whether it has knowledge of anyone further back in the chain of producing/distributing the programming who qualifies as a foreign governmental entity and has provided some type of inducement to air the programming. The Commission sought comment on these requirements in the first notice of proposed rulemaking (85 FR 74955, November 24, 2020) and adopted them in the *First R&O* without reopening them in the *Second NPRM*, in which the Commission made clear that it only intended to address the issues vacated by the Court. The Commission declined to revisit additional issues with respect to the existing rules. If commenters wished to challenge such authority, they had the opportunity to do so in the earlier administrative proceeding and in the *NAB v. FCC* litigation, and should have done so then.

35. The *Second NPRM* never suggested that the issues the commenters seek to reopen were under consideration in the instant proceeding. If anything, the *Second NPRM* spoke of the obligations to inform and make inquiries as established requirements. The questions posed in the *Second NPRM* regarding the Commission's authority concerned the authority to establish the requirements proposed in the *Second NPRM* and no other. Nothing in the *Second NPRM* suggested that the Commission intended to re-evaluate a licensee's duty to inform its lessee of the foreign sponsorship identification rules and make certain inquiries of the lessee.

36. *Compliance with Section 317 of the Act*. The Commission has ample authority to implement the certification and screenshot requirements established in the *Second R&O* based on section 317 of the Act. The certification and screenshot options described above fit squarely within the *NAB v. FCC* court's determination that section 317(c) imposes a duty of inquiry, and not a duty of investigation. Licensees' certifications consist of nothing more than a reduction to written form of those inquiry requirements established in the *First R&O* and codified at 47 CFR 73.1212(j)(3). These inquiries are directed to the lessee and concern the lessee's own status and its knowledge of those further back in the chain of producing/distributing the programming. The screenshot alternative retains in place all the previously established requirements, except for the vacated verification requirement. The only difference being that previously, if the lessee stated it was not a U.S.-based foreign media outlet, or a FARA agent, the licensee

had to verify this answer by reviewing the Department of Justice's FARA database and the Commission's U.S.-based foreign media outlet report. In lieu of this, the licensee will now ask the lessee for screenshots depicting its search results of the Department of Justice's FARA database and the Commission's U.S.-based foreign media outlet report.

37. Commenters argue that licensees only have a duty to inquire. The Commission's rules require only that a licensee inquire of the lessee (*i.e.*, the program's sponsor); they do not make licensees responsible for the truth of the information they obtain from lessees by imposing independent investigatory or other obligations. With regard to a licensee's certification option, it is merely required that the inquiry be in written form. And, consistent with the court's determination that the statute is narrowly drawn, the newly-adopted requirements allow licensees to carry leased programming even in the absence of actually obtaining foreign sponsorship information from the lessee. However, in such situations, if a question arises later about whether a disclosure was needed, the licensee must be able to demonstrate, in the event of a fact-specific inquiry by the Commission, that it exercised reasonable diligence in seeking the information. The newly-adopted rules will help identify the types of effort necessary for licensees to demonstrate reasonable diligence in carrying out their duty of inquiry. Hence, section 317 gives the Commission ample authority to require licensees to ask their lessees for certifications or screenshots in order to determine whether a foreign sponsorship disclosure is needed.

38. The Commission disagreed with the view that section 317(b), when read in the context of the entirety of sections 317 and 507, as well as the legislative history associated with the passage of these provisions, suggests that section 317(b) should be read as a brake on the licensee's duty to make inquiries pursuant to section 317(c). Unlike Section 317(c), which imposes an obligation upon licensees to exercise reasonable diligence to obtain information, section 317(b) imposes an obligation on the station to air an appropriate disclosure if it receives a report that payments were made to employees, or persons involved in the production or preparation of the program, in regard to material included in the programming to be broadcast by the station. The Commission does not interpret section 317(b) to be a limit on the inquiries the licensee must make pursuant to section 317(c). Moreover,

commenters' interpretation would contravene the Commission's mandate under section 317(e) to carry out the statute's provisions.

39. *Compliance with Administrative Procedure Act (APA)*. The Commission has clearly and consistently articulated that licensees' responsibilities as trustees of the nation's airwaves include sponsorship identification based on the fundamental principle that the public has the right to know whether the broadcast material has been paid for and by whom. Commenters assert that the proposed rules violate the APA, that the Commission has only identified a few instances of foreign government sponsored programming, and that one of the stations cited is no longer airing such programming. These assertions miss the point that almost by definition when foreign governmental sponsorship is undisclosed, neither the Commission nor the American public will know about it. Moreover, Federal agencies have authority for "precautionary or prophylactic responses to perceived risks" based on documented abuses. *See Chamber of Commerce of U.S. v. SEC*, 412 F.3d 133, 141 (D.C. Cir. 2005) (quoting *Certified Color Mfrs. Ass'n v. Mathews*, 543 F.2d 284, 296 (D.C. Cir. 1976)). Furthermore, foreign governments are continuing to disseminate programming over U.S. broadcast media and, thus, there is a continued need for robust foreign sponsorship identification rules. Hence, it is reasonable to conclude that the reports of foreign government attempts to disseminate programming via broadcast television and radio call for targeted action to ensure audiences are aware when a foreign government or its representatives are seeking to persuade the American public. Regardless of the number of reported instances of undisclosed foreign government-provided programming, Congress and the Commission have consistently expressed their strong interest in the identification of foreign government sponsored programming on the airwaves.

40. In response to commenters' concerns that the rules proposed in the *Second NPRM* would be overly burdensome for broadcasters, the Commission emphasized how limited its action is in the *Second R&O*. It replaced the vacated name search requirement with a certification requirement and an alternative screenshot approach, which is essentially the name search requirement in a form that comports with the statute as interpreted by the D.C. Circuit in *NAB v. FCC*. The Commission also has significantly modified its initial proposals with

regard to these new rules. As discussed above, the standardized certification language appended to the *Second R&O* has been reduced significantly and now provides a simple check-box format. Additionally, application of the Commission's standardized certification language is now one of two options available to licensees. Similarly, in response to commenter objections about uploading certifications and other documentation to their OPIFs, the Commission decided to permit licensees to instead maintain this documentation in their private files if they choose.

41. Moreover, in response to commenter concerns about having to repeat the certification or screenshot requirements on a weekly basis for religious programmers, many of whom may not have the resources to enter into long-term leases, the Commission modified the frequency with which the certification/screenshot process must be conducted for such leases. Similarly, concerns about uploading documents associated with short term leases to the OPIFs have been addressed by permitting licensees to retain their certifications/screenshots in their internal files. With regard to the argument that new requirements would further complicate or burden existing business relationships, the Commission grandfathered existing leases until they are either up for renewal or the parties enter into a new lease. Finally, the Commission decided not to adopt the *Second NPRM's* proposal to have licensees report to the Commission when lessees have failed to respond to licensee requests for certifications/screenshots.

42. Thus, the reasonable diligence requirements are tailored appropriately to accomplish the goal of ensuring the accurate detection and disclosure of foreign government-provided programming while also mitigating the burden of compliance on broadcasters. Transparency regarding the source of broadcast programming, particularly foreign government-provided programming, gives broadcast audiences the information they need to fully appreciate the programming. Moreover, an expectation of transparency regarding the source of programming also enhances audience trust in broadcast programming overall—unlike other media, broadcast audiences can feel confident that either their programming is provided by their local licensee, or the source of other programming is being disclosed. The Commission's careful tailoring executes a balanced approach, minimizing the overall burden of compliance on broadcasters while concurrently

supporting the objectives of accurate detection and disclosure, so as to ensure that the American broadcast audience is informed about the source of its programming.

B. Application of Foreign Sponsorship Identification Requirements to Different Types of Programming

43. The Commission clarified that its foreign sponsorship identification requirements will not apply to advertising for commercial products or services to the extent such advertising falls within the exemption established in 47 CFR 73.1212(f). It also clarified that the foreign sponsorship identification rules will not apply to political candidate advertisements. It did, however, determine that the foreign sponsorship identification rules will apply to issue advertisements and paid PSAs. It also confirmed that the rule changes contained in the *Second R&O* do not alter its finding in the *First R&O* that the foreign sponsorship identification rules should not apply to noncommercial and educational broadcast stations (NCEs). The Commission declined to create an exemption from its foreign sponsorship identification rules for religious programming and locally produced and/or distributed programming. It also addressed the application of its rules to section 325(c) permit holders.

1. Advertisements for Commercial Goods and Services

44. The Commission clarified that its long-standing sponsorship identification requirements for advertising for commercial products or services, as currently set out in 47 CFR 73.1212(f), also apply in the context of foreign sponsorship identification. Accordingly, the Commission dismissed the Petition for Clarification as moot because it addressed the issues raised in that petition in the *Second R&O*. It recognized that the use of the term "traditional, short-form advertising" in the *First R&O* inadvertently created unnecessary confusion about the application of the foreign sponsorship identification rules. While the intention behind using the term may have been to provide greater clarity, due to the resulting confusion, the Commission reversed its previous decision to use that term and relied instead on the well-established exemption from sponsorship disclosure contained in 47 CFR 73.1212(f).

45. Section 73.1212(f) provides that in the case of broadcast matter advertising commercial products or services, an announcement stating the sponsor's corporate or trade name, or the name of

the sponsor's product, when it is clear that the mention of the name of the product constitutes a sponsorship identification, shall be deemed sufficient for the purpose of § 73.1212 and only one such announcement need be made at any time during the course of the broadcast.

46. If broadcast matter for a commercial product or service meets the requirements for a disclosure exemption under 47 CFR 73.1212(f), the licensee need not make the inquiries contained in 47 CFR 73.1212(j), nor is the licensee required to air the disclosure set forth in 47 CFR 73.1212(j)(1)(i). For an advertisement to fall under the commercial exemption provisions of 47 CFR 73.1212(f), it must include the sponsor's corporate or trade name, or the name of the sponsor's product, when it is clear that the mention of the name of the product constitutes a sponsorship identification. By clarifying that the foreign sponsorship identification rules do not trump the pre-existing sponsorship identification rules for advertising, the Commission addressed the concerns raised by commenters about the terminology used in the *First R&O* with regard to advertising.

47. The *Second NPRM* sought comment on whether to establish a "safe harbor" for advertisements of a certain length. Based on the record, the Commission found that it is better not to place any minimum or maximum time limit on the broadcast matter that is subject to the exemption established in 47 CFR 73.1212(f). Rather, the Commission was persuaded to follow long-standing Commission precedent that distinguishes programming that is entitled to the disclosure exemption provided by § 73.1212(f). This clarification should address the questions that arose in response to the Commission's use of the term "short-form advertising" in the *First R&O*. With this additional clarification about the applicability of § 73.1212(f), the Commission addressed the concerns raised in the record about the length of various advertisements.

48. The Commission noted, however, that its foreign sponsorship identification rules continue to apply to any broadcast matter that does not fit within § 73.1212(f). Just as the general sponsorship identification requirements contained in § 73.1212 apply to programming that does not fall within the exemption of § 73.1212(f), so too will the foreign sponsorship identification requirements apply to such programming. Thus, to the extent foreign government-provided programming is not for a commercial

product or service that includes the sponsor's corporate or trade name, and would not otherwise be entitled to the disclosure exemption provided by § 73.1212(f), the licensee must engage in the inquiries and other steps laid out in § 73.1212(j).

2. Political Candidate Advertisements; Issue Advertisements; Paid Public Service Announcements

49. In addition to the commercial products and services exemption discussed above, the Commission exempted from the foreign sponsorship identification requirements the purchase of broadcast time by or on behalf of legally qualified candidates or their authorized committees pursuant to section 315 of the Act ("political candidate advertisements"). Political candidate advertisements, as used herein, refers to "uses" of broadcast stations by legally qualified candidates and are governed primarily by section 315 of the Act, which subjects such uses to specific disclosure requirements. Section 315(b)(2)(C) requires that a television advertisement from a legally qualified candidate include, at the end, a clearly identifiable photographic or similar image of the candidate, and a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast. Section 315(b)(2)(D) requires that a radio advertisement from a legally qualified candidate include, at the end, a personal audio statement by the candidate that identifies the candidate and the office the candidate is seeking, and indicates that the candidate has approved the broadcast. *See* 47 U.S.C. 315(b)(2)(C) and (D).

50. The *Second NPRM* sought comment on the scope of the advertising exemption adopted in the *First R&O*, and several parties in response asked whether advertisements paid by or on behalf of legally qualified candidates or their authorized committees would be subject to the requirements of the foreign sponsorship identification rules. The Commission recognized that there are statutory restrictions as well as Federal Election Commission rules prohibiting contributions to Federal, state, and local candidates by "foreign nationals," a term that is defined to include certain of the entities covered by its foreign sponsorship identification rules, specifically a "government of a foreign country" and a "foreign political party." *See* Federal Election Commission, 11 CFR 110.20(b) and (c); Department of Justice, 52 U.S.C. 30121(a). Because of these restrictions,

the likelihood that political candidate advertisements would require disclosures under the foreign sponsorship identification rules is greatly limited. Accordingly, the Commission was persuaded to exempt political candidate advertisements from the foreign sponsorship identification requirements.

51. However, issue advertisements and paid PSAs will be subject to the foreign sponsorship identification rules. For purposes of these rules, and consistent with the Act and the Commission's rules, the Commission clarified that issue advertisements are defined as any paid political matter or matter involving the discussion of a controversial issue of public importance, regardless of the length of the programming. *See* 47 U.S.C. 317(a)(2); 47 CFR 73.1212(e). As noted above, the Commission specifically exempted advertisements made by or on behalf of legally qualified candidates for public office or their authorized committees, and as such they will not be considered issue advertisements. Its exemption from the foreign sponsorship identification rules for political candidate advertisements is based largely on the fact that foreign nationals are prohibited from making contributions to political candidates. Moreover, section 315 of the Act provides a level of transparency regarding the source of funding for political candidate advertising that is not available with issue advertising and paid PSAs because section 315 requires political candidates themselves to state that their authorized committee has paid for the advertisement and that the candidate approves the advertisement. While foreign nationals also are prohibited from funding certain types of issue advertisements related to elections, the Commission's definition of issue advertisements for purposes of these rules is broader in scope in that its definition encompasses issue advertisements unrelated to elections. Therefore, the Commission cannot be as assured of foreign noninvolvement with respect to issue advertisements. Rather than adopt a definition that attempts to parse the different types of issue advertisements, and to ensure maximum transparency for viewers and listeners, the Commission applied the foreign sponsorship identification rules to all issue advertisements and paid PSAs.

52. As reflected in the *First R&O*, the Commission's definition of "lease" for purposes of the foreign sponsorship disclosure requirements includes "any agreement in which a licensee makes a discrete block of broadcast time on its station available to be programmed by

another party in return for some form of compensation." This definition is sufficiently broad to cover issue advertising and paid PSAs within the scope of the rules. This is a point that regulated entities well understood, as reflected in the filing of a Petition for Clarification. Certainly, paid PSAs and issue advertising could be used by foreign governmental entities to access U.S. airwaves to persuade the American public. Thus, ensuring that audiences are accurately informed when foreign governmental entities sponsor issue advertisements and paid PSAs is equally important as it is in the case of other types of paid programming. Indeed, section 317 of the Act recognizes the heightened concern about the source of issue advertisements, providing that the Commission shall not be precluded from requiring that an appropriate announcement shall be made at the time of the broadcast of any political program or program involving the discussion of any controversial issue for which any material was furnished as an inducement to the broadcast of such program. As such, it follows that such advertising should also be vetted for the possible inclusion of material provided by a foreign governmental entity.

53. The Commission's decision to make the foreign sponsorship identification rules applicable to issue advertisements and paid PSAs falls within the scope of this proceeding. In the *Second NPRM*, the Commission sought comment on "what criteria the Commission might adopt to distinguish between advertising and programming arrangements for the lease of airtime in a way that does not jeopardize the Commission's goals in this proceeding." Additionally, it sought, and received, comment on whether there are "key characteristics that could assist in distinguishing advertising spots from a lease of airtime on a station. . . ." In considering the key characteristics for political candidate advertisements, the Commission determined that the risk of influence by a "government of a foreign country" and a "foreign political party" is minimal. Therefore, such advertisements will be exempt from the foreign sponsorship identification rules. In contrast, as noted above, issue advertisements and paid PSAs do not share those same characteristics. Issue advertisements and paid PSAs cover a wide range of subject matter and are purchased by a wide range of sponsors. As such, there is a risk that contributions to such programming might have been made by foreign governmental entities.

54. Broadcasters allege that applying the rules to issue advertisements and paid PSAs will result in costly burdens that will discourage political advertisers from using traditional media by, among other things, slowing down transaction times for advertisements that rely on quick turnaround times, requiring that signatures be obtained, and necessitating training for advertising sales staff. This order alleviated a number of the proposed requirements contained in the *Second NPRM*, which broadcasters cited to as examples of burdens that would adversely impact them in the context of issue advertisements and paid PSAs. For example, this order significantly simplified and shortened the Commission's standardized certification templates, while also allowing broadcasters to use their own certification language should they choose to do so. Based on concerns raised in the record, the certification requirement contained in this order does not require licensees to obtain "signed certifications" as was proposed in the *Second NPRM*, but rather states that if a licensee does not obtain a response, or obtains an inadequate response to its reasonable diligence inquiries, it may continue to air the programming. To the extent that broadcasters are concerned about whether obtaining signed certifications might delay their ability to meet their current OPIF filing requirements under the political advertising rules, this order allows broadcasters to file their foreign sponsorship identification documentation in their own records. To the extent that broadcasters wish to keep all such documentation in their OPIFs, they need only supplement their OPIF file after receiving the certifications or screenshots. Therefore, the modifications made in this order to the proposals contained in the *Second NPRM* address many of the concerns identified by broadcasters regarding the application of the foreign sponsorship identification rules to issue advertisements and paid PSAs. The Commission concluded that the benefits of applying the foreign sponsorship identification rules to issue advertisements and paid PSAs outweigh the burdens associated with complying with the rules.

3. Programming on Noncommercial and Educational Stations

55. The Commission confirmed that the *Second R&O* does not alter its prior finding that the foreign sponsorship identification rules should not apply to NCEs. The Commission prohibits NCEs from receiving compensation in

exchange for broadcasting programs (*i.e.*, leased programming). Because the foreign sponsorship identification rules apply only to leased programming, the Commission concluded in the *First R&O* that any NCEs in compliance with the prohibition should not fall within the ambit of the foreign sponsorship identification requirements. The *First R&O* explained that NCE stations will rarely, if ever, face the need to address the foreign sponsorship disclosure rules given the limitations on their ability to engage in leasing arrangements. The Commission confirmed that none of the newly-adopted rule modifications in the *Second R&O* has any effect on its previous conclusion.

3. Religious and Locally Produced and/or Locally Distributed Programming

56. The Commission declined to adopt commenters' request to create exemptions from the new foreign sponsorship identification rule requirements for certain types of programming. The Commission declined to revisit the existing rule requirements for the reasons set forth above. Commenters argued that the Commission should narrow the definition of "lease" by granting exemptions for certain categories of programming, specifically religious programming and locally produced and/or locally distributed programming. The Commission found that creating the requested exemption for religious programming would not be content-neutral. Additionally, the mere fact that programming is locally produced and/or locally distributed does not signify that the programming lacks material provided by a foreign governmental entity, such that there should be a blanket carveout for locally produced and/or distributed programming from the new foreign sponsorship identification rule requirements.

57. The Commission recognized that religious programming and locally produced and/or locally distributed programming play a vital role in supporting local communities. Just as important as having access to such programming is knowing the true source of the programming. Commenters made two arguments in favor of their requested exemptions. First, they asserted that these exemptions are justified because, based on their inquiries to date, they have not found any foreign governmental entities sponsoring religious programming or locally produced and/or locally distributed programming. Second, commenters claimed that the new foreign sponsorship identification rule requirements are so burdensome that,

ultimately, they will lead to a reduction in religious and locally produced and/or locally distributed programming.

58. With regard to the first argument, the Commission emphasized that a prevalence of foreign propaganda on radio and television stations is not a prerequisite to Commission action. Furthermore, providing a consistent set of rules for all leased programming streamlines the process of compliance for licensees and closes the door to any attempt to exploit loopholes that might arise from these exemptions. In addition, the argument that there is a lack of foreign government-provided "propaganda" on religious or locally produced and distributed programming misses the aim of the Commission's rules. The foreign sponsorship identification rules are intended to notify the public when the source of the programming is a foreign governmental entity. Therefore, as a general principle of law, the content of the broadcast matter for purposes of these rules is irrelevant, and the issue of "propaganda" bears no weight.

59. On the issue of burdens, as described above, the new rule requirements are limited in scope, and the Commission modified significantly the proposals contained in the *Second NPRM* to address many of the burden concerns noted by commenters. The newly-adopted requirements do not seek to favor or disfavor any particular type of programming. The rules do not prohibit any form of programming, but do seek to ensure that broadcast audiences are aware of the source of foreign government-provided programming. The Commission determined that the new rule requirements should be applied to all broadcast licensees, to fulfill its existing statutory duty to inquire about the source of programming, which contains no exemption for religious programming lessees or any other designation. It also determined that the new rules are a minimal extension of the long-standing sponsorship identification rules and in no way burden broadcasters' choice of leased programming or chill editorial discretion in favor of more sophisticated programmers.

60. Some commenters contended that the new rule requirements will make it more expensive for licensees to air religious and locally produced and/or distributed programming. Citing *Washington Post v. McManus*, 944 F.3d 506 (4th Cir. 2019), they assert that the new rule requirements equate to "putting a thumb on the scale against a particular type of speech in the competitive market . . ." in violation of the First Amendment. The Commission

found the *McManus* case to be inapposite because that case involved the singling out of “one particular topic of speech—campaign-related speech,” whereas the new rule requirements apply equally to all forms of speech and are not content-based.

61. In a similar vein, some commenters contended that the new rule requirements violate religious programmers’ rights to freedom of speech under the Supreme Court’s 2018 decision in *National Institute of Family and Life Advocates (NIFLA) v. Becerra*, 138 S.Ct. 2361 (2018). In that case, the Supreme Court held that to protect the petitioners’ rights to freedom of speech, disclosure requirements must not be unduly burdensome, remedy a harm that is purely hypothetical, or extend more broadly than reasonably necessary. The Commission found this case, imposing a medical disclosure requirement, to be inapposite because the type of disclosure the Commission requires is wholly content-neutral. The *Becerra* case involved a content-based disclosure requirement, which was found to be an impermissible regulation of speech because the required disclosures in that case altered the content of petitioners’ speech by requiring them to post information contrary to the messages they wished to convey. By contrast, the new requirements do not alter the content of the programming, nor do they prohibit or limit the ability of the licensee or lessee to air the programming or to convey whatever message is intended. The public has a legitimate interest in knowing the source of programming that is furnished by a foreign governmental entity, and broadcasters have demonstrated for years their capability of airing similar disclosures for programming sponsored by U.S. lessees. As described below, public awareness of the source of broadcast programming is a long-recognized compelling government interest, and the modifications the Commission has made in response to commenter concerns ensure that its rules are narrowly tailored.

62. The new foreign sponsorship identification rule requirements comport with the strictures of the First Amendment of the U.S. Constitution. The rules at issue here are content-neutral—they apply to broadcast programming provided by any foreign governmental entity, regardless of the nature of the programming or whether the entity’s interests are directly at odds with the United States. Accordingly, with respect to broadcasters, the disclosure requirements in question are subject to review under “heightened

rational basis,” the less rigorous standard applied to content-neutral restrictions on that medium, and thus, as explained below, will be upheld if reasonably tailored to satisfy a substantial government interest. Even assuming, that intermediate scrutiny applies, the new rules satisfy review under this standard. As set forth below, the Commission determined that the government’s interest in ensuring that audiences are accurately informed when foreign governmental entities sponsor broadcast programming is substantial and the rules are both “reasonably tailored” to further that interest.

63. The Commission’s application of section 317 for over eighty years, as well as Congress’s 1960 amendments thereto, demonstrate a strong interest in requiring accurate sponsorship identification. Complete and accurate disclosure regarding the source of programming is critical to allowing audiences to determine the reliability and credibility of the information they receive. The Commission considers such transparency to be a critical part of broadcasters’ public interest obligation to use the airwaves with which they are entrusted to benefit their local communities. Rather than abridging broadcasters’ freedom of speech rights, disclosure of sponsorship promotes First Amendment and Communications Act goals by enhancing viewers’ ability to assess the substance and value of foreign government-provided programming, thus promoting an informed public and improving the quality of public discourse. The new requirements further the government’s interest by ensuring that licensees have met their duty of inquiry and thereby will ensure accurate sponsorship identification.

64. The Commission believes the newly-adopted foreign sponsorship identification rule requirements will be evaluated under, and will fully withstand, the scrutiny applied to content-neutral restrictions on broadcasters. Notably, the rules do not ban any type of speech but merely require a procedure for documenting reasonable diligence inquiries in support of the factual disclosure of the source of certain of programming. Given this content-neutral function, the existing tailoring, and the Commission’s strong objective of accurate detection and disclosure of foreign government-provided programming, the rules comply with the First Amendment as they are reasonably tailored to satisfy substantial government interests. And even if a court were to apply intermediate scrutiny, as opposed to heightened rational basis, the revised

rules still would withstand such a stricter form of judicial review. The Commission has repeatedly stated the importance of promulgating rules that are substantially related to the agency’s objective of ensuring that audiences are informed about the source of programming provided by foreign governmental entities. Ultimately, regardless of whether rational heightened basis or intermediate scrutiny is applied, the Commission concluded that its new foreign sponsorship identification rule requirements satisfy the First Amendment.

4. Programming on Stations With Section 325(c) Permits

65. As explained in the *Second NPRM*, “a section 325(c) permit is required when an entity produces programming in the United States but, rather than broadcasting the programming from a U.S.-licensed station, transmits or delivers the programming from a U.S. studio to a non-U.S. licensed station in a foreign country for broadcast by the foreign station into the United States.” 47 U.S.C. 325(c). In the *First R&O*, the Commission added paragraph (k) to § 73.1212, which makes section 325(c) permittees subject to foreign sponsorship identification requirements. In the *Second NPRM*, the Commission explained that given the nature of the section 325(c) permits, pursuant to 47 U.S.C. 73.1212(k), the foreign sponsorship identification disclosure requirements apply to any programming permitted to be delivered to foreign broadcast stations under an authorization pursuant to section 325(c) of the Act if the material has been: (i) sponsored by a foreign governmental entity; (ii) paid for by a foreign governmental entity; (iii) furnished for free by a foreign governmental entity to the section 325(c) permit holder as an inducement to air the material on the foreign station; or (iv) provided by the section 325(c) permit holder to the foreign station where the section 325(c) permit holder is a foreign governmental entity. Where the section 325(c) permit holder itself is a foreign governmental entity, the disclosure requirements apply to all programming provided by the permit holder to a foreign station.

66. In the *Second NPRM*, the Commission noted that applying foreign sponsorship identification disclosures to programs permitted to be delivered to foreign broadcast stations under an authorization pursuant to section 325(c) of the Act aims to level the playing field between programming aired by non-U.S. and U.S. broadcasters in the same

geographic area within the United States and to eliminate any potential loophole in the regulatory framework with respect to the identification of foreign government-provided programming that may result from this proceeding.

67. In the *Second NPRM*, the Commission further stated that the foreign sponsorship identification rules apply to all programming provided by a section 325(c) permit holder to a foreign broadcast station, regardless of whether the programming is provided as part of a lease agreement or through some other arrangement. As explained, “[i]n the context of section 325(c) permits, leasing of airtime is not a relevant prerequisite for application of the foreign sponsorship identification rules because section 325(c) permit holders’ foreign broadcast arrangements can be struck in various ways, not just through the leasing of airtime, under the laws of foreign countries.” The Commission further explained that in this context, “[its] rules ensure that no material provided by a permit holder that is a foreign governmental entity is broadcast into the United States through the use of section 325(c) permits without the appropriate disclosures.” To provide greater clarity regarding the application of these disclosure requirements in the context of programming subject to a section 325(c) permit, the Commission proposed to modify § 73.1212(k) and sought comment on these proposed changes and clarifications. The Commission also sought comment on the need to apply the reasonable diligence requirements proposed in the *Second NPRM* to section 325(c) permit holders given that they presumably have direct knowledge of whether they are a foreign governmental entity. The Commission noted that, regardless, “even if a permit holder is not itself a foreign governmental entity, the disclosure requirements apply to any part of its programming that is sponsored, paid for, or furnished for free by a foreign governmental entity either directly to the permit holder or to an entity farther back in the content production chain.” To address such situations, the Commission sought comment on whether section 325(c) permit holders should be required to exercise reasonable diligence to determine when a disclosure is needed. In addition, the Commission sought comment on whether section 325(c) permit holders should be required to place the certifications that were proposed in the *Second NPRM*, or other due diligence documentation, in the International Bureau Filing System (IBFS) and if so, for how long.

68. No comments were submitted in response to the *Second NPRM* regarding the programming on stations with 325(c) permits. Accordingly, the Commission adopted the proposed changes and clarifications proposed in the *Second NPRM*. It reconfirmed that it is the responsibility of the section 325(c) permit holder to ensure that the foreign station broadcasts the disclosure where required along with the programming provided by the permit holder. The Commission reminded section 325(c) permit holders that they are obligated to place copies of any disclosures made, along with required related information as described in § 73.1212(k), in the publicly available International Communications Filing System (ICFS).

C. Existing Leases

69. Any lease agreements that are entered into, or that are renewed, on or after the effective date of the revisions to § 73.1212(j)(3) adopted in the *Second R&O* must comply with those requirements. Commenters asked that the Commission grandfather all lease agreements already in place at the time that the new rules go into effect. The Commission agreed with commenters and determined that the newly-adopted rule modifications will apply only to new leases and renewals of existing leases entered into on or after the effective date for these rule modifications. The Commission therefore declined to adopt its proposal in the *Second NPRM* to apply the modified rule to existing lease agreements with a six-month grace period for compliance.

D. Digital Equity and Inclusion

70. The Commission maintains a continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality. As such, in the *Second NPRM* the Commission sought comment on whether any of the proposals discussed therein might promote or inhibit advances in diversity, equity, inclusion, and accessibility. While not specifically responding to the request for comment on Digital Equity and Inclusion, some commenters argued that a certification requirement has the effect of discouraging diverse entrants by burdening local marketing agreements (LMAs) and time brokerage agreements (TBAs). Given the adopted revisions to the proposed rules in order to resolve claimed burdens, the Commission found that its actions will not inhibit diverse

entrants from participating in the broadcast media marketplace.

71. The *Second R&O* furthers the Commission’s ongoing commitment to advance digital equity by simplifying its compliance procedures, which will minimize any possibility that the foreign sponsorship identification rules will discourage the participation of small programmers, including minority-owned programmers, as some commenters have asserted. Further, the *Second R&O* adopts regulations that are content-neutral and that apply to all broadcasters and lessees equally, and will not inhibit advances in diversity, equity, inclusion, and accessibility.

IV. Procedural Matters

72. *Regulatory Flexibility Act*. As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, an Initial Regulatory Flexibility Certification was incorporated into the *Second NPRM*. See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREA), Public Law 104–121, Title II, 110 Stat. 857 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996. Pursuant to the RFA, the Commission’s Final Regulatory Flexibility Certification relating to the *Second R&O* is below. See 5 U.S.C. 604.

73. *Paperwork Reduction Act*. The *Second R&O* may contain new or revised information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520) (PRA). All such new or modified information collection requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on any new or modified information collection requirements contained in this proceeding. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), it previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Commission assessed the effects of the certification and screenshot requirement on licensees, and it found that the modifications in the *Second R&O* impose a minimal, justifiable burden on small entities.

74. *Congressional Review Act*. The Commission has determined, and Administrator of the Office of

Information and Regulatory Affairs, OMB, concurs, that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the *Second R&O* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

V. Final Regulatory Flexibility Act Analysis

75. As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Second NPRM*, released in October 2022. The Commission sought written public comment on the proposals in the *Second NPRM*, including comment on the IRFA. The Commission received no comments addressing the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA. See 5 U.S.C. 604.

A. Need for, and Objectives of, the Report and Order

76. On April 22, 2021, the Commission released the *First R&O* adopting a requirement that radio and television broadcast station licensees transmit clear disclosures for programming that is provided by a foreign governmental entity. The *First R&O* also established procedures that licensees must follow to determine whether such a disclosure is required. The Commission promulgated these foreign sponsorship identification rules in response to reports of undisclosed foreign government programming being transmitted by U.S. broadcast stations. The Commission’s rules established a definition of “foreign governmental entity” based on existing definitions, statutes, and regulations. The Commission’s requirements apply to leased programming because the record in the underlying proceeding identified leased airtime as the primary means by which foreign governmental entities are accessing U.S. airwaves to persuade the American public without adequately disclosing the true sponsor. The Commission promulgated the foreign sponsorship identification rules based on a fundamental and long-standing tenet of broadcast regulation; namely, that the public has a right to know the identity of those soliciting their support.

77. On July 19, 2021, the ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Affiliates Association, and NBC Television Affiliates (collectively, the “Affiliates”) filed a Petition for Clarification. The Affiliates assert that the exemption in

the *First R&O* of “traditional, short-form advertising” from the foreign sponsorship identification rules creates confusion because the term has no established meaning in the broadcast industry.

78. On August 13, 2021, the National Association of Broadcasters (NAB) and two public interest groups (collectively, the “Petitioners”) filed a Petition for Review of the Commission’s *First R&O* with the U.S. Court of Appeals for the District of Columbia Circuit challenging the Commission’s authority to impose one of the reasonable diligence requirements contained in the *First R&O*. Specifically, the *First R&O* required a licensee to confirm whether its lessee is a “foreign governmental entity,” at the time of entering into a lease agreement and at renewal, by consulting the Department of Justice’s Foreign Agent Registration Act (FARA) website and the Commission’s semi-annual U.S.-based foreign media outlets reports.

79. On July 12, 2022, the D.C. Circuit vacated this verification requirement, holding that it exceeded the Commission’s authority under section 317(c) of the Communications Act. The court left in place the remaining four requirements needed to satisfy the statutory reasonable diligence standard. Pursuant to these requirements, a broadcast licensee must at the time of entering into a new lease agreement, or at renewal:

- (1) Inform the lessee of the foreign sponsorship disclosure requirement.
- (2) Ask the lessee whether it falls into any of the categories that would qualify it as a “foreign governmental entity.”
- (3) Ask the lessee whether it knows if any individual/entity further back in the chain of producing/distributing the programming to be aired qualifies as a foreign governmental entity and has provided some type of inducement to air the programming.
- (4) Memorialize the above-listed inquiries and retain such memorialization in its records for the remainder of the license term or for one year, whichever is longer.

80. On October 6, 2022, the Commission released its *Second NPRM*, which contained proposals to address the gap left in the foreign sponsorship identification rules by the D.C. Circuit’s vacatur of the independent verification requirement. In addition, the *Second NPRM* gave interested parties the opportunity to comment on the pending Petition for Clarification “regarding the applicability of the foreign sponsorship identification rules to advertisements sold by local broadcast stations” and the application of the *Second NPRM*’s proposals to section 325(c) permit holders.

81. The *Second R&O* replaces the vacated verification requirement with an approach that allows a licensee to choose between one of two options to comply with its statutory “reasonable diligence” requirement. Although licensees must choose one of these approaches, they need not choose the same approach for each lease or renewal agreement, even when the same lessee is involved. Compliance with one of these two approaches must be at the time of entering into any new lease agreement or renewing an existing lease agreement, unless the once-a-year exception described below applies. Under the first option, both the licensee and the lessee must complete a written certification either using the standardized certification language contained in Appendices C and D of the *Second R&O*, and set forth below, or using their own language, as long as the certifications written in their own language contain the information and inquiry requirements set out in § 73.1212(j)(3)(i) through (iii) of the Commission’s rules, pursuant to the *First R&O*.

82. Under the second option, instead of asking the lessee to provide a responsive certification regarding its status, a licensee exercising this option would ask, consistent with the Commission’s current foreign sponsorship identification rules, whether the lessee is a registered FARA agent, or is listed in the Commission’s U.S.-based foreign media outlet report. If the lessee responds “no,” the licensee would then ask the lessee to provide screenshots showing the results of lessee’s searches of both of these websites. See <https://www.fcc.gov/united-states-based-foreign-media-outlets>, which identifies the outlets that filed with the Commission in response to the National Defense Authorization Act for Fiscal Year 2019 (NDAA). The NDAA requires U.S.-based foreign media outlets to submit reports every six months to the Commission regarding the outlets’ relations to their foreign principals. Licensees choosing this option must still comply with all other aspects of the current rule, as they have been required to do since the compliance date of the *First R&O*. Specifically, consistent with the existing foreign sponsorship identification rules, the licensee must inform the lessee about the foreign sponsorship disclosure requirement; inquire whether the lessee is either a “government of a foreign country” or a “foreign political party[;]” and inquire about the lessee’s knowledge of anyone further back in the chain of producing/distributing the

programming who qualifies as a “foreign governmental entity” and may have provided an inducement to air the programming such as to trigger the need for a foreign sponsorship disclosure. *See* 47 CFR 73.1212(j)(3)(i) through (iii). Finally, also consistent with the existing foreign sponsorship identification rules, the licensee must memorialize those inquiries in some manner. *See* 47 CFR 73.1212(j)(3)(v).

83. Although proposed in the *Second NPRM*, in response to commenter concerns, the *Second R&O* determines that a licensee need not notify the Commission’s Media Bureau when a lessee fails to respond to the licensee’s queries. If, however, it is determined at a later date that the programming should have included a foreign sponsorship disclosure, the Commission may conduct a fact-specific inquiry to determine whether the licensee met its obligation under section 317(c) to “exercise reasonable diligence to obtain” the necessary information, such as by not making further inquiry of the lessee. Further, although the *Second NPRM* proposed requiring licensees to retain the certifications and screenshots in the licensees’ own online public inspection file (OPIF), the *Second R&O* gives licensees more flexibility in deciding where to retain these records. Pursuant to the *Second R&O*, licensees may either file these records in their OPIF or retain these records in their internal files, as long as the documents are made available to the Commission promptly upon request. Licensees must retain all of their certifications and screenshots, along with a memorialization of inquiries accompanying the screenshots for the length of the license term or one year, whichever is longer.

84. In response to commenter concerns about frequently having to repeat the certification/screenshot process for short term leases, the *Second R&O* concludes that, where a licensee and the same lessee enter into recurring leases for the same programming over a one year period, the licensee need only exercise its reasonable diligence obligations, including the certification or screenshot process, once per year. This modification of the proposals contained in the *Second NPRM* addresses concerns raised in the record about the burdens associated with the production of multiple certifications/screenshots over a limited period of time when the lease concerns both the same lessee and same programming. The *Second R&O* provides an example of what is meant by “same lessee” and “same programming” in this context. An example of what is meant by “same

lessee” and “same programming” in this context would be House of Worship X leasing time for the live broadcast of its weekly religious service, every Sunday from 11 a.m. till 12 p.m. While the specific broadcasts would differ week to week, the lessee would continue to be House of Worship X and the program would be its live religious service broadcast. By contrast, if House of Worship X decides to use its regular time slot to provide something other than its weekly religious service—e.g., a panel discussion with various civic leaders—that would be considered different programming that would not fall within the one year exemption, and, thus, would require licensee and lessee to engage in the reasonable diligence requirements laid out in the Commission’s rules.

85. The *Second R&O* reconfirms the finding from the *First R&O* that the foreign sponsorship identification rules should not apply to noncommercial and educational stations (NCEs). The *Second R&O* also clarifies that the foreign sponsorship identification requirements will not apply to advertising for commercial products or services to the extent such advertising falls within the exemption established in § 73.1212(f) of the Commission’s rules. The *Second R&O* also clarifies that the foreign sponsorship identification rules will not apply to political candidate advertisements. The *Second R&O*, however, determines that the foreign sponsorship identification rules will apply to issue advertisements and paid PSAs. The *Second R&O* declines to adopt commenters’ request to create exemptions from the foreign sponsorship identification rules for religious programming and locally produced and/or locally distributed programming. The *Second R&O* finds that creating an exemption for religious programming would not be content-neutral. Additionally, the *Second R&O* determines that the mere fact that programming is locally produced and/or locally distributed does not signify that the programming lacks material provided by a foreign governmental entity, such that there should be a blanket carveout for locally produced and/or distributed programming from the foreign sponsorship identification rules.

86. The requirements adopted in both the *First R&O* and *Second R&O* will also apply to section 325(c) permit holders. However, because section 325(c) permit holders do not have OPIFs, they will file their foreign sponsorship disclosures in the publicly available International Communications Filing System (ICFS).

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

87. There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

88. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. 5 U.S.C. 604(a)(3). The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

89. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act (SBA). A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, the Commission provides a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

90. *Television Broadcasting.* This industry is comprised of “establishments primarily engaged in broadcasting images together with sound.” *See* U.S. Census Bureau, 2017 NAICS Definition, “515120 Television Broadcasting,” <https://www.census.gov/naics/?input=515120&year=2017&details=515120>. These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or

from external sources. The SBA small business size standard for this industry classifies businesses having \$41.5 million or less in annual receipts as small. 13 CFR 121.201, NAICS Code 515120 (as of 10/1/22 NAICS Code 516120). 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year. Of that number, 657 firms had revenue of less than \$25,000,000. Based on this data the Commission estimates that the majority of television broadcasters are small entities under the SBA small business size standard.

91. As of September 30, 2023, there were 1,377 licensed commercial television stations. Broadcast Station Totals as of September 30, 2023, Public Notice, DA 23–921 (rel. Oct. 3, 2023) (October 2023 Broadcast Station Totals PN), <https://docs.fcc.gov/public/attachments/DA-23-921A1.pdf>. Of this total, 1,258 stations (or 91.4%) had revenues of \$41.5 million or less in 2022, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on October 4, 2023, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of September 30, 2023, there were 383 licensed NCE television stations, 380 Class A TV stations, 1,889 LPTV stations and 3,127 TV translator stations. The Commission, however, does not compile and otherwise does not have access to financial information for these television broadcast stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of these television station licensees, the Commission presumes that all of these entities qualify as small entities under the above SBA small business size standard.

92. *Radio Broadcasting.* This industry is comprised of “establishments primarily engaged in broadcasting aural programs by radio to the public.” See U.S. Census Bureau, 2017 NAICS Definition, “515112 Radio Stations,” <https://www.census.gov/naics/?input=515112&year=2017&details=515112>. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies firms having \$41.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry during that year. Of this number, 1,879 firms operated with revenue of less than

\$25 million per year. Based on this data and the SBA's small business size standard, the Commission estimates a majority of such entities are small entities.

93. The Commission estimates that as of September 30, 2023, there were 4,452 licensed commercial AM radio stations and 6,670 licensed commercial FM radio stations, for a combined total of 11,122 commercial radio stations. Of this total, 11,120 stations (or 99.98%) had revenues of \$41.5 million or less in 2022, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Database (BIA) on October 4, 2023, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates that as of September 30, 2023, there were 4,263 licensed NCE FM radio stations, 1,978 low power FM (LPFM) stations, and 8,928 FM translators and boosters. The Commission however does not compile, and otherwise does not have access to financial information for these radio stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of radio station licensees, the Commission presumes that all of these entities qualify as small entities under the above SBA small business size standard.

94. The Commission notes, however, that in assessing whether a business concern qualifies as “small” under the above definition, business (control) affiliations must be included. “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.” 13 CFR 21.103(a)(1). Its estimate, therefore, likely overstates the number of small entities that might be affected by the Commission's action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of “small business” requires that an entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio or television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and is therefore possibly over-inclusive. An additional element of the definition of “small

business” is that the entity must be independently owned and operated. Because it is difficult to assess these criteria in the context of media entities, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and similarly may be over-inclusive.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

95. The *Second R&O* gives licensees the choice between one of two options to comply with their statutory “reasonable diligence” requirement. Although licensees must choose one of these approaches, they need not choose the same approach for each lease or renewal agreement, even when the same lessee is involved. Compliance with one of these two approaches must be at the time of entering into any new lease agreement or renewing an existing lease agreement, unless the once-a-year exception described below applies. Under the first option, both the licensee and the lessee must complete a written certification either using the standardized certification language contained in Appendices C and D of the *Second R&O*, and set forth below, or using their own language, as long as the certifications written in their own language contain the information and inquiry requirements set out in § 73.1212(j)(3)(i) through (iii) of the Commission's rules, pursuant to the *First R&O*. Specifically, a licensee's certification should:

- (1) inform the lessee of the foreign sponsorship disclosure requirement;
- (2) ask the lessee whether it falls into any of the categories that would qualify it as a “foreign governmental entity;”
- (3) ask the lessee whether it knows if any individual/entity further back in the chain of producing and/or distributing the programming to be aired qualifies as a foreign governmental entity and has provided some type of inducement to air the programming;
- (4) seek a written certification in response from the lessee; and
- (5) obtain the necessary information for a disclosure if one is required.

96. A lessee's certification should convey the information needed to determine whether a disclosure is required and the information needed for a broadcast disclosure if one is required. See 47 CFR 73.1212(j)(1).

97. Regardless of whether the Commission's templates or a licensee's and lessee's own certifications are used, both the licensee's and lessee's certifications must be dated and signed by an employee or other representative

of the entity who can attest to the fact that these actions were taken.

98. Under the second option, instead of asking the lessee to provide a responsive certification regarding its status, a licensee exercising this option would ask, consistent with the Commission's current foreign sponsorship identification rules, whether the lessee is a registered FARA agent or is listed in the Commission's U.S.-based foreign media outlet report. If the lessee responds "no," the licensee would then ask the lessee to provide screenshots showing the results of lessee's searches for its own name on both of these websites. The FARA website provides for an "Active Registrants" search link, and the *Second R&O* recommends that lessees use this link because the Commission's rules only cover those FARA agents who are currently registered on the Department of Justice FARA site. In response to concerns raised in the record about having to input "exact names" into the search feature, the *Second R&O* emphasizes that lessees are looking for their own names. A lessee is not doing a FARA database search to learn whether it is registered such as to necessitate experimenting with different iterations of its name. A lessee, or someone within lessee's organization, would know whether it is a FARA registrant, or U.S.-based foreign media outlet. As such, the lessee will only be providing screenshots if, in response to licensee's queries, the lessee states that it is neither a FARA agent nor a U.S.-based foreign media outlet.

99. With regard to searches of the Commission's U.S.-based foreign media outlet site, the Commission's website lists the names of all the entities that have reported as U.S.-based foreign media outlets, and all that is required is a screenshot of this list to show whether the lessee's name appears on the list at the time of the licensee's required inquiries. Licensees choosing this option must still comply with all other aspects of the current rule, as they have been required to do since the compliance date of the *First R&O*. Specifically, consistent with the existing foreign sponsorship identification rules, the licensee must inform the lessee about the foreign sponsorship disclosure requirement; inquire whether the lessee is either a "government of a foreign country" or a "foreign political party[:]" and inquire about the lessee's knowledge of anyone further back in the chain of producing/distributing the programming who qualifies as a "foreign governmental entity" and may have provided an inducement to air the programming such as to trigger the need

for a foreign sponsorship disclosure. Moreover, consistent with the certification option, a licensee should also ask the lessee to update it if there has been a change in the lessee's status or the status of anyone further back in the chain of producing/distributing the programming so as to trigger the need for a foreign sponsorship disclosure. Finally, also consistent with the existing foreign sponsorship identification rules, the licensee must memorialize those inquiries in some manner.

100. Although proposed in the *Second NPRM*, in response to commenter concerns, the *Second R&O* determines that a licensee need not notify the Commission's Media Bureau when a lessee fails to respond to the licensee's queries. If, however, it is determined at a later date that the programming should have included a foreign sponsorship disclosure, the Commission may conduct a fact-specific inquiry to determine whether the licensee met its obligation under section 317(c) of the Communications Act to "exercise reasonable diligence to obtain" the necessary information, such as by not making further inquiry of the lessee. Further, although the *Second NPRM* proposed requiring licensees to retain the certifications and screenshots in the licensees' own OPIF, the *Second R&O* gives licensees more flexibility in deciding where to retain these records. Pursuant to the *Second R&O*, licensees may either file these records in their OPIF or retain these records in their internal files, as long as the documents are made available to the Commission promptly upon request. Licensees must retain all of their certifications and screenshots, along with memorialization of inquiries accompanying the screenshots for the length of the license term or one year, whichever is longer.

101. In response to commenter concerns about frequently having to repeat the certification/screenshot process for short term leases, the *Second R&O* concludes that, where a licensee and the same lessee enter into recurring leases for the same programming over a one year period, the licensee need only exercise its reasonable diligence obligations, including the certification or screenshot process, once per year. This modification of the proposals contained in the *Second NPRM* addresses concerns raised in the record about the burdens associated with the production of multiple certifications/screenshots over a limited period of time when the lease concerns both the same lessee and lease.

102. The *Second R&O* reconfirms the finding from the *First R&O* that the foreign sponsorship identification rules

should not apply to NCEs. The *Second R&O* also clarifies that the foreign sponsorship identification requirements will not apply to advertising for commercial products or services to the extent such advertising falls within the exemption established in § 73.1212(f) of the Commission's rules. The *Second R&O* declines to adopt commenters' request to create exemptions from the foreign sponsorship identification rules for religious programming and locally produced and/or locally distributed programming. The *Second R&O* finds that creating an exemption for religious programming would not be content-neutral. Additionally, the *Second R&O* determines that the mere fact that programming is locally produced and/or locally distributed does not signify that the programming lacks material provided by a foreign governmental entity, such that there should be a blanket carveout for locally produced and/or distributed programming from the foreign sponsorship identification rules.

103. The requirements adopted in both the *First R&O* and *Second R&O* will also apply to section 325(c) permit holders. However, because section 325(c) permit holders do not have OPIFs, they will file their foreign sponsorship disclosures in the publicly available International Communications Filing System (ICFS).

104. Any lease agreements that are entered into, or that are renewed, on or after the date that the Media Bureau publishes in the **Federal Register** an announcement that the Office of Management and Budget (OMB) has completed any review required under the Paperwork Reduction Act of the rule modifications contained in the *Second R&O* must comply with the requirements laid out in the *Second R&O*. Based on commenter concerns about having to redo work associated with existing leases that comply with the current foreign sponsorship identification rules, the Commission determines that the rule modifications contained in the *Second R&O* will apply only to new leases and renewals of existing leases entered into on or after the required compliance date for those rule modifications. The *Second R&O* directs the Commission's Media Bureau to announce the compliance date for the new rules via public notice and to revise § 73.1212 of the rules accordingly.

F. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

105. The RFA requires an agency to provide, "a description of the steps the agency has taken to minimize the

significant economic impact on small entities . . . including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected[.]” 5 U.S.C. 604(a)(6).

106. The *Second R&O* carefully considers the concerns raised by commenters, a number of which may represent, or themselves be, small entities. In response to commenter concerns about burdens, the *Second R&O* gives licensees greater flexibility than initially proposed in the *Second NPRM* to determine how best to comply with the inquiry memorialization requirement. In response to commenter concerns that the standardized certification language proposed in the *Second NPRM* was too lengthy, complex, and full of legalese, the *Second R&O* greatly reduces the length and complexity of the standardized language and now employs a simple check-box approach. The *Second R&O* allows licensees to use their own certification language in response to comments expressing concerns about licensees that already have developed their own certifications based on the existing foreign sponsorship identification rules and for whom revising these certifications would be costly. The inquiries that must be contained in the self-generated certifications align with the requirements contained in the *First R&O* and, thus, previous certifications that are consistent with that order may not need to be modified. Finally, the *Second R&O* also offers a licensee the option to not use certifications at all, but to instead seek from its lessee screenshots of the lessee’s search of two Federal websites to demonstrate whether the lessee’s name appears on the sites, as well as requiring the licensee to memorialize some additional queries, pursuant to the *First R&O*, made to a lessee.

107. The *Second NPRM* proposed that licensees should retain all certifications in their OPIFs. However, in response to commenter concerns about this requirement, the *Second R&O* merely requires licensees to retain copies of certifications and screenshots in their personal files, with the option of uploading the documentation into their OPIF if they choose. The certification and screenshot requirements adopted in the *Second R&O* apply only to new leases and renewals of existing leases entered into on or after the required compliance date for the rule modifications. In response to

commenter concerns about having to redo work associated with existing leases that comply with the current foreign sponsorship identification rules, the *Second R&O* determines that the rule modifications contained in the *Second R&O* will apply only to new leases and renewals of existing leases entered into on or after the required compliance date for those rule modifications. In response to some commenters’ concerns regarding the unique economic challenges of applying the rules to short-term recurring leases, the *Second R&O* concludes that, where a licensee and the same lessee enter into recurring leases for the same programming over a one year period, the licensee need only exercise its reasonable diligence obligations, including the certification or screenshot process, once per year. In light of concerns raised in the record regarding the proposal that licensees report to the Commission instances in which lessees fail to respond to licensee queries, the *Second R&O* determines that the licensee need not notify the Media Bureau about a licensee’s failure to respond and may still choose air the programming.

G. Report to Congress

108. The Commission will send a copy of the *Second R&O*, including this FRFA, in a report to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Second R&O*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

VI. Ordering Clauses

109. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 2, 4(i), 4(j), 303(r), 307, 317, and 325(c) of the Communications Act, 47 U.S.C. 151, 152, 154(i), 154(j), 303(r), 307, 317, and 325(c) the *Second R&O* is adopted.

110. *It is further ordered* that the Petition for Clarification filed by ABC Television Affiliates Association, CBS Television Network Affiliates Association, FBC Television Affiliates Association, and NBC Television Affiliates is dismissed as moot.

111. *It is further ordered* that the *Second R&O* shall be effective August 15, 2024, except that the revisions to § 73.1212(j)(3) of the Commission’s rules, 47 CFR 73.1212(j)(3), which may contain new or modified information collection requirements, will not be required until the Office of Management and Budget completes review of any information collection requirements that the Media Bureau determines is

required under the Paperwork Reduction Act. The Commission further directs the Media Bureau to announce the effective date for the revisions to § 73.1212(j)(3) by subsequent Public Notice.

112. *It is further ordered* that the Commission’s Office of the Secretary, Reference Information Center, shall send a copy of the *Second R&O*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

113. *It is further ordered* that Office of the Managing Director, Performance Program Management, shall send a copy of the *Second R&O* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

VII. Approved Templates

Approved Template for Licensee Certification

Name of Licensee: _____

Name of Lessee: _____

Name of Program: _____

Nature of Lease: New: _____

Renewal: _____

Licensee informed Lessee that FCC regulations require that a disclosure accompany programming that is sponsored, paid for, or furnished by a foreign governmental entity.

Licensee asked Lessee whether Lessee is a foreign governmental entity. A foreign governmental entity can be a foreign government, a foreign political party, an agent of a foreign principal, or a U.S.-based foreign media outlet.¹

¹ See 47 CFR 73.1212(j). If more information is needed regarding the definition of a foreign governmental entity, see the FCC’s rules at 47 CFR 73.1212(j)(2)(i) through (iv), which provide that:

(i) The term “government of a foreign country” has the meaning given such term in the Foreign Agents Registration Act of 1938 (FARA), 22 U.S.C. 611(e);

(ii) The term “foreign political party” has the meaning given such term in the Foreign Agents Registration Act of 1938 (FARA), 22 U.S.C. 611(f);

(iii) The term “agent of a foreign principal” has the meaning given such term in the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(c)), and who is registered as such with the Department of Justice, and whose “foreign principal” is a “government of a foreign country,” a “foreign political party,” or directly or indirectly operated, supervised, directed, owned, controlled, financed, or subsidized by a “government of a foreign country” or a “foreign political party” as defined in subsection 73.1212(j)(2)(i) and (ii), and that is acting in its capacity as an agent of such “foreign principal;” and

(iv) The term “United States-based foreign media outlet” has the meaning given such term in section

Licensee asked Lessee whether it knows if any individual/entity in the chain of producing or distributing the programming is a foreign governmental entity and has provided some type of inducement to air the programming.²

Licensee sought from Lessee a written response certifying Lessee's answers. Lessee did _____ did not _____ provide a written certification.

If applicable, Licensee obtained from Lessee the information needed to add the following disclosure to Lessee's programming: "The [following/preceding] programming was [sponsored, paid for, or furnished], either in whole or in part, by [name of foreign governmental entity] on behalf of [name of foreign country]."

On behalf of Licensee, I certify that the above statements are accurate.

Name and Position

Signature

Date

Approved Template for Lessee Certification

Name of Licensee: _____

Name of Lessee: _____

Name of Program: _____

Nature of Lease: New _____

Renewal: _____

1. Lessee is a foreign governmental entity. A foreign governmental entity can be a foreign government, a foreign political party, an agent of a foreign principal, or a U.S.-based foreign media outlet³ Yes: _____
No: _____

² 722(a) of the Communications Act of 1934 (47 U.S.C. 624(a)).

² If the programming is political in nature, or involves the discussion of a controversial issue, the FCC disclosure requirements apply even if no compensation or payment, other than the programming itself, was provided as an inducement to air the program.

³ See 47 CFR 73.1212(j). If more information is needed regarding the definition of a foreign governmental entity, see the FCC's rules at 47 CFR 73.1212(j)(2)(i) through (iv), which provide that:

(i) The term "government of a foreign country" has the meaning given such term in the Foreign Agents Registration Act of 1938 (FARA), 22 U.S.C. 611(e);

(ii) The term "foreign political party" has the meaning given such term in the Foreign Agents Registration Act of 1938 (FARA), 22 U.S.C. 611(f);

(iii) The term "agent of a foreign principal" has the meaning given such term in the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(c)), and who is registered as such with the Department of Justice, and whose "foreign principal" is a "government of a foreign country," a "foreign political party," or

If Yes, Lessee is an entity of the country of _____.

2. Lessee knows of an individual/entity in the chain of producing or distributing the programming that is a foreign governmental entity and has provided some type of inducement to air the programming.⁴ Yes: _____
No: _____

If Yes, the name of the individual/entity is _____.

If Yes, the name of the country is _____.

3. If applicable, Lessee has provided Licensee with the information needed to append the following disclosure to lessee's programming, consistent with the FCC's rules at 47 CFR 73.1212(j)(1)(i):

"The [following/preceding] programming was [sponsored, paid for, or furnished], either in whole or in part, by [name of foreign governmental entity] on behalf of [name of foreign country]."

On behalf of Lessee, I certify that the above statements are accurate.

Name and Position

Signature

Date

List of Subjects in 47 CFR Part 73

Radio, Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

Final Rules

For the reasons discussed in the preamble, the Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

- 1. The authority citation for part 73 continues to read as follows:

directly or indirectly operated, supervised, directed, owned, controlled, financed, or subsidized by a "government of a foreign country" or a "foreign political party" as defined in subsection 73.1212(j)(2)(i) and (ii), and that is acting in its capacity as an agent of such "foreign principal;" and

(iv) The term "United States-based foreign media outlet" has the meaning given such term in Section 722(a) of the Communications Act of 1934 (47 U.S.C. 624(a)).

⁴ If the programming is political in nature, or involves the discussion of a controversial issue, the FCC disclosure requirements apply even if no compensation or payment, other than the programming itself, was provided as an inducement to air the program.

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

- 2. Effective August 15, 2024, amend § 73.1212 by adding paragraph (j)(8) and revising paragraph (k) to read as follows:

§ 73.1212 Sponsorship identification; list retention; related requirements.

* * * * *

(j) * * *

(8) The requirements contained in this paragraph (j) shall not apply to "uses" of broadcast stations by legally qualified candidates pursuant to 47 U.S.C. 315.

(k) Where any material delivered to foreign broadcast stations under an authorization pursuant to section 325(c) of the Communications Act (47 U.S.C. 325(c)) has been sponsored by a foreign governmental entity; paid for by a foreign governmental entity; furnished for free by a foreign governmental entity to the section 325(c) permit holder as an inducement to air the material on the foreign station; or provided by the section 325(c) permit holder to the foreign station where the section 325(c) permit holder is a foreign governmental entity, the material must include, at the time of broadcast, the following disclosure, in conformance with the terms of paragraphs (j)(4) through (6) of this section: "The [following/preceding] programming was [sponsored, paid for, or furnished], either in whole or in part, by [name of foreign governmental entity] on behalf of [name of foreign country]." A section 325(c) permit holder shall ensure that the foreign station will broadcast the disclosures along with the material and shall place copies of the disclosures required along with the name of the program to which the disclosures were appended in the International Communications Electronic Filing System (ICFS) under the relevant ICFS section 325(c) permit file. The filing must state the date and time the program aired. In the case of repeat airings of the program, those additional dates and times should also be included. Where an aural announcement was made, its contents must be reduced to writing and placed in the ICFS in the same manner. The section 325(c) permit holder shall exercise reasonable diligence to ascertain whether the foreign sponsorship disclosure requirements of paragraphs (j)(1) and (4) through (6) of this section apply to any material delivered to a foreign broadcast station, including obtaining from its employees, and from other persons with whom it deals directly in connection with any matter for broadcast, and in the same manner prescribed for broadcast stations in paragraph (j)(3) of this section, information to enable the permit holder

to include the announcement required by this section; memorializing its conduct of such reasonable diligence; and retaining such documentation in its records for either the remainder of the then-current permit term or one year, whichever is longer, so as to respond to any future Commission inquiry. The term *foreign governmental entity* shall have the meaning set forth in paragraph (j)(2) of this section.

■ 3. Delayed indefinitely, further amend § 73.1212 by revising paragraphs (j)(3) introductory text and (j)(3)(iv) and (v) to read as follows:

§ 73.1212 Sponsorship identification; list retention; related requirements.

* * * * *

(j) * * *

(3) The licensee of each broadcast station shall exercise reasonable diligence to ascertain whether the foreign sponsorship disclosure requirements in paragraph (j)(1) of this section apply at the time of the lease agreement and at any renewal thereof, or apply within a one-year period if the lessee and the programming remain unchanged, including:

* * * * *

(iv) Memorializing that the licensee has complied with the requirements in paragraphs (j)(3)(i) through (iii) of this section and has sought to obtain a response from the lessee with the information needed to determine if a disclosure is necessary, and if one is necessary, the information needed to make the disclosure, either:

(A) By executing a written certification attesting to the licensee's compliance and by seeking a written certification from the lessee; or

(B) By complying with the information requirement contained in paragraph (j)(3)(i) of this section and by asking the lessee to provide screenshots of its searches of the Department of Justice's FARA website and the Commission's semi-annual U.S.-based foreign media outlets reports, in the event that lessee has stated it is neither a FARA agent nor a U.S.-based foreign media outlet, and asking lessee to provide other information needed to make such a determination (*i.e.*, asking lessee whether it falls into the categories listed in paragraphs (j)(2)(i) and (ii) of this section that are not covered by the request for screenshots), and by making a record of the licensee's compliance efforts; and

(v) Retaining the documentation in the licensee's records for the remainder of the then-current license term or one year, whichever is longer, so as to

respond to any future Commission inquiry.

* * * * *

[FR Doc. 2024–15259 Filed 7–15–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 240314–0080; RTID 0648–XE110]

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Area I, Area II, and New York Bight Scallop Access Areas to General Category Individual Fishing Quota Scallop Vessels

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the Area I, Area II, and New York Bight Scallop Access Areas are closed to Limited Access General Category Individual Fishing Quota scallop vessels for the remainder of the 2024 fishing year. Regulations require this action once it is projected that 100 percent of trips allocated to the Limited Access General Category Individual Fishing Quota scallop vessels for the Area I, Area II, and New York Bight Scallop Access Areas will be taken. This action is intended to prevent the number of trips in the Area I, Area II, and New York Bight Scallop Access Areas from exceeding what is allowed under the Atlantic Sea Scallop Fishery Management Plan.

DATES: Effective 0001 hr local time, July 13, 2024, through March 31, 2025.

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Policy Analyst, (978) 281–9233.

SUPPLEMENTARY INFORMATION:

Regulations governing fishing activity in the Sea Scallop Access Areas can be found in 50 CFR 648.59 and 648.60. These regulations authorize vessels issued a valid Limited Access General Category (LAGC) Individual Fishing Quota (IFQ) scallop permit to fish in the Area I, Area II, and New York Bight Scallop Access Areas under specific conditions, including a total of 856 trips, combined, that may be taken during the 2024 fishing year. Section 648.59(g)(3)(iii) requires NMFS to close an Access Area to LAGC IFQ permitted

vessels for the remainder of the fishing year once it determines that the allocated number of trips for the fishing year are projected to be taken.

NMFS is required to monitor LAGC IFQ quota at a trip basis. The best scientific information available shows that July 13, 2024, is the appropriate date to close the areas given the current trip count, and likely mathematical extrapolations of trip counts until the closure date. We have taken into account that upon announcement of this closure, vessels are able to declare into the fishery before the closure date. LAGC IFQ scallop vessels provided trip declarations for fishing in the Area I, Area II, and New York Bight Scallop Access Areas to NMFS through the Vessel Monitoring System. NMFS performed a projection analysis using fishing effort data and determined that 856 trips would likely be taken by July 13, 2024.

Therefore, in accordance with § 648.59(g)(3)(iii), NMFS is closing the Area I, Area II, and New York Bight Scallop Access Areas to all LAGC IFQ scallop vessels as of July 13, 2024. No vessel issued an LAGC IFQ permit may fish for, possess, or land scallops in or from the Area I, Area II, or New York Bight Scallop Access Areas after 0001 hr local time, July 13, 2024. Any LAGC IFQ vessel that has declared into the Area I, Area II, or New York Bight Access Areas scallop fishery, complies with all trip notification and observer requirements, and crossed the Vessel Monitoring System demarcation line on the way to the area before 0001 hr, July 13, 2024, may complete its trip without being subject to this closure. This closure is in effect for the remainder of the 2024 scallop fishing year, through March 31, 2025.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act. This action is required by 50 CFR part 648, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The Area I, Area II, and New York Bight Scallop Access Areas opened for the 2024 fishing year on April 1, 2024. This closure is not discretionary under § 648.59(g)(3)(iii); NMFS must close the areas once when it determines the trip allocation will be reached. This closure ensures that LAGC IFQ scallop vessels do not take

more than their allocated number of trips in the area. The projected date on which the LAGC IFQ fleet will have taken all of its allocated trips in an Access Area becomes apparent only as trips into the area(s) occur on a real-time basis and as activity trends begin to appear. Current trip counts are regularly posted to the monitoring website (https://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/ScallopProgram/CURRENT_REPORTS/LAGC_AA_TRIPS.html), giving regulated entities near-real time access to the status of impending closures. Nevertheless, NMFS can only make an accurate projection of a specific closure date very close in time to when the fleet has taken all of its allocated trips. If NMFS solicited public comment on this mandatory closure action then the LAGC IFQ scallop vessels would exceed their allocated number of trips in the Area I, Area II, and New York Bight Scallop Access Areas. Excessive trips and harvest from the Area I, Area II, and New York Bight Scallop Access Areas would result in excessive fishing effort in the area, where precise effort controls are critical, thereby undermining conservation objectives of the Atlantic Sea Scallop Fishery Management Plan and requiring more restrictive future management measures to prevent overfishing. Accordingly, delaying this action to provide prior notice and a comment period would harm scallop resources and the scallop fishing industry. The public had prior notice and full opportunity to comment on this closure process in Amendment 11 to the Atlantic Sea Scallop Fishery Management Plan (FMP) (73 FR 20090; April 14, 2008). The public also had prior notice and full opportunity to comment on the action to set specifications for the 2024 fishing year in Framework Adjustment 38 to the Scallop FMP (89 FR 20341; March 22, 2024). Regulated parties and stakeholders, were given a meaningful opportunity to comment on the regulatory scheme, and they are on notice to anticipate this specific closure action. For these reasons, NMFS has good cause to waive notice and comment for this action, which flows from and was specifically required by regulations that underwent notice and comment rulemaking. For these same

reasons, NMFS further finds, under 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period.

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

Dated: July 11, 2024.

Lindsay Fullenkamp,

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

[FR Doc. 2024–15587 Filed 7–12–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 231215–0305; RTID 0648–XE107]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From Virginia to Massachusetts

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the Commonwealth of Virginia is transferring a portion of its 2024 commercial summer flounder quota to the Commonwealth of Massachusetts. This adjustment to the 2024 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) quota transfer provisions. This announcement informs the public of the revised 2024 commercial quotas for Virginia and Massachusetts.

DATES: Effective July 15, 2024 through December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Laura Deighan, Fishery Management Specialist, (978) 281–9184.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.111. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each

state is described in § 648.102, and the final 2024 allocations were published on December 21, 2023 (88 FR 88266).

The final rule implementing amendment 5 to the FMP, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: (1) the transfers or combinations would not preclude the overall annual quota from being fully harvested; (2) the transfers address an unforeseen variation or contingency in the fishery; and (3) the transfers are consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Regional Administrator has determined these three criteria have been met for the transfer approved in this notification.

Virginia is transferring 5,025 pounds (lb; 2,279 kilograms (kg)) to Massachusetts through a mutual agreement between the states. This transfer was requested to repay landings made by an out-of-state permitted vessel under a safe harbor agreement. The revised summer flounder quotas for 2024 are: Virginia, 1,890,242 lb (857,399 kg); and Massachusetts, 613,208 lb (278,146 kg).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.102(c)(2)(i) through (iv), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempted from review under Executive Order 12866.

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

Dated: July 11, 2024.

Lindsay Fullenkamp,

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

[FR Doc. 2024–15580 Filed 7–15–24; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 89, No. 136

Tuesday, July 16, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2024-1704; Project Identifier MCAI-2023-01204-T]

RIN 2120-AA64

Airworthiness Directives; Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Embraer S.A. Model ERJ 190 airplanes. This proposed AD was prompted by a manufacturing quality escape concerning certain overheat detection system (ODS) sensing elements. This proposed AD would require inspecting the ODS sensing elements and performing applicable corrective actions and would prohibit the installation of affected parts, as specified in an Agência Nacional de Aviação Civil (ANAC) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by August 30, 2024.

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

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

- *Fax:* 202-493-2251.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA-2024-1704; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For ANAC material, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246-190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203-6600; email *pac@anac.gov.br*; website *anac.gov.br/en/*. You may find this material on the ANAC website at *sistemas.anac.gov.br/certificacao/DA/DAE.asp*. It is also available at *regulations.gov* under Docket No. FAA-2024-1704.

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

FOR FURTHER INFORMATION CONTACT:

Joshua Bragg, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: 817-222-5366; email: *joshua.k.bragg@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2024-1704; Project Identifier MCAI-2023-01204-T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Joshua Bragg, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: 817-222-5366; email: *joshua.k.bragg@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

ANAC, which is the aviation authority for Brazil, has issued ANAC AD 2023-11-02, effective November 21, 2023 (ANAC AD 2023-11-02) (also referred to as the MCAI), to correct an unsafe condition for certain Embraer S.A. Model ERJ 190-100 IGW, -100 LR, -100 SR, -100 STD, -200 IGW, -200 LR, and -200 STD airplanes. Model ERJ 190-100 SR airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability. The MCAI states that a quality escape occurred during manufacturing concerning some ODS sensing elements produced before January 31, 2021. A defective sensing

element may not be able to detect a thermal bleed leak, which is a latent failure, and depending on the affected area, may start an ignition source in the fuel tank, which could damage some electronic boxes and expose the wing structure to high temperature gradients and unexpected thermal loads, which could result in reduced structural integrity of the airplane.

ANAC has informed the FAA of an undated Errata published to correct a printing error in the English version of ANAC AD 2023–11–02. The FAA has included these corrections in paragraphs (h)(2) and (3) of this AD.

The FAA is proposing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–1704.

Related Service Information Under 1 CFR Part 51

ANAC AD 2023–11–02 specifies procedures for a detailed inspection of the ODS sensing elements of the airplane bleed lines and replacement, if applicable, and procedures for re-activation of ODS sensing elements that were deactivated during the detailed inspection. ANAC AD 2023–11–02 also defines and prohibits the installation of

an affected ODS sensing element unless the affected part passed an inspection, indicated by a marking on one face of the connector hex nut.

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

FAA’s Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in ANAC AD 2023–11–02 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate ANAC AD 2023–11–02 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with ANAC AD 2023–11–02 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information required by ANAC AD 2023–11–02 for compliance will be available at *regulations.gov* under Docket No. FAA–2024–1704 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 90 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 26 work-hours × \$85 per hour = Up to \$2,210	\$0	Up to \$2,210	Up to \$198,900.

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

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

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
2 work-hours × \$85 per hour = \$170	\$500	\$670

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil

aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not

have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.): Docket No. FAA-2024-1704; Project Identifier MCAI-2023-01204-T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 30, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Embraer S.A. (Type Certificate previously held by Yaborã Indústria Aeronáutica S.A.) Model ERJ 190-100 IGW, -100 LR, -100 STD, -200 IGW, -200 LR, and -200 STD airplanes, certificated in any category, as identified in Agência Nacional de Aviação Civil (ANAC) AD 2023-11-02, effective November 21, 2023 (ANAC AD 2023-11-02).

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by a manufacturing quality escape concerning certain overheat detection system (ODS) sensing elements. The FAA is issuing this AD to address defective sensing elements. The unsafe condition, if not addressed, could result in a sensing element not being able to detect a thermal bleed leak, which is a latent failure, and, depending on the affected area, may start an ignition source in the fuel tank, which could damage some electronic boxes and expose the wing structure to high temperature gradients and unexpected thermal loads, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, ANAC AD 2023-11-02.

(h) Exceptions to ANAC AD 2023-11-02

(1) Where ANAC AD 2023-11-02 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (b)(1) of ANAC AD 2023-11-02 specifies “Within 5,000 Flight Hours (FH) or 24 months,” for this AD, replace that text with “Within 7,500 Flight Hours (FH) or 36 months.”

(3) Where paragraphs (c)(1), (d)(1), (e)(1), (f)(1), and (g)(1) of ANAC AD 2023-11-02 specify “Within 5,000 FH or 24 months,” for this AD, replace that text with “Within 7,500 FH or 36 months.”

(4) Where paragraphs (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), and (g)(1) of ANAC AD 2023-11-02 specify to inspect ODS sensing elements at various locations, this AD requires adding “in accordance with Embraer Service Bulletin 190-36-0027, Revision 02, dated September 5, 2023; or later revisions approved by ANAC.”

(5) Where paragraphs (b) through (h) of ANAC AD 2023-11-02 specify on-condition actions based on the results of the ODS sensing element inspections required by paragraphs (b)(1), (c)(1), (d)(1), (e)(1), (f)(1), and (g)(1) of ANAC AD 2023-11-02, this AD requires performing all applicable on-condition actions before further flight after each inspection.

(6) This AD does not adopt paragraph (k) of ANAC AD 2023-11-02.

(7) Where paragraph (l) of ANAC AD 2023-11-02 specifies “Record compliance with this [ANAC] AD in the applicable maintenance log book,” for this AD, record compliance with this FAA AD.

(i) No Return of Parts Requirement

Although the service information referenced in ANAC AD 2023-11-02 specifies to send removed parts to the manufacturer, this AD does not include that requirement.

(j) Special Flight Permit

Special flight permits, as described in 14 CFR 21.197 and 21.199, are not allowed.

(k) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* Except as required by paragraphs (i) and (k)(2) of this AD, if any service information referenced in ANAC AD 2023-11-02 contains steps in the Accomplishment Instructions or figures that are labeled as RC, the instructions in RC steps, including subparagraphs under an RC step and any figures identified in an RC step, must be done to comply with this AD; any steps including substeps under those steps, that are not identified as RC are recommended. The instructions in steps, including substeps under those steps, not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC. If a step or substep is labeled “RC Exempt,” then the RC requirement is removed from that step or substep.

(l) Additional Information

(1) For more information about this AD, contact Joshua Bragg, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: 817-222-5366; email: joshua.k.bragg@faa.gov.

(2) For Kidde Aerospace & Defense material identified in ANAC AD 2023-11-02 that is not incorporated by reference, contact Kidde Aerospace & Defense, 4200 Airport Drive NW, Building B, Wilson, NC 27896; telephone: 319-295-5000; website: kiddetechnologies.com/aviation.com.

(m) Material Incorporated by Reference

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

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

(i) Agência Nacional de Aviação Civil (ANAC) AD 2023-11-02, effective November 21, 2023.

(ii) [Reserved]

(3) For ANAC AD 2023-11-02, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246-190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203-6600; email pac@anac.gov.br; website anac.gov.br/en/. You may find this ANAC AD on the ANAC website at sistemas.anac.gov.br/certificacao/DA/DAE.asp.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational

Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations, or email fr.inspection@nara.gov.

Issued on June 25, 2024.

Suzanne Masterson,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024–15309 Filed 7–15–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 203, 206, and 291

[Docket No. FR–6051–P–02]

Federal Housing Administration (FHA): Single Family Sale Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: In a Single Family Sale (the “Program”), eligible single family mortgage loans insured by the Federal Housing Administration (FHA) are assigned to the Secretary of the Department of Housing and Urban Development (HUD) in exchange for claim payments, and mortgage notes are then sold, without FHA insurance, to qualified purchasers in a manner that seeks to maximize recoveries and strengthen HUD’s Mutual Mortgage Insurance Fund (MMIF), and to achieve HUD’s operational goals for the MMIF. The Program has operated as a demonstration since 2002. This proposed rule would transition the Program from a demonstration to a permanent Program by revising HUD’s Single Family Mortgage Insurance, Home Equity Conversion Mortgages, and Disposition of HUD-Acquired and -Owned Single Family Property regulations to provide for the sale of HUD-held single family forward mortgages and Home Equity Conversion Mortgages (HECMs), through Competitive Sale of Single Family Loans and Direct Sale of Single Family Loans. This proposed rule would also remove existing regulations on Disposition of HUD-Acquired and -Owned Single Family Property regulations which provided for a retired program that

handled the sale of HUD-held single family mortgage loans.

DATES: *Comment due date:* September 16, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this document. Comments should refer to the above docket number and title. There are two methods for submitting comment.

1. Submission of comments by mail: Comments may be submitted by mail to the HUD Regulations Division, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410–8000; telephone: (202) 708–2625 (this is not a toll-free number) or toll free (800) 481–9895. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

2. Electronic submission of comments: Comments may be submitted electronically through the Federal e-Rulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make the comments immediately available to the public. Comments submitted electronically through the www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow instructions provided on this site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of this document.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

3. Public inspection of public comments: All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at (202) 402–5731 (this is not a toll-free number). HUD welcomes and

is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: John Lucey, Director, FHA Office of Asset Sales, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410–8000; telephone: (202) 708–2625 (this is not a toll-free number), or toll-free: (800) 481–9895. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as from individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 204 of the National Housing Act,¹ HUD has general authority to pay insurance claims and dispose of mortgages and properties acquired under the FHA single family mortgage insurance programs. Section 204(g) specifically grants HUD broad discretion to implement a range of disposition alternatives. The National Housing Act also requires HUD ensure the mutual mortgage insurance fund (MMIF) remains financially sound. HUD must effectively manage HUD’s defaulted assets and minimize losses to the MMIF to carry out its fiduciary responsibility to ensure the financial soundness of the MMIF.

Since 2002, HUD has operated a demonstration program² to implement its broad disposition authority with respect to mortgages and properties acquired under the FHA single family mortgage insurance programs. By notice published in the **Federal Register** on February 5, 2002, HUD announced the establishment of the Accelerated Claim and Asset Disposition (ACD)

¹ See 12 U.S.C. 1710 (2010), as amended by section 601 of the Fiscal Year 1999 Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act (Pub. L. 105–276, approved October 21, 1998) (“FY 1999 Appropriations Act”).

² HUD has used various names to refer to the demonstration program, including the Accelerated Claim and Asset Disposition (ACD) Demonstration, the Single Family Loan Sales (“SFLS”) Program, and the Distressed Asset Stabilization Program (“DASP”).

Demonstration to “address any programmatic concerns” and “assess its success and determine whether to implement the ACD process on a permanent basis, throughout the country.”³ On October 29, 2002, HUD responded to public comments and conducted its first sale of defaulted mortgages through the ACD Demonstration.⁴ HUD has continuously operated the ACD demonstration for the purpose of paying insurance claims and disposing of mortgages and related properties acquired under the FHA single family mortgage insurance programs.

Absent the Program, if a borrower is unable to resume their mortgage payments after loss mitigation, the mortgagee in most cases would be required to foreclose the defaulted loan to perfect an insurance claim. If the property cannot be sold to a third party at foreclosure or a second-chance auction, the mortgagee may file a conveyance claim, which gives the property to HUD in exchange for receiving the FHA mortgage insurance claim payment. Prior to filing the conveyance claim, the mortgagee will incur legal and holding costs for which the mortgagee may seek reimbursement from HUD through claim payment. A property conveyed to HUD increases HUD’s Real Estate Owned (REO) inventory, posing an additional financial burden on the MMIF for asset management costs. As an alternative to filing a conveyance claim, for a forward loan that has been foreclosed, HUD will pay a claim without conveyance of title claim from the MMIF to the mortgagee if the borrower defaults and the mortgagee loses money after selling the house in a foreclosure or post-foreclosure sale. Disposing of delinquent forward mortgage loans shortens the period between default and claim payment, reducing the financial exposure to these insurance funds for costs incurred after default.

For a HECM that has been foreclosed, the mortgagee cannot file a conveyance claim but can sell the foreclosed property to a third party and receive claim payment if the mortgagee is owed more than it receives from such sale. For HECMs endorsed before 2009, HUD pays claims from the General Insurance (GI) Fund. For HECMs endorsed in 2009 or after, HUD pays claims from the MMIF.

HUD’s sale of defaulted loans is generally intended to yield a recovery to the MMIF that meets or exceeds the recovery obtained as a result of a foreclosure-based claim.

When a borrower passes away after assignment of a HECM, HUD incurs costs associated with real property when it is vacant or abandoned. HUD’s servicing tenure and attempts to foreclose can be delayed by title or jurisdictional issues and backlogs resulting from high volume. These issues result in higher servicing costs along with additional inspection and property preservation costs while the HECMs remain in HUD’s portfolio. After foreclosure, HECMs that converted to REO are added to HUD’s inventories, increasing asset management costs to protect and dispose of the properties. Disposition of eligible assigned HECMs, such as HECMs secured by vacant and abandoned properties, can result in significant cost savings to the MMIF and GI Fund, as applicable, and enable better and more timely resolution of these assets.

On June 5, 2006, HUD issued an advance notice of proposed rulemaking (“ANPR”) soliciting public comment on HUD’s ACD program.⁵ The ANPR solicited public comments to make “possible improvements to the program,” including the most efficient way to “maximize the return to the FHA insurance fund” by “minimiz[ing] the time an asset is held.”⁶

On April 30, 2007, HUD published a regulatory agenda providing public notice that FHA had withdrawn the ANPR effective March 1, 2007.⁷ After this action, HUD adopted additional modifications to the demonstration, including changing the disposition method from joint venture to whole loan sales.

II. Advance Notice of Proposed Rulemaking (ANPR)

On May 6, 2019, HUD published another ANPR for the Single Family Loan Sale Program.⁸ The ANPR presented questions to commenters on asset eligibility, the assignment claims process, loan delivery, sale structure, purchaser requirements, and enforcement mechanisms. Commenters provided responses addressing the

Program’s positive and negative effect on the community; obstacles during post-sale servicing; the loan pooling and scoring process; and participating servicer agreements.

Commenters expressed different perspectives on whether the current program benefits the community. Commenters stated the loan sale program stabilizes communities and provides borrowers, for whom all FHA-prescribed loss mitigation efforts have failed, a second chance to save their homes and avoid foreclosure, while producing a better financial outcome for taxpayers. Other commenters stated the current program inadequately protects homeowners, damages communities, and creates neighborhood instability. Many commenters stated the program increases single family rental housing and decreases homeownership because it primarily facilitates sales to single family rental property owners. Commenters noted these purchasers include private equity funds, real estate investment trusts (REITs), and other large investors, which can cause neighborhood instability. Commenters also referenced allegations the program has a disparate impact on communities of color. To remedy the adverse effects of the current program, commenters suggested HUD strike an appropriate balance between protecting the MMIF, the interests of communities, and the need to ensure fair treatment of borrowers.

Commenters also identified additional obstacles of the Single Family Loan Sale Program that limit participation in the program and the sale of loans. These obstacles included irregularly scheduled sales with short response timeframes, which leads to administrative and cost burdens as well as difficulty pursuing foreclosure or helping borrowers with loss mitigation efforts. Other commenters stated HUD’s program requires participating servicers to spend significant resources in lengthy and expensive conflict resolution over contractual representations and warranties. Commenters argued FHA should apply outcome requirements to all loan sale pools, not just Neighborhood Stabilization Outcome (NSO) pools. Commenters also stated the post-sale servicing failed to require a reasonable modification program for borrowers whose loans have been sold, and HUD has not required loan sale purchasers to consider specific options for borrowers in default.

Many commenters offered suggestions on how HUD should structure loan pooling. Commenters recommended HUD set aside pools of loan sales for nonprofits as well as arrange loan sales

³ See Notice of FHA Accelerated Claim Disposition Demonstration, 67 FR 5418 (February 5, 2002).

⁴ See Notice of FHA Accelerated Claim Disposition Demonstration, 67 FR 66038 (October 29, 2002).

⁵ See *Accelerated Claim and Asset Disposition (ACD) Program; Advanced Notice of Proposed Rulemaking*, 71 FR 32392 (June 5, 2006).

⁶ *Id.*

⁷ See *HUD Semiannual Regulatory Agenda*, 72 FR 22694 (April 30, 2007).

⁸ See *Federal Housing Administration (FHA): Single Family Loan Sale Program; Advance Notice of Proposed Rulemaking and Request for Public Comment*, 84 FR 19784 (May 6, 2019).

in small, manageable numbers in limited geographic areas. Commenters also discussed nonprofit and for-profit partnerships, both encouraging these arrangements but also noting the importance of clearly defining the roles and decision-making authority of each partner. Other commenters preferred larger pool sizes to minimize the negative impact of fixed transaction costs on bids. Commenters also recommended a “last look” option for nonprofit corporations that compete at the national level to match the highest bidder purchase offer. Similarly, commenters stated HUD should establish and publish limits on the disposition of properties acquired through the program to other entities besides owner-occupants, nonprofit community organizations, purchasers who will commit to providing affordable rentals, or land banks.

Commenters also offered suggestions to improve the Participating Servicer Agreement (PSA) to include: clearly defining the requirements and timeframes, such as a clear deadline for the delivery of collateral files to the purchaser and the endorsed Note; providing a deadline for the submission of trailing expenses by the prior servicer for reimbursement; providing transfer instructions with time limitations for submitting documentation; and clarifying violations that would trigger repurchase or re-conveyance. Commenters also recommended the PSA provide updated documentation for the interim servicing period to include servicing notes and loss mitigation actions since the date of transfer. Commenters stated the PSA should establish a servicing fee for awarded loans based on current market costs for the interim servicing period.

For additional information, all public comments can be viewed at www.regulations.gov, under docket number HUD-2019-0039. (See <https://www.regulations.gov/docket/HUD-2019-0039>)

III. Proposed Rule Changes

This proposed rule seeks to combine what HUD has previously called the Single Family Loan Sale Program for forward loans (SFLS) and the HUD-held Vacant Loan Sales Program for HECMs (HVLS) into one permanent program that will be referred to as the Single Family Sale Program (the “Program”). The proposed rule would combine SFLS and HVLS into the Program, although HUD anticipates it will continue to sell forward loans and reverse loans in distinct pools or sales. The proposed rule would also give FHA flexibility to maximize returns to the MMIF in cases

when a loan sale would help minimize losses from the disposition of each asset. The proposed rule also seeks to provide flexibility for the management of defaulted loans and more efficiently accept assignment and dispose of assigned mortgages through loan sales. The proposed rule would specify certain claim requirements related to loss mitigation loan eligibility for a Single Family Sale and provide for HUD to withdraw or require repurchase of a Single Family Loan that does not satisfy those requirements. The proposed rule would require Participating Servicers comply with any loan sale notification requirement to borrowers (Loan Sale Notification) as prescribed by the Secretary through notice, such as a Sale Notice or Mortgagee Letter. The proposed rule would contain post-sale requirements which include a first-look sale requirement for Purchaser-held real estate owned property resulting from foreclosure or deed-in-lieu of foreclosure of a Single Family Loan.

A new subpart G proposes to codify the demonstration structure and process, which includes improvements identified and tested over the course of the demonstration, as a permanent program. HUD is also proposing to remove subpart D of 24 CFR part 291 in its entirety because the policies and procedures established under subpart D do not govern active sales of HUD-held single family loans. Lastly, HUD proposes related changes to the FHA single family mortgage assignment claim requirements by adding a section to 24 CFR parts 203 and 206 to reflect payments made when a loan is assigned as part of the new loan sale process.

Section 203.413—Amount of Payment—Forward Loan Sale Assignments

Section 203.413 provides that when a forward mortgage loan is assigned because of a Sale Notice, pursuant to new subpart G, the Commissioner shall pay to the mortgagee the unpaid principal balance of the loan at the time of assignment in accordance with the PSA executed by the Secretary and the mortgagee. This section also describes the process and procedures for a mortgagee’s claim for insurance, including the Commissioner’s manner of calculating the assignment claim payment based on the regulation and the Conveyance, Assignment and Assumption Agreement (CAA), which includes what the Commissioner will consider as allowable reimbursable expenses in the claim, and when the mortgagee fails to meet certain claim submission requirements. Also, this section requires the mortgagee determine and certify the mortgage

satisfies the Commissioner’s acceptability criteria, which includes satisfaction of the Single Family loss mitigation eligibility requirements and a prohibition on inclusion of low-value mortgages secured by vacant properties, for the Single Family Sale. This section provides for claim payment reductions where the Participating Servicer fails to take required actions as specified in the PSA, such as curing breaches in a timely manner. Section 203.413 also sets forth HUD’s grounds for curtailing debenture interest and rejecting a claim when claims are filed or in a suspended status after claim submission deadlines are missed.

Section 206.130—Amount of Payment—HECM Sale Assignments

Section 206.130 mirrors § 203.413 and provides the same process for paying HECM mortgages when a HECM mortgage is assigned because of a Sale Notice. Pursuant to new subpart G, the Commissioner shall pay to the mortgagee the unpaid principal balance of the loan at the time of assignment and an amount calculated in accordance with the PSA executed by the Secretary and the mortgagee. Section 206.130 also describes the process and procedures for a mortgagee’s claim for insurance, including the Commissioner’s manner of calculating the assignment claim payment based on the regulation and the PSA, which includes what the Commissioner will consider as allowable reimbursable expenses in the claim, and when the mortgagee fails to meet certain claim submission requirements. This section also requires the mortgagee to determine and certify the mortgage satisfies the Commissioner’s acceptability criteria, which includes satisfaction of the Single Family loss mitigation eligibility requirements, for the Single Family Sale. This section provides for claim payment reductions where the Participating Servicer fails to take required actions as noted in the PSA, such as curing breaches in a timely manner. Section 206.130 also sets forth HUD’s grounds for curtailing debenture interest and rejecting a claim when claims are filed or in a suspended status after claim submission deadlines are missed.

Section 291.601 Definitions

Section 291.601 provides definitions for the following terms, which were routinely used in past Single Family Loan Sales (SFLS) and HUD-held Vacant Loan Sales (HVLS). FHA-approved mortgagees that have contributed eligible loans for sales, and bidders in the SFLS and HVLS programs

are familiar with these terms, as they are defined in the materials, such as the Participating Servicing Agreement (PSA); Desk Guide; Conveyance, Assignment and Assumption Agreement (CAA); and Bidder Information Package (BIP) provided by HUD for each sale. The following terms pertain to the HUD FHA Single Family Loans sold and to the entire loan sale process, including the opening of HUD's Aggregate Loan Database, bidder requirements, FHA-approved mortgagee assignment claim requirements and contracts, servicing of the loans after sale and before settlement, purchaser sale contracts, and post-sale requirements. The proposed rule will define the following terms: Aggregate Loan Database (ALD); Bidder Information Package (BIP); Bidder Qualification Statement; Claim Date; Competitive Sale of Single Family Loans; Confidentiality Agreement; Conveyance, Assignment and Assumption Agreements (CAAs); Cut-off Date or Claim Submission Cut-off Date; Desk Guide; Direct Sale of Single Family Loans; Home Equity Conversion Mortgage (HECM); Interim Servicing Agreement (ISA); Interim Servicing Period; Low-value; Nonprofit Organization; Participating Servicer (or P-Servicer); Participating Servicer Agreement (PSA); Purchaser; Qualified Participant; Sale Notice; Servicing Transfer Date; Single Family Sale or the Program; Single Family Loan; and Vacant.

Section 291.603 Purpose and General Policy of Single Family Sales

This section sets forth the general purpose and policy for HUD's Single Family Sale Program. The section makes clear that all Single Family Sales will be made without recourse to HUD and without FHA insurance. This section also clarifies that HUD has discretion on how to package loans included in the sale as well as identify entities to participate in the sale. More generally, this section clarifies that the new subpart G governs all Single Family Sales unless otherwise specified.

Section 291.605 Participating Servicers

This proposed section provides the requirements a Participating Servicer must meet to participate in the Single Family Sale Program. The Participating Servicer is the FHA-approved mortgagee contributing eligible Single Family Loans into the Sale. The Participating Servicer must identify the eligible Single Family Loans and assign them to HUD in exchange for claim payment in accordance with the terms of the Participating Servicer Agreement (PSA)

with HUD. The Participating Servicer will continue to service the assigned Single Family Loans for an interim period after the Single Family Sale in accordance with the terms of an Interim Servicing Agreement (ISA) with the Purchaser. The Participating Servicer must execute the PSA and ISA to participate in the Single Family Sale. The PSA will include, but is not limited to, the processes for preparation of the mortgage loan list, submission of due diligence materials, ordering valuations, preparing claim submission files, submission of claim, transfer of documents to Purchasers, sending letters to borrowers, preparing assignments and endorsements, conducting interim servicing, and processing repurchases. The Desk Guide is also a part of the PSA and is provided to the P-Servicer by the Secretary for a Single Family Sale.

Proposed paragraph (b) provides that for each Single Family Sale in which the Participating Servicer participates, the Participating Servicer must identify mortgages that meet the eligibility criteria in accordance with terms of the PSA, conduct all sale activities in accordance with the PSA and ISA they executed, and comply with any Loan Sale Notification requirements and Single Family Sale notice (the "Sale Notice") requirements. A Loan Sale Notification would describe the sale process and describe Participating Servicer's obligations before and after the sale. It would also provide contact information as required by the Secretary, such as the Participating Servicer for notification in the event the borrower wants to inquire about the loss mitigation evaluation, or the loss mitigation option was not completed in accordance with FHA requirements or HUD's National Servicing Center for inquiry or complaint alleging non-compliance. The Loan Sale Notification requirements will be announced to Participating Servicers via notice, such as a Sale Notice or a Mortgagee Letter. The Participating Servicer would be responsible for ensuring a Loan Sale Notification is provided to each borrower and any other parties as required by the Secretary, and the Loan Sale Notification complies with all applicable law.

The sale-specific Sale Notice announces the sale of Single Family Loans and will include the schedule of dates and any additional sale, participant qualification and loan eligibility requirements including requirements related to exhausting loss mitigation; representations; post-sale servicing, outcome, and reporting requirements; and repurchase criteria

applicable to the Participating Servicers activities for the individual Single Family Sale.

Paragraph (c) proposes the Participating Servicer comply with the claims payments requirements in accordance with the PSA and claims will be paid out in accordance with § 203.413 for forward Single Family Loans and § 206.130 for any HECMs assigned in connection with a Single Family Sale. The proposed paragraph (d) provides that the Participating Servicer continue to service the purchased Single Family Loans during the Interim Servicing Period in accordance with the ISA that the Participating Servicer executed. Lastly, this section provides in paragraph (e) that the Participating Servicer conduct the servicing transfer for the Single Family Loans in accordance with both the executed PSA and ISA and comply with the applicable state and federal law requirements for servicing, including the applicable Consumer Finance Protection Bureau (CFPB) requirements.

Section 291.607 Qualified Participants

This proposed section provides the requirements for being a Qualified Participant in the Single Family Sale. This proposed section requires individuals or entities to become a Qualified Participant before they may bid or purchase Single Family Loans in a Single Family Sale. Specifically, paragraph (a) proposes that an individual or entity must sign a Confidentiality Agreement and complete and sign a Bidder Qualification Statement to be considered a Qualified Participant. The Bidder Qualification Statement is a statement of qualifications prepared by and containing statements as prescribed by the Secretary and executed by an individual or entity seeking to purchase Single Family Loans through the Single Family Sale Program. The statement of qualifications sets forth the basic qualifications required for participation in any of the Single Family Sale Program activities, which may include but are not limited to accessing due diligence files, bidding on, and purchasing Single Family Loans. The Secretary will specify which Bidder Qualification Statement form(s) are applicable to a particular Single Family Sale and any additional sale specific qualification criteria through notice. HUD will only provide access to sensitive Single Family Sale materials to a Qualified Participant. In addition, this proposed section provides the individual or entity must execute the applicable Bidder Qualification Statement for the specific Single Family

Sale they wish to bid on, as discussed in § 291.609.

Proposed paragraph (b) provides the process for determining a Qualified Participant. HUD will qualify any individual or entity seeking to participate in a Single Family Sale if they have met the qualification requirements and executed the applicable Bidder Qualification statement for the Single Family Sale. Where permitted by the Bidder Qualification Statement, the individual or entity may submit information that may render its failure to certify certain statements immaterial for purposes of qualifying for the Single Family Sale. The Secretary, in his or her sole discretion, may accept such information and determine the failure to certify as immaterial for qualifying the entity or individual due to the entity or individual's minor or technical reason preventing certification or experience that differs from the certification standard, but that HUD determines to be equivalent to the standard. HUD notes the Sale Notice may have additional sale-specific qualification requirements the individual or entity must also meet, as more fully described below.

Section 291.609 Bidding Process

This proposed section provides the process for Qualified Participants to respond to a Sale Notice HUD publishes, and any additional sale requirements as defined in the BIP. Paragraph (a) proposes for each Single Family Sale, HUD will publish the PSA, which includes the Desk Guide, and the schedule of dates and any sale-specific loan eligibility, representations, and repurchase criteria published by the Secretary in the Sale Notice. HUD will also publish the ISA (if applicable), CAA, and Sale Notices, on HUD's public website.

Paragraph (b) proposes all Qualified Participants that intend to bid must do so in accordance with the Sale Notice and the BIP, which provides details for each sale. Paragraph (b) also provides that when a Qualified Participant submits a bid, it will be considered an offer and acceptance of the terms and conditions set forth in the BIP. Paragraph (b) also notes that along with the bid, the Qualified Participant must also execute a copy of the CAA and ISA, as applicable.

Paragraph (c) proposes a Qualified Participant may use a broker or agent. In such case, the bid must be in the name of the Qualified Participant and signed by the broker or agent as the attorney-in-fact for the Qualified Participant, and the bid must include a power of attorney satisfactory to HUD as to form

and content. Paragraph (d) would require the Qualified Participant also submit to HUD an earnest money deposit in the amount set forth in the Sale Notice in paragraph (a). The earnest money deposit is nonrefundable to the Qualified Participant whose bid is selected for award and will be credited toward the purchase price. In the case the Qualified Participant's bid is not selected, their earnest money will be returned.

Paragraph (e) proposes a Qualified Participant may withdraw a submitted bid in accordance with the instructions in the BIP for a sale, but a bid may not be withdrawn once the bidding has closed.

Paragraph (f) proposes that HUD maintains the right to terminate a Single Family Sale in whole or in part at any time before the bid date. In addition, paragraph (g) sets forth the option for HUD to withdraw Single Family Loans from a Single Family Sale prior to the settlement date or after the bid date in accordance with the BIP and CAA. Lastly, paragraph (h) would provide the option for HUD to reject bids when the bid does not conform with the instructions in the BIP or when HUD determines such action would be in its best interests because it would not further HUD's fiduciary responsibility to the MMIF or any stated mission objectives in the Sale Notice. Paragraph (h) would also provide HUD issue a conditional rejection for bids that are nonconforming, to include but not limited to, a missing answer, item, or component which would render the bid incomplete. At HUD's discretion, the bidder would have the opportunity to amend the nonconforming bid and be considered for acceptance upon fulfillment of HUD's requests.

Section 291.611 Post-Bid Process and HUD's Execution of the CAA

This proposed selection discusses the post-bid selection process and proposes HUD would notify the Qualified Participants regarding any adjustments to bids in accordance with the BIP. HUD will select bids for award and provide notice of award in accordance with the BIP. The proposed rule provides that post-selection, HUD will complete the execution of the CAA.

Section 291.613 Settlement Requirements

This proposed section sets forth the settlement requirements applicable to a Single Family Sale. Specifically, paragraph (a) would provide that the Purchaser must pay to HUD the settlement payment, consisting of the balance of the amount due on the bid

price, as adjusted in accordance with the BIP and CAA. In addition, proposed paragraph (b) would provide that when the Purchaser delivers the settlement payment, HUD will execute and deliver to the Purchaser a settlement statement and an updated loan schedule for the CAA to document the Single Family Loans sold to the Purchaser in the Single Family Sale. Proposed paragraph (c) provides for HUD to grant a temporary Limited Power of Attorney to the Purchaser to facilitate endorsement and assignment of the Single Family Loans to the Purchaser. Proposed paragraph (d) permits the Purchaser to endorse and assign Single Family Loans from HUD to its special purpose entity acquisition vehicle that meets CAA requirements.

Section 291.615 Purchaser Servicing Requirements

This proposed section provides the requirements for Purchasers. The rule proposes to require Purchasers to adhere to and ensure their servicer, or any subsequent servicer adheres to, the servicing requirements as specified in this section and in the CAA for each Single Family Sale. Paragraph (a) proposes to include the existing requirement that the Purchaser and its servicer comply with the terms of the CAA. The CAA terms will include, but are not limited to, servicing, resale, post-sale outcome, and reporting requirements for the purchased loans. In addition, the Sale Notice published in accordance with § 291.609(a) may impose additional post-sale loss mitigation and outcome requirements, such as alternatives to foreclosure that further FHA's mission of meeting the housing needs of low- to moderate-income homeowners, a first look requirement for sales of real estate owned properties to provide an exclusive listing period for owner occupant, nonprofit organization, government, and other prospective buyers as permitted by HUD, that will be incorporated into the CAA. The CAA will incorporate by reference the Sale Notice for each Single Family Sale, enabling HUD to establish and adjust post-sale requirements meeting HUD's mission based on economic and other market conditions.

Paragraph (b) would require the Purchaser report on post-sale servicing actions and outcomes for each purchased loan. Paragraph (b) also provides that HUD will prescribe the reporting time frame after the settlement of the sale in the CAA, which generally continues for a four-year period after the settlement date. HUD will periodically publish reports to the public on loan

and property outcomes and will include a breakdown of outcomes in different geographies. Paragraph (c) proposes HUD may pursue appropriate remedies for a Purchaser's failure to comply with Single Family Sale requirements, including obligations set forth under the CAA. Such remedies may include the inability to participate in the Program for one or more Single Family Sales or for a set-period of time, see § 291.621.

*Section 291.617 General Policy—
Direct Sales of Single Family Loans*

As discussed in § 291.603, HUD has the discretion regarding how to package loans included in a Single Family Sale and may pursue a Direct Sale of Single Family Loans to individuals or entities that the Secretary determines to be qualified, in lieu of a bidding process. The Direct Sale of Single Family Loans will follow the requirements in subpart G, excluding 24 CFR 291.609 and 291.611. HUD in its Sale Notice for the Direct Sale of Single Family Loans will set forth specific eligibility requirements and post-sale servicing, outcome, and reporting requirements.

*Section 291.619 Direct Sale of Single
Family Loans Process*

This section sets forth the second method for which HUD could decide to conduct a Single Family Sale through the Direct Sale of Single Family Loan process. Under paragraph (a), HUD proposes that HUD may issue a Sale Notice seeking participation in a Direct Sale of Single Family Loans. The Sale Notice would include any qualification requirements not already detailed in the Qualification Statement, such as targeting Nonprofit Organizations in particular geographic areas or with experience acquiring and rehabilitating Vacant properties or Low-value mortgages, and other sale requirements, including loan eligibility criteria, post-sale servicing requirements, post-sale outcomes to achieve mission objectives, such as promoting affordable housing, and reporting requirements.

Paragraph (b) provides that in all stages of the Direct Sale of Single Family Loans process, HUD may determine whether to continue proceeding with the mortgage loan sale. HUD's determination will be based on whether the Direct Sale of Single Family Loans is feasible and in HUD's interest as it relates to HUD's fiduciary responsibility to the MMIF and any stated mission objectives.

Paragraph (c) provides that in response to the Sale Notice, an individual or entity that meets the requirements for the Direct Sale of Single Family Loans and is interested in

purchasing a Single Family Loan, must submit a letter of interest to HUD that includes, at a minimum: a description of the participant and statement about how it would be able to satisfy the qualification requirements and other sale requirements including post-sale outcomes to achieve mission objectives, if any; the geographic area of interest where the individual or entity wishes to purchase the loans; the individual or entity's post-sale goals and how this purchase would assist in achieving them through post-sale outcomes; the timeframe for the purchase; the number of loans or, alternatively, the gross sale amount; and the organizational documents for the entity.

Paragraph (d) proposes a Direct Sale of Single Family Loans process for HUD to determine whether to proceed with the Direct Sale of Single Family Loans and provides that HUD would make this determination in writing. In some situations, HUD may request additional information, which would include supplemental organizational documents and program marketing material from the individual or entity, as needed for its determination.

Paragraph (e) proposes the next step in finalizing a Direct Sale of Single Family Loans. Specifically, paragraph (e) would provide that the individual or entity must submit to HUD, within 30 business days, a business plan proposal that details its ability to meet any stated mission objectives from the Sale Notice, along with its goals and how they will be achieved with post-sale outcomes. Upon receipt and review of business plan proposal, HUD would either reject the business plan proposal, issue a conditional rejection that would provide the opportunity for a proposal to be amended and resubmitted, or approve the business plan proposal. If HUD approves the individual or entity's submission, the proposed rule provides that HUD and the submitter will execute a Confidentiality Agreement and Bidder Qualification Statement. HUD will execute a PSA with each Participating Servicer submitting Single Family Loans. After execution of such agreements, the parties will review available Single Family Loans from Participating Servicer(s) selected based on HUD's eligibility criteria for the Direct Sale of Single Family Loans. HUD and the individual or entity will agree on the Single Family Loan List that makes up the Direct Sale of Single Family Loans.

Paragraph (f) proposes that after agreement on the Single Family Loan List, HUD will complete a valuation of the Single Family Loans and issue a final price determination in accordance

with Office of Management and Budget (OMB) Circular A-11 ("Preparation, Submission, and Execution of the Budget") and a CAA with an estimated settlement date to the individual or entity for review and approval. The paragraph also provides that once the final price is approved by the individual or entity, HUD and the entity will come up with a final settlement date. Lastly, paragraph (g) proposes that parties will execute the PSA, and the remaining settlement and transfer requirements would be conducted consistent with § 291.613.

Section 291.621 Disqualifications

Paragraph (a) proposes HUD has the authority to deny or revoke approval of any party from participating in the Single Family Sale if it determines there is any false, misleading, or fraudulent information on any certification or required document.

Paragraph (b) proposes that an individual or entity is not qualified to participate in a Single Family Sale if, at or around the time of the Single Family Sale or any time thereafter, that individual or entity is debarred or suspended from doing business with HUD.

Paragraph (c) proposes HUD may disqualify Purchasers that made any misrepresentation in the qualification process or failed to meet their contractual obligations under CAAs, including meeting any post-sale requirements, for previous Single Family Sales.

IV. Request for Public Comment

HUD seeks public feedback on all elements of this proposed rule. In particular, HUD seeks information and recommendations on the following issues:

1. HUD seeks information and recommendations on whether there are any additional actions HUD can take to provide greater bidding opportunities for nonprofit organizations and governmental entities. Please provide the rationale for your opinion, as well as available examples and data which support it.

2. Should a Competitive Sale of Single Family Loans disallow Low-value Mortgages and properties that are Vacant? Please provide details on the impacts and examples (including data).

3. A first look program has not been incorporated into the forward loan sale program (SFLS). It has only been in effect for reverse loan sales (HVLS). Should all Single Family Sales require a first look program for loans that convert to real estate owned property? Please provide the rationale for your

opinion, as well as available examples and data which support it.

4. Should Single Family Sales post-sale servicing requirements include that a Purchaser offer loss mitigation options that are as or more generous than the FHA loss mitigation options for insured mortgage loans? If so, should all terms of a Purchaser's loss mitigation option meet or be more generous than what FHA provides, or should there be a different standard for evaluating compliance with this requirement? Should HUD require a specific and separate waterfall of loss mitigation options for all Single Family Sales? What loss mitigation options have been successful for defaulted borrowers whose loans were sold through previous HUD single family mortgage loan sales? Please provide the rationale for your opinion, as well as available examples and data which support it.

5. Currently, in the sale of Home Equity Conversion Mortgages (HVELS loan sales), HUD allows nonprofit organizations and governmental entities to qualify for priority bidding status that allows them to be awarded up to 50% of loans in the sale. Should HUD allow nonprofit organizations and governmental entities to qualify for a priority bidding status in Single Family Sales and if so, what percentage of the loans should be awarded to these bidders? Please provide the rationale for your opinion, as well as available examples and data which support it.

6. Has HUD proposed a workable and efficient process for Direct Sales of Single Family Loans? Please provide the rationale for your opinion, as well as available examples and data which support it.

7. Should all Single Family Sales of forward mortgage loans require a P-Servicer to send a Loan Sale Notifications to borrowers? What information should HUD include in this notification? How should the P-servicer or HUD respond if a borrower believes the loss mitigation evaluation or option was not completed in accordance with HUD requirements? Please provide the rationale for your opinion, as well as available examples and data which support it.

8. What information should HUD include in its periodic reports on Single Family Sales loan and property outcomes? Please provide the rationale for your opinion, as well as available examples and data which support it.

9. The eligibility criteria of forward mortgage loans is not defined in the proposed rule. This was done to allow the Secretary flexibility in determining the sale population based on mission and economic needs. Should the HUD

eligibility criteria for a Single Family Sale of forward mortgage loans include satisfaction of HUD's loss mitigation requirements for insured mortgage loans? How can P-servicers demonstrate compliance with HUD's loss mitigation requirements? Please provide the rationale for your opinion, as well as available examples and data which support it.

10. Subject to appropriations, should HUD consider offering favorable sale terms, which will be presented in the Notice of Sale (e.g., a lower reserve price), to governmental or nonprofit entities? Please provide the rationale for your opinion, as well as available examples and data which support it.

V. Findings and Certifications

Regulatory Review—Executive Orders 12866, 13563, and 14094

Pursuant to Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant, and therefore, subject to review by OMB in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.” Executive Order 13563 also directs, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. Executive Order 14094, entitled “Modernizing Regulatory Review” (hereinafter referred to as the “Modernizing E.O.”), amends section 3(f) of Executive Order 12866 (Regulatory Planning and Review), among other things.

This proposed rule was determined to be a “significant regulatory action” as defined in section 3(f) of the Executive order, but not significant specifically under section 3(f)(1) of Executive Order 12866. The proposed rule would provide flexibility for the management of defaulted loans, more efficiently accept assignment, and dispose of assigned mortgages through loan sales and reduce the overall financial exposure of the MMIF.

The docket file is available for public inspection in the Regulations Division, Office of General Counsel, Room 10276, 451 7th Street SW, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building,

please schedule an appointment to review the docket file by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit organizations, and small governmental jurisdictions.

As discussed in this preamble, this proposed rule would make the Single Family Sales permanent and make changes to HUD's regulations to implement parts 203 and 206, respectively referring to Single Family Forward loans and HECM, and part 291 to efficiently manage HUD's defaulted single family assets and minimize losses to the MMIF. While small entities such as mortgage service providers may be affected by this Program, these entities would not incur a significant economic impact because the Program would provide servicers with the chance to assign burdensome and problematic loans to HUD. Therefore, the undersigned certifies this proposed rule will not have a significant economic impact on a substantial number of small entities.

Notwithstanding HUD's determination this proposed rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this proposed rule that will meet HUD's objectives as described in this preamble.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless the collection displays a currently valid Office of Management and Budget (OMB) control number.

The following documents have existing OMB approved burden that will not be changed by this proposed rule: FHA Single Family Loan Sales Qualification Statement (OMB Control Number 2502-0576), which includes approval for FHA Single Family Loan Sales Qualification Statement Addendum for Nonprofit and Government Pools and Sub-pools (form

no. HUD-9612) and SF application for insurance benefits (OMB Control Number 2502-0429). HUD will seek new PRA approval for the following burden requirements as part of this proposed rule: Confidentiality Agreement; Participating Servicer Agreement (PSA) and its exhibits; Conveyance, Assignment and Assumption Agreement (CAA) and its

exhibits including the Post-sale report; Certification of compliance; and the Final settlement statement, as well as the Loan Sale Notification, and Single Family application for insurance benefits.

The overall reporting and recordkeeping burden are estimated as follows:

Description of information collection	Number of responses	Responses per year	Total annual responses	Hours per response	Total hours
FHA Single Family Loan Sales Qualification Statement and Addendum for Nonprofit and Government Pools and Sub-pools (HUD-9611 & HUD-9612) *.	90	Bi-annual (2)	180	0.25	45.00
Confidentiality Agreement	90	Bi-annual (2)	180	.25	45.00
Participating Servicer Agreement (PSA) ⁹	20	Bi-annual (2)	40	1.60	64.00
Conveyance Assignment Assumption Agreement (CAA) ¹⁰	90	Bi-annual (2)	180	77.25	13,905.00
Loan Sale Notification	2,500	Bi-annual (2)	5,000	0.25	1,250.00
SF application for insurance benefits (HUD-27011) ¹¹ **	500	Bi-annual (2)	1,000	1.33	1330.00
Total	3,290	.....	6,580	80.93	16,639.00

* These forms are contained in the OMB Control Number: 2502-0576 (Forms HUD-9611 & HUD-9612) and the chart above indicates there will be no increase in responses or burdens associated with these forms because of this proposed rulemaking.

** This form contained in the OMB Control Number: 2502-0429 (Form HUD-27011) and the chart above indicates only the additional responses or burdens associated with the form because of this proposed rulemaking.

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning the information collection requirements in the proposed rule regarding:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Whether the proposed collection of information enhances the quality, utility, and clarity of the information to be collected; and

(4) Whether the proposed information collection minimizes the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

Interested persons are invited to submit comments regarding the information collection requirements in this proposed rule. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after the publication date. Therefore, a comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of the publication. This time frame does not affect the deadline for comments to the agency on the proposed rule, however. Comments must refer to the proposed rule by name and docket number (FR-6051-P-02) and must be sent to:

HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Fax number: 202-395-6947, and

Colette Pollard, HUD Reports Liaison Officer, Department of Housing and

Urban Development, 451 7th Street SW, Room 2204, Washington, DC 20410.

Interested persons may submit comments regarding the information collection requirements electronically through the Federal Rulemaking Portal at <https://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <https://www.regulations.gov> website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on this site to submit comments electronically.

Forms approved by OMB will be available on [reginfo.gov](https://www.reginfo.gov). You can use the control number to access the document (click on information collection review and then hit search

⁹ The Participating Servicer Agreement contains exhibits of the following: Instructions Regarding Participating Servicer's Preparation of Assignments and Lost Note Affidavits and Related Forms, Desk Guide, Interim Servicing Agreement (ISA), Delivery Report, SFS Claim Submission Report, SFS Claim Submission Report-Self Certification Form, Maximum Missed Payments and Minimum Loan to Value Ration, and HUD Breach Notice Rebuttal Guidelines and Template. The chart above contains the combined burden hours for Participating Servicer Agreement (PSA) inclusive of each of these exhibits. The figures presented are based on the estimate of 5000 forward mortgages sold annually.

¹⁰ The Conveyance Assignment Assumption Agreement contains exhibits of the following: Form of Assignment of Mortgage, Post Sale Reporting Requirements, Self-Certification Form Servicer Eligibility Provision, Self-Certification Form, Mortgage Loan Schedule Information, Breach and Repurchase Guidelines and Template, Form of Settlement Statement (Settlement Date), Interim Servicing Agreement, Form of Consent to Assignment and Assignment and Assumption Agreement, Form of Limited Power of Attorney, Pricing Exhibit, Form of Mortgage Loan Schedule and Instructions (Included in Exhibit C) and, if applicable, Supplemental Servicer-Related Rider

with exhibits. The chart above contains the combined burden hours for the Conveyance Assignment and Assumption Agreement (CAA) inclusive of each of these exhibits. The figures presented are based on the estimate of 5000 forward mortgage loans and 2000 HECM mortgage loans sold annually.

¹¹ These forms are contained in the OMB Control Number: 2502-0576 (Forms HUD-9611 & HUD-9612) and OMB Control Number: 2502-0429 (Form HUD-27011) and the chart above.

using the control number). Additionally, HUD will maintain the approved forms on the collection point, HUD Clips Forms Resource, currently available through https://www.hud.gov/program_offices/administration/hudclips/forms, or at a successor resource designated by HUD.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This proposed rule does not impose any Federal mandates on any State, local, or tribal government, or on the private sector, within the meaning of the UMRA.

Environmental Impact

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*).

List of Subjects

24 CFR Part 203

Hawaiian natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 206

Aged, Condominiums, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 291

Community facilities, Conflicts of interest, Homeless, Lead poisoning, Low- and moderate-income housing, Mortgages, Reporting and recordkeeping requirements, Surplus government property.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR parts 203, 206, and 291 as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

■ 1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 1707, 1709, 1710, 1715b, 1715z–16, 1715u, and 1715z–21; 15 U.S.C. 1639c; 42 U.S.C. 3535(d).

■ 2. Add § 203.413 to read as follows:

§ 203.413 Amount of payment—Single Family Sale assignments.

(a) *Time of payment.* Upon an assignment of a mortgage insured under this part that is acceptable to the Commissioner, made pursuant to a Single Family Sale and in accordance with § 291.609 or § 291.619 of this chapter, the Commissioner shall pay to the mortgagee the unpaid principal balance of the loan at the time of assignment and an amount calculated in accordance with the Participating Servicer Agreement (PSA), as defined in § 291.601 of this chapter.

(b) *Acceptability criteria.* For assignment, the mortgagee must determine and certify the mortgage satisfies the Commissioner's acceptability criteria for the Single Family Sale. Acceptability criteria includes satisfaction of the Single Family Sale loss mitigation eligibility requirements and exclusion of low-value mortgages secured by vacant properties.

(c) *Reduction in claim.* The mortgagee's claim for insurance will be reduced for failure to take the required actions within the specified schedule of dates for the Single Family Sale, as specified in the PSA.

(d) *Curtailment of Debenture Interest.* HUD will curtail Debenture Interest at the thirtieth (30th) day following the earliest anticipated claim submission date, as identified on the schedule of dates in the PSA, if:

- (1) The mortgagee's claim for insurance is not submitted to HUD; or
- (2) The claim for insurance is in a suspended status.

(e) *Debenture Interest.* For purposes of this section, *Debenture Interest* means interest at the debenture rate as computed by HUD in accordance with its rules and requirements for such calculations, on the unpaid principal balance as of the claim payment date, *plus* the approved reimbursable expenses identified in the PSA, *minus* any amount of such interest or expenses that would have been curtailed or for which the Participating Servicer would have been denied reimbursement pursuant to HUD's requirements for servicing defaulted notes and processing claims, including § 203.402(k)(1)(i) and (ii), had the Participating Servicer

conveyed title to the property securing the Single Family Loan to the Secretary rather than assigned the Single Family Loan in connection with an insurance claim.

(f) *Rejection of claim.* HUD may reject the mortgagee's claim for insurance and exclude the related mortgage from settlement if within the thirty (30)-day period prior to the claim's submission cut-off date, as identified on the schedule of dates in the PSA:

- (1) Any insurance claim is not submitted; or
- (2) Any suspended insurance claim is not resolved.

PART 206—HOME EQUITY CONVERSION MORTGAGE INSURANCE

■ 3. The authority citation for part 206 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715z–20; 42 U.S.C. 3535(d).

■ 4. Add § 206.130, under the undesignated center heading “Claim Procedure,” to read as follows:

§ 206.130 Amount of payment—HECM Single Family Sale assignments.

(a) *Time of payment.* Upon an assignment of a mortgage insured under this part that is acceptable to the Commissioner, made pursuant to a HECM Single Family Sale and in accordance with § 291.609 or § 291.619 of this chapter, the Commissioner shall pay to the mortgagee the unpaid principal balance of the loan at the time of assignment and an amount calculated in accordance with the Participating Servicer Agreement (PSA), as defined in § 291.601 of this chapter.

(b) *Acceptability criteria.* For assignment, the mortgagee must determine and certify the mortgage satisfies the Commissioner's acceptability criteria for the Single Family Sale.

(c) *Reduction in claim.* The mortgagee's claim for insurance will be reduced for failure to take the required actions within the specified schedule of dates for the Single Family Sale, as specified in the PSA.

(d) *Curtailment of debenture interest.* HUD will curtail debenture interest at the thirtieth (30th) day following the earliest anticipated claim submission date, as identified on the schedule of dates in the PSA, if:

- (1) The mortgagee's claim for insurance is not submitted to HUD; or
- (2) The claim for insurance is in a suspended status.

(e) *Debenture Interest.* For purposes of this section, *Debenture Interest* means interest at the debenture rate as

computed by HUD in accordance with its rules and requirements for such calculations, on the unpaid principal balance as of the claim payment date, *plus* the approved reimbursable expenses identified in the PSA, *minus* any amount of such interest or expenses that would have been curtailed or for which the Participating Servicer would have been denied reimbursement pursuant to HUD's requirements for servicing due and payable notes and processing claims, including § 206.129(d)(3)(x), had the Participating Servicer foreclosed or the borrower sold the property in connection with an insurance claim.

(f) *Rejection of the claim.* HUD may reject the mortgagee's claim for insurance and exclude the related mortgage from settlement if, within the thirty (30)-day period prior to the claim's submission cut-off date, as identified on the schedule of dates in the PSA:

- (1) An insurance claim is not submitted; or
- (2) Any suspended insurance claim is not yet resolved.

PART 291—DISPOSITION OF HUD-ACQUIRED AND -OWNED SINGLE FAMILY PROPERTY

■ 5. The authority citation for part 291 continues to read as follows:

Authority: 12 U.S.C. 1701 *et seq.*; 42 U.S.C. 1441, 1441a, 1551a, and 3535(d).

Subpart D—[Removed and Reserved]

- 6. Remove and reserve subpart D, consisting of §§ 291.301 through 291.307.
- 7. Add subpart G, consisting of §§ 291.601 through 291.621, to read as follows:

Subpart G—Sale of HUD-Held Single Family Mortgage Loans

Sec.	
291.601	Definitions.
291.603	Purpose, scope, and applicability.
291.605	Participating Servicers.
291.607	Qualified participants.
291.609	Bidding process.
291.611	Post-bid process and HUD's execution of the CAA.
291.613	Settlement requirements.
291.615	Purchaser servicing requirements.
291.617	General policy—Direct Sales of Single Family Loans.
291.619	Direct Sale of Single Family Loans process.
291.621	Disqualifications.

§ 291.601 Definitions.

For purposes of this subpart, the following definitions apply:

Aggregate Loan Database (ALD) means the electronic data file containing Single Family Loan information

available for Qualified Participants to review before a Single Family Sale.

Bidder Information Package (BIP) means the documents prepared for participants in a Single Family Sale, which may include, but are not limited to, the following: an executive summary of the Programs; the Single Family Sale post-sale servicing and reporting requirements published by HUD; due diligence information and reports; Single Family Loan information; the Conveyance, Assignment and Assumption Agreement (CAA); bidding and settlement information; and necessary information and requirements as determined by the Secretary.

Bidder Qualification Statement means HUD Forms 9611 and 9612, or any form approved for similar purpose in the future as prescribed by the Secretary. (OMB number 2502–0576)

Claim Date means, with respect to each Single Family Loan, the date on which the Single Family Sale assignment claim is paid by HUD to the P-Servicer.

Competitive Sale of Single Family Loans means a sale of an individual or group of Single Family Loans to Qualified Participants through a bid process prescribed by the Secretary in competition with other Qualified Participants in accordance with § 291.609.

Confidentiality Agreement means a nondisclosure agreement under which the individual or entity seeking to participate in Single Family Sales agrees that Single Family Loan data and documentation shared with the individual or entity as due diligence will remain confidential in accordance with the terms of the agreement as determined by the Secretary.

Conveyance, Assignment and Assumption Agreement (CAA) means the contract between HUD and a Purchaser, along with all applicable exhibits and riders, that governs the terms of the Single Family Sale as prescribed by the Secretary. The CAA will include any sale-specific post-sale servicing and outcome requirements, representations, repurchase requirements, schedule of dates, and reporting requirements published by the Secretary for the Single Family Sale through a Sale Notice.

Cut-off date or claim submission cut-off date means the last date specified by the Secretary on which the P-Servicer is permitted to submit to HUD a Single Family Sale insurance claim for payment under 24 CFR 203.413 and 206.130.

Desk Guide means the technical manual included in the PSA detailing the P-Servicer's steps for submitting

Single Family Loans related to a Single Family Sale, including but not limited to the process for identifying eligible Single Family Loans, uploading due diligence files, and submitting insurance claims.

Direct Sale of Single Family Loans means a sale of an individual or group of Single Family Loans to a Qualified Participant through the process described in § 291.619.

Home Equity Conversion Mortgage (HECM) means reverse mortgages insured in accordance with 24 CFR part 206 under the FHA Home Equity Conversion Mortgage insurance program.

Interim Servicing Agreement (ISA) means the agreement between a Purchaser and P-Servicer that governs the servicing and administration of the purchased loans, including but not limited to transfer of mortgage information and loss mitigation evaluations, during the Interim Servicing Period in accordance with the terms prescribed by the Secretary.

Interim Servicing Period means the period commencing with Claim Date and ending with the Servicing Transfer Date.

Low-value means, in reference to a Mortgage, the value minimum stated in the Participating Servicer Agreement (PSA).

Nonprofit organization means an entity that is tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C.A. 501(c)(3)) and meets the qualification requirements prescribed by the Secretary for participation in a Single Family Sale.

Participating Servicer (P-Servicer) means a mortgagee that complies with § 291.605 and submits Single Family Loans for a Single Family Sale.

Participating Servicer Agreement (PSA) means the agreement between HUD and a P-Servicer that governs the P-Servicer's submission of Single Family Loans to be sold in a Single Family Sale on terms as prescribed by the Secretary.

Purchaser means a Qualified Participant to which HUD has awarded one or more Single Family Loans through a Single Family Sale, as of the date of notification of the award.

Qualified Participant means an individual or entity that satisfies the requirements in § 291.607 for participation in Single Family Sales.

Sale Notice means an announcement published by HUD for an upcoming Single Family Sale and includes any stated mission objectives and additional sale, participant qualification, and loan eligibility requirements; representations; post-sale servicing, outcomes, and reporting requirements; and repurchase

requirements for inclusion in the Qualification Statement, PSA, ISA, and CAA as applicable.

Servicing Transfer Date means, with respect to any Single Family Loan, the date on which the actual servicing duties for such Single Family Loan has been or will be transferred from the P-Servicer to the Purchaser's servicer. The latest Servicing Transfer Date will be set forth in a schedule of dates prescribed by the Secretary and included in the PSA, ISA, and CAA.

Single Family Loan means any HUD-selected eligible forward mortgage loan insured under section 203 of the National Housing Act (12 U.S.C. 1709) that has or will be assigned to HUD and any HUD-selected eligible HECM insured under section 255 of the National Housing Act (12 U.S.C. 1715z–20) that has or will be assigned to HUD, or any other eligible single family mortgage loans owned by the Secretary that will be sold in a Single Family Sale.

Single Family Sale means a Competitive Sale of Single Family Loans or Direct Sale of Single Family Loans conducted by HUD in accordance with this subpart.

Vacant means a mortgaged property is determined to be vacant or abandoned in accordance with the requirements of 24 CFR part 203 and FHA policy.

§ 291.603 Purpose, scope, and applicability.

The sale of Single Family Loans is at the discretion of the Secretary. All Single Family Loans will be sold without recourse to HUD and without FHA insurance. HUD may sell individual Single Family Loans or groups of Single Family Loans to Qualified Participants as a Competitive Sale of Single Family Loans, § 291.609, or as a Direct Sale of Single Family Loans, § 291.619. Nothing in this section shall be construed to prevent HUD from grouping Single Family Loans with other types of HUD assets for sale, including grouping any associated HUD-held mortgages subordinate to the respective assets. The procedures set out in this subpart, including any cross-referenced regulations, documentation, and published notices detailed in this subpart, govern the Single Family Sales.

§ 291.605 Participating Servicers.

(a) *Participation.* To participate in a Single Family Sale, a Participating Servicer must:

- (1) Be an FHA-approved Mortgagee contributing eligible Single Family Loans and assigning loans to HUD; and
- (2) Execute a PSA and agree to execute an ISA, as needed.

(b) *Sale.* For each Single Family Sale, the Participating Servicer must:

(1) Identify mortgages that meet the eligibility criteria in accordance with terms of the PSA;

(2) Conduct all sale activities in accordance with the PSA and ISA;

(3) Comply with any Single Family Sale and Loan Sale Notification requirements as prescribed by the Secretary through notice; and

(4) Comply with the terms of the Sale Notice.

(5) Ensure the Loan Sale Notification is provided to each borrower and any other parties as required by the Secretary and the Loan Sale Notification complies with all applicable law. Loan Sale Notification requirements will be announced to the Participating Servicer through notice.

(c) *Claim payment requirements.* The Participating Servicer must comply with the claim payment process and requirements for Single Family Sales in accordance with the PSA and processes outlined in 24 CFR 203.413 and 206.130, as applicable.

(d) *Interim servicing.* During the Interim Servicing Period, the Participating Servicer must service the purchased Single Family Loans on behalf of the Purchaser in accordance with the ISA.

(e) *Transfer documents and servicing.* The Participating Servicer must conduct the servicing transfer of the Single Family Loans in accordance with the requirements of the PSA and ISA and must service the purchased Single Family Loans in accordance with all applicable state and Federal law requirements, including applicable Consumer Finance Protection Bureau (CFPB) requirements.

§ 291.607 Qualified participants.

(a) *Confidentiality Agreement and Bidder Qualification Statement.* Individuals or entities must become a Qualified Participant before they may bid or purchase Single Family Loans in a Single Family Sale. An individual or entity seeking to participate in a Single Family Sale must sign a Confidentiality Agreement and complete a Bidder Qualification Statement. The Secretary will specify which Bidder Qualification Statement form(s) are applicable to a particular Single Family Sale and any additional sale specific qualification criteria through notice. HUD will only provide access to sensitive Single Family Sale materials to Qualified Participants.

(b) *Process for determining Qualified Participant.* HUD will qualify any individual or entity seeking to participate in a Single Family Sale if they have met the qualification requirements and executed the

applicable Bidder Qualification Statement for the Single Family Sale.

§ 291.609 Bidding process.

(a) *Sale notice.* The Secretary will prescribe requirements for a Single Family Sale through the Sale Notice. For each Single Family Sale, HUD will publish the PSA Addendum, Desk Guide, ISA Addendum, CAA Addendum, and Sale Notices on HUD's public website.

(b) *Submission of bids.* All bids by a Qualified Participant must be submitted to HUD in accordance with the Sale Notice and the instructions in the BIP. By submitting a bid, the Qualified Participant is considered to have made an offer to purchase Single Family Loans as presented in the BIP. Submission of a bid constitutes acceptance of the terms and conditions set forth in the BIP. Along with the bid, the Qualified Participant must submit an executed copy of the CAA and ISA, as applicable.

(c) *Bids by brokers or agents.* Any bid submitted by a broker or agent for a Qualified Participant must be made in the name of the Qualified Participant and signed by the broker or agent as the attorney-in-fact for the Qualified Participant. All such bid documents must bind the Qualified Participant. Each bid must also include a power of attorney satisfactory to HUD as to form and content.

(d) *Earnest money deposits.* The Qualified Participant must submit to HUD, along with its bid, an earnest money deposit, as required in the CAA or Sale Notice. The earnest money deposit is nonrefundable for a Qualified Participant whose bid is selected for award and will be credited toward the purchase price. If a Qualified Participant's bid is not selected for any award, their earnest money will be returned.

(e) *Timing for withdrawal of bids.* A Qualified Participant may withdraw a submitted bid in accordance with the instructions in the BIP for a Single Family Sale. However, a previously submitted bid may not be withdrawn once the bidding has closed.

(f) *Termination of Single Family Sale.* HUD reserves the right to terminate a Single Family Sale in whole or in part at any time before the bid date.

(g) *Withdrawal of Single Family Loans.* HUD reserves the right to withdraw Single Family Loans from a Single Family Sale prior to the settlement date. Any earnest money deposits made by a Purchaser relating to withdrawn Single Family Loans will be retained by the Secretary and credited toward the total purchase price of the

remaining Single Family Loans in the pool, in accordance with the CAA and BIP. After the bid date, HUD can withdraw Single Family Loans or not deliver all the Single Family Loans for settlement for any reason, including those set forth in the BIP and CAA.

(h) *Rejection of bids.* At HUD's discretion, any bid may be rejected under the following circumstances:

(1) The bid does not conform with the instructions in the BIP;

(2) HUD determines that an award based on the bid would not be in the best interests of the Secretary because the award would not further HUD's fiduciary responsibility to the mutual mortgage insurance fund (MMIF) or any stated mission objectives in the Sale Notice; or

(3) HUD can also issue a conditional rejection that would provide the opportunity for the bid to be amended and resubmitted for acceptance upon fulfillment of HUD's requests.

§ 291.611 Post-bid process and HUD's execution of the CAA.

After HUD evaluates conforming bids, HUD may request an adjustment to a bid in accordance with the BIP. After any bid adjustments, HUD will select bids for award and provide notice of award in a manner set forth in the BIP. After selection of a Purchaser, HUD will execute the CAA.

§ 291.613 Settlement requirements.

(a) *Settlement payment.* On the settlement date of a Single Family Sale, the Purchaser must pay to HUD the settlement payment, consisting of the balance of the amount due on the bid price, as adjusted in accordance with the CAA.

(b) *Settlement statement.* When the Purchaser delivers to HUD the documents required at settlement and the settlement payment in paragraph (a) of this section, HUD will execute and deliver to the Purchaser a settlement statement and updated Single Family Loan schedule for the CAA to document the Single Family Loans sold to the Purchaser in the Single Family Sale.

(c) *Endorsement and assignment.* HUD may grant a temporary Limited Power of Attorney to the Purchaser to effect endorsement and assignment of the Single Family Loans to the Purchaser.

(d) *Purchaser's special purpose entity.* HUD may allow a Purchaser to endorse and assign Single Family Loans from HUD to Purchaser's special purpose entity acquisition vehicle on terms permitted in the CAA.

§ 291.615 Purchaser servicing requirements.

(a) *Purchaser post-sale servicing.* The Purchaser and its servicer, and any subsequent transferee of or servicer for the Single Family Loan, must comply with the terms of the CAA and the Sale Notice post-sale loss mitigation and outcome requirements. Post-sale requirements will include a requirement that any Single Family Loan that converts to real estate owned property via foreclosure or deed-in-lieu of foreclosure be offered for sale through a first look program, providing an exclusive listing period for owner occupant, nonprofit organization, governmental entities, and other prospective buyers as permitted by HUD. Post-sale requirements will also include requirements that Purchasers offer borrowers loss mitigation options that are as or more generous than the FHA loss mitigation options, a prohibition on reselling real estate owned property through a contract for deed or similar financing mechanism, a requirement that the Purchaser obtain prior approval from HUD before entering into a lease-purchase agreement with a prospective purchaser, and a prohibition on releasing liens on particular categories of properties, including vacant properties. Purchasers must take all lawful steps to service the Single Family Loans and collect amounts due in accordance with requirements as set forth by the CAA and all state and Federal law requirements, including applicable CFPB requirements.

(b) *Purchaser reporting requirements.* Purchasers must report on the post-sale servicing actions and outcomes obtained for each Single Family Loan purchased as prescribed by the CAA. HUD will publish reports for the public on loan and property outcomes and will include a breakdown of outcomes in different geographies. HUD will prescribe the reporting period as a specified period after settlement in the CAA.

(c) *Remedy for performance failures.* HUD may pursue appropriate remedies, including, but not limited to, the ability to deny future participation in loan sales, for a Purchaser's failure to comply with Single Family Sale requirements, including CAA obligations.

§ 291.617 General policy—Direct Sale of Single Family Loans.

The Secretary may pursue a Direct Sale of Single Family Loans to individuals or entity type the Secretary determines may be eligible to qualify as set forth in the Sale Notice. The Direct Sale of Single Family Loans will be subject to the requirements of this

subpart, excluding §§ 291.609 and 291.611. The Secretary will publish in the Sale Notice, sale specific Single Family Loan eligibility criteria.

§ 291.619 Direct Sale of Single Family Loans process.

(a) *Sale Notice.* The Secretary will prescribe requirements for a Direct Sale of Single Family Loans through a Sale Notice.

(b) *Sale feasibility.* In all stages of the Direct Sale of Single Family Loans process, HUD may determine whether continuation with the Direct Sale of Single Family Loans is feasible and in HUD's interest, consistent with HUD's fiduciary responsibility to the MMIF and any stated mission objectives.

(c) *Direct Sale of Single Family Loans process.* An individual or entity interested in purchasing Single Family Loans through a Direct Sale of Single Family Loans must:

(1) Meet the Secretary's prescribed requirements for the Direct Sale of Single Family Loans in the Sale Notice; and

(2) Submit a letter of interest to the Secretary that includes, at a minimum:

(i) The description of the individual or entity and a statement about how it would be able to satisfy the participant eligibility requirements and mission objectives, if any;

(ii) The geographic area of interest where the party wishes to purchase the loans;

(iii) The individual or entity's goals and how this purchase would assist in achieving these goals through post-sale outcomes;

(iv) The approximate timeframe for the purchase;

(v) The approximate number of loans or, alternatively, the approximate gross sale amount desired; and

(vi) The organizational documents for an entity including, but not limited to organizational documents, any required authorizing resolutions, and disclosure of all nonprofit organization or private entity partnership interests in the Direct Sale of Single Family Loans transaction.

(d) *HUD determination.* Upon receipt of a letter in paragraph (c)(2) of this section, HUD will respond in writing to the submitter to confirm receipt of the letter and, if necessary, request additional information needed for a final determination.

(e) *Secretary's determination to proceed.* (1) If the Secretary makes a final determination to proceed, the Secretary will request from the individual or entity, a business plan proposal from the individual or entity that details its ability to meet any stated mission objectives in the Sale Notice

along with its goals and how these goals will be achieved with post-sale outcomes. Business plans must be received by HUD within 30 business days of request.

(2) Upon receipt and review of business plan proposal, HUD will:

- (i) Reject the business plan proposal;
- (ii) Issue a conditional rejection that would provide the opportunity for a business plan proposal to be amended and resubmitted for approval upon fulfillment of HUD's request; or
- (iii) Approve the business plan proposal.

(3) Upon approval of such business plan proposal, HUD and the individual or entity will begin the Direct Sale of Single Family Loans process that includes:

- (i) An executed Confidentiality Agreement;
- (ii) An executed Bidder Qualification Statement;
- (iii) A P-Servicer executed PSA; and
- (iv) Review of Single Family Loans from P-Servicer(s) or HUD.

(4) HUD and the individual or entity reviews the ALD and will agree on the Single Family Loan Sale List for the Direct Sale of Single Family Loans.

(f) *Direct Sale of Single Family Loans.* After satisfaction of the requirements in paragraph (d) of this section, HUD will conduct its valuation review, and issue a final price determination and a CAA, containing an estimated settlement date, to the individual or entity. If accepted, a final Settlement date is scheduled, and the Single Family Loan List is appended to the CAA.

(g) *Settlement.* HUD and the Purchaser will execute the CAA for settlement. The remaining settlement and transfer requirements will follow those in § 291.613.

§ 291.621 Disqualifications.

(a) *Fraudulent information.* If HUD determines there is any information indicating any certification or required document provided by any party participating in a Single Family Sale, including but not limited to P-Servicer, Purchaser, Qualified Participant, or a Purchaser's servicer, is false, misleading, or constitutes fraud or misrepresentation, HUD will not approve that party's participation in the Single Family Sale and will revoke any prior approval. The submission of false information or misrepresentation by an approved lender or mortgagee may result in the referral of the mortgagee to the Mortgage Review Board.

(b) *Participant ineligibility.* An individual or entity is ineligible to participate in a Single Family Sale if, at the time of the Single Family Sale, that

individual or entity is suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under 2 CFR part 180 or 2424, 24 CFR part 25, 48 CFR part 9, subpart 9.4, or under similar procedures of any other Federal agency.

(c) *Future participation.* Purchasers that made misrepresentations in the qualification process or failed to meet their contractual obligations under CAAs, including failing to meet post-sale requirements, for previous Single Family Sales in which they participated may be disqualified from participation in one or more future Single Family Sales or for a set period of time at the discretion of the Secretary.

Julia Gordon,

Assistant Secretary for the Office of Housing—Federal Housing Commissioner.

[FR Doc. 2024–15024 Filed 7–15–24; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 238

[Docket ID: DoD–2024–OS–0006]

RIN 0790–AL71

DoD Assistance to Non-Government, Entertainment-Oriented Media Productions

AGENCY: Assistant to the Secretary of Defense for Public Affairs, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing revisions to implement requirements of section 1257 of the National Defense Authorization Act for Fiscal Year 2023. This statute prohibits assistance to entertainment projects such as feature motion pictures, episodic television programs, documentaries, and computer-based games that have complied or are likely to comply with a demand from the Government of the People's Republic of China (PRC), the Chinese Communist Party (CCP), or an entity under the direction of the PRC or the CCP, to censor the content of the project in a material manner to advance the national interest of the PRC. This proposed rule informs producers and production companies that request DoD assistance about the procedures needed to implement the restrictions imposed by section 1257. It includes a discussion of the information the Department will use to determine whether to assist or continue to assist an entertainment

project. It also describes the DoD proposed certification process and includes two updated sample Production Assistance Agreements (PAA) implementing section 1257 provisions.

DATES: Comments must be received by September 16, 2024.

ADDRESSES: You may submit comments, identified by docket number and/or Regulation Identifier Number (RIN) number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available at www.regulations.gov as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Glen Roberts, (703) 697–6005, or Kyle Combs, (703) 695–6290.

SUPPLEMENTARY INFORMATION:

I. Background and Legal Authority

Pursuant to 10 U.S.C. 113 and DoD Directive 5122.05, the Secretary of Defense has delegated to the Assistant to the Secretary of Defense for Public Affairs the responsibility for establishing policy, plans, and programs for DoD assistance to non-Government and entertainment-oriented motion picture, television, and video productions, in accordance with DoD Instruction (DoDI) 5410.16 (available at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/541016p.pdf>). Further, 10 U.S.C. 2264 authorizes crediting of applicable appropriations with reimbursements for expenses incurred by the Department resulting from assistance provided to non-Government, entertainment-oriented media-producers and for which the DoD requires reimbursement under 31 U.S.C. 9701 or any other provision of law. Additionally, 31 U.S.C. 9701 permits the head of a U.S. Government agency to prescribe regulations establishing the charge for a service or thing of value provided by the agency, if charges are fair and based on costs to the U.S. Government, the value of the

service or thing to the recipient, the public policy or interest served and other relevant facts. Finally, section 1257 of the National Defense Authorization Act (NDAA) for Fiscal Year 2023 imposed restrictions on DoD's ability to assist entertainment projects that have complied or are likely to comply with certain censorship demands from the PRC or CCP and is the primary impetus for this proposed rule.

Currently, those seeking DoD production assistance request it through the Military Departments or National Guard Bureau entertainment media offices. To be considered for assistance or to continue assistance once approved, the entertainment media institution or individual producer, in addition to meeting DoD's other criteria for support, previously published in the last rule update, must also not comply or be likely to comply with a demand from the PRC, CCP, or an entity under their direction to censor the content of the project in a material manner to advance the national interest of the PRC. DoD personnel who process requests for DoD assistance to entertainment projects or coordinate during an approved production will follow the process outlined in this proposed rule when finalized.

The rule was last updated on August 10, 2015 (see 80 FR 47836), to include documentaries within the category of non-Government, entertainment-oriented media productions requiring approval of production assistance at the DoD level. It also addressed how military personnel may appear in entertainment media and included sample PAAs.

Based on section 1257, this proposed rule will now require production companies seeking DoD assistance to make requests using the proposed DD Form 3205. This proposed rule also updates the PAA samples to reflect the requirements imposed by section 1257.

II. Expected Impact of the Proposed Rule

To ensure consistency of approach among DoD and components, support and assistance for a non-Government, entertainment-oriented media production should be at no additional expense to the Government and taxpayers (*i.e.*, in excess of those costs DoD otherwise would have incurred, as determined by DoD). After DoD agrees with a production company to provide production assistance and the parties have signed a PAA, the operations, maintenance, supply, and equipment costs incurred by DoD as a consequence of providing support for individual

productions are reimbursed by the non-Government entertainment production company. Reimbursement ordinarily is made in advance per section 20.4(b) of Office of Management and Budget (OMB) Circular A-11 (available at <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf>), as statutory authority is required for agencies to incur obligations dependent on orders from non-Federal sources without an advance. The sample PAAs used by the Department include a provision specifying the production company's obligation to indemnify the DoD for claims arising from the production company's possession or use of DoD property or other assistance.

The current criteria allow DoD to provide support to an entertainment media production when it benefits the Department or when such cooperation would be in the best interest of the Nation based on whether the production presents a reasonably realistic depiction of the Military Services and DoD, is informational and likely to contribute to public understanding of the Military Services and DoD, or may benefit recruiting and retention programs.

DoD currently receives approximately 200 requests, including documentary support requests, for assistance annually. (During the COVID-19 pandemic in 2021 and 2022, requests decreased to about 140 annually.) Each respondent-requester provides one response requiring an estimated 45 minutes with an estimated cost per response of \$30.77, based on a median hourly wage \$41.02 for a producer. (See data from Bureau of Labor Statistics at <https://www.bls.gov/ooh/entertainment-and-sports/producers-and-directors.htm>). Therefore, total non-Government cost of requesting support is estimated to be \$6,154. The cost to the Federal Government to review requests is estimated to be \$34.46 per response (requiring 45 minutes per response) based on the 2023 hourly rate of \$45.95 of a GS-12 Federal employee (average level/rank) located in the Los Angeles area where most of the Military Services have offices that are the initial point of review for requests. The total estimated cost to the Federal Government in reviewing requests for support is estimated to be \$6,892.

With section 1257, individual producers and production companies will now certify that they have not complied and are not likely to comply with demands from the PRC, CCP, or an entity under the direction of the PRC or CCP to censor the content of the project in a material manner to advance the national interest of the PRC.

With this rulemaking, DoD is proposing DD Form 3205, to formalize and streamline the collection of the information required to evaluate requests, consistent with the Paperwork Reduction Act. Due to the restrictions of section 1257, DoD estimates that the number of respondents requesting DoD assistance is likely to decrease to 195, resulting in an estimated 2.5 percent decrease in non-Government and Government costs. Using this lower estimate of requests and the same rates as applied to the current rule, the total non-Government cost is estimated to be \$6,000, and the total cost to the Federal Government is estimated to be \$6,720.

DoD believes the amendment proposed will most likely affect requests for assistance to feature film projects with larger budgets that may wish to have the option of recouping costs in China. On average, DoD assists 7 feature film projects per year, which is a small portion of the approximately 100 projects DoD supports annually. Most DoD support is to unscripted, documentary, or other entertainment productions, which are not typically submitted for release for distribution in China. According to public reporting, all films publicly released in China require a permit from Chinese regulators and censorship is pervasive (source: <https://www.cnn.com/2022/07/08/media/hollywood-china-censors-box-office-intl-hnk/index.html>). If producers and production companies seeking DoD support for their entertainment projects are unable to certify that the project has not complied and is not likely to comply with Chinese censorship demands, DoD cannot support such projects. However, this proposed rule does not prevent a production from being distributed in China; it only prohibits DoD assistance to entertainment projects that comply with a censorship demand that advances the national interest of the PRC or CCP in a material way. This proposed rule also does not apply to projects not supported by DoD or depictions of the U.S. military in entertainment productions not assisted by the DoD.

III. Regulatory Compliance Analysis

A. Executive Order 12866, "Regulatory Planning and Review," as Amended by Executive Order 14094, "Modernizing Regulatory Review," and Executive Order 13563, "Improving Regulation and Regulatory Review"

These Executive orders direct agencies to assess all costs, benefits, and available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize

net benefits (including potential economic, environmental, public health, safety effects, distributive impacts, and equity). These Executive orders emphasize the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule has been designated significant, under Executive Order 12866 (as amended by Executive Order 14094). This proposed rule does not have direct economic, environmental, public health, safety, distributive, or equity impacts.

B. Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. 601)

The Assistant to the Secretary of Defense for Public Affairs certified that this proposed rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis. The entities most impacted by this proposed rule are typically larger production companies rather than small businesses, and very few in number. Further, each year, the vast majority of DoD assistance to entertainment productions is generally for unscripted or documentary projects, which are not typically submitted for release in China, and are produced by small production companies; DoD support to these types of entertainment projects is not expected to be affected by this proposed rule.

C. Sec. 202, Public Law 104–4, “Unfunded Mandates Reform Act”

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. This proposed rule will not mandate any requirements for State, local, or tribal governments, and will not affect private sector costs.

D. Public Law 96–511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)

Section 238.6 of this proposed rule contains information collection requirements under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). DoD has submitted the proposed collection of information reflected on proposed DD Form 3205 to OMB for review under 44 U.S.C. 3507(d). Comments are invited on: (a) whether the proposed collection of

information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

Title: Request for DoD Production Assistance.

Type of Request: Proposed Collection; Comment Request.

Number of Respondents: 195.

Responses per Respondent: 1.

Annual Responses: 195.

Average Burden per Response: 45 minutes.

Annual Burden Hours: 146.25 hours.

Needs and Uses: The proposed collection of information requests that the production company provide certain information about the project for which DoD support is sought, including, but not limited to, the title, synopsis, timing, funding, insurance, and planned distribution for the project, in addition to the specific request for support, contact information, a script or treatment of the project, and a certification to help DoD implement the requirements of section 1257 of the NDAA for Fiscal Year 2023. This information collection requirement is necessary to evaluate the eligibility of productions requesting DoD assistance for appropriateness and compliance with DoD policies and for coordination of the units involved to determine whether requested military assets are available.

Affected Public: Non-profit or for-profit entertainment media institutions, individual producers.

Frequency: On Occasion.

Respondent's Obligation: \$30.77.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, DoD Desk Officer, Room 10102, New Executive Office Building, Washington, DC 20503, with a copy to the Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700. Comments can be received from 30 to 60 days after the date of this document, but comments to OMB will be most useful

if received by OMB within 30 days after the date of this document.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at [regulations.gov](https://www.regulations.gov) as they are received without change, including any personal identifiers or contact information.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Assistant to the Secretary of Defense for Public Affairs, ATTN: Community Engagement Directorate, 1400 Defense, The Pentagon, Washington, DC 20301–1400 or osd.pentagon.pa.mbx.ce-public-inquiries@mail.mil, or call Glen Roberts at (703) 697–6005.

E. Executive Order 13132, “Federalism”

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that has federalism implications, imposes substantial direct compliance costs on State and local governments, and is not required by statute, or has federalism implications and preempts State law. This proposed rule will not have a substantial effect on State and local governments.

F. Executive Order 13175, “Consultation and Coordination With Indian Tribal Governments”

Executive Order 13175 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct compliance costs on one or more Indian tribes, preempts tribal law, or effects the distribution of power and responsibilities between the Federal Government and Indian tribes. This proposed rule will not have a substantial effect on Indian tribal governments.

List of Subjects in 32 CFR Part 238

Documentaries, Entertainment, Media productions.

Accordingly, 32 CFR part 238 is proposed to be amended as follows:

PART 238—DOD ASSISTANCE TO NON-GOVERNMENT, ENTERTAINMENT-ORIENTED MEDIA PRODUCTIONS

■ 1. The authority citation for part 238 is revised to read as follows:

Authority: 10 U.S.C. 2264; 31 U.S.C. 9701; sec. 1257, Pub. L. 117–263, 136 Stat. 2395.

■ 2. Amend § 238.3 by:

■ a. Revising the introductory text.

■ b. Adding the definition of “DoD aviation user rates” in alphabetical order.

The revision and addition read as follows:

§ 238.3 Definitions.

These terms and their definitions are for the purposes of this part.

* * * * *

DoD aviation user rates. Hourly rates when different types of fixed wing and rotary wing aircraft that DoD agencies use to determine the reimbursement amount when specific aircraft are used to provide support on a reimbursable basis. These rates are specified by the Office of the Under Secretary of Defense (Comptroller)/Chief Financial Officer, Department of Defense each fiscal year, except for aircraft provided by the United States Transportation Command (TRANSCOM), which publishes rates for aircraft operations financed by the Defense Working Capital Fund.

■ 3. Amend § 238.4 by adding paragraph (f) to read as follows:

§ 238.4 Policy.

* * * * *

(f) In accordance with section 1257 of Public Law 117–263, DoD will not provide production assistance when there is demonstrable evidence that the production has complied or is likely to comply with a demand from the Government of the People’s Republic of China (PRC), the Chinese Communist Party (CCP), or an entity under the direction of the PRC or the CCP to censor the content of the project in a material manner to advance the national interest of the PRC.

■ 4. Amend § 238.5 by:

■ a. In paragraph (a) introductory text:

■ i. Removing the words “will serve” and adding in its place the word “serves”.

■ ii. Removing the word “sole.”

■ iii. Adding the words “; this authority may not be delegated, except to an official in the Office of the ATSD(PA)” after the words “entertainment-oriented media”.

■ iv. Removing the words “Heads of the Military Components” and adding in its place the words “Secretaries of the

Military Departments and the Chief, National Guard Bureau”.

■ b. Removing the signal “i.e.” from the first parenthetical of paragraph (a)(3) and adding in its place the signal “e.g.”

■ c. Adding paragraph (a)(4).

■ d. Revising paragraph (b).

The addition and revision read as follows:

§ 238.5 Responsibilities.

(a) * * *

(4) A certification from the production company is provided in accordance with the procedures in § 238.6(b)(1)(iii), consistent with § 238.4(f).

(b) The Secretaries of the Military Departments and the Chief, National Guard Bureau, develop procedures for implementing this part and ensure that the requirements of this part are met.

■ 5. Amend § 238.6 by:

■ a. Removing the words “his or her” and adding in its place words “the ATSD(PA)’s” in paragraph (a)(2).

■ b. Removing the web address “<http://www.dtic.mil/whs/directives/corres/pdf/550007p.pdf>” and adding in its place the web address “<https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodd/550007p.pdf>” in paragraph (a)(4).

■ c. Revising paragraph (b).

■ d. Removing the web address “<http://www.dtic.mil/whs/directives/corres/pdf/512205p.pdf>” and adding in its place the web address “https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodd/512205_dodd_2017.pdf?ver=2017-08-07-125832-023” in paragraph (c)(3).

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

■ f. Removing the word “Component” and adding in its place the words “Department or the National Guard Bureau” in paragraph (d)(1).

■ g. Adding the word “the” before the words “project officer,” and removing the word “shall” and adding in its place the word “will” in paragraph (d)(2)(ix).

■ h. Adding the words “, Department of Defense” at the end of paragraph (d)(4).

■ i. Adding paragraph (e).

The revisions and additions read as follows:

§ 238.6 Procedures.

* * * * *

(b) *Specific procedures*—(1) *Script development and review.* (i) Before a producer officially submits a project to the Office of the Assistant to the Secretary of Defense for Public Affairs (OATSD(PA)), the Military Departments and the National Guard Bureau are authorized to assist entertainment-oriented media producers, scriptwriters, etc., in their efforts to develop a script

that might ultimately qualify for DoD assistance. Such activities could include guidance, suggestions, answers to research queries for technical research, and interviews with technical experts. However, the Military Departments providing such assistance are required to coordinate with and update OATSD(PA) of the status of such projects. Military Departments and the National Guard Bureau will refrain from making commitments and rendering official DoD opinions until first coordinating through appropriate channels to obtain OATSD(PA) concurrence in such actions.

(ii) Production company officials requesting DoD assistance will submit a completed script (or a treatment or narrative description for documentaries), along with a list of desired support to be included on a completed DD Form 3205, “Request for DoD Production Assistance” (available at <https://www.esd.whs.mil/Directives/forms/>). If a definitive list is not available when the script is initially submitted, requirements should be stated in general terms at the outset. However, no DoD commitment will be made until the detailed list of support requested has been reviewed and deemed to be feasible.

(iii) To be considered for approval, an authorized representative of the production company must certify that the project has not complied and is not likely to comply with a demand from the Government of the PRC, the CCP, or an entity under the direction of the PRC or the CCP to censor the content of the project in a material manner to advance the national interest of the PRC in accordance with section 1257 of Public Law 117–263.

(iv) When OATSD(PA) receives verifiable information from another source that the project has complied with or is likely to comply with such a demand for censorship as described in paragraph (b)(1)(iii) of this section, OATSD(PA) will, to the extent feasible, inquire with the production company about the information to help inform the DoD decision on whether to approve support for the project.

(v) OATSD(PA) will coordinate the review of scripts, treatment, or narrative description submitted for production assistance consideration. The coordinated review will include each Military Service depicted in the script. Although no commitment for assisting in the production is implied, OATSD(PA) may provide, or authorize the Military Services to provide, further guidance and suggestions for changes that might resolve problems that would prevent DoD assistance.

(2) *Production assistance notification.* Upon reviewing the recommendations of the Military Departments and the National Guard Bureau concerned, the ATSD(PA) will determine whether a given production meets the DoD criteria for support and if the support requested is feasible. If both requirements are satisfied, the ATSD(PA) will notify in writing the production company concerned, advising it that DoD has approved DoD production assistance and identifying the DoD project officer tasked with representing the DoD throughout the production process. On a case-by-case basis, the ATSD(PA) may choose to delegate the responsibility of signing the Production Assistance Agreement on behalf of the DoD to the designated DoD project officer or other DoD official responsible for coordinating production assistance. If so, this decision would be included in the notification letter. If production assistance is approved for only a portion of the proposed project, the written notification will clearly describe the portion(s) approved. If assistance is not approved, the ATSD(PA) or the ATSD(PA)'s designee will send a letter to the production company stating reasons for disapproval.

(3) *Role of the DoD project officer.* (i) When production assistance has been approved, the Military Departments and the National Guard Bureau will assign a project officer (commissioned, non-commissioned, or civilian) who will be designated by OATSD(PA) as the principal DoD liaison to the production company. The DoD project officer will, at a minimum:

(A) Act as the liaison between the production company and the Secretaries of the Military Departments and maintain contact with OATSD(PA) through appropriate channels. In this regard, the project officer will serve as the central coordinator for billing the producer and monitoring payments to the Government. (See *paragraph (d)* of this section for billing procedures.)

(B) Advise the production company on technical aspects and arrange for information necessary to ensure reasonably accurate and authentic portrayals of the Department of Defense.

(C) Maintain liaison with units and commands assisting the production company to ensure timely arrangements consistent with the approved support.

(D) Coordinate with installations or commands that intend to provide support to the production to ensure that no material assistance is provided before a Production Assistance Agreement is signed by both the DoD and the production company.

(E) When DoD assistance to the production requires the production company to reimburse the Government for additional expenses, develop an estimate of expenses based on the assistance requested, and ensure that these are reflected in the Production Assistance Agreement.

(F) Coordinate with each installation or command providing assets to the production to ensure the production company receives accurate and prompt statements of charges assessed by the Government and that the Government receives sufficient payment for any additional expenses incurred to support the production.

(G) For project officers assigned to a documentary or a non-documentary television series, maintain close liaison with the producer(s) and writers in developing story outlines. All story ideas considered for further development by the production company should be submitted to OATSD(PA) to provide the earliest opportunity for appraisal.

(ii) When considered to be in the best interest of the DoD, the assigned project officer may provide "on-scene" assistance to the production company. Military or civilian technical advisor(s) may also be required. In such cases:

(A) Assignment will be at no additional cost to the Government. The production company will assume payment of such items as travel (air, rental car, reimbursement for fuel, etc.) and per diem (lodging, food, and incidentals).

(B) Assignment should be for the length of time required to meet preproduction requirements through completion of photography. When feasible, assignment may be extended to cover post-production stages and site clean-up.

(iii) Additional project officer responsibilities, when considered to be in the best interest of the DoD, will include:

(A) Supervising the use of DoD equipment, facilities, and personnel.

(B) Attending pertinent preproduction and production conferences, being available during rehearsals to provide technical advice, and being present during filming of all scenes pertinent to the DoD.

(C) Ensuring proper selection of locations, appropriate uniforms, awards and decorations, height and weight standards, grooming standards, insignia, and set dressing applicable to the military aspects of the production. This applies to both active-duty members and paid civilian actors.

(D) Arranging for appropriate technical advisers to be present when

highly specialized military technical expertise is required.

(E) Ensuring that the production adheres to the agreed-upon script and list of support to be provided.

(F) Authorizing minor deviations from the approved script or list of support to be provided, so long as such deviations are feasible, consistent with the safety standards, and in keeping with the approved story line. All other deviations must be referred for approval to OATSD(PA) through appropriate channels.

(G) In accordance with the Production Assistance Agreement, providing notice of non-compliance, and when necessary, suspending assistance when action by the production company is contrary to stipulations governing the project and suspension is in the best interest of the Department of Defense until the matter is resolved locally or by referral to OATSD(PA).

(H) Ensuring the project has not complied and is not likely to comply with a demand from the Government of the PRC, the CCP, or an entity under the direction of the PRC or the CCP, to censor the content of the project in a material manner to advance the national interest of the PRC, in accordance with section 1257 of Public Law 117–263. The project officer will assess the likelihood of a project's compliance with such a demand and of influence or potential influence from the PRC on a project based on the following:

(1) The production company's representations, in accordance with paragraph (b)(1)(iii) of this section.

(2) The production company's representations in the Production Assistance Agreement, including the ongoing obligation to notify the project officer in writing of such a censorship demand, including the terms of such demand, and whether the project has complied or is likely to comply with a demand for such censorship. See paragraph 20 of appendix A to this part and paragraph 18 of appendix B to this part for example language.

(3) Verifiable information from other sources. In the event of such verifiable information, the project officer will coordinate with appropriate OATSD(PA) personnel for the purpose of ensuring that, to the extent feasible, the information is addressed with the production company's authorized representative.

(I) Based on the considerations listed in paragraphs (b)(3)(iii)(H)(1) through (3) of this section, the project officer will coordinate with appropriate OATSD(PA) personnel to make an informed decision on whether DoD support may be provided or may

continue to be provided. As appropriate, OATSD(PA) personnel or the project officer will notify the production company of such decision in accordance with this part and, if applicable, the Production Assistance Agreement. In accordance with the decision, the project officer shall then undertake action to initiate, continue, or terminate DoD support.

(J) Attending the approval screening of the production, unless the Military Department concerned, OATSD(PA), and the production company mutually agree otherwise.

(K) Determining whether the production company will need to obtain the written consent of DoD personnel who may be recorded, photographed, or filmed by the production company, including when the production company uses the personally identifying information of DoD personnel. The likeness of DoD personnel in any imagery is included in the meaning of personally identifying information. If the recording or imagery captures medical treatment being performed on DoD personnel, the project officer will require the production company to gain written consent from such DoD personnel. In the case of DoD personnel who are deceased or incapacitated, the project officer will require the production company to gain written consent from the next of kin of the deceased or incapacitated DoD personnel.

* * * * *

(d) * * * When such additional expenses are anticipated, the Production Assistance Agreement ordinarily should require the production company to provide an advance payment or a letter of credit in the amount estimated to comprise the total additional DoD expenses or deposit such funds in escrow.

* * * * *

(e) *Freedom of Information Act release.* Pursuant to 5 U.S.C. 552, DoD may receive requests for records concerning DoD engagements with motion picture, television, and other entertainment media companies. Because these documents may contain confidential or privileged commercial information submitted by the motion picture, television, and other entertainment media company, or other non-releasable information, DoD Components processing requests for these records will consider the application of the exemptions in 5 U.S.C. 552 to such records, including the exemption in 5 U.S.C. 552(b)(4). ■ 6. Revise appendix A to part 238 to read as follows:

Appendix A to Part 238—Sample Production Assistance Agreement

U.S. DEPARTMENT OF DEFENSE

PRODUCTION ASSISTANCE AGREEMENT

DoD—[enter number]—[enter year]

The United States Department of Defense (DoD), acting on behalf of the United States of America, hereby expresses its intent, subject to the provisions herein, to provide to [enter name of production entity], hereinafter referred to as the “production company,” the assistance itemized in this Production Assistance Agreement (Agreement) in conjunction with the production of a [enter type of production; e.g., feature motion picture, television series] known at this time as [enter title of production or episode]. This Agreement expresses the terms under which the DoD intends to provide assistance. This Agreement does not authorize the obligation of any United States Government funding, nor should it be construed as a contract, grant, cooperative agreement, other transaction, or any other form of procurement agreement.

LIST OF MILITARY RESOURCES REQUESTED TO BE PROVIDED IN SUPPORT OF PRODUCTION [or “see Attachment 1”]. The DoD will make reasonable efforts to provide the assistance requested in the request for production assistance, to the extent approved by the DoD, and subject to the limitations contained herein.

This Agreement is subject to revocation due to non-compliance with the terms herein, with the possible consequence of a temporary suspension or permanent withdrawal of the use of some or all of the military resources identified to assist this project, revocation of the general release for photography and sound recordings (see Paragraph 9), and/or withholding of other approvals incidental to this agreement. Requests for future support from the DoD may also be denied. In the event of dispute, the production company will be given a written notice of non-compliance by the DoD project officer. The production company will have a 72-hour cure period after receipt of written notice of non-compliance. DoD may temporarily suspend support until the non-compliance has been cured or the 72-hour cure period has expired. After the cure period has expired, DoD may permanently withdraw its support for the production. If such Agreement is either suspended or terminated, the sole right of the Production Company to appeal such decision is to the DoD designee responsible for coordinating production assistance for entertainment media operations (“DoD Director of Entertainment Media”). The requirements in Department of Defense Instruction 5410.16 will apply to this Agreement.

It is understood between the DoD and the production company that:

1. The DoD project officer, [enter name of project officer], is the official DoD representative responsible for ensuring that the terms of this Agreement are met. The DoD project officer or their designee will be present each day the U.S. military is being

portrayed, photographed, or otherwise involved in any aspect of [enter title of production]. The DoD project officer is the military technical advisor, and all military coordination must go through them. The production company will consult with the DoD project officer in all phases of pre-production, production, and post-production that involves or depicts the U.S. military.

2. The production company will cast actors, extras, doubles, and stunt personnel portraying Service members who conform to individual Military Service regulations governing age, height and weight, uniform, grooming, appearance, and conduct standards. The DoD reserves the right to suspend support if a disagreement regarding the military aspects of these portrayals cannot be resolved in negotiation between the production company and the DoD within the 72-hour cure period. The DoD project officer will provide written guidance specific to each Military Service being portrayed.

3. The DoD has approved production assistance as in the best interest of the DoD, based on the [enter date] version of the script to the extent agreed upon by the DoD [, and as further described by ____]. The production company must obtain, in advance, DoD concurrence for any subsequent changes proposed to the military depictions made to either the picture or the sound portions of the production before these changes are undertaken.

4. The operational capability and readiness of the Military Departments and the National Guard Bureau will not be impaired. Unforeseen contingencies affecting national security or other emergency circumstances such as disaster relief may temporarily or permanently preclude the use of military resources. In these circumstances, the DoD will not be liable, financially or otherwise, for any resulting negative impact or prejudice to the production caused by the premature withdrawal or change in support to the production company.

5. There will be no deviation from established DoD safety and conduct standards. The DoD project officer or their designee will coordinate such standards and compliance therewith. DoD will provide the production company advance notice of such safety or conduct standards upon request.

6. All DoD property or facilities damaged, used, or altered by the production company in connection with the production will be restored by the production company to the same or better condition, cleaned and free of trash, normal wear and tear excepted, as when they were made available for the production company's use.

7. The production company will reimburse the U.S. Government for any additional expenses incurred as a result of the assistance rendered for the production of [enter title of production]. The estimated amount will be detailed and included (e.g., “see Attachment 2.”). The production company agrees to post advance payment or a letter of credit in the amount estimated to comprise the total additional DoD expenses or deposit such funds that may be reasonably necessary. The payment or letter of credit will be submitted to the military component(s) designated to provide the

assistance, or to another DoD agency, as deemed appropriate by DoD.

a. The DoD agrees to provide statements of charges assessed by each installation or DoD Component providing assets to assist in the production within 45 days from the last day of the month in which filming is completed.

b. The production company will be charged for only those expenses that are considered to be additional costs to the DoD in excess of those that would otherwise have been incurred, including, but not limited to fuel, resultant depot maintenance, expendable supplies, travel and per diem, civilian overtime, and lost or damaged equipment.

c. If the final aggregate of such costs and charges is less than previously anticipated, DoD agrees to remit the exact amount of the difference of any funds posted within 45 days from the last day of the month in which filming is completed.

8. The production company will be charged for the travel, lodging, per diem, and incidental expenses for the DoD project officer, the DoD Director of Entertainment Media or their designee, and any other assigned military technical and safety advisor(s) whose presence may be required by DoD. For each of these individuals, the production company will provide:

a. Round-trip air transportation and ground transfers to the production location(s) at which there is a military portrayal or involvement, at times deemed appropriate by the DoD project officer and DoD Director of Entertainment Media.

b. A full-size vehicle (with fuel and with loss, damage, and collision automobile insurance paid for by the production company) for their personal use during the filming, including for their stay at the production location(s). If parking at the location(s) is not available, transportation to and from the lodging location to the production site will be provided.

c. Hotel accommodations equivalent to those provided to the production company's crew.

d. A dedicated, on-location trailer room or other comparable work space with full internet access, desk, seating, and en-suite toilet.

9. By approving DoD production assistance for [enter title of production], the DoD hereby provides a general release to the production company for the use of any and all photography and sound recordings of any and all Service members, equipment, and real estate, subject to the limitations in this Agreement (e.g., Paragraphs 12–13).

10. As a condition of DoD assistance, the production company will:

a. Indemnify and hold harmless the DoD, and its agencies, officers, and employees against any claims (including claims for personal injury and death, damage to property, and attorneys' fees) arising from the production company's possession or use of DoD property or other assistance in connection with this production of [enter title of production], to include pre-production, post-production, and DoD-provided orientation or training. This provision will not in any event require production company to indemnify or hold

harmless the DoD or its agencies, officers, and/or employees from or against any claims arising from defects in DoD property or negligence on the part of DoD or its agencies, officers, or employees.

b. Provide proof of adequate industry standard liability insurance, naming the DoD as an additional insured entity prior to the commencement of production involving DoD. The production company will maintain, at its sole expense, insurance in such amounts and under such terms and conditions as may be required by the DoD to protect its interests in the property involved.

c. Not carry onto DoD property any non-prescription narcotic, hallucinogenic, or other controlled substance or alcoholic beverage without prior coordination with the DoD project officer or their designee.

d. Not carry onto DoD property any real or prop firearms, weapons, explosives, or special effects devices or equipment that cause or simulate explosions, flashes, flares, fire, loud noises, etc., without the prior approval of the DoD project officer and the supporting installation.

e. Allow DoD public affairs personnel access to the production site(s) to conduct still and motion photography of DoD personnel and assets that are directly supporting the filming, and to allow the DoD the use of production company-generated publicity and marketing materials, such as production stills and electronic press kits. These materials may be used to show DoD viewers how the DoD is assisting in the production; such materials may be viewed by the general public if posted on an open DoD website or released on "The Pentagon Channel" or other publicly accessible media source. Therefore, no DoD personnel will photograph actual filming, talent, or sets without the prior approval of the production company.

11. The production company will provide the DoD project officer with whatever internal communications equipment it is supplying to production company crew members to communicate on the set during production of military-themed sequences. The production company will also supply the DoD project officer with earphones to monitor military-themed dialogue and other sound recording during these periods.

12. The production company will screen for the DoD project officer and the DoD Director of Entertainment Media, or their designees, the roughly edited version of the production at a stage in editing when changes can be accommodated to allow the DoD to confirm the military sequences conforms to the agreed script treatment, or narrative description; to preclude release or disclosure of sensitive, security-related, or classified information; and to ensure that the privacy of DoD personnel is not violated. Should the DoD determine that material in the production compromises any of the preceding concerns, the DoD will alert the production company of the material, and the production company will remove the material from the production. The production company will bear the travel, lodging, per diem, and incidental expenses incurred in transporting the DoD project officer and the DoD Director of Entertainment

Media, or their designees, to the location where the screening is held.

13. No photography or sound recordings made with DoD assistance and no DoD photography and sound recordings released for this production will be reused or sold for use in other productions without DoD approval. The foregoing will not prohibit the production company from exploiting the production in any and all ancillary markets, now known or hereafter devised (including, without limitation, television, web content, home video, and theme parks) or from using clips in promotional material relative thereto.

14. The production company will also provide an official DoD screening of the completed production in Washington, DC, prior to public exhibition. An alternative screening location may be authorized by the DoD, in negotiation with the production company. In this case, the production company will pay the travel and lodging expenses incidental to the attendance at the screening of the DoD project officer and the Director of Entertainment Media or their designees.

15. The production company will use its best efforts to place a credit in the end titles immediately above the "Special Thanks" section (if any), substantially in the form of "Special Thanks to the United States Department of Defense," with no less than one clear line above and one clear line below such credit acknowledging DoD assistance provided. Such acknowledgment(s) will be in keeping with industry customs and practices and will be of the same size and font used for other similar credits in the end titles.

16. The production company will provide the DoD with five copies of all promotional and marketing materials (e.g., electronic press kits, one-sheets, and television advertisements) for internal information and historical purposes in documenting DoD assistance to the production.

17. The production company will provide a minimum of ten DVD copies of the completed production to the DoD for internal briefings and for historical purposes, by overnight shipment to arrive the day following the first domestic airing or commercial distribution of the production. The DoD will not exhibit these video discs publicly or copy them; however, the DoD is allowed to use short clips from them in official presentations by Service members and DoD civilian personnel who were directly involved in providing DoD assistance, for the sole purpose of illustrating DoD support to the production. However, the DoD is prohibited from making these clips available to any other party for any other purpose.

18. Official activities of DoD personnel in assisting the production must be within the scope of normal military activities, with the exception of the DoD project officer and assigned official technical advisor(s), whose activities must be consistent with their authorized additional duties. DoD personnel in an off-duty, non-official status may be hired by the production company to perform as actors, extras, etc., provided there is no conflict with existing Service or Department regulations. In such cases, these conditions apply:

a. Contractual agreements are solely between those individuals and the production company; however, they should be consistent with industry standards.

b. The DoD project officer will ensure that DoD personnel will comply with standards of conduct regulations in accepting employment.

c. The production company is responsible for any disputes with unions governing the hiring of non-union actors or extras.

19. The production company may make donations or gifts in-kind to morale, welfare, and recreation programs of the military unit(s) involved; however, donations of this kind are not at all required, and are not in any manner a consideration in the determination of whether or not a production should receive DoD assistance. These donations must be coordinated through the DoD project officer and must comply with law and DoD policies.

20. The production company acknowledges that, in accordance with Section 1257 of Public Law 117–263, the DoD may not knowingly provide active and direct support to any film, television, or other entertainment project if the project has complied or is likely to comply with a demand from the Government of the People's Republic of China, the Chinese Communist Party, or an entity under the direction of the People's Republic of China or the Chinese Communist Party to censor the content of the project in a material manner to advance the national interest of the People's Republic of China.

a. To the best of the production company's knowledge, information, and belief, this project—including its producers, sponsors, distributors, parent companies, or other affiliates—has not complied with, nor is it likely to comply with, a demand from the Government of the People's Republic of China, the Chinese Communist Party, or an entity under the direction of the People's Republic of China or the Chinese Communist Party to censor the content of the project in a material manner to advance the national interest of the People's Republic of China.

b. At any time, if the production company becomes aware of a demand from the Government of the People's Republic of China, the Chinese Communist Party, or an entity under the direction of the People's Republic of China or the Chinese Communist Party to censor the content of the project in a material manner to advance the national interest of the People's Republic of China, they will immediately notify the DoD project officer in writing of such demand, including the terms of such demand, and whether the project has complied or is likely to comply with such demand.

21. This Agreement and other records relating to DoD assistance may be subject to disclosure pursuant to the Freedom of Information Act, 5 U.S.C. 552.

22. The undersigned parties warrant that they have the authority to enter into this Agreement and that the consent of no other party is necessary to effectuate the full and complete satisfaction of the provisions contained herein.

23. This Agreement consists of [enter number] pages including [enter number of

attachment(s)]. Each page will be initialed by the undersigned DoD and production company representatives.

FOR THE DEPARTMENT OF DEFENSE

Signature and Date

Name of the DoD Representative:

Title and Address

FOR [ENTER PRODUCTION COMPANY]

Signature and Date

Name of Production Company Representative:

Title and Address

■ 7. Revise appendix B to part 238 to read as follows:

Appendix B to Part 238—Sample Documentary Production Assistance Agreement

U.S. DEPARTMENT OF DEFENSE

DOCUMENTARY PRODUCTION ASSISTANCE AGREEMENT

DoD—[enter number]—[enter year]

The United States Department of Defense (DoD), acting on behalf of the United States of America, hereby expresses its intent, subject to the provisions herein, to provide to [enter name of production entity], hereinafter referred to as the “production company,” the assistance itemized in this Production Assistance Agreement (Agreement) in conjunction with the production of a documentary known at this time as [enter title of the production]. This Agreement expresses the terms under which the DoD intends to provide assistance. This Agreement does not authorize the obligation of any United States Government funding, nor should it be construed as a contract, grant, cooperative agreement, other transaction, or any other form of procurement agreement.

LIST OF MILITARY RESOURCES REQUESTED TO BE PROVIDED IN SUPPORT OF PRODUCTION [or “see Attachment 1”]. The DoD will make reasonable efforts to provide the assistance requested in the request for DoD documentary assistance, to the extent approved by the DoD, and subject to the limitations contained herein.

This Agreement is subject to revocation due to non-compliance with the terms herein, with the possible consequence of a temporary suspension or permanent withdrawal of the use of some or all of the military resources identified to assist this project, revocation of the general release for photography and sound recordings (see Paragraph 9), and/or withholding of other approvals incidental to this agreement. Requests for future support from DoD may also be denied. In the event of dispute, the production company will be given a written notice of non-compliance by the DoD project officer. The production company will have a 72-hour cure period after receipt of written notice of non-compliance. DoD may temporarily suspend support until the non-compliance has been cured or the 72-hour

cure period has expired. After the cure period has expired, DoD may permanently withdraw its support for the production. If such Agreement is either suspended or terminated, the sole right of the Production Company to appeal such decision is to the DoD designee responsible for coordinating assistance for documentary productions. The requirements in Department of Defense Instruction 5410.16 will apply to this Agreement.

It is understood between the DoD and the production company that:

1. The DoD project officer, [enter name of project officer and contact information], is the official DoD representative responsible for ensuring that the terms of this Agreement are met. The DoD project officer is the military technical advisor, and all military coordination must go through them. The production company will consult with the DoD project officer in all phases of pre-production, production, and post-production that involve or depict the U.S. military. The local unit/installation public affairs officer, or a designated official, may serve as the official onsite DoD representative for this project and will act as the interface between the film crew and military units providing both filming and logistical support.

2. The DoD has approved production assistance as in the best interest of the DoD, based on the [enter date] version of the script, treatment, or narrative description to the extent agreed upon by the DoD [and as further described by ____]. The production company must obtain, in advance, DoD concurrence for any subsequent changes proposed to the military depictions made to either the picture or the sound portions of the production before these changes are undertaken.

3. The operational capability and readiness of the Military Departments will not be impaired. Unforeseen contingencies affecting national security or other emergency circumstances such as disaster relief may temporarily or permanently preclude the use of military resources. In these circumstances, the DoD will not be liable, financially or otherwise, for any resulting negative impact or prejudice to the production caused by the premature withdrawal or change in support to the production company.

4. There will be no deviation from established DoD safety and conduct standards. The DoD project officer, or their designee, will coordinate such standards and compliance therewith. The DoD will provide the production company advance notice of such safety or conduct standards upon request.

5. All DoD property or facilities damaged, used, or altered by the production company in connection with the production will be restored by the production company to the same or better condition, cleaned and free of trash, normal wear and tear excepted, as when they were made available for the production company's use.

6. The production company will reimburse the U.S. Government for any additional expenses incurred as a result of the assistance rendered for the production of [enter title of production]. The estimated amount will be detailed and included in this Agreement or as an attachment to it.

7. The production company will be charged for only those expenses that are considered to be additional costs to the DoD in excess of those that would otherwise have been incurred, including, but not limited to, fuel, resultant depot maintenance, expendable supplies, travel and per diem, civilian overtime, and lost or damaged equipment.

8. The production company will be charged for the travel, lodging, per diem, and incidental expenses for the DoD project officer, the DoD documentary officer or their designee, and any other assigned military technical and safety advisor(s) whose presence may be required by the DoD. For each of these individuals, the production company will provide:

a. Round-trip air transportation and ground transfers to the production location(s) at which there is a military portrayal or involvement, at times deemed appropriate by the DoD project officer and the DoD documentary officer.

b. Hotel accommodations equivalent to those provided to the production company's crew.

9. By approving DoD production assistance for [enter title of production], the DoD hereby provides a general release to the production company for the use of any and all photography and sound recordings of any and all Service members, equipment, and real estate, subject to the limitations in this Agreement (e.g., including, but not limited to, Paragraphs 11–14).

10. As a condition of DoD assistance, the production company will:

a. Indemnify and hold harmless the DoD and its agencies, officers, and employees against any claims (including claims for personal injury and death, damage to property, and attorneys' fees) arising from the production company's possession or use of DoD property or other assistance in connection with this production of [enter title of production]. This provision will not in any event require the production company to indemnify or hold harmless the DoD or its agencies, officers, or employees from or against any claims arising from defects in DoD property or negligence on the part of DoD or its agencies, officers, or employees.

b. Provide proof of adequate industry standard liability insurance, naming DoD as an additional insured entity prior to the commencement of production involving DoD. The production company will maintain, at its sole expense, insurance in such amounts and under such terms and conditions as may be required by DoD to protect its interests in the property involved.

c. Not carry onto DoD property any non-prescription narcotic, hallucinogenic, or other controlled substance or alcoholic beverage without prior coordination with the DoD project officer or their designee.

d. Not carry onto DoD property any real or prop firearms, weapons, explosives, or special effects devices or equipment that cause or simulate explosions, flashes, flares, fire, loud noises, etc., without the prior approval of the DoD project officer and the supporting installation.

e. Allow DoD public affairs personnel access to the production site(s) to conduct

still and motion photography of DoD personnel and assets that are directly supporting the filming, and to allow the DoD the use of production company-generated publicity and marketing materials. These materials may be used to show DoD viewers how the DoD is assisting in the production; such materials may be viewed by the general public if posted on an open DoD web site or on "The Pentagon Channel" or other publicly-accessible media source. Therefore, no DoD personnel will photograph actual filming without the prior approval of the production company.

11. The production company will screen for the DoD project officer, and the DoD documentary officer, or their designees, the roughly edited version of the production at a stage in editing when changes can be accommodated to allow DoD to confirm the military sequences conforms to the agreed-upon script, treatment, or narrative description; to preclude release or disclosure of sensitive, security-related, or classified information; and to ensure that the privacy of DoD personnel is not violated. Should the DoD determine that material in the production compromises any of the preceding concerns, the DoD will alert the production company of the material, and the production company will remove the material from the production.

12. If the recording or imagery to be used in the production captures medical treatment being performed on DoD personnel, the project officer will require the production company to gain written consent from such DoD personnel. In the case of DoD personnel who are deceased or incapacitated, the project officer will require the production company to gain written consent from the next of kin of the deceased or incapacitated DoD personnel.

13. All DoD uniformed and civilian personnel who are photographed or sound recorded by the documentary production company are considered to be on duty and are precluded from receiving any compensation from the production company or any other party as a result of their appearance in the production or subsequent authorized productions, or as a result of the use of their name, likeness, life story, or other rights for any purpose. Military personnel in an off-duty, non-official status may be hired by the production company to perform as actors, extras, etc., provided there is no conflict with existing Service regulations. In such cases, these conditions apply:

a. Contractual agreements are solely between those individuals and the production company; however, they should be consistent with industry standards.

b. The DoD project officer will ensure that DoD personnel will comply with standards of conduct regulations in accepting employment.

c. The production company is responsible for any disputes with unions governing the hiring of non-union actors or extras.

14. No photography or sound recordings made with DoD assistance and no DoD photography and sound recordings released for this production will be reused or sold for use in other productions without DoD approval. The foregoing will not prohibit the

production company from exploiting the production in any and all ancillary markets, now known or hereafter devised (including, without limitation, television, web content, home video, and theme parks) or from using clips in promotional material relative thereto.

15. The production company will identify any and all re-enactments in the production by placing the word "RE-ENACTMENT" on the screen, in a legible format and of a legible size, for either the duration of the re-enactment or at the beginning of the re-enactment for a period of not less than 3 seconds and reappearing every subsequent 10 seconds for a period of 3 seconds until complete. This activity will occur for every instance of a re-enactment in the production.

16. The production company will use its best efforts to place a credit in the end titles immediately above the "Special Thanks" section (if any) substantially in the form of "Special Thanks to the United States Department of Defense," with no less than one clear line above and one clear line below such credit acknowledging DoD assistance provided. Such acknowledgment(s) will be in keeping with industry customs and practices and will be of the same size and font used for other similar credits in the end titles.

17. The production company will provide a minimum of five DVD copies of the completed production within 7 working days of initial broadcast to the DoD, for internal briefings and for historical purposes. The DoD will not exhibit these DVDs publicly or copy them; however, the DoD is allowed to use short clips from them in official presentations by Service members and DoD civilian personnel who were directly involved in providing DoD assistance, for the sole purpose of illustrating DoD support to the production. However, the DoD is prohibited from making these clips available to any other party for any other purpose.

18. The production company acknowledges that, in accordance with Section 1257 of Public Law 117–263, the DoD may not knowingly provide active and direct support to any film, television, or other entertainment project, if the project has complied or is likely to comply with a demand from the Government of the People's Republic of China, the Chinese Communist Party, or an entity under the direction of the People's Republic of China or the Chinese Communist Party to censor the content of the project in a material manner to advance the national interest of the People's Republic of China.

a. To the best of the production company's knowledge, information, and belief, this project—including its producers, sponsors, distributors, parent companies, or other affiliates—has not complied with, nor is it likely to comply with, a demand from the Government of the People's Republic of China, the Chinese Communist Party, or an entity under the direction of the People's Republic of China or the Chinese Communist Party, to censor the content of the project in a material manner to advance the national interest of the People's Republic of China.

b. At any time, if the production company becomes aware of a demand from the Government of the People's Republic of China, the Chinese Communist Party, or an

entity under the direction of the People's Republic of China or the Chinese Communist Party to censor the content of the project in a material manner to advance the national interest of the People's Republic of China, they will immediately notify the DoD project officer in writing of such demand, including the terms of such demand, and whether the project has complied or is likely to comply with such demand.

19. This Agreement and other records relating to DoD assistance may be subject to disclosure pursuant to the Freedom of Information Act, 5 U.S.C. 552.

20. The undersigned parties warrant that they have the authority to agree to the terms of this Agreement and that the consent of no other party is necessary to effectuate the full and complete satisfaction of the provisions contained herein.

21. This Agreement consists of [enter number] pages including [enter number of attachment(s)]. Each page will be initialed by the undersigned DoD and production company representatives.

FOR THE DEPARTMENT OF DEFENSE

Signature and Date

Name of the DoD Representative:

Title and Address

FOR [ENTER PRODUCTION COMPANY]

Signature and Date

Name of Production Company
Representative:

Title and Address

Dated: July 3, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 2024-15091 Filed 7-15-24; 8:45 am]

BILLING CODE 6001-FR-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2024-0209; FRL-11948-01-R9]

Air Plan Approval; California; Mojave Desert Air Quality Management District

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Mojave Desert Air Quality Management District (MDAQMD or "District") portion of the California State Implementation Plan (SIP). The revisions concern recodification of prohibitory and administrative rules used by the District to regulate air pollutants under the Clean Air Act (CAA or the Act). The

EPA is proposing to update the California SIP to reflect the recodified rules. The EPA is taking comments on this proposal and plans to follow with a final action.

DATES: Comments must be received on or before August 15, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2024-0209 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: La Kenya Evans-Hopper, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3245 or by email at evanshopper.lakenya@epa.gov.

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

Table of Contents

I. The State's Submittal

- What is the background for this proposed action?
- What rules did the State submit to rescind or replace?
- Are there other versions of the rules?
- What is the purpose of the submitted rule revisions?

II. The EPA's Evaluation and Action

- How is the EPA evaluating the rules?
- Do the rules meet the evaluation criteria?

- Public Comment and Proposed Action
- Incorporation by Reference
- Statutory and Executive Order Reviews

I. The State's Submittal

A. What is the background for this proposed action?

Under the CAA, the EPA has established National Ambient Air Quality Standards (NAAQS) for certain pervasive air pollutants, including, among others, ozone and particulate matter (PM). Under CAA section 110(a), states are required to adopt and submit SIPs to implement, maintain, and enforce the NAAQS. Under CAA section 107(d), the EPA has designated all areas of the country as attainment, nonattainment, or unclassifiable for the NAAQS. Areas designated as nonattainment must adopt and submit SIP revisions that, among other things, provide for attainment of the NAAQS by the applicable attainment date.

The MDAQMD regulates sources of air pollution within California's "Mojave Desert Air Basin," which lies within the previously-designated "Southeast Desert Air Basin."¹ The MDAQMD's jurisdiction includes the desert portion of San Bernardino County and the far eastern portion of Riverside County. The EPA has designated two areas in the San Bernardino County portion of the District as nonattainment areas for PM equal to or less than 10 microns in diameter (PM₁₀): (1) the Trona planning area, located in the northwestern portion of the county, and (2) the larger San Bernardino nonattainment area that covers the remaining portion of San Bernardino County regulated by the MDAQMD, excluding the Trona planning area.² A portion of San Bernardino County within the District is also in the West Mojave Desert ozone nonattainment area.³ The Riverside County portion of the District is designated as unclassifiable/attainment for all the NAAQS.

In 1972, when the original California SIP was submitted and approved by the EPA, the San Bernardino County Air Pollution Control District (SBCAPCD) had jurisdiction over stationary sources within all of San Bernardino County. On

¹ The two air basins are described in the California Air Resources Board's (CARB's) *Initial Statement of Reasons for Proposed Rulemaking, Proposed Amendments to Divide the Southeast Desert Air Basin and to Modify the Boundary of the South Coast Air Basin and Proposed Amendments to the Related Agricultural Burning Regulations*, April 1996.

² 40 CFR 81.305—"California—PM-10" table of area designations.

³ 40 CFR 81.305. The West Mojave Desert ozone nonattainment area also includes the Antelope Valley portion of Los Angeles County.

July 16, 1975, the Los Angeles County Air Pollution Control District (LACAPCD), Orange County Air Pollution Control District (OCAPCD), Riverside County Air Pollution Control District (RCAPCD), and SBCAPCD were unified into the Southern California Air Pollution Control District (SoCalAPCD). On February 1, 1977, California split the SoCalAPCD into four agencies. The western coastal area became regulated by the South Coast Air Quality Management District (SCAQMD) and the remaining eastern desert portions of Los Angeles, San Bernardino, and Riverside Counties were separated back into air pollution control districts for each county (*i.e.*, LACAPCD, SBCAPCD, and RCAPCD). The original jurisdiction of the SCAQMD covered an area referred to as the “South Coast Air Basin” that included all of Orange County and the western non-desert portions of Los Angeles, Riverside, and San Bernardino Counties. The jurisdiction of the LACAPCD, SBCAPCD, and RCAPCD extended over

a portion of an air basin referred to as the “Southeast Desert Air Basin.”⁴

The Southeast Desert Air Basin portion of Riverside County was added to the SCAQMD on December 1, 1977. Effective December 1, 1977, under state law, all SCAQMD Rules and Regulations became applicable within the Southeast Desert portion of Riverside County.⁵ In 1982, the applicability of SCAQMD rules that had been approved as part of the California SIP was extended to the Southeast Desert portion of Riverside County.⁶ On July 1, 1993, the SBCAPCD was re-formed as the MDAQMD. On July 1, 1994, the Palo Verde Valley area in far eastern Riverside County (and that is a part of the Southeast Desert portion of Riverside County) left the SCAQMD and joined the MDAQMD.⁷

An outgrowth of the complicated regulatory history of the MDAQMD is that the applicable SIP for the area the District regulates consists of a mixture of rules from current and former agencies. Rules adopted by MDAQMD apply District-wide; SBCAPCD rules apply only in the San Bernardino

County portion of the District; and rules adopted by the RCAPCD, SoCalAPCD or the SCAQMD only apply in the Riverside County portion of the District.

B. What rules did the State submit to rescind or replace?

This proposal covers portions of SIP revisions submitted by the California Air Resources Board (CARB) to the EPA on September 23, 2022,⁸ November 30, 2022,⁹ May 11, 2023,¹⁰ and October 13, 2023.¹¹ Table 1 lists the MDAQMD rules that were submitted for inclusion in the SIP with the date each rule was adopted and then submitted by CARB.¹² When these rules were submitted, CARB also requested rescission of the analogous rules in the SIP that were adopted by SCAQMD¹³ and apply within the Riverside County portion of the District. Table 2 lists the rules to be rescinded by this action with the dates that they were adopted by SCAQMD, approved by the EPA (with the associated **Federal Register** citations), subsequently rescinded by MDAQMD, and then submitted by CARB for rescission.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted/amended/ revised date	Submittal date
MDAQMD	104	Reporting of Source Test Data and Analyses.	December 19, 1988	October 13, 2023.
MDAQMD	404	Particulate Matter—Concentration	July 25, 1977	May 11, 2023.
MDAQMD	405	Solid Particulate Matter—Weight	July 25, 1977	May 11, 2023.
MDAQMD	407	Liquid and Gaseous Air Contaminants ...	July 25, 1977	September 23, 2022.
MDAQMD	408	Circumvention	July 25, 1977	May 11, 2023.
MDAQMD	409	Combustion Contaminants	July 25, 1977	May 11, 2023.
MDAQMD	443	Labeling of Solvents	July 25, 1977	May 11, 2023.
MDAQMD	468	Sulfur Recovery Units	July 25, 1977	November 30, 2022.
MDAQMD	469	Sulfuric Acid Units	July 25, 1977	November 30, 2022.
MDAQMD	472	Reduction of Animal Matter	July 25, 1977	May 11, 2023.

TABLE 2—SUBMITTED RULE RESCISSIONS

Local agency	Title	Adopted/amended/ revised date	SIP approval date and FR citation	Date of rescission by MDAQMD	Submittal date
SCAQMD Rule 104	Reporting of Source Test Data and Analyses.	January 9, 1976	June 14, 1978, 43 FR 25684 ...	April 24, 2023	October 13, 2023.
SCAQMD Rule 408	Circumvention	May 7, 1976	June 14, 1978, 43 FR 25684 ...	April 25, 2022	May 11, 2023.
SCAQMD Rule 443	Labeling of Solvents	January 1, 1977	June 14, 1978, 43 FR 25684 ...	October 24, 2022	May 11, 2023.
SCAQMD Rule 468	Sulfur Recovery Units	October 8, 1976	June 14, 1978, 43 FR 25684 ...	August 22, 2022	November 30, 2022.
SCAQMD Rule 469	Sulfuric Acid Units	October 8, 1976	June 14, 1978, 43 FR 25684 ...	August 22, 2022	November 30, 2022.

⁴ 43 FR 25684 (June 14, 1978).

⁵ Letter dated August 11, 1980, from Gary Rubenstein, Deputy Executive Officer, CARB to Paul DeFalco, Jr., EPA Regional Administrator—approved at 47 FR 25013 (June 9, 1982).

⁶ 47 FR 25013 (June 9, 1982).

⁷ The Palo Verde Valley portion of the MDAQMD covers an area approximately 30 miles wide along the eastern boundary of the county adjoining the State of Arizona.

⁸ CARB submitted the SIP revision electronically on September 23, 2022, as an enclosure to a transmittal letter of the same date.

⁹ CARB submitted the SIP revision electronically on November 30, 2022, as an enclosure to a

transmittal letter dated November 22, 2022. CARB later clarified that, in addition to the rule rescissions requested for SCAQMD Rules 468 and 469, the November 30, 2022 submission was also intended to include the submission of replacement rules, MDAQMD Rules 468, “Sulfur Recovery Units” and 469, “Sulfuric Acid Units.” See CARB email dated April 4, 2024, from Ariel Fideldy (CARB) to Jefferson Wehling (EPA), Subject: “CARB Clarification regarding November 30, 2022 submittal of MDAQMD Rules.”

¹⁰ CARB submitted the SIP revision electronically on May 11, 2023, as an enclosure to a transmittal letter dated May 10, 2023.

¹¹ CARB submitted the SIP revision electronically on October 13, 2023, as an enclosure to a transmittal letter of the same date.

¹² These rules have adoption dates prior to the formation of the MDAQMD because the rules were not revised or amended when the MDAQMD was formed and first adopted its rulebook. The rules were SBCAPCD rules and were merely recodified as being MDAQMD rules that apply District-wide.

¹³ The versions of SCAQMD Rules 104, 408, 443, 468, 469 and 472 that are currently part of the applicable SIP for the Riverside County portion of the MDAQMD were adopted by the SoCalAPCD, rather than the SCAQMD.

TABLE 2—SUBMITTED RULE RESCISSIONS—Continued

Local agency	Title	Adopted/amended/ revised date	SIP approval date and FR citation	Date of rescission by MDAQMD	Submittal date
SCAQMD Rule 472	Reduction of Animal Matter	May 7, 1976	June 14, 1978, 43 FR 25684 ...	August 22, 2022	May 11, 2023.

The September 23, 2022, November 30, 2022, May 11, 2023, and October 13, 2023 SIP submissions were deemed complete by operation of law with respect to the completeness criteria in 40 CFR part 51, appendix V on March 23, 2023, May 30, 2023, November 11, 2023, and April 13, 2024, respectively.

C. Are there other versions of the rules?

We approved earlier versions of the rules listed in Table 1 when they were adopted and submitted by the MDAQMD's predecessor agency, the SBCAPCD. Table 3 lists the previously SIP-approved rules along with their

local adoption dates and EPA approval citations. If we finalize this action as proposed, the SBCAPCD rules in Table 3 will be superseded in the applicable SIP by the corresponding MDAQMD rules listed in Table 1.

TABLE 3—SIP RULES TO BE SUPERSEDED UPON APPROVAL OF SUBMITTED RULES LISTED IN TABLE 1

Local agency	Rule No.	Rule title	Adopted/ amended/ revised date	SIP approval date and FR citation
SBCAPCD	104	Reporting of Source Test Data and Analyses.	December 19, 1988 ...	November 27, 1990, 55 FR 49281.
SBCAPCD	404	Particulate Matter—Concentration	July 25, 1977	December 21, 1978, 43 FR 59489.
SBCAPCD	405	Solid Particulate Matter—Weight	July 25, 1977	December 21, 1978, 43 FR 59489.
SBCAPCD	407	Liquid and Gaseous Air Contaminants	February 1, 1977	September 8, 1978, 43 FR 40011.
SBCAPCD	408	Circumvention	February 1, 1977	September 8, 1978, 43 FR 40011.
SBCAPCD	409	Combustion Contaminants	February 1, 1977	September 8, 1978, 43 FR 40011.
SBCAPCD	443	Labeling of Solvents	February 1, 1977	September 8, 1978, 43 FR 40011.
SBCAPCD	468	Sulfur Recovery Units	February 1, 1977	September 8, 1978, 43 FR 40011.
SBCAPCD	469	Sulfuric Acid Units	February 1, 1977	September 8, 1978, 43 FR 40011.
SBCAPCD	472	Reduction of Animal Matter	February 1, 1977	September 8, 1978, 43 FR 40011.

D. What is the purpose of the submitted rule revisions?

Emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) contribute to the production of ground-level ozone and smog which harm human health and the environment. Emissions of PM, including PM equal to or less than 2.5 microns in diameter (PM_{2.5}) and PM₁₀, contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems.

Section 110(a) of the CAA requires states to submit regulations that control emissions of criteria air pollutants or their precursors, including NO_x, VOCs, and PM, as part of the SIP. Over the years, MDAQMD's predecessor agency, the SBCAPCD, adopted many administrative and prohibitory rules to meet SIP requirements, including those that are the subject of this proposed action, for the San Bernardino County portion of the MDAQMD. The RCAPCD, SoCalAPCD, and SCAQMD did the same for the Riverside County portion of the MDAQMD. However, the SBCAPCD, RCAPCD, and SoCalAPCD no longer exist, and SCAQMD no longer has

jurisdiction in the areas currently regulated by the MDAQMD. The purpose of the SIP submissions for which action is proposed is to align the SIP versions of the rules with those that are in effect in the MDAQMD.

The EPA's technical support document (TSD) has more information about these rules.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rules?

Under CAA section 110(l), SIP revisions must be adopted by the state, and the state must provide reasonable public notice and hearing prior to adoption.¹⁴ Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

In ozone nonattainment areas classified as Moderate or above, the

¹⁴ We have reviewed the SIP submissions covered in this proposed action for compliance with CAA procedural requirements and found that all such requirements have been met.

CAA requires implementation of Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs and NO_x (see CAA section 182(b)(2)). This requirement applies in the portion of San Bernardino County that lies within the "West Mojave Desert" nonattainment area that is classified as Severe for the 2008 and 2015 ozone NAAQS.¹⁵ States must also implement reasonably available control measures (RACM), including RACT, in Moderate PM_{2.5} or PM₁₀ nonattainment areas (see CAA sections 172(c)(1) and 189(a)(1)(C)). The MDAQMD regulates two PM₁₀ nonattainment areas in San Bernardino County that are classified as Moderate for the PM₁₀ NAAQS,¹⁶ and thus the RACM requirement applies to these areas. However, in this proposed action, we are evaluating the submitted rules and rescissions as rule recodifications and are not evaluating the rules for compliance with RACT or RACM requirements at this time.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency

¹⁵ 40 CFR 81.305.

¹⁶ Id.

requirements for the applicable criteria pollutants include the following:

1. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).

2. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).

3. Memorandum, from Johnnie L. Pearson, Chief, Regional Activities Section, EPA Office of Air Quality Planning and Standards to Chief, Air Branch, Regions I–X, “Review of State Regulation Recodifications,” February 12, 1990.

B. Do the rules meet the evaluation criteria?

The purpose for the submission of the MDAQMD rules is to align the outdated versions of the rules in the SIP with the versions found in the current District rulebook. To do this, CARB submitted MDAQMD rules, which apply District-wide, to replace the versions of the rules in the SIP that are identical but currently only apply to a geographic subset of the District (San Bernardino County or Riverside County).

The MDAQMD rules in Table 1 are identical to the SBCAPCD rules in Table 3 that are currently in the SIP. Thus, we are proposing the SBCAPCD rules listed in Table 3 will be superseded by our proposed approval of the MDAQMD rules in Table 1. For the portion of Riverside County regulated by MDAQMD, the SIP identifies rules adopted by the SCAQMD. MDAQMD Rules 104, 408, 443, 468, 469 and 472 in Table 1 are identical to the comparable SCAQMD rules listed in Table 2. Similarly, we are proposing that approval of the MDAQMD rules in Table 1 allows for the rescission of the SCAQMD rules in Table 2.

We are reviewing these particular rules as recodifications of existing rules and are not reviewing the substance of the rules at this time.¹⁷ The EPA is now merely proposing to approve the District-wide versions of rules to replace identical rules that were previously approved by the EPA but that only apply to a geographic subset of the District. The EPA’s approval of the District-wide rules, at this time, does not imply any position with respect to the approvability of the substantive requirements in the rules. To the extent the EPA issues any SIP calls to the State with respect to the adequacy of any of

the rules subject to this recodification, the EPA will continue to require the State to correct any such rule deficiencies despite the EPA’s proposed approval of this recodification.

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve the submitted rules in Table 1 because they represent recodifications of existing SIP rules. These rules would supersede the rules in Table 3. The EPA is also proposing to approve the rescissions listed in Table 2 because they mirror recodified rules proposed for approval. We will accept comments from the public on this proposal until [Insert date 30 days after date of publication in the **Federal Register**]. If we take final action to approve the submitted rules, our final action would incorporate the submitted rules into the SIP and would remove from the applicable SIP the rules that have been rescinded or superseded.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the MDAQMD rules listed in Table 1 of this preamble, which includes certain administrative and prohibitory rules that control emissions of NO_x, VOCs, and PM. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations (42 U.S.C. 7410(k); 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 proposes to approve 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 Act.

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

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The 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.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of

¹⁷ Memorandum dated February 12, 1990, from Johnnie L. Pearson, Chief, Regional Activities Section, EPA Office of Air Quality Planning and Standards to Chief, Air Branch, Regions I–X, “Review of State Regulation Recodifications.”

industrial, governmental, and commercial operations or programs and policies.”

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

List of Subjects in 40 CFR Part 52

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

Dated: July 1, 2024.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2024–14786 Filed 7–15–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2023–0277; FRL–12065–01–R4]

Air Plan Approval; Tennessee; Nitrogen Oxides SIP Call Alternative Monitoring and Domtar Paper Company, LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on June 26, 2023. The June 26, 2023, SIP revision would specify monitoring, recordkeeping, and reporting requirements for large industrial non-electricity generating units (EGUs) subject to the nitrogen oxides (NO_x) SIP Call that are permissible as alternatives to the monitoring, recordkeeping, and reporting requirements. The SIP revision would also establish source-specific alternative monitoring, recordkeeping, and reporting

requirements under the NO_x SIP Call for Domtar Paper Company, LLC (Domtar).

DATES: Comments must be received on or before August 15, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2023–0277 at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT:

Steven Scofield, Multi-Air Pollutant Coordination Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9034. Mr. Scofield can also be reached via electronic mail at scofield.steve@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Under Clean Air Act (CAA or Act) section 110(a)(2)(D)(i)(I), also called the good neighbor provision, States are required to address the interstate transport of air pollution. Specifically, the good neighbor provision requires that each State’s implementation plan contain adequate provisions to prohibit air pollutant emissions from within the State that will significantly contribute to nonattainment of the national ambient air quality standards (NAAQS), or that will interfere with maintenance of the NAAQS, in any other State.

On October 27, 1998 (63 FR 57356), EPA finalized the “Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing

Regional Transport of Ozone” (NO_x SIP Call). The NO_x SIP Call required Eastern States, including Tennessee, to submit SIPs limiting emissions of ozone season NO_x by implementing statewide emissions budgets. The NO_x SIP Call addressed the good neighbor provision for the 1979 ozone NAAQS and was designed to mitigate the impact of transported NO_x emissions, one of the precursors of ozone.¹ EPA developed the NO_x Budget Trading Program, an allowance trading program that States could adopt to meet their obligations under the NO_x SIP Call. This trading program allowed the following sources to participate in a regional cap and trade program: generally, electricity generating units (EGUs) with capacity greater than 25 megawatts (MW); and large industrial non-EGUs, such as boilers and combustion turbines, with a rated heat input greater than 250 million British thermal units per hour (MMBtu/hr). The NO_x SIP Call also identified available cost-effective emissions reductions from cement kilns and stationary internal combustion engines in establishing total, statewide emissions budgets, although EPA suggested that States regulate these sources through mechanisms other than the trading program.

To comply with the NO_x SIP Call requirements, in 2000 and 2001, TDEC submitted a revision to add new rule sections to the SIP-approved version of Chapter 1200–3–27, *Nitrogen Oxides*, of the Tennessee Rules. EPA approved the revision as compliant with Phase I of the NO_x SIP Call in 2004. *See* 69 FR 3015 (January 22, 2004). The approved revision required EGUs and large non-EGUs in the State to participate in the NO_x Budget Trading Program beginning in 2004. In 2005, Tennessee submitted, and EPA approved, a SIP revision to address additional emissions reductions required for the NO_x SIP Call under Phase II. *See* 70 FR 76408 (December 27, 2005).

In 2005, EPA published the Clean Air Interstate Rule (CAIR), which required several Eastern States, including Tennessee, to submit SIPs that prohibited emissions consistent with revised ozone season NO_x budgets (as well as annual budgets for NO_x and sulfur dioxide). *See* 70 FR 25162 (May 12, 2005); *see also* 71 FR 25328 (April 28, 2006). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate

¹ As originally promulgated, the NO_x SIP Call also addressed good neighbor obligations under the 1997 8-hour ozone NAAQS, but EPA subsequently stayed and later rescinded the rule’s provisions with respect to that standard. *See* 65 FR 56245 (September 18, 2000); 84 FR 8422 (March 8, 2019).

matter (PM_{2.5}) NAAQS and was designed to mitigate the impact of transported NO_x emissions with respect to ozone and PM_{2.5}. CAIR established several trading programs that States could join through SIPs or EPA would implement through Federal implementation plans (FIPs) for EGUs greater than 25 MW in each affected State; States also retained the option to submit SIPs that achieved the required emission reductions from other types of sources.² When the CAIR trading program for ozone season NO_x was implemented beginning in 2009, EPA discontinued administration of the NO_x Budget Trading Program; however, the requirements of the NO_x SIP Call continued to apply. For large non-EGUs that would have been covered under the NO_x Budget Trading Program, States were allowed, but not obligated, to achieve the required emissions reductions from these types of units by including the units in the CAIR trading program for ozone season NO_x.

On November 25, 2009 (74 FR 61535), EPA approved revisions to Tennessee's SIP that used the CAIR trading program for ozone season NO_x to address the State's obligations under the NO_x SIP Call related to non-EGUs. Consistent with CAIR's requirements, EPA approved a SIP revision in which Tennessee regulations: (1) Terminated its NO_x Budget Trading Program requirements, and (2) adopted State rule provisions modifying certain provisions of the CAIR FIP applicable to Tennessee to include the State's non-EGUs that would have been covered by the NO_x Budget Trading Program in the Federal CAIR trading program for ozone season NO_x instead. See 74 FR 61535. In this manner, participation of EGUs in the CAIR ozone season NO_x trading program pursuant to a FIP addressed the State's obligation under the NO_x SIP Call for those units, and Tennessee also chose to meet the State's obligations as to non-EGUs subject to the NO_x SIP Call by requiring those units to participate in the same CAIR trading program pursuant to the SIP.

The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in 2008, but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR. See *North Carolina v. EPA*, 531 F.3d 896, modified on rehearing, 550 F.3d 1176 (D.C. Cir. 2008). The ruling allowed CAIR to remain in effect temporarily until a replacement rule

consistent with the court's opinion was developed. While EPA worked on developing a replacement rule, the CAIR program continued to be implemented, with the NO_x annual and ozone season trading programs beginning in 2009 and the SO₂ annual trading program beginning in 2010.

Following the D.C. Circuit's remand of CAIR, EPA promulgated the Cross-State Air Pollution Rule (CSAPR) to replace CAIR and address good neighbor obligations for the 1997 ozone NAAQS, the 1997 PM_{2.5} NAAQS, and the 2006 PM_{2.5} NAAQS. See 76 FR 48208 (August 8, 2011). Through FIPs, CSAPR required EGUs in Eastern States, including Tennessee, to meet annual and ozone season NO_x emission budgets and annual SO₂ emission budgets implemented through new trading programs. Implementation of CSAPR began on January 1, 2015.³ CSAPR also contained provisions that would sunset CAIR-related obligations on a schedule coordinated with the implementation of the CSAPR compliance requirements. Participation by a State's EGUs in the CSAPR trading program for ozone season NO_x generally addressed the State's obligation under the NO_x SIP Call for EGUs. CSAPR did not initially contain provisions allowing States to incorporate large non-EGUs into that trading program to meet the requirements of the NO_x SIP Call for non-EGUs. EPA also stopped administering CAIR trading programs with respect to emissions occurring after December 31, 2014.⁴

Through a letter to EPA dated February 27, 2017,⁵ Tennessee provided a SIP revision to incorporate a new provision—TACPR 1200-03-27-.12, "NO_x SIP Call Requirements for Stationary Boilers and Combustion Turbines" (TN 2017 NO_x SIP Call Rule)—into the SIP. The TN 2017 NO_x SIP Call Rule established a State control program for sources that are subject to the NO_x SIP Call, but not covered under CSAPR or the CSAPR Update (background regarding the CSAPR Update is provided later in this notice). The TN 2017 NO_x SIP Call Rule contains several subsections that together comprise a non-EGU control program under which Tennessee will allocate a specified budget of allowances to affected sources. Subsequently, on May 11, 2018, and October 11, 2018, Tennessee submitted

letters requesting conditional approval⁶ of the TN 2017 NO_x SIP Call Rule and committing to provide a SIP revision to EPA by December 31, 2019, to address a deficiency by revising the definition of "affected unit" to remove the unqualified exclusion for any unit that serves a generator that produces power for sale. Based on the State's commitment to submit a SIP revision addressing the identified deficiency, EPA conditionally approved the February 27, 2017, submission. In the same action, EPA approved removal of the State's NO_x Budget Trading Program and CAIR rules from Tennessee's SIP. See 84 FR 7998 (March 6, 2019).

Tennessee submitted a SIP revision on December 19, 2019, which revised Tennessee Air Pollution Control Regulation (TAPCR) 1200-03-27-.12, "NO_x SIP Call Requirements for Stationary Boilers and Combustion Turbines" to correct the definition of "affected unit" and to clarify requirements related to stationary boilers and combustion turbines. On March 2, 2021 (86 FR 12092), EPA published a final rule approving the SIP revision. EPA also converted the conditional approval of the TN 2017 NO_x SIP Call Rule to a full approval. See EPA's March 2, 2021, final rule (86 FR 12092) for further detail on these changes and EPA's rationale for approving them.

After litigation that reached the Supreme Court, the D.C. Circuit generally upheld CSAPR but remanded several State budgets to EPA for reconsideration. *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118, 129-30 (D.C. Cir. 2015). EPA addressed the remanded ozone season NO_x budgets in the Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS (CSAPR Update), which also partially addressed Eastern States' good neighbor obligations for the 2008 ozone NAAQS. See 81 FR 74504 (October 26, 2016). The air quality modeling for the CSAPR Update demonstrated that Tennessee contributes significantly to nonattainment and/or interferes with maintenance of the 2008 ozone NAAQS in other States. The CSAPR Update reestablished an option for most States to meet their ongoing obligations for non-EGUs under the NO_x SIP Call by including the units in the CSAPR Update trading program.

⁶ Under CAA section 110(k)(4), EPA may conditionally approve a SIP revision based on a commitment from a State to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. If the State fails to meet the commitment within one year of the final conditional approval, the conditional approval will be treated as a disapproval.

² CAIR had separate trading programs for annual sulfur dioxide (SO₂) emissions, seasonal NO_x emissions, and annual NO_x emissions.

³ See 79 FR 71663 (December 3, 2014).

⁴ See 79 FR 71663 (December 3, 2014) and 81 FR 13275 (March 14, 2016).

⁵ EPA notes that it received the submittal on February 28, 2017.

The CSAPR Update trading program replaced the original CSAPR trading program for ozone season NO_x for most covered States. Tennessee's EGUs participate in the CSAPR Update trading program, which generally also addresses the State's obligations under the NO_x SIP Call for EGUs. However, Tennessee elected not to include its large non-EGUs in the CSAPR Update ozone season trading program. Because Tennessee's large non-EGUs do not participate in any CSAPR or CSAPR Update trading program for ozone season NO_x emissions, the NO_x SIP Call regulations at 40 CFR 51.121(r)(2), as well as anti-backsliding provisions at 40 CFR 51.905(f) and 40 CFR 51.1105(e), require these non-EGUs to maintain compliance with NO_x SIP Call requirements in some other way.

Under 40 CFR 51.121(f)(2) of the NO_x SIP Call regulations, where a State's implementation plan contains control measures for EGUs and large non-EQU boilers and combustion turbines, the SIP must contain enforceable limits on the ozone season NO_x emissions from these sources that ensure compliance with the State's budget. In addition, under 40 CFR 51.121(i)(4) of the NO_x SIP Call regulations as originally promulgated, the SIP also had to require these sources to monitor emissions according to the provisions of 40 CFR part 75, which generally entails the use of continuous emission monitoring systems. Tennessee triggered these requirements by including control measures in its SIP for these types of sources.

On March 8, 2019, EPA revised some of the regulations that were originally promulgated in 1998 to implement the NO_x SIP Call.⁷ The revision gave States covered by the NO_x SIP Call greater flexibility concerning the form of the NO_x emissions monitoring requirements that the States must include in their SIPs for certain emissions sources. The revision amended 40 CFR 51.121(i)(4) to make part 75 monitoring, recordkeeping, and reporting optional, such that SIPs may establish alternative monitoring requirements for NO_x SIP Call budget units that meet the general requirements of 40 CFR 51.121(f)(1) and (i)(1). Under the updated provision, a State's implementation plan still needs to include some form of emissions monitoring requirements for these types of sources, consistent with the NO_x SIP Call's general enforceability and monitoring requirements at 40 CFR 51.121(f)(1) and (i)(1), respectively, but States are no longer required to satisfy

these general NO_x SIP Call requirements specifically through the adoption of 40 CFR part 75 monitoring requirements.

II. Why is EPA proposing this action?

TDEC's June 26, 2023, submission requests that EPA approve into Tennessee's SIP TAPCR 1200–03–27–.12(11), which became effective as a matter of State law (hereinafter, “State effective”) on November 24, 2022, to specify alternative NO_x monitoring, recordkeeping, and reporting requirements for large industrial non-EGUs subject to the NO_x SIP Call that are permissible as alternatives to the monitoring, recordkeeping, and reporting requirements of 40 CFR part 75. The June 26, 2023, submittal also requests that EPA approve into Tennessee's SIP Tennessee Air Pollution Control Board operating permit No. 079291 for Domtar, State effective on January 12, 2022, to establish alternative NO_x monitoring, recordkeeping, and reporting requirements for the No. 2 Power Boiler at this facility, as meeting the requirements of 40 CFR 51.121(i). The submission also includes a demonstration under CAA section 110(l) intended to show that these revisions would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. As discussed later, EPA has reviewed these changes, finds them consistent with the CAA and regulations governing the NO_x SIP Call, and is proposing to approve the revision to incorporate the revisions to TAPCR 1200–03–27–.12(11) and Tennessee Air Pollution Control Board operating permit No. 079291 for Domtar into the State's implementation plan. Adopting TAPCR 1200–03–27–.12(11) into Tennessee's SIP would also allow EPA to convert conditional approval actions for Packaging Corporation of America (88 FR 8771; February 10, 2023) and Eastman Chemical Company (88 FR 14276; March 8, 2023) to full approval.

III. Analysis of Tennessee's Submission

A. TAPCR 1200–03–27–.12(11)

On June 26, 2023, TDEC submitted a SIP revision with changes to TAPCR 1200–03–27–.12(11) to modify monitoring, recordkeeping, and reporting requirements for large industrial non-EGUs subject to the NO_x SIP Call. The version of TAPCR 1200–03–27–.12(11) that is currently approved in Tennessee's SIP requires non-EGUs subject to the NO_x SIP Call to “comply with the applicable monitoring, recordkeeping, and

reporting requirements provided in 40 CFR part 75 for each control period.” TAPCR 1200–03–27–.12(11)(b) within Tennessee's current SIP-approved rule restates the part 75 provision at 40 CFR 75.70(h)(3) that allows a source subject to part 75 to petition TDEC and EPA to authorize alternatives to individual part 75 monitoring, recordkeeping, or reporting requirements, but the current rule does not authorize approval of any alternative to the requirements of 40 CFR part 75 in their entirety. In previous actions cited in section II of this document, EPA conditionally approved source-specific alternative, recordkeeping, and reporting requirements for two Tennessee sources for purposes of the NO_x SIP Call, subject to TDEC's commitment to modify the provisions of TAPCR 1200–03–27–.12(11) to specify permissible alternative monitoring, recordkeeping, and reporting requirements for large industrial non-EGUs. The amended version of TAPCR 1200–03–27–.12(11) included in the June 26, 2023, SIP revision is intended to satisfy this commitment.

In its submittal, TDEC proposes to replace all text in paragraph (11), Monitoring and Reporting, of TAPCR 1200–03–27–.12 with new text establishing monitoring, recordkeeping, and reporting for large industrial non-EGUs subject to the NO_x SIP Call. Under this revised text, as a default, affected units would be required to use the “monitoring, recordkeeping, and reporting requirements set out in 40 CFR part 75 Subpart H,” as under the current rule. This methodology generally requires the use of a suite of continuous emission monitoring systems (CEMS), with several alternate options for sources that meet certain qualification requirements and contains detailed recordkeeping and reporting requirements.⁸

Apart from this default methodology, sources would also be authorized to use alternative methodologies specified in TAPCR 1200–03–27–.12(11)(a). The first alternative is the methodology in 40 CFR 60 subpart D to determine the NO_x emission rate in lb/MMBtu, multiplied by measured fuel consumption in MMBtu to determine NO_x mass emissions. Pursuant to 40 CFR 60.45(a), this methodology requires that the NO_x emission rate would be calculated from

⁸In October 1998, EPA added Subpart H to part 75, which provided a blueprint for the monitoring and reporting of NO_x mass emissions and heat input under a State or Federal NO_x emissions reduction program. Subpart H was first adopted as the required monitoring methodology for NO_x mass emissions and heat input under the NO_x Budget Trading Program, discussed above.

⁷ See “Emissions Monitoring Provisions in State Implementation Plans Required Under the NO_x SIP Call,” 84 FR 8422 (March 8, 2019).

part 60 CEMS measurements using Method 19 in appendix A to 40 CFR part 60.

The second alternative is the methodology in 40 CFR 60 subpart Db to determine NO_x emission rate in lb/MMBtu, multiplied by measured fuel consumption in MMBtu to determine NO_x mass emissions. This methodology likewise requires use of CEMS measurements to calculate NO_x emission rate using method 19 in appendix A to 40 CFR part 60.

The third alternative allows for an alternative monitoring method separately approved by EPA through a revision to Tennessee's SIP. Although the revised version of TAPCR 1200–03–27–.12(11)(a) allows for an alternative methodology approved by EPA into Tennessee's SIP as one of the three “approved” alternate monitoring methods, this methodology will not be discussed further in this Notice because it requires an entirely separate SIP revision approved by EPA.

Under the revised version of TAPCR 1200–03–27–.12(11)(a), any of the approved alternatives to the default methodology would become effective only upon incorporation into a federally enforceable construction or operating permit. Therefore, revised TAPCR 1200–03–27–.12(11)(c) also requires a source seeking to use either of the 40 CFR part 60 alternatives described above to submit a permit application to TDEC that includes “a description of the overall monitoring program for conducting continuous in-stack monitoring for NO_x emissions.” “To be approvable, the program must address” items such as technical instrument specifications, location of monitoring instruments in the effluent gas stream, quality assurance procedures, and other items to allow TDEC to confirm that any application, if approved, would comply with the requirements of 40 CFR part 60, subpart D or 40 CFR part 60, subpart Db.

Additionally, the revised version of TAPCR 1200–03–27–.12(11) requires sources subject to this rule that use an alternative monitoring method to calculate NO_x mass emissions (in tons) for each control period and report the total to the Technical Secretary no later than December 31 following the end of the control period, with the Technical Secretary reporting the total to EPA no later than January 31 following the end of each control period.

Section 110(l) of the CAA prohibits EPA from approving a SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. In

its submittal, TDEC includes a demonstration in accordance with section 110(l) of the CAA that the proposed revision would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. Tennessee's demonstration concludes that the proposed changes are compliant with section 110(l) of the CAA because: (1) Tennessee's review of all non-EGUs subject to the NO_x SIP Call demonstrates that NO_x emissions for the collection of affected facilities are well below the State's NO_x budget for the facilities under TAPCR 1200–03–27–.12(5) of 5,666 tons (for example, the facilities' emissions during the 2019 ozone season were approximately 33% of this NO_x budget); and (2) the alternative monitoring requirements would be permanent, enforceable, and sufficient to determine whether the sources are in compliance with the NO_x SIP Call emissions requirements. EPA is proposing to agree with Tennessee's rationale summarized above and the conclusion that the proposed revision satisfies CAA section 110(l).

In order to address the requirements of the NO_x SIP Call for sources that are not covered under a CSAPR trading program for ozone season NO_x emissions, SIP revisions must provide for enforceable emissions limitations and require emissions monitoring consistent with the NO_x SIP Call's general enforceability and monitoring requirements.⁹ See 40 CFR 51.121(f)(2). EPA is proposing to find that with the amendments to TAPCR 1200–03–27–.12(11) included in TDEC's June 26, 2023, submittal, TAPCR 1200–03–27–.12 continues to meet the requirements in 40 CFR 51.121(f)(2) and all other requirements of the CAA, including 40 CFR 51.121(i)(1) and (4). Thus, EPA is proposing to approve the amendments to TAPCR 1200–03–27–.12(11), state effective November 24, 2022,¹⁰ pursuant to CAA section 110(k)(3).

B. Domtar Paper Company, LLC

On August 13, 2021, Domtar submitted a petition to TDEC requesting approval of alternative monitoring, recordkeeping, and reporting requirements for the boiler subject to the

NO_x SIP Call (No. 2 Power Boiler) at Domtar's Kingsport Mill. That petition resulted in TDEC's issuance of operating permit No. 079291 to Domtar, State effective on January 12, 2022, to address NO_x SIP Call requirements and to adopt an alternative monitoring option (along with corresponding recordkeeping and reporting requirements) for this large non-EGU. This permit has been submitted by TDEC for approval into Tennessee's SIP. The permit conditions within this permit are consistent with the flexibility provided to States in the EPA's March 8, 2019 (84 FR 8422) rulemaking concerning the form of the NO_x emissions monitoring requirements that the States must include in their SIPs for certain emissions sources, such as Domtar, to comply with the NO_x SIP Call, as required at 40 CFR 51.121(i)(4).¹¹

Specifically, operating permit Condition 1 provides that this source's compliance with Tennessee's rules implementing the NO_x SIP Call is met through compliance with operating permit Conditions 2 through 5. Operating permit Condition 2 provides that Domtar may demonstrate compliance with Tennessee Rule 1200–03–27–.12 by monitoring NO_x emissions from the No. 2 Power Boiler using the monitoring methodologies for NO_x emission rate set forth in 40 CFR part 60, appendix B, in combination with monitoring of heat input. Specifically, Performance Specification 2 within 40 CFR part 60, appendix B would apply. This Performance Specification provides detailed specifications and test procedures for NO_x CEMS in stationary sources, including procedures for measuring CEMS relative accuracy and calibration drift, CEMS installation and measurement location specifications, equipment specifications, performance specifications, and data reduction procedures.

Operating permit Condition 3 requires that Domtar submit a program for conducting continuous in-stack monitoring for NO_x mass emissions for approval by TDEC in accordance with the requirements of 40 CFR part 60, appendix B. To be approvable by TDEC, the program shall address the following:

⁹ See 40 CFR 51.121(f)(2)(ii) and 51.121(i)(4).

¹⁰ On November 16, 2023, TDEC emailed EPA an addendum to its SIP submittal containing the signed version of TAPCR 1200–03–27–.12(11), State effective November 24, 2022. TDEC's original June 26, 2023, SIP submittal to EPA previously included only an unsigned version of this rule. TDEC's November 16, 2023, email to EPA, and the signed version of TAPCR 1200–03–27–.12(11), State effective November 24, 2022, are contained in the regulatory docket for this Notice.

¹¹ TDEC previously included the Domtar permit in a January 20, 2022, SIP submittal. At that time TDEC had not yet submitted the modifications to TAPCR 1200–03–27–.12(11) discussed in section III.A of this document, and in the absence of those rule revisions, EPA proposed to conditionally approve the permit into the SIP. See 88 FR 13394 (March 3, 2023). TDEC subsequently withdrew the January 20, 2022, SIP submittal and instead included the permit in the June 26, 2023, SIP submittal together with the modifications to TAPCR 1200–03–27–.12(11).

(a) A description of the overall monitoring program;

(b) Specifications demonstrating that the proposed monitoring instruments will meet the requirements of 40 CFR part 60, appendix B;

(c) Specifications for the proposed fuel flow meter and a discussion of how the fuel Btu content will be determined;

(d) Proposed location(s) of the monitoring instruments on the boiler effluent gas stream;

(e) Proposed procedures for conducting performance specification testing of the monitoring instruments in units of the applicable standard (*i.e.*, NO_x mass emissions);

(f) Proposed ongoing monitoring instrument quality assurance procedures (40 CFR part 60, appendix F or approved alternative);

(g) Procedures for addressing missing data (40 CFR part 75, appendix C, appendix F or approved alternative); and

(h) Proposed format for the reporting of data.

Condition 3 will allow TDEC to assess the technical aspects of the monitors that the source would be installing to ensure compliance with 40 CFR 60, appendix B.

Operating permit Condition 4 requires Domtar to calculate NO_x mass emissions (in tons) for each control period and report the total to TDEC no later than December 31 following the end of the control period. Further, Condition 4 requires that NO_x emission rates shall be calculated from continuous emissions monitoring system (CEMS) measurements using Method 19 in appendix A–7 to 40 CFR part 60.

Operating permit Condition 5 requires Domtar to maintain records of all measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by this part recorded in a permanent form suitable for inspection. These records shall be retained for at least five years following the end of the control period in which such measurements, maintenance, reports, and records were collected.

In its submittal, TDEC includes a demonstration in accordance with section 110(l) of the CAA that the proposed source-specific SIP revision for Domtar would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable

requirement of the CAA. Tennessee's demonstration explains that the proposed changes are compliant with section 110(l) of the CAA because: (1) As a newly constructed affected unit, TDEC calculated pursuant to the SIP-approved version of TAPCR 1200–03–27–.12(6) that the NO_x allowance allocation for the No. 2 Power Boiler would be 160 tons per control period based on construction permit No. 978656, Condition S2–4.F (establishing NO_x emission limit of 0.10 lb/MMBtu), which would be 2.8 percent of Tennessee's NO_x budget of 5,666 tons; (2) revising the monitoring method will not increase NO_x emissions; (3) Tennessee's review of all non-EGUs subject to the NO_x SIP Call demonstrates that NO_x emissions for the collection of affected facilities are well below the State's NO_x budget; and (4) the alternative monitoring requirements would be permanent, enforceable, and sufficient to determine whether the source is in compliance with the NO_x SIP Call emissions requirements. EPA preliminarily agrees with Tennessee's rationale summarized above and the conclusion that the proposed revision would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

In order to address the requirements of the NO_x SIP Call for sources that are not covered under a CSAPR trading program for ozone season NO_x emissions, SIP revisions must provide for enforceable emissions limitations and require emissions monitoring consistent with the NO_x SIP Call's general enforceability and monitoring requirements. EPA is proposing to find that TDEC's submittal meets these requirements and all other applicable requirements of the CAA, including 40 CFR 51.121(i)(1) and (4). Thus, EPA is proposing to approve TDEC operating permit No. 079291, State effective on January 12, 2022, into Tennessee's SIP pursuant to CAA section 110(k)(3).

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed in sections I through III of this preamble, EPA is proposing to incorporate by reference TAPCR 1200–03–27–.12(11), State effective on November 24, 2022, into Tennessee's SIP. EPA is also proposing to incorporate by reference Tennessee Air Pollution Control Board operating permit No. 079291 for Domtar, State effective on January 12, 2022. EPA has

made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Proposed Action

EPA is proposing to approve TAPCR 1200–03–27–.12(11), State effective November 24, 2022, and Tennessee Air Pollution Control Board operating permit No. 079291 for Domtar, State effective on January 12, 2022, for incorporation into the Tennessee SIP. These changes were submitted by Tennessee on June 26, 2023.

VI. 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 proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed 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 Clean Air Act.

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

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, 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.”

TDEC 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 proposed action. Due to the nature of the action being proposed here, this proposed action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this proposed action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: July 9, 2024.

Jeanne Gettle,

Acting Regional Administrator, Region 4.

[FR Doc. 2024–15396 Filed 7–15–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA–R02–OAR–2024–0277; FRL 12035–01–R2]

Outer Continental Shelf Air Regulations Update To Include New Jersey State Requirements

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to update a portion of the Outer Continental Shelf (OCS) Air Regulations. Requirements applying to OCS sources located within 25 miles of states’ seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (COA), as mandated by the Clean Air Act (CAA). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the State of New Jersey is the COA. The intended effect of approving the OCS requirements for the State of New Jersey is to regulate emissions from OCS sources in accordance with the requirements onshore. The requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and listed in the appendix to the OCS air regulations.

DATES: Written comments must be received on or before August 15, 2024.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R02–OAR–2024–0277 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not

consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Viorica Petriman, Air Programs Branch, Permitting Section, U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007, (212) 637–4021, petriman.viorica@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background and Purpose
- II. The EPA’s Evaluation
- III. The EPA’s Proposed Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. Background and Purpose

On September 4, 1992, EPA promulgated 40 CFR part 55 (“Part 55”),¹ which established requirements to control air pollution from Outer Continental Shelf (OCS) sources in order to attain and maintain Federal and State ambient air quality standards (AAQS) and to comply with the provisions of part C of title I of the Clean Air Act (CAA). The 40 CFR part 55 regulations apply to all OCS sources offshore of the states except those located in the Gulf of Mexico west of 87.5 degrees longitude.

Section 328(a) of the CAA requires that for such OCS sources located within 25 miles of a State’s seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the corresponding onshore area (COA). Because the OCS requirements are based on onshore requirements, and onshore requirements may change, CAA section 328(a)(1) requires that the EPA update the OCS requirements as necessary to maintain consistency with onshore requirements. To comply with this statutory mandate, the EPA must incorporate by reference into part 55 all relevant state rules in effect for onshore sources, so they can be applied to OCS sources located offshore. This limits EPA’s flexibility in deciding which requirements will be incorporated into

¹ The reader may refer to the Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

40 CFR part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into 40 CFR part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the CAA. Inclusion in the OCS rule does not imply that a rule meets the requirements of the CAA for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

40 CFR 55.12 specifies certain times at which part 55's incorporation by reference of a state's rules must be updated. One time such a "consistency update" must occur is when any OCS source applicant submits a Notice of Intent (NOI) under 40 CFR 55.4 for a new or a modified OCS source. 40 CFR 55.4(a) requires that any OCS source applicant must submit to EPA an NOI before performing any physical change or change in method of operation that results in an increase in emissions if the OCS source is located within 25 miles of a state's seaward boundaries. EPA must conduct any necessary consistency update when it receives an NOI, and prior to receiving any application for a preconstruction permit from the OCS source applicant. 40 CFR 55.6(b)(2) and 55.12(f). This proposed action is being taken in response to the submittal of an NOI to EPA, with copies provided to certain state agencies, on May 10, 2024, by Atlantic Shores Offshore Wind Project 3, LLC, which proposes to submit an OCS permit application for the construction of a new OCS source (a wind energy project) about 7.3 nautical miles offshore New Jersey.

II. The EPA's Evaluation

In updating 40 CFR part 55, the EPA reviewed the New Jersey State Department of Environmental Protection ("NJDEP") air rules currently in effect, to ensure that they are rationally related to the attainment or maintenance of Federal and State AAQS or part C of title I of the CAA, that they are not designed expressly to prevent exploration and development of the OCS, and that they are applicable to OCS sources. *See* 40 CFR 55.1. The EPA has also evaluated the rules to ensure they are not arbitrary and capricious. *See* 40 CFR 55.12(e). The EPA has excluded New Jersey's administrative or procedural rules,² and requirements

that regulate toxics which are not related to the attainment and maintenance of Federal and State AAQS.

III. The EPA's Proposed Action

In today's action, the EPA is proposing to amend 40 CFR 55.14 to incorporate by reference an updated compilation of the State of New Jersey Requirements Applicable to OCS Sources and to revise the "New Jersey" entry in appendix A to 40 CFR part 55 to include air pollution control rules found in New Jersey Administrative Code, title 7, Chapters 27 and 27B, and currently state effective. The specific provisions are identified in the proposed regulatory language at the end of this proposed rule.

IV. Incorporation by Reference

In this proposed rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference an updated compilation of NJDEP air rules applicable to OCS sources, "State of New Jersey Requirements Applicable to OCS Sources," dated June 6, 2024, that includes the updated state provisions described in sections II. and III. of this preamble. These documents are available in the docket of this rulemaking through www.regulations.gov.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore air control requirements. To comply with this statutory mandate, the EPA must incorporate applicable onshore rules into part 55 as they exist onshore. 42 U.S.C. 7627(a)(1); 40 CFR 55.12. Thus, in promulgating OCS consistency updates, the EPA's role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the Clean Air Act. Accordingly, this action simply updates the existing OCS requirements to make them consistent with requirements onshore, without the exercise of any policy discretion by the EPA.

implement the substantive requirements. *See* 40 CFR 55.14(c)(4).

a. Executive Order 12866, Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Orders (E.O.) 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011) and is therefore not subject to review under the E.O.

b. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under PRA because this action only updates the state rules that are incorporated by reference into 40 CFR part 55, appendix A. OMB has previously approved the information collection activities contained in the existing regulations at 40 CFR part 55 and, by extension, this update to 40 CFR part 55, and has assigned OMB control number 2060–0249. This action does not impose a new information burden under PRA because this action only updates the state rules that are incorporated by reference into 40 CFR part 55, appendix A.

c. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant impact on a substantial number of small entities under the RFA. This proposed rule does not impose any requirements or create impacts on small entities. This proposed consistency update under CAA section 328 will not create any new requirements but simply proposes to update the State requirements incorporated by reference into 40 CFR part 55 to match the current State requirements.

d. Unfunded Mandates Reform Act (UMRA)

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

e. Executive Order 13132, Federalism

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

f. Executive Order 13175, Coordination With Indian Tribal Governments

This action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have a

² Each COA which has been delegated the authority to implement and enforce part 55 will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, as is the case in New Jersey, EPA will use its own administrative and procedural requirements to

substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, nor does it impose substantial direct costs on Tribal governments, nor preempt Tribal law. It merely proposes to update the State law incorporated by reference into 40 CFR part 55 to match current State requirements.

g. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 and simply proposes to update the State requirements incorporated by reference into 40 CFR part 55 to match the current State requirements.

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

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

i. National Technology Transfer and Advancement Act

This rulemaking is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

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

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health, or environmental effects, using practicable and legally permissible methods.

List of Subjects in 40 CFR Part 55

Environmental protection,
Administrative practice and procedures,

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Lisa Garcia,

Regional Administrator, Region 2.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations, part 55, is proposed to be amended as follows.

PART 55—[AMENDED]

■ 1. The authority citation for 40 CFR part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101–549.

■ 2. Section 55.14 is amended by revising the paragraph (e)(15)(i)(A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States’ seaward boundaries, by State.

* * * * *

(e) * * *

(15) * * *

(i) * * *

(A) State of New Jersey Requirements
Applicable to OCS Sources, June 6, 2024.

* * * * *

■ 3. Appendix A to 40 CFR part 55 is amended by revising the entry for “New Jersey” to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

New Jersey

(a) State requirements.

(1) The following State of New Jersey requirements are applicable to OCS Sources, as of June 6, 2024. New Jersey Department of Environmental Protection—New Jersey Administrative Code. The following sections of Title 7:

Chapter 27 Subchapter 2—Control and Prohibition of Open Burning (Effective 6/20/1994)

N.J.A.C. 7:27–2.1. Definitions
N.J.A.C. 7:27–2.2. Open burning for salvage operations
N.J.A.C. 7:27–2.3. Open burning of refuse
N.J.A.C. 7:27–2.4. General provisions
N.J.A.C. 7:27–2.6. Prescribed burning
N.J.A.C. 7:27–2.7. Emergencies
N.J.A.C. 7:27–2.8. Dangerous material
N.J.A.C. 7:27–2.12. Special permit
N.J.A.C. 7:27–2.13. Fees

Chapter 27 Subchapter 3—Control and Prohibition of Smoke From Combustion of Fuel (Effective 2/4/2002)

N.J.A.C. 7:27–3.1. Definitions
N.J.A.C. 7:27–3.2. Smoke emissions from stationary indirect heat exchangers
N.J.A.C. 7:27–3.3. Smoke emissions from marine installations
N.J.A.C. 7:27–3.4. Smoke emissions from the combustion of fuel in mobile sources
N.J.A.C. 7:27–3.5. Smoke emissions from stationary internal combustion engines and stationary turbine engines
N.J.A.C. 7:27–3.6. Stack test
N.J.A.C. 7:27–3.7. Exceptions

Chapter 27 Subchapter 4—Control and Prohibition of Particles From Combustion of Fuel (Effective 4/20/2009)

N.J.A.C. 7:27–4.1. Definitions
N.J.A.C. 7:27–4.2. Standards for the emission of particles
N.J.A.C. 7:27–4.3. Performance test principle
N.J.A.C. 7:27–4.4. Emissions tests
N.J.A.C. 7:27–4.6. Exceptions

Chapter 27 Subchapter 5—Prohibition of Air Pollution (Effective 10/12/1977)

N.J.A.C. 7:27–5.1. Definitions
N.J.A.C. 7:27–5.2. General provisions

Chapter 27 Subchapter 6—Control and Prohibition of Particles From Manufacturing Processes (Effective 5/4/1998)

N.J.A.C. 7:27–6.1. Definitions
N.J.A.C. 7:27–6.2. Standards for the emission of particles
N.J.A.C. 7:27–6.3. Performance test principles
N.J.A.C. 7:27–6.4. Emissions tests
N.J.A.C. 7:27–6.5. Variances
N.J.A.C. 7:27–6.7. Exceptions

Chapter 27 Subchapter 7—Sulfur (Effective 11/6/2017)

N.J.A.C. 7:27–7.1. Definitions
N.J.A.C. 7:27–7.2. Control and prohibition of air pollution from sulfur compounds

Chapter 27 Subchapter 8—Permits and Certificates for Minor Facilities (and Major Facilities Without an Operating Permit) (Effective 11/20/2023)

N.J.A.C. 7:27–8.1. Definitions
N.J.A.C. 7:27–8.2. Applicability
N.J.A.C. 7:27–8.3. General provisions
N.J.A.C. 7:27–8.4. How to apply, register, submit a notice, or renew
N.J.A.C. 7:27–8.5. Air quality impact analysis
N.J.A.C. 7:27–8.6. Service fees
N.J.A.C. 7:27–8.7. Operating certificates
N.J.A.C. 7:27–8.8. General permits
N.J.A.C. 7:27–8.9. Environmental improvement pilot tests
N.J.A.C. 7:27–8.11. Standards for issuing a permit
N.J.A.C. 7:27–8.12. State of the art
N.J.A.C. 7:27–8.13. Conditions of approval
N.J.A.C. 7:27–8.14. Denials
N.J.A.C. 7:27–8.15. Reporting requirements
N.J.A.C. 7:27–8.16. Revocation
N.J.A.C. 7:27–8.17. Changes to existing permits and certificates
N.J.A.C. 7:27–8.18. Permit revisions
N.J.A.C. 7:27–8.19. Compliance plan changes
N.J.A.C. 7:27–8.20. Seven-day notice changes
N.J.A.C. 7:27–8.21. Amendments

N.J.A.C. 7:27–8.23. Reconstruction
 N.J.A.C. 7:27–8.24. Special provisions for construction but not operation
 N.J.A.C. 7:27–8.25. Special provisions for pollution control equipment or pollution prevention process modifications
 Appendix 1

Chapter 27 Subchapter 9—Sulfur in Fuels (Effective 9/20/2010)

N.J.A.C. 7:27–9.1. Definitions
 N.J.A.C. 7:27–9.2. Sulfur content standards
 N.J.A.C. 7:27–9.3. Exemptions
 N.J.A.C. 7:27–9.4. Waiver of air quality modeling

Chapter 27 Subchapter 10—Sulfur in Solid Fuels (Effective 9/6/2011)

N.J.A.C. 7:27–10.1. Definitions
 N.J.A.C. 7:27–10.2. Sulfur contents standards
 N.J.A.C. 7:27–10.3. Expansion, reconstruction, or construction of solid fuel burning units
 N.J.A.C. 7:27–10.4. Exemptions
 N.J.A.C. 7:27–10.5. SO₂ emission rate determinations

Chapter 27 Subchapter 11—Incinerators (Effective 5/4/1998)

N.J.A.C. 7:27–11.1. Definitions
 N.J.A.C. 7:27–11.2. Construction standards
 N.J.A.C. 7:27–11.3. Emission standards
 N.J.A.C. 7:27–11.4. Permit to construct; certificate to operate
 N.J.A.C. 7:27–11.5. Operation
 N.J.A.C. 7:27–11.6. Exceptions

Chapter 27 Subchapter 12—Prevention and Control of Air Pollution Emergencies (Effective 5/20/1974)

N.J.A.C. 7:27–12.1. Definitions
 N.J.A.C. 7:27–12.2. Emergency criteria
 N.J.A.C. 7:27–12.3. Criteria for emergency termination
 N.J.A.C. 7:27–12.4. Standby plans
 N.J.A.C. 7:27–12.5. Standby orders
 Table I Emission Reduction Objectives
 Table II Emission Reduction Objectives
 Table III Emission Reduction Objectives

Chapter 27 Subchapter 16—Control and Prohibition of Air Pollution by Volatile Organic Compounds (Effective 4/4/2022)

N.J.A.C. 7:27–16.1. Definitions
 N.J.A.C. 7:27–16.1A. Purpose, scope, applicability, and severability
 N.J.A.C. 7:27–16.2. VOC stationary storage tanks
 N.J.A.C. 7:27–16.3. Gasoline transfer operations
 N.J.A.C. 7:27–16.4. VOC transfer operations, other than gasoline
 N.J.A.C. 7:27–16.5. Marine tank vessel loading and ballasting operations
 N.J.A.C. 7:27–16.6. Open top tanks and solvent cleaning operations
 N.J.A.C. 7:27–16.7. Surface coating and graphic arts operations
 N.J.A.C. 7:27–16.8. Boilers
 N.J.A.C. 7:27–16.9. Stationary combustion turbines

N.J.A.C. 7:27–16.10. Stationary reciprocating engines
 N.J.A.C. 7:27–16.12. Surface coating operations at mobile equipment repair and refinishing facilities
 N.J.A.C. 7:27–16.13. Flares
 N.J.A.C. 7:27–16.16. Other source operations
 N.J.A.C. 7:27–16.17. Alternative and facility-specific VOC control requirements
 N.J.A.C. 7:27–16.18. Leak detection and repair
 N.J.A.C. 7:27–16.19. Application of cutback and emulsified asphalts
 N.J.A.C. 7:27–16.21. Natural gas pipelines
 N.J.A.C. 7:27–16.22. Emission information, record keeping and testing
 N.J.A.C. 7:27–16.23. Procedures for demonstrating compliance
 N.J.A.C. 7:27–16.27. Exceptions
 Appendix I
 Appendix II

Chapter 27 Subchapter 18—Control and Prohibition of Air Pollution From New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rules) (Effective 11/6/2017)

N.J.A.C. 7:27–18.1. Definitions
 N.J.A.C. 7:27–18.2. Facilities subject to this subchapter
 N.J.A.C. 7:27–18.3. Standards for issuance of permits
 N.J.A.C. 7:27–18.4. Air quality impact analysis
 N.J.A.C. 7:27–18.5. Standards for use of emission reductions as emission offsets
 N.J.A.C. 7:27–18.6. Emission offset postponement
 N.J.A.C. 7:27–18.7. Determination of a net emission increase or a significant net emission increase
 N.J.A.C. 7:27–18.8. Banking of emission reductions
 N.J.A.C. 7:27–18.9. Secondary emissions
 N.J.A.C. 7:27–18.10. Exemptions
 N.J.A.C. 7:27–18.12. Civil or criminal penalties for failure to comply

Chapter 27 Subchapter 19—Control and Prohibition of Air Pollution From Oxides of Nitrogen (Effective 1/16/2018)

N.J.A.C. 7:27–19.1. Definitions
 N.J.A.C. 7:27–19.2. Purpose, scope, and applicability
 N.J.A.C. 7:27–19.3. General provisions
 N.J.A.C. 7:27–19.4. Boilers serving electric generating units
 N.J.A.C. 7:27–19.5. Stationary combustion turbines
 N.J.A.C. 7:27–19.6. Emissions averaging
 N.J.A.C. 7:27–19.7. Industrial/commercial/institutional boilers and other indirect heat exchangers
 N.J.A.C. 7:27–19.8. Stationary reciprocating engines
 N.J.A.C. 7:27–19.11. Emergency generators—recordkeeping
 N.J.A.C. 7:27–19.13. Alternative and facility-specific NO_x emission limits
 N.J.A.C. 7:27–19.14. Procedures for obtaining approvals under this subchapter

N.J.A.C. 7:27–19.15. Procedures and deadlines for demonstrating compliance
 N.J.A.C. 7:27–19.16. Adjusting combustion processes
 N.J.A.C. 7:27–19.17. Source emissions testing
 N.J.A.C. 7:27–19.18. Continuous emissions monitoring
 N.J.A.C. 7:27–19.19. Recordkeeping and recording
 N.J.A.C. 7:27–19.20. Fuel switching
 N.J.A.C. 7:27–19.21. Phased compliance—repowering
 N.J.A.C. 7:27–19.23. Phased compliance—use of innovative control technology
 N.J.A.C. 7:27–19.25. Exemption for emergency use of fuel oil
 N.J.A.C. 7:27–19.26. Penalties

Chapter 27 Subchapter 20—Used Oil Combustion (Effective 9/6/2011)

N.J.A.C. 7:27–20.1. Definitions
 N.J.A.C. 7:27–20.2. General provisions
 N.J.A.C. 7:27–20.3. Burning of on-specification used oil in space heaters covered by a registration
 N.J.A.C. 7:27–20.4. Burning of on-specification used oil in space heaters covered by a permit
 N.J.A.C. 7:27–20.5. Demonstration that used oil is on-specification
 N.J.A.C. 7:27–20.6. Burning of on-specification oil in other combustion units
 N.J.A.C. 7:27–20.7. Burning of off-specification used oil
 N.J.A.C. 7:27–20.8. Ash standard
 N.J.A.C. 7:27–20.9. Exception

Chapter 27 Subchapter 21—Emission Statements (Effective 6/6/2022)

N.J.A.C. 7:27–21.1. Definitions
 N.J.A.C. 7:27–21.2. Applicability
 N.J.A.C. 7:27–21.3. General provisions
 N.J.A.C. 7:27–21.4. Procedures for submitting an emission statement
 N.J.A.C. 7:27–21.5. Required contents of an emission statement
 N.J.A.C. 7:27–21.6. Methods to be used for quantifying actual emissions
 N.J.A.C. 7:27–21.7. Recordkeeping requirements
 N.J.A.C. 7:27–21.8. Certification of information
 N.J.A.C. 7:27–21.9. Request for extensions
 N.J.A.C. 7:27–21.10. Determination of non-applicability
 N.J.A.C. 7:27–21.11. Severability
 Appendix 1

Chapter 27 Subchapter 22—Operating Permits (Effective 1/3/2023)

N.J.A.C. 7:27–22.1. Definitions
 N.J.A.C. 7:27–22.2. Applicability
 N.J.A.C. 7:27–22.3. General provisions
 N.J.A.C. 7:27–22.4. General application procedures
 N.J.A.C. 7:27–22.5. Application procedures for initial operating permits
 N.J.A.C. 7:27–22.6. Operating permit application contents
 N.J.A.C. 7:27–22.7. Application shield

N.J.A.C. 7:27–22.8. Air quality simulation modeling and risk assessment
 N.J.A.C. 7:27–22.9. Compliance plans
 N.J.A.C. 7:27–22.10. Completeness reviews
 N.J.A.C. 7:27–22.11. Public comment
 N.J.A.C. 7:27–22.12. EPA comment
 N.J.A.C. 7:27–22.13. Final action on an application
 N.J.A.C. 7:27–22.14. General operating permits
 N.J.A.C. 7:27–22.15. Temporary facility operating permits
 N.J.A.C. 7:27–22.16. Operating permit contents
 N.J.A.C. 7:27–22.17. Permit shield
 N.J.A.C. 7:27–22.18. Source emissions testing and monitoring
 N.J.A.C. 7:27–22.19. Recordkeeping, reporting and compliance certification
 N.J.A.C. 7:27–22.20. Administrative amendments
 N.J.A.C. 7:27–22.21. Changes to insignificant source operations
 N.J.A.C. 7:27–22.22. Seven-day-notice changes
 N.J.A.C. 7:27–22.23. Minor modifications
 N.J.A.C. 7:27–22.24. Significant modifications
 N.J.A.C. 7:27–22.24A. Reconstruction
 N.J.A.C. 7:27–22.25. Department initiated operating permit modifications
 N.J.A.C. 7:27–22.26. MACT and GACT standards
 N.J.A.C. 7:27–22.27. Operating scenarios
 N.J.A.C. 7:27–22.28A. Emissions trading
 N.J.A.C. 7:27–22.28B. Facility-specific emissions averaging programs
 N.J.A.C. 7:27–22.29. Facilities subject to acid deposition control
 N.J.A.C. 7:27–22.30. Renewals
 N.J.A.C. 7:27–22.31. Fees
 N.J.A.C. 7:27–22.32. Hearings and appeals
 N.J.A.C. 7:27–22.33. Preconstruction review
 N.J.A.C. 7:27–22.34. Early reduction of HAP emissions
 N.J.A.C. 7:27–22.35. Advances in the art of air pollution
 Appendix
 Table A

Chapter 27B Subchapter 1—Sampling and Analytical Procedures for Determining Emissions of Particles From Manufacturing Processes and From Combustion of Fuels (Effective 6/21/1976)

N.J.A.C. 7:27B–1.1. Definitions
 N.J.A.C. 7:27B–1.2. Acceptable test methods
 N.J.A.C. 7:27B–1.3. Operating conditions during the test
 N.J.A.C. 7:27B–1.4. Sampling facilities to be provided by the person responsible for emissions
 N.J.A.C. 7:27B–1.5. Sampling train
 N.J.A.C. 7:27B–1.6. Performance test principle
 N.J.A.C. 7:27B–1.7. General testing requirements
 N.J.A.C. 7:27B–1.8. Required test data
 N.J.A.C. 7:27B–1.9. Preparation for sampling
 N.J.A.C. 7:27B–1.10. Sampling
 N.J.A.C. 7:27B–1.11. Sample recovery
 N.J.A.C. 7:27B–1.12. Analysis
 N.J.A.C. 7:27B–1.13. Calculations
 N.J.A.C. 7:27B–1.14. Validation of test

Chapter 27B Subchapter 2—Procedures for Visual Determination of the Opacity (Percent) and Shade or Appearance (Ringelmann Number) of Emissions From Sources (Effective 6/21/1976)

N.J.A.C. 7:27B–2.1. Definitions
 N.J.A.C. 7:27B–2.2. Acceptable observation methods
 N.J.A.C. 7:27B–2.3. Observation principle
 N.J.A.C. 7:27B–2.4. General observation requirements
 N.J.A.C. 7:27B–2.5. Required observation data
 N.J.A.C. 7:27B–2.6. Certification
 References
 Appendix

Chapter 27B Subchapter 3—Air Test Method 3: Sampling and Analytical Procedures for the Determination of Volatile Organic Compounds From Source Operations (Effective 12/1/2008)

N.J.A.C. 7:27B–3.1. Definitions
 N.J.A.C. 7:27B–3.2. Sampling and analytical protocol: acceptable test methods
 N.J.A.C. 7:27B–3.3. Operating conditions during the test
 N.J.A.C. 7:27B–3.4. Sampling facilities
 N.J.A.C. 7:27B–3.5. Source operations and applicable test methods
 N.J.A.C. 7:27B–3.6. Procedures for the determinations of vapor pressures of a single known VOC or mixtures of known and/or unknown VOC
 N.J.A.C. 7:27B–3.7. Procedures for the direct measurement of volatile organic compounds using a flame ionization detector (FID), a photoionization detector (PID) or a non-dispersive infrared analyzer (NDIR)
 N.J.A.C. 7:27B–3.8. Procedures for the direct measurement of volatile organic compounds using a gas chromatograph (GC) with a flame ionization detector (FID) or other suitable detector
 N.J.A.C. 7:27B–3.9. Procedures for the sampling and remote analysis of known volatile organic compounds using a gas chromatograph (GC) with a flame ionization detector (FID) or other suitable detector
 N.J.A.C. 7:27B–3.10. Procedures for the determination of volatile organic compounds in surface coating formulations
 N.J.A.C. 7:27B–3.11. Procedures for the determination of volatile organic compounds emitted from transfer operations using a flame ionization detector (FID) or non-dispersive infrared analyzer (NDIR)
 N.J.A.C. 7:27B–3.12. Procedures for the determination of volatile organic compounds in cutback and emulsified asphalts
 N.J.A.C. 7:27B–3.13. Procedures for the determination of leak tightness of gasoline delivery vessels
 N.J.A.C. 7:27B–3.14. Procedures for the direct detection of fugitive volatile organic compound leaks
 N.J.A.C. 7:27B–3.15. Procedures for the direct detection of fugitive volatile organic compound leaks from gasoline tank trucks and vapor collection systems using a combustible gas detector

N.J.A.C. 7:27B–3.18. Test methods and sources incorporated by reference.

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[FR Doc. 2024–15327 Filed 7–15–24; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2024–0278; FRL–12055–01–OCSPP]

Polytetrafluoroethylene; Revocation of the Tolerance Exemption When Used as an Inert Ingredient in Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is proposing to revoke the tolerance exemption for residues of polytetrafluoroethylene (CAS No. 9002–84–0) under the Federal Food, Drug, and Cosmetic Act (FFDCA) when used as an inert ingredient in pesticide formulations. EPA is proposing to revoke this tolerance exemption because polytetrafluoroethylene, which has been identified as a per- and polyfluoroalkyl substance (PFAS), is no longer used in any registered pesticide product.

DATES: Comments must be received on or before September 16, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2024–0278, through the *Federal eRulemaking Portal* at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural

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

- Crop production (NAICS code 111), *e.g.*, agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), *e.g.*, cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), *e.g.*, agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), *e.g.*, agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2024-0278 the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before September 16, 2024.

EPA's Office of Administrative Law Judges (OALJ), where the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. See "Revised Order Urging Electronic Service and Filing", dated June 22, 2023, which can be found at <https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf>. Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat

submissions filed via electronic means as properly filed submissions; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the OALJ electronically, a person should utilize the OALJ e-filing system at https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf/HomePage?ReadForm.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2024-0278, by one of the following methods:

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

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

II. Background

A. What action is the Agency taking?

EPA is proposing to revoke the tolerance exemption in 40 CFR 180.960 for polytetrafluoroethylene (CAS No. 9002-84-0) when used as an inert ingredient in pesticide formulations. This is being proposed because polytetrafluoroethylene has been identified as a per- and polyfluoroalkyl substance (PFAS), and it is no longer used in any registered pesticide product.

B. What is the Agency's authority for taking this action?

EPA is proposing this action pursuant to its authority under section 408 of the FFDCA, 21 U.S.C. 346a. Under section 408(e) of the FFDCA, EPA may issue a rule revoking tolerances after providing

notice of a proposed rulemaking and a period of not less than 60 days for public comment. 21 U.S.C. 346a(e).

C. When does this action become effective?

EPA is proposing that this action become effective six months after the date of publication of the final rule in the **Federal Register**. EPA is proposing this effective date for this action to allow a reasonable interval for producers in exporting members of the World Trade Organization's (WTO's) Sanitary and Phytosanitary (SPS) Measures Agreement to adapt to the requirements of the final rule.

Any commodities treated with polytetrafluoroethylene in the channels of trade following the tolerance exemption revocation shall be subject to FFDCA section 408(l)(5), 21 U.S.C. 346a(l)(5). Under this section, any residues of this pesticide in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA and the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption, unless EPA determines that consumption of legally treated food during the period of its likely availability in commerce will pose unreasonable dietary risk. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

III. Proposed Rule

EPA is proposing to revoke the tolerance exemption for use of polytetrafluoroethylene (CAS No. 9002-84-0), also known as Teflon®, as an inert ingredient in pesticide products under the 40 CFR 180.960. This action is being taken because polytetrafluoroethylene, which has been identified as a per- and polyfluoroalkyl substance (PFAS), is no longer used in any registered pesticide product.

PFAS are synthetic organic compounds that do not occur naturally in the environment but have widespread use in commerce. The strong carbon-fluorine bonds of PFAS make some of them resistant to degradation and thus highly persistent in the environment. Some PFAS have been detected in wildlife and in humans, indicating that at least some PFAS have the ability to bioaccumulate. All pesticide products registered in the United States that

initially used polytetrafluoroethylene as an inert ingredient have been cancelled or reformulated to no longer contain polytetrafluoroethylene. Therefore, there are no current registrations for pesticide products containing polytetrafluoroethylene as an inert ingredient.

After the close of the comment period, EPA will consider all comments received and determine an appropriate final action.

IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to revoke a specific tolerance exemption under its authority in FFDCA section 408(e). The Office of Management and Budget (OMB) has exempted this type of action (e.g., tolerance exemption revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993) and updated by Executive Order 14094, entitled “Modernizing Regulatory Review” (88 FR 21879, April 11, 2023). Because this proposed rule has been exempted from review under Executive Order 12866, due to its lack of significance, this proposed rule is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*). Nor does it require any special considerations as required under Executive Order 14096, entitled “Revitalizing our Nation’s Commitment to Environmental Justice for All” (88 FR 25251, April 26, 2023); or OMB review or any other Agency action under Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997). This proposed rule does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might

significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published in the **Federal Register** of December 17, 1997 (62 FR 66020) (FRL–5753–1) and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticide named in this proposed rule, the Agency hereby certifies that this proposed rule will not have a significant negative economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document titled “RFA/SBREFA Certification for Import Tolerance Revocation” is available in the docket of this proposed rule.) Furthermore, for the pesticide named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposed rule that would change EPA’s previous analysis. Any comments about the Agency’s determination should be submitted to the EPA along with comments on the proposed rule and will be addressed prior to issuing a final rule.

In addition, the Agency has determined that this proposed rule will not have a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999). Executive Order 13132, requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.” This proposed rule directly regulates growers, food processors, food handlers, and food

retailers, not States. This proposed rule does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this proposed rule does not have any “tribal implications” as described in Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175, does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

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

Dated: July 10, 2024.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, for the reasons stated in the preamble, it is proposed that 40 CFR chapter I be amended as follows:

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

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

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

■ 2. Amend § 180.960, by removing the inert ingredient “polytetrafluoroethylene” identified by CAS No. 9002–84–0 from Table 1 to § 180.960.

[FR Doc. 2024–15564 Filed 7–15–24; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 98

RIN 0970–AD11

Increase Flexibility for Tribes in Child Care and Development Fund (CCDF) Eligibility

AGENCY: Office of Child Care (OCC), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services, Administration for Children and Families proposes to amend the Child Care and Development Fund (CCDF) regulations through this notice of proposed rulemaking (NPRM) to allow all Indian Tribes and Tribal Organizations operating CCDF programs, at their discretion, to establish and use eligibility criteria regardless of family income.

DATES: In order to be considered, written comments on this proposed rule must be received on or before September 16, 2024.

ADDRESSES: You may submit comments, identified by docket number ACF–2024–0010 and/or RIN number 0970–AD11, to the Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number or RIN number for this rulemaking. All comments received are a part of the public record and will be posted for public viewing on www.regulations.gov, without change. That means all personal identifying information (such as name or address) will be publicly accessible. Please do not submit confidential information, or otherwise sensitive or protected information. We accept anonymous comments. If you wish to remain anonymous, enter “N/A” in the required fields.

Docket: Go to the Federal eRulemaking Portal at <https://www.regulations.gov> 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, 5 U.S.C. 553(b)(4).

FOR FURTHER INFORMATION CONTACT: Megan Campbell, Office of Child Care, 202–690–6499 or megan.campbell@acf.hhs.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
 - Effective Dates
 - Severability
- II. Statutory Authority
- III. Discussion of Proposed Changes
- IV. Regulatory Process Matters
 - Paperwork Reduction Act
 - Regulatory Flexibility Act
 - Unfunded Mandates Reform Act of 1995
 - Executive Order 13132
 - Assessment of Federal Regulations and Policies on Families
 - Regulatory Review
- VI. Tribal Consultation Statement
- List of Subjects in 45 CFR Part 98

I. Background

In response to requests from Tribal Child Care and Development Fund (CCDF) Lead Agencies for more flexibility on family income eligibility to better meet community needs and to recent statutory changes to eligibility in the Tribal Head Start program, this NPRM proposes a regulatory change to allow all Tribal CCDF Lead Agencies to serve Indian children (as defined by the Tribal Lead Agency) in their service area regardless of family income or assets. This NPRM is also responsive to Executive Order 14112, *Reforming Federal Funding and Support for Tribal Nations To Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination*, which directs agencies to “increase the accessibility, equity, flexibility, and utility of Federal funding.” This proposal will provide Tribal Nations with more flexibility to better meet community needs, address calls for greater Tribal sovereignty, and facilitate better alignment between Tribal CCDF and Tribal Head Start programs.

The Child Care and Development Block Grant Act (42 U.S.C. 9857 *et seq.*), hereafter referred to as the “Act,” together with section 418 of the Social Security Act (42 U.S.C. 618) authorize CCDF, which is the primary Federal funding source to Tribes, States, and Territories devoted to supporting families with low incomes access to child care and to increasing the quality of child care for all children. CCDF plays a vital role in supporting child development and family well-being, facilitating parent employment, training, and education, and improving the economic well-being of participating families. In FY 2024, 264 Tribal Lead Agencies representing 546 federally recognized Tribal Nations received CCDF grants totaling \$600 million.¹

¹ <https://www.acf.hhs.gov/occ/data/gv-2024-ccdf-tribal-allocations-based-appropriations>.

Annual Tribal CCDF awards range from \$70,000 to \$88 million per year.

The Act does not explicitly apply most of its provisions to the Tribal CCDF program, so with some exceptions and within certain parameters, the Secretary of Health and Human Services has the authority to determine many of the CCDF requirements for Tribal Lead Agencies, including the family income eligibility requirements for children to receive services from Tribal CCDF programs. Current Tribal CCDF regulations at 45 CFR 98.81(b)(1) include different family income eligibility requirements and flexibilities based on a Tribe’s award allocation size in FY 2016. Tribes who had allocations under \$250,000 in 2016 (155 Tribal Lead Agencies) may serve any Indian child (as defined by the Tribal Lead Agency) in the defined service area, regardless of family income or assets. However, Tribal Lead Agencies who had allocations above \$250,000 in 2016 are subject to the same CCDF income eligibility standard as States, set forth at 45 CFR 98.20(a)(2)—family income cannot be more than 85 percent of Grantee Median Income and the family must pass an asset test.

This proposed rule would provide the 109 Tribal Lead Agencies with medium and large allocations the flexibility to disregard family income and assets in determining family eligibility for CCDF. This would extend the flexibility Tribes with smaller allocations have to disregard family income to all Tribal CCDF Lead Agencies. Tribes, at their discretion, could continue to choose to use family income criteria for eligibility, but this would no longer be a requirement. This proposal does not alter existing flexibilities that permit Tribal Lead Agencies to apply categorical eligibility criteria for families under certain conditions.

Tribal Nations have requested greater flexibility for CCDF family income eligibility. Tribes report the rules do not provide the flexibility necessary for Tribal Nations to implement CCDF programs in ways that best meet the needs of the children and families in their communities. The significant variation between Tribal Nation child care needs, infrastructure, and location as well as the individuality of the 546 federally-recognized Tribal Nations receiving CCDF make the 85 percent grantee median income eligibility threshold poorly suited to Tribal Nations, hindering their ability to effectively and efficiently using CCDF to serve children and families. OCC recently sought feedback from Tribal Nations and other interested parties on areas where more flexibility and/or

different program rules would better serve children, families, and Tribal Nations through a formal Request for Information (RFI), published in the **Federal Register** at 88 FR 48409 (July 27, 2023). Throughout the RFI feedback process and other feedback processes, Tribal Lead Agencies expressed appreciation for many CCDF flexibilities but explained current categorical eligibility rules were complicated, burdensome, and too limited and that standard family income eligibility rules were too narrow to meet community needs. Many Tribal Lead Agencies expressed support for changing eligibility requirements so they can serve Indian children (as defined by the Tribal Lead Agency), regardless of family income.

This proposal will also benefit Tribal Nations by better aligning family income eligibility rules in the Tribal CCDF and Head Start programs. At the request of Tribal Nations and the Biden-Harris Administration, the Further Consolidated Appropriations Act, 2024 (Pub. L. 118–47) included a legislative change to section 645 of the Head Start Act, 42 U.S.C. 6840, to allow Tribal Head Start programs to serve children in their service area regardless of family income. The Head Start Act, unlike the CCDBG Act, required legislative action to make this change. This important new Head Start flexibility better supports Tribal sovereignty and allows Tribal Head Start programs to better meet the needs of children and families in their communities. However, it inadvertently makes CCDF more restrictive than Head Start, creating unintended implementation challenges for Tribes and barriers to effectively and efficiently using multiple types of early childhood Federal funding to support comprehensive early learning services, child development, and family well-being. This challenge is especially salient since almost all Tribal Head Start grantees administer a Tribal CCDF program. This proposal would better align Head Start and CCDF and allow

Tribal Nations the necessary flexibility to determine how early childhood program family income eligibility determinations can best support their communities.

Effective Dates

ACF proposes that the final rule become effective 60 days from the date of publication of the final rule.

Severability

The provisions of this NPRM, once it becomes final, are intended to be severable, such that, in the event a court were to invalidate any particular provision or deem it to be unenforceable, the remaining provisions would continue to be valid.

II. Statutory Authority

This proposed regulation is being issued under the authority granted to the Secretary of Health and Human Services by the CCDBG Act of 1990, as amended (42 U.S.C. 9857, *et seq.*), and section 418 of the Social Security Act (42 U.S.C. 618).

III. Discussion of Proposed Changes

We propose to revise 45 CFR 98.81(b)(1) to allow all CCDF Tribal Lead Agencies the flexibility to determine family eligibility for CCDF without regard to family income and assets. The proposal amends § 98.81(b)(1)(ii) to allow Tribal Lead Agencies to disregard family income requirements described in § 98.20(a)(2), while retaining the ability for Tribal Lead Agencies with a Tribal median income below a level determined by the Secretary to deem any child in their service area categorically eligible, regardless of family income, work, or training status. Currently, the 40 percent of Tribal Lead Agencies with medium and large allocations, as defined in CCDF regulations, are subject to the requirements at § 98.20(a)(2) that children must be in families with incomes below 85 percent Grantee Median Income and with assets under

\$1 million in order to be eligible for CCDF. Tribes with small allocations are not subject to the requirements at § 98.20(a)(2) and are therefore already have the flexibility to serve Indian children (as defined by the Tribal Lead Agency) regardless of family income. Extending the flexibility to serve any Indian Child in the service area regardless of family income to all Tribal Lead Agencies better supports Tribal sovereignty and self-determination, and it gives Tribes the ability to prioritize services in the way that best meets the needs of Tribal Nations and communities. It will create better opportunities for Tribes to align CCDF programs with other Tribal early childhood programs, including Tribal home visiting, Early Head Start, Head Start, and tribally funded preschool.

This proposal does not make any other changes to current Tribal CCDF family eligibility rules, including existing Tribal categorical eligibility flexibilities, which remain unchanged.

IV. Regulatory Process Matters

Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*, as amended) (PRA), all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirements inherent in a proposed or final rule. As required by this Act, we will submit any proposed revised data collection requirements to OMB for review and approval.

The proposed rule modifies the previously approved ACF–118–A CCDF Tribal Plan information collection, but ACF has not yet initiated the OMB approval process to implement these changes. ACF will publish a **Federal Register** notice soliciting public comment on specific revisions to this information collection and the associated burden estimate and will make available the proposed form and instructions for review.

CCDF title/code	Relevant section in the proposed rule	OMB control No.	Expiration date	Description
ACF–118–A (CCDF Tribal Plan) Part I and Part II.	§ 98.81	0970–0198	4/30/2025	The proposed rule would provide new flexibilities which Tribal lead agencies with medium and large allocations will be required to report on in the CCDF plans.

The table below provides current approved annual burden hours and estimated annual burden hours for these

existing information collections that are modified by this proposed rule.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Current approved average burden hours per response	Current annual burden hours	Proposed estimated average burden hours per response	Proposed estimated annual burden hours
ACF–118A Part I (for all tribes)	265	1	120	10,600	120	10,600
ACF–118–A Part II (for medium and large Tribes only)	106	1	24	848	24	848

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (see 5 U.S.C. 605(b) as amended by the Small Business Regulatory Enforcement Fairness Act) requires Federal agencies to determine, to the extent feasible, a rule's impact on small entities, explore regulatory options for reducing any significant impact on a substantial number of such entities, and explain their regulatory approach. The term "small entities," as defined in the RFA, comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. HHS considers a rule to have a significant impact on a substantial number of small entities if it has at least a 3 percent impact on revenue on at least 5 percent of small entities. The Secretary proposes to certify, under 5 U.S.C. 605(b), as enacted by the RFA (Pub. L. 96–354), that this rulemaking would not result in a significant impact on a substantial number of small entities, as this rulemaking primarily impacts tribes receiving Federal CCDF grants. Therefore, an initial regulatory flexibility analysis is not required for this document.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of regulatory actions on State, local, and Tribal governments, and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local or Tribal governments, in the aggregate, or the private sector, of \$100 million in 1995 dollars, updated annually for inflation. In 2024 the threshold is approximately \$183 million. This proposed rule does not impose an unfunded mandate on State, local, or

Tribal governments or the private sector of more than \$183 million per year. Therefore, ACF is not required to provide a statement, including a cost-benefit analysis, of the impacts of the proposed changes.

Executive Order 13132

Executive Order 13132 requires Federal agencies to consult with State and local government officials if they develop regulatory policies with federalism implications. Federalism is rooted in the belief that issues that are not national in scope or significance are most appropriately addressed by the level of government close to the people. This rulemaking would not have substantial direct impact on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this action does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Assessment of Federal Regulations and Policies on Families

Assessment of Federal Regulations and Policies on Families section 654 of the Treasury and General Government Appropriations Act of 2000 requires Federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency determines a policy or regulation negatively affects family well-being, then the agency must prepare an impact assessment addressing seven criteria specified in the law. HHS believes it is not necessary to prepare a family policymaking assessment (see Pub. L. 105–277) because the action it takes in this NPRM would not have any impact on the autonomy or integrity of the family as an institution.

Regulatory Review

We have examined the impacts of the rule under Executive Order 12866, Executive Order 13563, the Regulatory

Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all benefits, costs, and transfers of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). A regulatory impact analysis must be prepared for rules deemed significant under section 3(f)(1) of E.O. 12866, as amended by E.O. 14094.

The Office of Information and Regulatory Affairs has determined that this proposed rule is not a significant regulatory action under section 3(f)(1) of E.O. 12866, as amended by E.O. 14094, and does not require a full regulatory impact analysis. This proposed rule has, however, been designated "a significant regulatory action" under section 3(f) of Executive Order 12866, as amended by Executive Order 14094. In FY 2024, OCC estimates that up to \$173 million is allocated to Tribal Lead Agencies that could be impacted by the proposed change. Further, these Tribal Lead Agencies have discretion on whether to adopt this flexibility based on their unique needs. This proposed rule does not stipulate any new requirements.

VI. Tribal Consultation Statement

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, requires agencies to consult with Indian tribes when regulations have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. The proposed changes included in this NPRM are in response to requests from Tribal Nations for greater flexibility for CCDF family income eligibility that OCC has received through formal consultation with Tribal Leaders and through the Request for Information

(RFI) OCC published in July 2023. Additional discussion of proposed changes in section 3 of the preamble serves as the Tribal impact statement. We intend to notify Tribal lead agencies about the opportunity to provide comment on the NPRM no later than the day of publication. Further, shortly after publication of the NPRM, we will host consultation with Tribal Leaders and hold briefing sessions with Tribal lead agencies and any other interested tribe on the contents of the NPRM.

Jeff Hild, Principal Deputy Assistant Secretary for the Administration for Children and Families, performing the delegable duties of the Assistant Secretary, approved this document on May 22, 2024.

(Catalog of Federal Domestic Assistance Program Number 93.575, Child Care and Development Block Grant; 93.596, Child Care Mandatory and Matching Funds)

List of Subjects in 45 CFR Part 98

Child care, Grant programs—social programs.

Dated: July 8, 2024.

Xavier Becerra,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, we propose to amend 45 CFR part 98 as follows:

PART 98—CHILD CARE AND DEVELOPMENT FUND

■ 1. The authority for part 98 continues to read as follows:

Authority: 42 U.S.C. 618, 9858.

■ 2. Amend § 98.81 by revising paragraph (b)(1)(ii) to read as follows.

§ 98.81 Application and Plan procedures.

* * * * *

(b) * * *

(1) * * *

(ii) The basis for determining family eligibility may be determined by the Tribe notwithstanding family income as described in § 98.20(a)(2).

* * * * *

[FR Doc. 2024–15244 Filed 7–12–24; 8:45 am]

BILLING CODE 4184–87–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2022–0012; FXES1111090FEDR–245–FF09E21000]

Endangered and Threatened Wildlife and Plants; 90-Day Finding and 12-Month Determination on a Petition To Revise Critical Habitat for Sonora Chub

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of a 90-day petition finding and 12-month determination.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce our 90-day finding and 12-month determination on how to proceed in response to a petition to revise critical habitat for Sonora chub (*Gila ditaenia*) pursuant to the Endangered Species Act of 1973, as amended (Act). The petition requests that the Service revise the existing critical habitat designation in Arizona by adding California Gulch. Our 90-day finding is that the petition, in conjunction with information readily available in our files, presents substantial scientific information indicating that the requested revision may be warranted. Our 12-month determination is that we intend to proceed with processing the petition by assessing critical habitat during the next 5-year status review for Sonora chub scheduled for release as soon as fiscal year 2027, as resources allow.

DATES: The finding and the determination announced in this document were made on July 16, 2024.

ADDRESSES: A detailed description of the basis for this finding and this determination is available on the internet at <https://www.regulations.gov> at Docket No. FWS–R2–ES–2022–0012. Information and supporting documentation used in preparing this finding and determination is also available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. Please submit any new information, materials, comments, or questions concerning this finding to the contact listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Heather Whitlaw, Arizona Ecological Services Field Office, 9828 North 31st Ave. C3, Phoenix, AZ 85051–2517; telephone 602–242–0210. 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:

Background

Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protections; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary of the Interior (Secretary) that such areas are essential for the conservation of the species.

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas we will designate as critical habitat from within the geographical area occupied by the species at the time of listing, we consider the physical or biological features that are essential to the conservation of the species and which may require special management considerations or protection. Our implementing regulations at 50 CFR 424.02 define the “physical or biological features essential to the conservation of the species” as the features that occur in specific areas and that are essential to support the life-history needs of the species, including, but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity. In addition, our implementing regulations at 50 CFR 424.02 define “special management considerations or protection” as methods or procedures useful in protecting the physical or biological features essential to the conservation of listed species.

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat for listed species on the basis of the best scientific data available and after taking into consideration the economic impact,

national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude any particular area from critical habitat if she determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless she determines that the failure to designate such area as critical habitat will result in the extinction of the species concerned. Exclusion decisions are governed by the regulations at 50 CFR 424.19 and the Policy Regarding Implementation of Section 4(b)(2) of the Endangered Species Act (81 FR 7226, February 11, 2016). We also refer to a 2008 Department of the Interior Solicitor's opinion entitled "The Secretary's Authority to Exclude Areas from a Critical Habitat Designation under Section 4(b)(2) of the Endangered Species Act" (M-37016).

A provision of the Administrative Procedure Act, codified at 5 U.S.C. 553(e), gives interested persons the right to petition for the issuance, amendment, or repeal of a Federal rule. Section 4(b)(3)(D) of the Act requires that we make a finding on whether a petition to revise critical habitat for a species presents substantial scientific information indicating that the revision may be warranted. Our regulations at 50 CFR 424.14(i)(1)(i) state that substantial scientific information refers to credible scientific information in support of the petition's claims such that a reasonable person conducting an impartial scientific review would conclude that the revision proposed in the petition may be warranted. Conclusions drawn in the petition without the support of credible scientific information will not be considered substantial information.

In determining whether substantial scientific information exists, we consider several factors, including information submitted with, and referenced in, the petition and all other information readily available in our files. Our regulations at 50 CFR 424.14(e)(5) require that, for areas petitioned to be added to or removed from designated critical habitat that were outside the geographical area occupied by the species at the time it was listed, the petitioner must present information indicating why the petitioned areas are essential (if areas are being added) or are not essential (if areas are being removed) for the conservation of the species.

To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notification of the finding promptly in the **Federal Register**. We

are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. If we find that a petition presents substantial scientific information indicating that the revision may be warranted, we are required to determine how we intend to proceed with the requested revision within 12 months after receiving the petition and promptly publish notification of such intention in the **Federal Register** (16 U.S.C. 1533(b)(3)(D)(ii)). We generally refer to these documents as 90-day findings and 12-month determinations or findings.

Our regulations further state that we will consider whether a petition presents a complete and balanced representation of the relevant facts when making our finding of whether a petition presents substantial information that the requested action may be warranted. Thus, if we find that a petition presented only information that would be favorable to the petition outcome, ignored relevant and readily available information, and presented a biased and incomplete representation of facts, we should consider whether the petition has met the requirement to present substantial information.

Previous Federal Actions

Sonora chub, a fish found in southeastern Arizona, was listed under the Act as a threatened species with critical habitat in 1986 (51 FR 16042, April 30, 1986). Thus, the Sonora chub appears in the List of Endangered and Threatened Wildlife at 50 CFR 17.11(h), and a critical habitat designation for the Sonora chub in Santa Cruz County, Arizona, is set forth at 50 CFR 17.95(e).

On August 6, 2021, we received a petition dated July 30, 2021, from the Center for Biological Diversity (CBD) to revise critical habitat for Sonora chub. The July 30, 2021, petition (hereafter referred to as "the 2021 petition") requested that we revise critical habitat to include the length of California Gulch from at least approximately 1 mile above the Tinaja Dam to the international border, and the lower extent of Warsaw Canyon. The 2021 petition stated that the Sonora chub is currently known to occur in California Gulch, which was not occupied at the time of listing in 1986, and that it may be affected by livestock grazing and that there was an alleged state of noncompliance with various aspects of prior biological opinions issued under section 7 of the Act. The petitioner drew the conclusion that section 7 consultation alone did not ensure protection of Sonora chub in California

Gulch. Additionally, the 2021 petition alleged that our methodology of assigning a 25-foot riparian area (along each side of Sycamore and Peñasco Creeks) as part of the 1986 critical habitat could be applied to the same 25-foot riparian area along California Gulch.

As per our regulations at 50 CFR 424.14(e)(5), for areas petitioned to be added to designated critical habitat that were outside the geographical area occupied by the species at the time it was listed, we assessed whether the petition presented substantial information indicating why the petitioned areas are essential for the conservation of the species. We determined that none of the assertions or opinions presented in the 2021 petition met the definition of substantial scientific information as that term is defined at 50 CFR 424.14(i)(1)(i). Based on our review of the petition, sources cited in the petition, and other readily available information, we determined that the 2021 petition did not provide substantial scientific information indicating that California Gulch is essential for the conservation of Sonora chub, as required by our regulations (50 CFR 424.14(e)(5)). Therefore, in our 90-day finding published in the **Federal Register** on August 23, 2022 (87 FR 51635), we determined that the 2021 petition did not provide substantial information that revising critical habitat for Sonora chub may be warranted.

Current Petition History

On March 15, 2023, we received a petition dated March 14, 2023, from CBD requesting that critical habitat be revised for Sonora chub. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). Section 4 of the Act, specifically 16 U.S.C. 1533(b)(3)(D), allows any interested individual to petition us to revise a listed species' critical habitat. As such, we considered the requested critical habitat revision in this 90-day finding.

Species Information

Sonora chub is a small fish in the minnow family. It is usually less than 5 inches long and is dark-colored with two prominent black lateral bands on the sides and a dark oval spot at the base of the tail. Breeding males develop a red color at the base of the lower fins and some orange color on the belly (Miller 1945, p. 108). Sonora chub mostly inhabits pools within creeks, sometimes located under cliffs in erosive creeks (Rinne and Minckley 1991, p. 25).

At the time of listing, Sonora chub was known to occur in Sycamore Canyon in Sycamore Creek proper, Yanks Spring, and in two of its tributaries, located in Santa Cruz County, Arizona. Critical habitat for Sonora chub is designated in Sycamore Creek, starting from and including Yank's Spring, downstream approximately 5 miles to the international border with Mexico, plus the lower 1.25 miles of Peñasco Creek, and the lower 0.25 miles of an unnamed stream that enters Sycamore Creek from the west in the NW $\frac{1}{4}$ of Section 23, T.23S., R.11E. in Santa Cruz County. Critical habitat includes a 25-foot-wide riparian area along each side of Sycamore and Peñasco Creeks. No riparian zone was designated around Yank's Spring because it was impounded in a concrete tank. No riparian zone was designated for the unnamed stream because this reach consisted of bedrock pools that were unaffected by the riparian zone. Since its listing, the species was discovered in 1995 in California Gulch in Santa Cruz County and its tributary streams. The species' occurrence there is considered to be a natural population, but the species was not known to occur here at the time of listing in 1986 (AGFD 1995, pp. 1–2).

Evaluation of Information for the 90-Day Finding

Section 4(b)(2) of the Act requires us to designate and revise critical habitat for listed species on the basis of the best scientific data available. Section 4(b)(3)(D)(i) requires us to make a finding as to whether the petition presents substantial scientific information indicating that the revision may be warranted. For the purposes of findings on petitions to revise critical habitat, we apply the definition of “substantial scientific information” set forth at 50 CFR 424.14(i)(1)(i). In making this finding, we relied on information provided by the petitioners, sources cited by the petitioners, and information readily available in the Service's files. Since the request was for unoccupied critical habitat, the standards we applied to our analysis are set forth in 50 CFR 424.14(e)(5), meaning that the petition must present substantial scientific information that the requested areas are essential for the species' conservation.

90-Day Finding

In accordance with 50 CFR 424.14(h)(1)(iii), the “substantial scientific or commercial information” standard must be applied in light of any prior reviews or findings the Service has

made on the listing status of the species that is the subject of the petition. As discussed above, in our 90-day finding on the 2021 petition, we concluded that none of the assertions or opinions presented in the 2021 petition met the definition of substantial scientific information as that term is defined at 50 CFR 424.14(i)(1)(i). However, in reviewing the current information provided by the petitioners, we have determined that the March 15, 2023, CBD petition (hereafter referred to as “the 2023 petition”) does present substantial information indicating that California Gulch is essential for the conservation of the Sonora chub. The petition did not identify California Gulch as occupied by Sonora chub at the time of listing, citing that this area was only found to be occupied by the species in 1995 (Service 2013, p.13). Therefore, we apply our regulations at 50 CFR 424.14(e)(5) that require that, for areas petitioned to be added to or removed from designated critical habitat that were outside the geographical area occupied by the species at the time it was listed, the petitioner must present information indicating why the petitioned areas are essential for the conservation of the species.

The content and emphasis of the 2021 petition differed substantively from the 2023 petition. The 2021 petition requested designating critical habitat in California Gulch based primarily on the threats of livestock grazing and border activities on Sonora chub and the need to add an additional locus for interagency consultation under section 7 of the Act to address those threats. The 2023 petition also discusses the effects of livestock grazing and border activities as threats (CBD 2023, pp. 12–20). However, in the 2023 petition, these impacts were discussed regarding the assertion that increased redundancy of the Sonora chub by designating critical habitat in California Gulch would in turn help minimize the effects of these impacts on the species. The 2023 petition's focus on redundancy, resiliency, and representation represents a different approach based on principles of conservation biology to support the petitioner's contention that California Gulch is essential for the conservation of Sonora chub. The 2023 petition's focus on the substantial information available to support the principles of conservation biology required to support a finding that a critical habitat designation is essential for the conservation of the species was a marked change from the 2021 petition. This change in the information presented to support the petition led to

our conclusion that the latter petition provided substantial information indicating that California Gulch is essential for the conservation of Sonora chub as set forth in our regulations at 50 CFR 424.14(e)(5).

The petition requests that the Service revise the existing critical habitat designation by adding the stretch of California Gulch downstream from the small dam above the tinaja (a plunge pool with a bedrock substrate) to the international border with Mexico, along with a 25-foot riparian buffer along each side of the stream channel. The petitioner first states that designating critical habitat in California Gulch is essential to the conservation of the Sonora chub as defined in the Service's recovery plan (CBD 2023, p. 34). The petitioner reiterates the recovery objectives from the Sonora chub recovery plan and specifically refers to recovery objective I “Protect Remaining Populations of Sonora chub” and its subtask “Recognize Critical Habitat” (Service 1992, pp. 21–39), correctly noting that recovery criteria have not been developed (CBD 2023, p. 34; Service 1992, pp. 22–23). The petitioner correctly notes that conservation equates to recovery in that the former is defined as using all methods and procedures that are necessary to bring any endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary, *i.e.*, the species is recovered in accordance with 50 CFR 402.02. We agree that the recovery plan's stated intent is to guide management actions to conserve Sonora chub in its natural habitat (Service 1992, p. 21) and that conservation equates to recovery. However, recovery plan objective I(A) does not, without context, support the assertion that California Gulch, now known to be within Sonora chub's natural habitat, is essential to the species' conservation.

The petition then demonstrates that protecting Sonora chub habitat in California Gulch may also be essential to the conservation of the species as it allows for increased redundancy, resiliency, and representation and, therefore, viability. The petition quotes the Service's critical habitat determination for the northern spotted owl (57 FR 1796) and includes that “a species can be said to be recovered when its continued viability is highly certain” (CBD 2023, p. 34). The petition provides the Service's definitions of redundancy, resiliency, and representation as applied in the Species Status Assessment Report for the Arkansas River Shiner (*Notropis girardi*) and Peppered Chub (*Macrhybopsis*

tetranema) (Service 2018, entire). The Arkansas River shiner and peppered chub are cyprinid fishes (minnow family), as is the Sonora chub, and all three species occur in lotic (riverine) ecosystems. The concepts contained in the species status assessment report for the Arkansas River shiner and peppered chub are therefore generally transferrable to Sonora chub.

Sycamore Canyon and California Gulch support the only two wild populations of Sonora chub in the United States (Service 2013, p. 18). Sonora chub was most recently detected in Sycamore Canyon on site visits in 2019 and 2022, but fish were absent from dry reaches of Peñasco Creek and an unnamed tributary (Service 2022, p. 4). Sonora chub exists on a permanent basis in California Gulch in the United States, and during periods of adequate flow move out from two core areas in that stream to occupy the intervening channel (Stefferd and Stefferud 2007, p. 18). Sonora chub was not detected by the Arizona Game and Fish Department in a single sampling visit to California Gulch in June of 2022, although the pools sampled may have only recently become inundated by rains (Service 2022, p. 4). Sonora chub is temporally absent from much of California Gulch during times of reduced runoff, but it is likely the species repopulates the stream from residually occupied sites in the United States (Stefferd and Stefferud 2007, p. 18) and/or via upstream movements from occupied reaches in Mexico when hydrologic conditions become favorable (Service 2013, p. 27).

The confluence of Sycamore Canyon and California Gulch is located south of the international border with Mexico. Recent detection data for Sonora chub in Mexico indicates the species is still present in some locations there. Sonora chub was collected from the Rio Cocospera at Rancho El Aribabi in Sonora in 2015 (Service 2022, p. 4). Sonora chub was again detected in the Rio Cocospera in 2017, in two Rio Cocospera locations in 2022, and in the Rio Bambuto in 2022 (Service 2022, p. 4).

Regardless of the species' status in Mexico, the redundancy of Sonora chub in the United States is low. The petition therefore presents substantial information that California Gulch, since it is most likely repopulated by the species when hydrologic conditions allow, may be essential to ensuring the redundancy of Sonora chub and that the stream therefore contributes to the conservation of the species.

The petition cites severe fire or misplaced fire-retardant drops as examples of catastrophic events that

could severely impact or even remove one of the two Sonora chub populations in the United States, or significantly affect the species' genetic diversity, limiting the ability of the Sonora chub to recover (Service 2013, p. 18). Sonora chub is a desert fish adapted to the fluctuations of a desert environment; after drought conditions, it has been known to rapidly expand and recolonize California Gulch and newly re-wetted reaches. If habitat conditions along waterways can be maintained, then this ability to respond to favorable water conditions is encouraging for the population to avoid the danger of extinction (Service 2013, p. 27). The petition asserts that designating critical habitat is necessary to ensure that the California Gulch population is resilient enough for the species to avoid extinction should the Sycamore Canyon population be extirpated by a catastrophic event, back-to-back stochastic events, or the combined effect of multiple threats, such as livestock grazing and border infrastructure. Resiliency describes a population's ability to withstand either periodic or stochastic disturbance events that do not rise to the level of catastrophic. California Gulch can serve as a source population for downstream reaches in Mexico as well as Sycamore Canyon if the latter were to experience a periodic or stochastic event, not necessarily having to rise to the level of catastrophic. The petition therefore presents substantial information indicating that California Gulch may be essential to ensuring the resiliency of Sonora chub and, thus, contributes to the conservation of the species.

Representation describes a species' ability to adapt to changing environmental conditions over time. Representation can be measured based on the range of adaptive diversity within and among populations and the ecological diversity of populations across the species' range. Representation or genetic diversity within Sonora chub is difficult to determine as the Sonora chub's genetic variability in the wild remains unknown (Service 2019, p. 10) and information on morphological variability appears to be limited. According to the Arizona Game and Fish Department (2021, p. 1), Sonora chub may achieve lengths of up to 7.9 inches (20 centimeters) in the United States whereas Sonora chub in Mexico may grow up to 10 inches (25 centimeters) long. A high degree of genetic differentiation between populations in California Gulch and Sycamore Canyon is unlikely given that

at least occasional interactions and thus, gene flow, may occur between the two.

However, additional genetic diversity may exist due to variation in the habitats or niches occupied in the two locations, enhancing the species' ability to adapt to changing environmental conditions. Sycamore Canyon is an intermittent stream with a perennial-interrupted flow that comprises isolated pools or sometimes continuous flow in the approximately 6 miles upstream of the international border (Stefferd and Stefferud 2007, p. 44). Sycamore Canyon is a mix of Madrean evergreen oak woodland and Sonoran Desert-dominated habitat, and there are significant reaches of high-elevation riparian vegetation, with species including Fremont cottonwood, willow, velvet mesquite and scattered Arizona sycamore (Audubon et al. 2020, pp. 1–2). California Gulch is a small intermittent to ephemeral stream with perennial water at the tinaja, the livestock enclosure at the international border with Mexico, as well as artificial ponds in the nearby town of Ruby, Arizona (Stefferd and Stefferud 2007, p. 18). California Gulch is unique with quality thornscrub habitat and a dense shrub layer on its steep sides (Audubon et al. 2020, p. 2). The differing habitat conditions means it is possible for there to exist a small degree of intraspecific diversity via a temporal cline between Sonora chub simultaneously occupying Sycamore Canyon and California Gulch during times when hydrologic conditions temporarily prohibit the exchange of individuals (and gene flow) between the streams and other waters in the Rio de la Concepción (Rio Magdalena) watershed in Mexico. The petition therefore presents substantial information that California Gulch may be essential to ensuring Sonora chub representation is maintained such that it contributes to the conservation of the species.

In summary, the petition presents several arguments asserting that revision of critical habitat for Sonora chub may be essential for the conservation of the species. We find that information presented in the petition regarding the importance of California Gulch to ensure the redundancy, resiliency, and representation of Sonora chub, provides information that this area is essential for the conservation of the species as required by our regulations at 50 CFR 424.14(e)(5).

12-Month Determination

Section 4(b)(3)(D)(ii) of the Act states that if we find that a petition presents substantial information indicating that a revision to critical habitat may be

warranted, then within 12 months of receiving the petition we are to indicate how we intend to proceed with the requested revision and promptly publish a notice of our intention in the **Federal Register**. Pursuant to the provisions of the Act regarding revision of critical habitat and petitions for revision, we hereby provide notification as to how we intend to proceed with the requested revision to the critical habitat for Sonora chub.

We intend that any revisions to the critical habitat designated for Sonora chub be as accurate and comprehensive as possible. Therefore, we intend to assess potential revisions to Sonora chub critical habitat following the completion of the next 5-year status review for the species scheduled for release as soon as fiscal year 2027, as resources allow. Once the 5-year review is complete, a rulemaking process may be initiated after revisions to the

species' critical habitat have been assessed and if they are determined to be appropriate.

The currently designated critical habitat in Arizona, as well as areas that support the species but are outside of the current critical habitat designation, will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act. Actions affecting Sonora chub, or its designated critical habitat, are subject to the regulatory protections afforded by section 7(a)(2) of the Act, which requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat.

References Cited

A complete list of references cited in this document is available on the internet at <https://www.regulations.gov> at Docket No. FWS-R2-ES-2022-0012 and upon request from the Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this document are the staff members of the Arizona Ecological Services Field Office.

Authority

The authority for this 90-day finding and 12-month determination is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2024-15490 Filed 7-15-24; 8:45 am]

BILLING CODE 4333-15-P

Notices

Federal Register

Vol. 89, No. 136

Tuesday, July 16, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

USAID Information Collection Activities; Submission for OMB Review, Comment Request, Legislative and Public Affairs (LPA) Bureau

AGENCY: USAID.

ACTION: Notice of information collection; request for comment.

SUMMARY: USAID Bureau for Legislative and Public Affairs (LPA) and USAID/Ghana Mission are collaborating to conduct research regarding public perception of USAID programs in Ghana. The goal of this research is to use both qualitative and quantitative methods to gain insights into Ghanaian people's awareness and perceptions of development and USAID assistance programs and activities. The research will also narrow preferred media channels. The research data in the report will be aggregated and not provide PII or other privacy-related information. USAID LPA invites the general public and other Federal agencies to take this opportunity to comment on the following new information collection, as required by the Paperwork Reduction Act of 1995.

DATES: The comment period for the notice 88 FR 50099 published on August 1, 2023, is reopened. Comments must be received by August 11, 2024. 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.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please access the survey questionnaire at https://drive.google.com/file/d/110zdb2aPbYGaG_9bAmsIC7jaKQrDQ4Ww/view?usp=sharing, the interview guide at <https://drive.google.com/file/d/1GHCuNQG13pExz7aDvRC-VQvTVpZ78wu6/view?usp=sharing>, and the focus group screening questionnaire at https://drive.google.com/file/d/1m1uC4CgSrv8Pxi9_UwTYv-pAGwxvmVys/view?usp=sharing. Comments submitted in response to this notice should be submitted electronically through the Federal Register.

FOR FURTHER INFORMATION CONTACT: Written requests for information or comments submitted by postal mail or delivery should be addressed to Lauren Shaw, the Director of International Communications, at 1300 Pennsylvania Avenue, Suite 6.10A, Washington, DC 20523 or via email at staffdoc@usaid.gov. Verbal requests for information or comments submitted can contact 202-712-4300.

SUPPLEMENTARY INFORMATION: USAID, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on the proposed information collection. This proposed information collection was previously published in the **Federal Register** (88 FR 50099) on August 1, 2023. This notice allows for an additional 30 days for public comments.

Title of Information Collection: USAID Bureau for Legislative and Public Affairs and USAID/Ghana Public Opinion Research.

Type of Request: Notice for public comment; generic clearance.

Originating Office: USAID Bureau for Legislative and Public Affairs (LPA).

Respondents: Members of the Ghanaian public: women, youths (ages 15–24), farmers, pelagic fishers, service providers, entrepreneurs, rural community leaders, and members of civil society organizations.

Respondent's Obligation To Respond: Voluntary.

Estimated Number of Respondents: 2,266 Ghanaians total (2,200 survey respondents, 48 focus-group participants [eight participants across six sessions], and 18 interviewees).

Average Time per Response: 30 minutes for survey respondents and interviews, 90 minutes for focus groups.

Frequency of Response: Approximately every two years.

Total Estimated Burden: 596 hours.

Total Estimated Cost: \$59,624.55.

We are soliciting public comments to permit USAID to:

- 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.

Lauren Shaw,

Director, International Communications.

[FR Doc. 2024-15515 Filed 7-15-24; 8:45 am]

BILLING CODE 6116-01-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2024-0036]

Notice of Request for Revision to and Extension of Approval of an Information Collection; National Veterinary Services Laboratories Request Forms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with its efforts to safeguard the health of U.S. livestock and poultry populations by the use of National Veterinary Services Laboratories request forms.

DATES: We will consider all comments that we receive on or before September 16, 2024.

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

• **Federal eRulemaking Portal:** Go to www.regulations.gov. Enter APHIS–2024–0036 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–2024–0036, 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 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: For information on National Veterinary Services Laboratories request forms, contact Ms. Lori Swiderski, Program Coordinator, National Veterinary Services Laboratories, Diagnostics and Biologics, VS, APHIS, 1920 Dayton Ave., Ames, IA 50010; (515) 337–7405; email: lori.d.swiderski@usda.gov. For more information on the information collection reporting process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2533; joseph.moxey@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: National Veterinary Services Laboratories Request Forms.

OMB Control Number: 0579–0430.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Animal Health Protection Act (7 U.S.C. 8301 *et seq.*) provides the Secretary of Agriculture broad authority to prohibit or restrict, through orders and regulations, the importation or entry of any animal, article, or means of conveyance if the U.S. Department of Agriculture determines that the prohibition or restriction is necessary to prevent the introduction or spread of any pest or disease of livestock within the United States. Disease prevention is the most effective method for maintaining a healthy animal population.

As an element of the Animal and Plant Health Inspection Service (APHIS) disease prevention mission, the National Veterinary Services Laboratories (NVSL) safeguard U.S. animal health by ensuring that timely and accurate laboratory support is provided through a nationwide animal

health diagnostic system. NVSL's work necessitates the use of several information collection activities including requests for reagents or supplies, NVSL contact information updates, NVSL applications for laboratory training, and the ability to order NVSL laboratory kits and instruments.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the 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; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Domestic and foreign diagnostic laboratories (Federal, State, university, or private), researchers (academia, private, government), and private veterinary practitioners.

Estimated annual number of respondents: 970.

Estimated annual number of responses per respondent: 4.

Estimated annual number of responses: 4,079.

Estimated total annual burden on respondents: 1,013 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 11th day of July, 2024.

Donna Lalli,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2024–15568 Filed 7–15–24; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Economic Research Service

Agency Information Collection Activities: Comment Request

AGENCY: Economic Research Service (ERS), USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Economic Research Service's (ERS) to request a renewal to a currently approved information collection on supplemental food security questions in the Current Population Survey (CPS).

DATES: Comments on this notice must be received by September 16, 2024 to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to julie.parker3@usda.gov and ers.pra@usda.gov identified by docket number 0536–0043.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Julie Parker at ers.pra@usda.gov or 202–868–7945.

SUPPLEMENTARY INFORMATION:

Title: Current Population Survey Food Security Supplement.

OMB Number: 0536–0043.

Expiration Date of Approval: March 31, 2025.

Type of Request: Renewal of currently approved information collection.

Abstract: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and OMB regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the ERS intention to request renewal of approval for an annual information collection. The U.S. Census Bureau supplements the December CPS with questions regarding household food shopping, use of food and nutrition assistance programs, food sufficiency, and difficulties in meeting household food needs.

ERS is one of the 13 principal statistical agencies of the federal government and is responsible for conducting studies and producing statistics on food security in U.S. households. The data collected by the

food security supplement will be used to monitor the prevalence of food security and the prevalence and severity of food insecurity among the Nation's households. The prevalence of these conditions as well as year-to-year trends in their prevalence will be estimated at the national level and for population subgroups. The data will also be used to monitor the amounts that households spend for food and their use of community food pantries and other community food assistance. These statistics along with research based on the data will be used to identify the causes and consequences of food insecurity, and to assess the need for, and performance of, domestic food and nutrition assistance programs. The data will also be used to improve the measurement of food security and to develop measures of additional aspects and dimensions of food security. This consistent measurement of the extent and severity of food insecurity will aid in policy decision-making.

The supplemental survey instrument was developed in conjunction with food security experts nationwide as well as survey method experts within the Census Bureau and was reviewed in 2006 by the Committee on National Statistics of the National Research Council.

Authority: Legislative authority for the planned data collection are 7 U.S.C. 2204(a) and 7 CFR 2.67. These statutes and regulations authorize the Secretary of Agriculture and the Administrator of the Economic Research Service to conduct research and collect statistics on the U.S. food system, consumers, and human nutrition.

Confidentiality: The Census Bureau collects data for the Current Population Survey under the authority of Title 13, U.S. Code, section 8b, which allows the Census Bureau to undertake surveys for other government agencies. Under Title 13, U.S. Code, section 9 the Census Bureau holds all information in strict confidence. Information reported in the survey which would permit the identification of a household or any of its members is not reported to anyone outside of the Census Bureau. Any Census Bureau employee who violates these provisions is subject to a fine of up to \$250,000, a Federal prison sentence of up to five years, or both.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 7.1 minutes per response.

Respondents: Households.

Estimated Number of Annual

Respondents: 51,937.

Estimated Total Annual Burden on Respondents: 6,108 hours.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Spiro Stefanou,

*Administrator, Economic Research Service,
United States Department of Agriculture.*

[FR Doc. 2024-15635 Filed 7-15-24; 8:45 am]

BILLING CODE 3410-18-P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: 2027 Farm to School Census

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a revision of a currently approved collection (OMB Number 0584-0646) for the 2027 Farm to School Census.

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

ADDRESSES: Comments may be sent to: Amy Rosenthal, Food and Nutrition Service, U.S. Department of Agriculture, Braddock Metro Center II, 1320 Braddock Place, 5th Floor, Alexandria, VA 22314. Comments may also be sent via email to Amy Rosenthal at amy.rosenthal@usda.gov. Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow

the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this information collection should be directed to Amy Rosenthal at amy.rosenthal@usda.gov, 703-305-2245.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: 2027 Farm to School Census.

OMB Number: 0584-0646.

Expiration Date: 5/31/25.

Type of Request: Revision of a currently approved collection.

Abstract: Section 18 of the Richard B. Russell National School Lunch Act authorized and funded USDA to establish a farm to school program in order to assist eligible entities, through grants and technical assistance, in implementing farm to school programs that improve food and agriculture education as well as access to local foods in schools. This work is housed within the FNS Community Food Systems Division. As part of the Farm to School Program's authorization, CFSD collects and disseminates information on farm to school activity throughout the country. CFSD conducted a national census of farm to school activity in 2013, 2015, 2019, and 2023. The Farm to School Census provides the only nationally-representative data available on farm to school participation and activities in the United States.

The 2027 Farm to School Census (Census) will collect and synthesize data from a national census of SFAs to better understand the characteristics of SFAs participating in farm to school and the scope and details of the activities

they engage in (e.g., local food procurement, gardening, agriculture education). The Census will be distributed to all public¹ and private SFAs (including residential child care institutions) participating in the National School Lunch Program (NSLP) in the 50 states, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the U.S. Virgin Islands, and Washington, DC.

The primary mode of data collection will be an online survey, distributed to SFA directors. The online survey is expected to take 30 minutes to complete. Census questions will be based on prior Farm to School Census instruments, from the iterations conducted in 2023 (the currently approved collection, OMB Number 0584–0646), 2019 (OMB Number 0584–0646), 2015 (OMB Number 0584–0593), and 2013 (OMB Number 0536–0069). The 2027 survey instrument will closely follow the 2023 instrument in order to insure comparability. Some questions and/or response options may be removed, added or adjusted based on current research interests and to make the instrument as streamlined as possible. Respondents will receive an invitation to complete the Census along with a worksheet to help them prepare to respond to the survey and a

document with answers to frequently asked questions.

To construct the contact list for the Census, State Child Nutrition (CN) directors will be sent a list of all SFAs in their State or territory, based on the most recently available FNS data. They will be asked to (1) add or remove any SFAs that have begun or ended participation in the NSLP and (2) provide contact information for the director of each SFA. State CN directors will also be asked to forward an announcement email (and one email reminder about the Census to SFAs.

Non-respondents will receive a reminder phone call and up to nine reminder emails. Study team staff will also be available for technical and completion assistance via a toll-free phone number.

Affected Public: The affected public includes State, Local, and Tribal Government (directors of public SFAs participating in the NSLP and State Child Nutrition directors); Business or Other For Profit (directors of private SFAs participating in the NSLP); and Not for Profit (directors of not for profit SFAs participating in the NSLP).

Estimated Number of Respondents: The estimated number of respondents is 19,056. This includes 12,406 respondents and 6,650 non-respondents. The number of unique respondents expected to provide data for this study

are 9,806 State/local government respondents (56 CN directors and 9,750 directors of public SFAs), 1,625 business respondents (directors of private SFAs), and 975 not for profit respondents (directors of not for profit SFAs). These numbers are based on an estimated 65% response rate to the survey for SFAs (based on the 2023 Census response rate) and a 100% response rate to requests to State CN directors.

Estimated Number of Responses per Respondent: All respondents will be asked to respond to each specific data collection activity only once. The overall average number of responses per respondent across the entire collection is 13.4.

Estimated Total Annual Responses: The estimated number of total annual responses is 255,088.

Estimated Time per Response: The estimated time of response varies from 2 minutes (for some emails) to 30 minutes (for completion of the Census survey), as shown in the burden table below. The estimated time per response is 4.7 minutes (0.08 hours).

Estimated Total Annual Burden on Respondents: 20,110 hours. This includes 14,267 hours for respondents and 5,843 hours for non-respondents. See the table below for estimated total annual burden for each type of respondent.

¹ Public includes charter schools that operate NSLP.

RESPONDENT BURDEN TABLE

Respondent type	Respondent description	Data collection activity	Original sample size	Responsive				Non-responsive				Estimated total annual hour burden	
				Estimated number of respondents	Frequency of response	Total annual responses	Hours per response	Estimated annual burden (hours)	Estimated number of non-respondents *	Frequency of response	Total annual responses		Hours per response	Estimated annual burden (hours)
State/local government	State Child Nutrition directors.	Announcement email from FNS to State Child Nutrition Directors.	56	56	1	56	0.0668	3.74	0	0	0	0.00	3.74
		Contact list request from Study Team to State Child Nutrition Directors ¹ .	56	56	1	56	1.00	56.00	0	0	0	0.00	56.00
		Announcement email from State Child Nutrition Directors to SFAs.	56	56	1	56	0.50	28.00	0	0	0	0.00	28.00
		Reminder email from State Child Nutrition Directors to SFAs.	56	56	1	56	0.25	14.00	0	0	0	0.00	14.00
	SFA directors: Public schools.	Subtotal (States).	56	56	4	224	0.45	101.74	0	0.00	0	0.00	101.74
		Census survey pretest.	9	9	1	9	1.50	13.50	0	0	.....	0.00	13.50
		Announcement email from State Child Nutrition Directors to SFAs.	15,000	9,750	1	9,750	0.0668	651.30	5,250	1	5,250	0.0334	175.35
		Introductory email from Study Team to SFAs.	15,000	9,750	1	9,750	0.0668	651.30	5,250	1	5,250	0.0334	175.35
		Census preparation worksheet.	15,000	4,875	1	4,875	0.50	2,437.50	10,125	1	10,125	0.0334	338.18
		Census frequently asked questions (FAQ) document.	15,000	4,875	1	4,875	0.25	1,218.75	10,125	1	10,125	0.0334	338.18
		Census survey ...	15,000	9,750	1	9,750	0.50	4,875.00	5,250	1	5,250	0.0501	263.03
		Reminder email #1.	14,100	846	1	846	0.0501	42.38	13,254	1	13,254	0.0334	442.68
		Reminder email #2.	13,254	795	1	795	0.0501	39.84	12,459	1	12,459	0.0334	416.12
		Reminder email #3.	12,459	748	1	748	0.0501	37.45	11,711	1	11,711	0.0334	391.16
Reminder email #4.	11,711	703	1	703	0.0501	35.20	11,009	1	11,009	0.0334	367.69		
Reminder email #5.	11,009	661	1	661	0.0501	33.09	10,348	1	10,348	0.0334	345.62		
Reminder email #6.	10,348	621	1	621	0.0501	31.11	9,727	1	9,727	0.0334	324.89		
Reminder email #7.	9,727	584	1	584	0.0501	29.24	9,144	1	9,144	0.0334	305.39		
Reminder email #8.	9,144	549	1	549	0.0501	27.49	8,595	1	8,595	0.0334	287.07		

RESPONDENT BURDEN TABLE—Continued

Respondent type	Respondent description	Data collection activity	Original sample size	Responsive				Non-responsive				Estimated total annual hour burden		
				Estimated number of respondents	Frequency of response	Total annual responses	Hours per response	Estimated annual burden (hours)	Estimated number of non-respondents *	Frequency of response	Total annual responses		Hours per response	Estimated annual burden (hours)
Business		Reminder email from State Child Nutrition Directors to SFAs. Reminder telephone call. Thank you email	15,000	9,750	1	9,750	0.0668	651.30	5,250	1	5,250	0.0334	175.35	826.65
			8,595	1,719	1	1,719	0.0501	86.12	6,876	1	6,876	0.0334	229.66	315.78
			9,750	9,750	1	9,750	0.0334	325.65	0	0	0	0.00	0.00	325.65
		Subtotal (SFAs: Public Schools).	15,000	9,750	7	65,733	0.17	11,186.23	5,250	25.59	134,372	0.03	4,575.71	15,761.93
		Subtotal (All State/local government)	15,056	9,806	7	65,957	0.17	11,287.97	5,250	25.59	134,372	0.03	4,575.71	15,863.67
		SFA directors: Private schools.	2,500	1,625	1	1,625	0.0668	108.55	875	1	875	0.0334	29.23	137.78
			2,500	1,625	1	1,625	0.0668	108.55	875	1	875	0.0334	29.23	137.78
			2,500	813	1	813	0.50	406.25	1,688	1	1,688	0.0334	56.36	462.61
			2,500	813	1	813	0.25	203.13	1,688	1	1,688	0.0334	56.36	259.49
			2,500	1,625	1	1,625	0.50	812.50	875	1	875	0.0501	43.84	856.34
Business		Reminder email from State Child Nutrition Directors to SFAs. Introductionary email from Study Team to SFAs. Census preparation worksheet. Census frequently asked questions (FAQ) document. Census survey ...	2,350	1,411	1	1,411	0.0501	7.06	2,209	1	2,209	0.0334	73.78	80.84
			2,209	133	1	133	0.0501	6.64	2,076	1	2,076	0.0334	69.35	75.99
			2,076	125	1	125	0.0501	6.24	1,952	1	1,952	0.0334	65.19	71.43
			1,952	117	1	117	0.0501	5.87	1,835	1	1,835	0.0334	61.28	67.15
			1,835	110	1	110	0.0501	5.52	1,725	1	1,725	0.0334	57.60	63.12
			1,725	103	1	103	0.0501	5.18	1,621	1	1,621	0.0334	54.15	59.33
			1,621	97	1	97	0.0501	4.87	1,524	1	1,524	0.0334	50.90	55.77
			1,524	91	1	91	0.0501	4.58	1,432	1	1,432	0.0334	47.85	52.43
			2,500	1,625	1	1,625	0.0668	108.55	875	2	1,750	0.0334	58.45	167.00
			1,432	286	1	286	0.0501	14.35	1,146	1	1,146	0.0334	38.28	52.63
		1,625	1,625	1	1,625	0.0334	54.28	0	0	0	0.00	0.00	54.28	

Not For Profit ..	Subtotal (Business)	2,500	1,625	7	10,954	0.17	1,862.12	875	26.59	23,270	0.03	791.84	2,653.96
SFA directors: Not for profit schools.	Announcement email from State Child Nutrition Directors to SFAs.	1,500	975	1	975	0.0668	65.13	525	1	525	0.0334	17.54	82.67
	Introductory email from Study Team to SFAs.	1,500	975	1	975	0.0668	65.13	525	1	525	0.0334	17.54	82.67
	Census preparation worksheet.	1,500	488	1	488	0.50	243.75	1,013	1	1,013	0.0334	33.82	277.57
	Census frequently asked questions (FAQ) document.	1,500	488	1	488	0.25	121.88	1,013	1	1,013	0.0334	33.82	155.69
	Census survey	1,500	975	1	975	0.50	487.50	525	1	525	0.0501	26.30	513.80
	Reminder email #1.	1,410	85	1	85	0.0501	4.24	1,325	1	1,325	0.0334	44.27	48.51
	Reminder email #2.	1,325	80	1	80	0.0501	3.98	1,246	1	1,246	0.0334	41.61	45.60
	Reminder email #3.	1,246	75	1	75	0.0501	3.75	1,171	1	1,171	0.0334	39.12	42.86
	Reminder email #4.	1,171	70	1	70	0.0501	3.52	1,101	1	1,101	0.0334	36.77	40.29
	Reminder email #5.	1,101	66	1	66	0.0501	3.31	1,035	1	1,035	0.0334	34.56	37.87
	Reminder email #6.	1,035	62	1	62	0.0501	3.11	973	1	973	0.0334	32.49	35.60
	Reminder email #7.	973	58	1	58	0.0501	2.92	914	1	914	0.0334	30.54	33.46
	Reminder email #8.	914	55	1	55	0.0501	2.75	859	1	859	0.0334	28.71	31.46
	Reminder email from State Child Nutrition Directors to SFAs.	1,500	975	1	975	0.0668	65.13	525	2	1,050	0.0334	35.07	100.20
	Reminder telephone call.	859	172	1	172	0.0501	8.61	688	1	688	0.0334	22.97	31.58
	Thank you email	975	975	1	975	0.0334	32.57	0	0	0	0.00	0.00	32.57
	Subtotal (Not for profit)	1,500	975	7	6,572	0.17	1,117.27	525	26.59	13,962	0.03	475.11	1,592.38
	Total Reporting Burden	19,056	12,406	7	83,483	0.17	14,267	6,650	25.81	171,605	0.03	5,843	20,110

Tameka Owens,

Assistant Administrator, Food and Nutrition Service.

[FR Doc. 2024–15511 Filed 7–15–24; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

[Docket No. RHS–24–SFH–0023]

Notice of Request for Revision of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Rural Housing Service (RHS or Agency), announces its intention to request Office of Management and Budget's (OMB) approval for a revision of a currently approved information collection in support of the Single-Family Housing Guaranteed Loan Program (SFHGLP).

DATES: Comments on this notice must be received by September 16, 2024.

ADDRESSES: Comments may be submitted electronically by the Federal eRulemaking Portal, www.regulations.gov. Additional information about Rural Development (RD) and its programs is available at www.rd.usda.gov.

FOR FURTHER INFORMATION CONTACT:

Pamela Bennett, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, Stop 1522, South Building, Washington, DC 20250–1522. Telephone: (202) 720–9639. Email: pamela.bennett@usda.gov.

SUPPLEMENTARY INFORMATION: The OMB regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that the Agency is submitting to OMB for revision of an existing collection.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) The accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility and

clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to www.regulations.gov and, in the "Search for dockets and documents on agency actions" box, type in the Docket No. located at the beginning of this notice and click the "Search" button. From the search results, click on or locate the document title and select the "Comment" button. Before inputting comments, commenters may review the "Commenter's Checklist" (optional). Insert comments under the "Comment" title, click "Browse" to attach files (if available), input email address and select "Submit Comment." Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "FAQ" link. All comments will be available for public inspection online at www.regulations.gov.

A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, failure to provide data could result in program benefits being withheld or denied.

Title: Single Family Housing Guaranteed Loan Program.

OMB Number: 0575–0179.

Type of Request: Revision of a Previously Approved Information Collection.

Abstract: Under this program, loan guarantees are provided to participating lenders who make loans to income eligible borrowers in rural areas. The purpose of this program is to promote affordable housing for low- and moderate-income borrowers in rural America.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 55 minutes per response.

Respondents: Private sector lenders participating in the Rural Development

Single Family Housing Guaranteed Loan Program.

Estimated Number of Respondents: 1,600.

Estimated Number of Responses per Respondent: 538.

Estimated Number of Responses: 860,921.

Estimated Total Annual Burden on Respondents: 471,052.

Copies of this information collection can be obtained from Pamela Bennett, Innovation Center—Regulations Management Division, at Email: pamela.bennett@usda.gov.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Joaquin Altoro,

Administrator, Rural Housing Service, USDA Rural Development.

[FR Doc. 2024–15597 Filed 7–15–24; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Construction Progress Reporting Survey

AGENCY: Census Bureau, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of 1995, invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment on the proposed extension of the Construction Progress Reporting Survey, prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before September 16, 2024.

ADDRESSES: Interested persons are invited to submit written comments by email to Thomas.J.Smith@census.gov. Please reference the Construction Progress Reporting Survey in the subject line of your comments. You may also submit comments, identified by Docket

Number USBC–2024–0019, to the Federal e-Rulemaking Portal: <http://www.regulations.gov>. All comments received are part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or specific questions related to collection activities should be directed to Aidan Smith, Assistant Division Chief, Construction Indicator Programs, Economic Indicators Division, U.S. Census Bureau, 301–763–2972 or via email at Aidan.D.Smith@census.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request an extension of a currently approved collection for forms C–700, C–700(R), C–700(SL), and C–700(F). These forms are used to conduct the Construction Progress Reporting Surveys (CPRS) and collect information on the dollar value of construction put in place. Form C–700, for Private Construction Projects, collects construction put in place data for nonresidential projects owned by private companies or individuals. Form C–700(R), for Multifamily Residential Projects, collects construction put in place data for private multifamily residential buildings. Form C–700(SL), for State and Local Government Projects, collects construction put in place data for state and local government projects. Form C–700(F), for Federal Government Projects, collects construction put in place data for federal government projects.

The Census Bureau uses the information from these surveys to publish the value of construction put in place for the monthly ‘Construction Spending’ principal economic indicator. Published estimates are used by a variety of private businesses and trade associations to estimate the demand for building materials and to schedule production, distribution, and sales efforts. They also provide various government agencies with a tool to evaluate economic policy. For example, Bureau of Economic Analysis staff use

data to develop the construction components of gross private domestic investment in the gross domestic product. The Federal Reserve Board and the Department of the Treasury use the value in place data to predict the gross domestic product, which is presented to the Board of Governors and has an impact on monetary policy.

There are currently no planned content changes to the questionnaires.

II. Method of Collection

An independent systematic sample of construction projects is selected each month according to predetermined sample rates. Once a project is selected, it remains in the sample until completion. For the preliminary mailing, preprinted forms are mailed to respondents. After the preliminary mailing, respondents have the option to report online. Respondents that consistently report electronically, receive email notifications and reminders to complete the online survey. Nonrespondents are later called by a Census interviewer and are asked to report data over the phone. Interviews are scheduled at the convenience of the respondent, which further reduces their burden. Respondents having their information available from an internal database at the time of the interview greatly helps reduce the time spent on the phone.

III. Data

OMB Control Number: 0607–0153.

Form Number(s): C–700, C–700(R), C–700(SL), C–700(F).

Type of Review: Regular submission, Request for an Extension, without Change, of a Currently Approved Collection.

Affected Public: Individuals, Businesses or Other for Profit, Not-for-Profit Institutions, Small Businesses or Organizations, State and Local Governments and the Federal Government.

Estimated Number of Respondents: C–700 = 6,200; C–700(R) = 2,500; C–700(SL) = 11,800; C–700(F) = 1,500
TOTAL = 22,000.

Estimated Time per Response: 30 minutes for the first month; 10 minutes for subsequent months. We estimate, on average, that projects remain in sample for 12 months.

Estimated Total Annual Burden Hours: 51,333.

Estimated Total Annual Cost to Public: \$0 (This is not the cost of respondents’ time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records

maintenance services required specifically by the collection.)

Respondent’s Obligation: Voluntary.
Legal Authority: Title 13 U.S.C. 131 and 182.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–15624 Filed 7–15–24; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–39–2024]

Foreign-Trade Zone (FTZ) 75, Notification of Proposed Production Activity; LG Energy Solution Arizona, Inc.; (Cylindrical Lithium-Ion Battery Cells and Lithium Iron Phosphate Pouch-Type Batteries); Queen Creek, Arizona

The City of Phoenix, grantee of FTZ 75, submitted a notification of proposed production activity to the FTZ Board (the Board) on behalf of LG Energy Solution Arizona, Inc. (LGESAI), for LGESAI’s facilities in Queen Creek,

Arizona within Subzone 75V. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on July 8, 2024.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/ component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via www.trade.gov/ftz.

The proposed finished products include: cylindrical lithium-ion battery cells and lithium-iron phosphate pouch-type batteries (duty-rate 3.4%).

The proposed foreign-status materials/components include: anode conductive agents; cathode conductive agents; N-methyl-2-pyrrolidone (NMP) [solvent]; insulation solution comprised of NMP, based aluminum oxide hydroxide, tannic acid, polyvinylidene fluoride and, styrene butadiene rubber solution; anode active material comprised of artificial and natural graphite and, silicon monoxide (SiO); cathode active materials comprised of lithium nickel manganese cobalt oxides and lithium, iron and, phosphoric acid (LFP(LiFePO₄); conductive agents comprised of NMP base, multi-wall carbon nano tube, water based single-wall carbon nano tube; electrolytes comprised of lithium hexafluorophosphate, ethylene, dimethyl, ethyl methyl and vinylene carbonates and, ethylene sulfate); cathode binders comprised of polyvinylidene fluoride; anode additives comprised of carboxymethyl cellulose; insulation tapes; jelly roll tapes; seal tapes; stack cell tapes; separators comprised of polyethylene alumina (Al₂O₃) coated, polyethylene film and, polypropylene film); pouch; anode binders; styrene-butadiene rubber; cathode additives; copper or nickel-plated copper anode current collectors; copper foil; aluminum foil; aluminum cathode current collectors; aluminum and nickel-plated steel riveting can; stainless steel ventilation assemblies; lead assembly electrode current collectors comprised of aluminum cathodes, copper anode, or nickel-plated copper); and, polypropylene top insulators (duty rate ranges from duty-free to 6.5%).

The request indicates that the materials/components are subject to duties under section 301 of the Trade Act of 1974 (section 301), depending on

the country of origin. The applicable section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is August 26, 2024.

A copy of the notification will be available for public inspection in the "Online FTZ Information System" section of the Board's website.

For further information, contact Christopher Wedderburn at Chris.Wedderburn@trade.gov.

Dated: July 10, 2024.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2024–15599 Filed 7–15–24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–40–2024]

Foreign-Trade Zone (FTZ) 78, Notification of Proposed Production Activity; AESC US LLC; (Lithium-Ion Battery Cells); Smyrna, Tennessee

AESC US LLC, submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Smyrna, Tennessee within Subzone 78L. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on July 8, 2024.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/ component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via www.trade.gov/ftz. The proposed finished product(s) and material(s)/component(s) would be added to the production authority that the Board previously approved for the operation, as reflected on the Board's website.

The proposed finished product is lithium-ion battery cells (duty rate 3.4%).

The proposed foreign-status materials/components include: aluminum caps for cell enclosure; bottom support plate (polypropylene);

cap plate covers (polycarbonate); forming nails (plastics); battery cell enclosure (aluminum can); positive connectors (aluminum); sealing nails (aluminum); insulation (polyester film); polyethylene terephthalate tape (adhesive in rolls); negative connectors (copper); and, separators for electrical charges (cellular plastic) (duty rate ranges from duty-free to 6.5%). The request indicates that the materials/ components are subject to duties under section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is August 26, 2024.

A copy of the notification will be available for public inspection in the "Online FTZ Information System" section of the Board's website.

For further information, contact Christopher Wedderburn at Chris.Wedderburn@trade.gov.

Dated: July 10, 2024.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2024–15600 Filed 7–15–24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Robert Wise, 145 Cliff Avenue, Pelham, NY 10803; Order Denying Export Privileges

On December 4, 2023, in the U.S. District Court for the Southern District of New York, Robert Wise ("Wise") was convicted of violating 18 U.S.C. 371. Specifically, Wise was convicted of conspiring to commit international money laundering by using international wire transfers to conduct U.S. dollar transactions for the benefit of a sanctioned Russian oligarch. As a result of his conviction, the Court sentenced Wise to time served, two years of supervised release, with the first 12 months in home detention, and a \$100,000 fine.

Pursuant to Section 1760(e) of the Export Control Reform Act ("ECRA"),¹ the export privileges of any person who has been convicted of certain offenses,

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

including, but not limited to, 18 U.S.C. 371, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (“BIS”) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Wise’s conviction for violating 18 U.S.C. 371. As provided in Section 766.25 of the Export Administration Regulations (“EAR” or the “Regulations”), BIS provided notice and opportunity for Wise to make a written submission to BIS. 15 CFR 766.25.² BIS has not received a written submission from Wise.

Based upon my review of the record and consultations with BIS’s Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Wise’s export privileges under the Regulations for a period of five years from the date of Wise’s conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Wise had an interest at the time of his conviction.³

Accordingly, it is hereby *ordered*:

First, from the date of this Order until December 4, 2028, Robert Wise, with a last known address of 145 Cliff Avenue, Pelham, NY 10803, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (“the Denied Person”), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Wise by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Wise may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Wise and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until December 4, 2028.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2024–15618 Filed 7–15–24; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Ruben Arnulfo Chavarin, 1042 E 15th Street, Douglas, AZ 85607; Order Denying Export Privileges

On April 9, 2021, in the U.S. District Court for the District of Arizona, Ruben Arnulfo Chavarin (“Chavarin”) was convicted of violating 18 U.S.C. 554(a). Specifically, Chavarin was convicted of smuggling ammunition from the United States to Mexico. As a result of his conviction, the Court sentenced Chavarin to 78 months of imprisonment, with credit for time served, three years of supervised release, a \$100 special assessment and additional monetary penalties of \$10,307.20.

Pursuant to section 1760(e) of the Export Control Reform Act (“ECRA”),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (“BIS”) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Chavarin’s conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations (“EAR” or the “Regulations”), BIS provided notice and opportunity for Chavarin to make a written submission to BIS. 15 CFR 66.25.² BIS has not received a written submission from Chavarin.

Based upon my review of the record and consultations with BIS’s Office of Exporter Services, including its Director, and the facts available to BIS,

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2024).

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2024).

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

I have decided to deny Chavarin's export privileges under the Regulations for a period of 10 years from the date of Chavarin's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Chavarin had an interest at the time of his conviction.³

Accordingly, it is hereby *ordered*:

First, from the date of this Order until April 9, 2031, Ruben Arnulfo Chavarin, with last known addresses of 1042 E 15th Street, Douglas, AZ 85607, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives ("the Denied Person"), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted

acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Chavarin by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Chavarin may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Chavarin and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until April 9, 2031.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2024-15619 Filed 7-15-24; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF COMMERCE

International Trade Administration

Rescission of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: Based upon the timely withdrawal of all review requests, the U.S. Department of Commerce (Commerce) is rescinding the administrative reviews covering the periods of review and the antidumping duty (AD) and countervailing duty (CVD) orders identified in the table below.

DATES: Applicable July 16, 2024.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482-4735.

SUPPLEMENTARY INFORMATION:

Background

Based upon timely requests for review, Commerce initiated administrative reviews of certain companies for the periods of review and the AD and CVD orders listed in the table below, pursuant to 19 CFR 351.221(c)(1)(i).¹ All requests for these reviews have been timely withdrawn.²

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested the review withdraw their review requests within 90 days of the date of publication of the notice of initiation for the requested review. All parties withdrew their requests for the reviews listed in the table below within the 90-day deadline. No other parties requested administrative reviews of these AD/CVD orders for the periods noted in the table. Therefore, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding, in their entirety, the administrative reviews listed in the table below.

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 78298 (November 14, 2023); *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 8641 (February 8, 2024); *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 15827 (March 5, 2024); *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 86 FR 24780 (April 9, 2024); and *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 49844 (June 12, 2024).

² The letters withdrawing the review requests may be found in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>.

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

	Period of review
AD Proceedings	
Brazil:	
Common Alloy Aluminum Sheet, A-351-854	4/1/2023-3/31/2024
Lemon Juice, A-351-858	8/4/2022-1/31/2024
Croatia:	
Common Alloy Aluminum Sheet, A-891-001	4/1/2023-3/31/2024
Egypt:	
Common Alloy Aluminum Sheet, A-729-803	4/1/2023-3/31/2024
Germany:	
Common Alloy Aluminum Sheet, A-428-849	4/1/2023-3/31/2024
Indonesia:	
Common Alloy Aluminum Sheet, A-560-835	4/1/2023-3/31/2024
Malaysia:	
Stainless Steel Butt-Weld Pipe Fittings, A-557-809	2/1/2023-1/31/2024
Mexico:	
Large Residential Washers, A-201-842	2/1/2023-1/31/2024
Romania:	
Common Alloy Aluminum Sheet, A-485-809	4/1/2023-3/31/2024
Serbia:	
Common Alloy Aluminum Sheet, A-801-001	4/1/2023-3/31/2024
Slovenia:	
Common Alloy Aluminum Sheet, A-856-001	4/1/2023-3/31/2024
South Africa:	
Ferrovanadium, A-791-815	1/1/2023-12/31/2023
Lemon Juice, A-791-827	8/4/2022-1/31/2024
Thailand:	
Prestressed Concrete Steel Wire Strand, A-549-820	1/1/2023-12/31/2023
The People's Republic of China:	
Common Alloy Aluminum Sheet, A-570-073	2/1/2023-1/31/2024
Multilayered Wood Flooring, A-570-970	12/1/2022-11/30/2023
Narrow Woven Ribbons with Woven Selvedge, A-570-952	9/1/2022-8/31/2023
Potassium Permanganate, A-570-001	1/1/2023-12/31/2023
CVD Proceedings	
India:	
Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel, C-533-874	1/1/2023-12/31/2023
Forged Steel Fluid End Blocks, C-533-894	1/1/2023-12/31/2023
The People's Republic of China:	
Truck and Bus Tires, C-570-041	1/1/2023-12/31/2023

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping and/or countervailing duties on all appropriate entries during the periods of review noted above for each of the listed administrative reviews at rates equal to the cash deposit of estimated antidumping or countervailing duties, as applicable, required at the time of entry, or withdrawal of merchandise from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register** for rescinded administrative reviews of AD/CVD orders on countries other than Canada and Mexico. For rescinded administrative reviews of AD/CVD orders on Canada or Mexico, Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the

date of publication of this rescission notice in the **Federal Register**.

Notification to Importers

This notice serves as the only reminder to importers of merchandise subject to AD orders of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties, and/or an increase in the amount of antidumping duties by the amount of countervailing duties.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to

administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in these segments of these proceedings. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: July 10, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024-15602 Filed 7-15-24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–854]

Certain Steel Nails From Taiwan: Preliminary Results and Rescission, in Part, of Antidumping Administrative Review; 2022–2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily finds that Cyuan Hong Enterprise Co. (Cyuan Hong), Hsieh Shun Iron Wire Mfg. Co. Ltd. (Hsieh Shun), Qi Ding Enterprise Co. Ltd. (Qi Ding), Yeong Ming Steel Iron Co., Ltd. (Yeong Ming), and non-individually examined companies for which a review was requested made sales of certain steel nails (nails) from Taiwan at prices below normal value (NV) during the period of review (POR), July 1, 2022, through June 30, 2023. Commerce also preliminarily finds that two companies, Concord International Engineering & Trading Co., Ltd. (Concord International) and Wiresmith Industrial Co., Ltd. (Wiresmith), had no reviewable sales of nails from Taiwan during the POR and that six other companies made no shipments of subject merchandise during the POR. Additionally, Commerce is rescinding this administrative review, in part, with respect to certain companies that had no entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results.

DATES: Applicable July 16, 2024.

FOR FURTHER INFORMATION CONTACT: Faris Montgomery or Henry Wolfe, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1537 or (202) 482–0574, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On July 13, 2015, Commerce published the antidumping duty order on nails from Taiwan.¹ On July 1, 2023, Commerce published a notice of opportunity to request an administrative review of the *Order* for the POR.² On

July 26, 2023, Mid Continent Steel & Wire Inc. (Mid Continent) filed a timely request for review with respect to 172 companies.³ On July 27, 2023, Your Standing International Inc. (Your Standing) individually timely requested a review of its own entries during the POR.⁴ Pursuant to these requests, on September 11, 2023, Commerce published the *Initiation Notice* in the **Federal Register**.⁵

In the *Initiation Notice*, Commerce indicated that, in the event that it limited the respondents for individual examination in accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act), Commerce intended to select respondents for individual examination based on U.S. Customs and Border Protection (CBP) data.⁶ On September 14, 2023, Commerce released CBP entry data to interested parties and provided interested parties the opportunity to comment on the CBP data and respondent selection.⁷ No interested parties filed comments regarding the CBP data or respondent selection.

On October 4, 2023, Astrotech Steels Private Limited (Astrotech) and Tag Fasteners Sdn. Bhd. (Tag Fasteners) timely filed letters certifying that they had no shipments of subject merchandise during the POR.⁸ On October 5 and 11, 2023, Jinhai Hardware Co., Ltd. (Jinhai Hardware) and Region System Sdn. Bhd. (Region Systems), Region Industries Co., Ltd. (Region Industries), and Region International Co., Ltd. (Region International), respectively, timely filed letters certifying that they had no shipments of subject merchandise during the POR.⁹

On October 10, 2023, Team Builder Enterprise, Ltd. (Team Builder)¹⁰ and

to Request Administrative Review and Join Annual Inquiry Service List, 88 FR 42693, 42694 (July 3, 2023).

³ See Mid Continent's Letter, "Request for Administrative Review," dated July 26, 2023.

⁴ See Your Standing's Letter, "Steel Nails from Taiwan," date July 27, 2023.

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 62322, 62329 (September 11, 2023) (*Initiation Notice*).

⁶ *Id.*

⁷ See Memorandum "Release of Customs Data from U.S. Customs and Border Protection," dated September 14, 2023.

⁸ See Astrotech's Letter, "Request for No Shipment during the Period of Review (POR)," dated October 4, 2023; see also Tag Fastener's Letter, "Submission of Statement of No Shipments," dated October 4, 2023.

⁹ See Jinhai Hardware's Letter, "Submission of Statement of No Shipments," dated October 5, 2023; see also Region Systems, Region Industries, and Region International's Letter, "Submission of No Shipments," dated October 11, 2023.

¹⁰ See Team Builder's Letter, "Statement of No Sales to the United States," dated October 10, 2023.

Wiresmith¹¹ both filed certified "statements of no sales," claiming that they are resellers and that their respective unaffiliated suppliers of subject merchandise all have knowledge of final destination to the United States, and thus, these companies fall under the reseller policy¹² and have no sales for examination by Commerce. On October 31, 2023, Mid Continent submitted comments on Team Builder's statement of no sales.¹³

On October 31, 2023, Commerce selected Hsieh Shun and Your Standing as Mandatory respondents in this review.¹⁴ On November 2, 2023, Commerce issued AD questionnaire to Hsieh Shun and Your Standing.¹⁵ On November 20, 2023, Mid Continent timely withdrew its request for administrative review with respect to five producers of subject merchandise.¹⁶ On November 22, 2023, Your Standing timely withdrew its request for an administrative review of itself.¹⁷

Because Hsieh Shun did not timely respond, or request an extension of time to respond to Commerce's AD questionnaire,¹⁸ on December 29, 2023, Commerce selected Cyuan Hong and Yeong Ming as additional mandatory respondents¹⁹ and subsequently issued the AD questionnaires to Cyuan Hong and Yeong Ming on January 2, 2024.²⁰

Because Cyuan Hong and Yeong Ming did not timely respond, or request an extension of time to respond to Commerce's AD questionnaire,²¹ on January 22, 2024, Commerce selected

¹¹ See Wiresmith's Letter, "Statement of No Sales to the United States," dated October 10, 2023.

¹² See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment of Antidumping Duties*).

¹³ See Mid Continent's Letter, "Comments on Team Builder's No Shipment Letter," dated October 23, 2023.

¹⁴ See Memorandum, "Respondent Selection," dated October 31, 2023.

¹⁵ See Commerce's Letters, "Request for Information," dated October 31, 2023 (AD Questionnaire).

¹⁶ See Mid Continent's Letter, "Withdrawal of Request for Administrative Review," dated November 20, 2023. The companies for which Mid Continent withdrew request for review are: (1) Right Source Co., Ltd. (Right Source); (2) Shang Jeng Nail Co., Ltd.; (3) Team Builder Enterprise Limited.; (4) World Kun Co., Ltd. (World Kun); and (5) Your Standing International, Inc.

¹⁷ See Your Standing's Letter, "Steel Nails from Taiwan," dated November 22, 2023.

¹⁸ See Memorandum, "Questionnaire Deadline," dated December 14, 2023.

¹⁹ See Memorandum, "First Selection of Additional Mandatory Respondents," dated December 29, 2023.

²⁰ See Commerce's Letters, "Request for Information," dated January 2, 2024.

²¹ See Memoranda, "Questionnaire Deadline for Cyuan Hong Enterprise Co.," dated January 22, 2024; and "Questionnaire Deadline for Yeong Ming Steel Iron Co., Ltd.," dated January 22, 2024.

¹ See *Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 80 FR 39994 (July 13, 2015) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity*

Concord and Foison Hardware Inc. (Foison) as additional mandatory respondents²² and subsequently issued the AD questionnaire to Concord and Foison.²³ On February 2, 2024, Commerce was informed that Foison was unreachable at the provided address.²⁴

Between February and March 2024, Concord filed its response to sections A through D of Commerce's AD questionnaire.²⁵ On March 4, 2024, Commerce issued a supplemental questionnaire to Concord and received a timely filed response.²⁶

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), on March 5, 2024, Commerce determined that it was not practicable to complete the preliminary results of this review within 245 days and extended the deadline for the preliminary results of this review until July 30, 2024.²⁷

Because Foison was unreachable at the provided address, on March 7, 2024, Commerce selected Qi Ding as an additional mandatory respondent²⁸ and subsequently issued the AD questionnaire to Qi Ding.²⁹ Qi Ding did not timely respond, or request an extension of time to respond to Commerce's AD questionnaire.³⁰

Scope of the Order

The merchandise covered by this *Order* are certain steel nails from Taiwan. The certain steel nails subject to the *Order* are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and

7317.00.75.00. Certain steel nails subject to this *Order* also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings. Although the HTSUS subheadings are provided for convenience and for customs purposes, the written product description of the scope of this *Order* is dispositive.

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. Because all requests for administrative review of Team Builder, Your Standing, World Kun, Shang Jeng Nail Co. Ltd. (Shang Jeng), and Right Source were withdrawn by interested parties within 90 days of the date of publication of the *Initiation Notice*, Commerce is rescinding this review with respect to these five companies, in accordance with 19 CFR 351.213(d)(1).

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an antidumping duty order when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.³¹ Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate calculated for the review period.³² Therefore, for an administrative review to be conducted, there must be at least one reviewable, suspended entry that Commerce can instruct CBP to liquidate at the antidumping duty assessment rate calculated for the review period.³³ There were no entries of subject merchandise during the POR for 144 companies subject to review.³⁴ As a result, on April 9, 2024, Commerce notified all interested parties of its intent to rescind this review, in part, with respect to these 144 companies and received no comments.³⁵ The

administrative review remains active with respect to 23 companies.

Preliminary Determination of No Reviewable Sales

Wiresmith is a reseller of subject merchandise that reported that it had no reviewable sales or shipments during the POR. Wiresmith provided sales documentation, such as invoices and packing lists from its unaffiliated suppliers, as well as accounting records as evidence in support of its claims. Additionally, mandatory respondent Concord International provided timely responses to Commerce's antidumping duty questionnaire and supplemental questionnaires. Concord International reported in its questionnaire responses that its unaffiliated supplier had knowledge that the nails they produced and sold to it were destined for the United States.³⁶

Based on the information provided by Wiresmith and Concord International, we preliminarily determine that these two companies were not the first parties in the transaction chain to have knowledge that the subject merchandise was destined for the United States and, thus, Wiresmith and Concord International are not considered the exporters of subject merchandise during the POR for purposes of this review. Specifically, the record demonstrates that Wiresmith and Concord International's respective unaffiliated suppliers had knowledge that the nails they produced and sold to the resellers were destined for the United States. Thus, we preliminarily determine that Wiresmith and Concord International had no reviewable sales of subject merchandise during the POR.

Commerce finds that, based on the clarification in the 2003 *Assessment of Antidumping Duties* notice regarding the reseller policy, we will not rescind the review in these circumstances but, rather, will complete the review with respect to the resellers and issue appropriate instructions to CBP after the completion of the review.³⁷ Specifically, we preliminarily find it appropriate in this case to instruct CBP at the completion of the review to liquidate any existing entries of subject merchandise produced and exported by the resellers' respective unaffiliated

and Tag Fasteners. To confirm these companies' no-shipment claims, Commerce issued a no-shipment inquiry to U.S. CBP and received no contradictory information. See Memorandum "No Shipment Inquiry for Multiple Companies During the Period 07/01/2022 through 06/20/2023," dated February 22, 2024.

³⁶ See Concord International's Letter, "Section A Response" dated February 22, 2024, at 28.

³⁷ *Id.*

²² See Memorandum, "Second Selection of Additional Mandatory Respondents," dated January 25, 2024.

²³ See Commerce's Letters, "Request for Information," dated January 26, 2024.

²⁴ See Memorandum, "Attempt to Deliver Initial Questionnaire," dated February 2, 2024.

²⁵ See Concord's Letters, "Section A Response," dated February 22, 2024; and "Section C-D Response," dated March 18, 2024.

²⁶ See Concord's Letter, "Section A Supplemental Questionnaire Response," dated March 8, 2024.

²⁷ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated March 5, 2024.

²⁸ See Memorandum, "Third Selection of Additional Mandatory Respondents," dated March 7, 2024.

²⁹ See Commerce's Letter, "Request for information," dated March 11, 2024.

³⁰ See Memorandum, "Questionnaire Deadline for Qi Ding Enterprise Co. Ltd.," dated April 2, 2024.

³¹ See, e.g., *Diocetyl Terephthalate from the Republic of Korea: Rescission of Antidumping Administrative Review; 2021–2022*, 88 FR 24758 (April 24, 2023); see also *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4157 (January 24, 2023).

³² See 19 CFR 351.212(b)(1).

³³ See 19 CFR 351.213(d)(3).

³⁴ See Appendix I for a list of these companies.

³⁵ See Memorandum, "Notice of Intent to Rescind Review, In Part," dated April 4, 2024. We note that Commerce received no-shipment certifications from six companies: Astrotech; Jinhai Hardware; Region Systems; Region Industries; Region International;

suppliers at the rate applicable to the unaffiliated producers, or the all-others rate if there is no rate for the unaffiliated producers.³⁸

Facts Available

Pursuant to section 776(a)(1) and 776(a)(2)(A)–(C) of the Act, Commerce is preliminarily relying upon facts otherwise available to assign estimated dumping margins to mandatory respondents Cyuan Hong, Hsieh Shun, Qi Ding, and Yeong Ming because all four companies were unresponsive to our requests for information, thereby withholding necessary information that was requested by Commerce, failing to provide the information requested by the specified deadlines in the form and manner requested, and significantly impeding the conduct of the review. Further, Commerce preliminarily finds that Cyuan Hong, Hsieh Shun, Qi Ding, and Yeong Ming failed to cooperate by not acting to the best of their ability to comply with requests for information and, thus, Commerce is applying an adverse inference in selecting among the facts available, in accordance with section 776(b) of the Act. As adverse facts available, we are assigning these companies a rate of 78.17 percent, which is the highest rate applied in any segment of this proceeding.³⁹

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a weighted-average dumping margin to be determined for companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to

section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an antidumping duty investigation, for guidance when determining the weighted-average dumping margin for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely {on the basis of facts available}." However, pursuant to section 735(c)(5)(B) of the Act, "if the estimated weighted average dumping margins established for all exports and producers initially investigated are zero or *de minimis* margins, or are determined entirely {on the basis of facts available}, {Commerce} may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated."

In this review, the preliminary weighted-average dumping margin for Cyuan Hong, Hsieh Shun, Qi Ding, and Yeong Ming is based entirely on facts available. Therefore, under 735(c)(5)(B) of the Act, Commerce may use any "reasonable method" to establish the estimated all-others rate. Commerce finds it appropriate and within its statute to assign the most recently calculated all-others weighted-average dumping margin previously determined during the *Nails from Taiwan 2021–2022 Administrative Review*, as Commerce would otherwise be calculating a weighted-average dumping margin based entirely on non-cooperative exporters.⁴⁰ As such, we are preliminarily assigning the all-others rate of 26.28 percent.⁴¹

Preliminary Results

Commerce preliminarily determines that the following estimated weighted-average dumping margin exists for the period, July 1, 2022, through June 30, 2023:

⁴⁰ See *Albemarle Corp. v. United States*, 821 F.3d 1345, 1357 (Fed. Cir. 2016) ("Second, as the government points out, in the Adverse Facts Available ("AFA") context, where Commerce is allowed to consider deterrence as a factor, we have upheld Commerce's use of data from a previous administrative review.")

⁴¹ See *Certain Steel Nails from Taiwan: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Final Determination of No Reviewable Sales; 2021–2022*, 89 FR 6503 (February 1, 2024) (*Nails from Taiwan 2021–2022 Administrative Review*).

Producer or exporter	Weighted-average dumping margin (percent)
Cyuan Hong Enterprise Co. (Cyuan Hong)	78.17
Hsieh Shun Iron Wire Mfg. Co. Ltd. (Hsieh Shun)	78.17
Qi Ding Enterprise Co. Ltd. (Qi Ding)	78.17
Yeong Ming Steel Iron Co., Ltd. (Yeong Ming)	78.17
Companies Not Individually Examined ⁴²	26.28

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied total adverse facts available to the four companies subject to this review, in accordance with section 776 of the Act, there are no calculations to disclose.

Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice.⁴³ Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.⁴⁴ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.⁴⁵

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs. Further, we request that interested parties limit their public executive summary of each issue

⁴² See Appendix II for a list of these companies.

⁴³ See 19 CFR 351.303 (for general filing requirements).

⁴⁴ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

⁴⁵ See 19 CFR 351.309(c)(2) and (d)(2).

³⁸ See, e.g., *Certain Frozen Warmwater Shrimp from India: Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 77610, 77612 (December 19, 2008); *Certain Pasta from Turkey: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 23974, 23977 (April 29, 2011), unchanged in *Pasta from Turkey: Notice of Final Results of the 14th Antidumping Duty Administrative Review*, 76 FR 68399 (November 4, 2011); see also *Certain Steel Nails from Taiwan: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Partial Rescission of Review; 2020–2021*, 87 FR 35734, 35736 (June 13, 2022), unchanged in *Certain Steel Nails from Taiwan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2020–2021*, 87 FR 63034, 63035 (October 18, 2022).

³⁹ See *Certain Steel Nails from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review; 2015–2016*, 82 FR 36744 (August 7, 2017), and accompanying Preliminary Decision Memorandum, unchanged in *Certain Steel Nails from Taiwan: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review; 2015–2016*, 83 FR 6163 (February 13, 2018).

to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).⁴⁶

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, within 30 days after the date of publication of this notice. If a request for a hearing is made, Commerce intends to hold a hearing at a time and date to be determined.⁴⁷ Parties should confirm the date, time, and location of the hearing two days before the scheduled date. All submissions, including case and rebuttal briefs, as well as hearing requests, should be filed using ACCESS.⁴⁸ An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Assessment Rates

Upon issuing the final results of this review, Commerce will determine, and U.S. CBP shall assess, antidumping duties on all appropriate entries covered by this review.⁴⁹ With respect to the companies for which we have rescinded this review in part, Commerce intends to instruct CBP to assess antidumping duties on all appropriate entries at rates equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the POR, in accordance with 19 CFR 351.212(c)(1)(i).

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Instructions

The following cash deposit requirements will be effective upon publication in the **Federal Register** of the notice of final results of administrative review for all shipments of nails from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Cyuan Hong, Hsieh Shun, Qi Ding, and Yeong Ming will be equal to weighted-average dumping margin established in the final results of this review; (2) for merchandise exported by a company not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review or another completed segment of this proceeding, but the producer is, then the cash deposit rate will be the company-specific rate established for the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 26.28 percent, the all-others rate established in the less-than-fair-value investigation investigation.⁵⁰ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of the Review

Unless the deadline is otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised by interested parties in the written briefs, within 120 days after the date of publication of this notice in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h) and 351.221(b)(4).

Dated: July 10, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

Companies for Which Commerce Is Rescinding the Administrative Review

1. A-Jax Enterprises Limited
2. A-Jax International Company Limited
3. A-Stainless International Company Limited
4. Advanced Global Sourcing Limited
5. Aimreach Enterprises Company Limited
6. Alishan International Group Co., Ltd.
7. Alisios International Corporation
8. Allwin Architectural Hardware Inc.
9. A.N. Cooke Manufacturing Co., Pty., Limited
10. Asia Engineered Components
11. Asia Link Industrial Corporation
12. Asia Smarten Way Corp. (Taiwan)
13. Astrotech Steels Private Ltd.
14. Autolink International Company Limited
15. BCR Inc.
16. Boltun Corporation Ltd.
17. Budstech CI Limited
18. Bulls Technology Company Limited
19. Canatex Industrial Company Limited
20. Cata Company Limited
21. Cenluxmetals Company Limited
22. Chang Bin Industrial Co., Ltd.
23. Channg Chin Industry Corporation
24. Chang Yu Industrial Company
25. Chen Nan Iron Wire Co., Ltd.
26. Chen Yu-Lan
27. Chia Da Fastener Company Limited
28. Chia Long Enterprise Co. Ltd.
29. Chiang Shin Fasteners Industries Ltd.
30. Chin Tai Sing Precision Manufactory Co., Ltd.
31. Chun Yu Works & Company Limited
32. Cornwall Enterprise Co., Ltd.
33. Cross International Co., Ltd.
34. Da Wing Industry Company Limited
35. DFK Industrial Corp.
36. Eagre International Trade Co., Ltd.
37. Ever-Top Hardware Corporation
38. Excel Components Manufacturing Co., Ltd.
39. Excellence Industrial Co. Ltd.

⁴⁶ See *APO and Service Final Rule*.

⁴⁷ See 19 CFR 351.310(d).

⁴⁸ See 19 CFR 351.303.

⁴⁹ See 19 CFR 351.212(b).

⁵⁰ See *Certain Steel Nails from Taiwan: Notice of Court Decision Not in Harmony With Final Determination in Less Than Fair Value Investigation and Notice of Amended Final Determination*, 82 FR 55090 (November 20, 2017).

40. Fastguard Fastening Systems Inc.
 41. Feng Yi Steel Co. Ltd.
 42. Fong Yien Industrial Co., Ltd.
 43. Fujian Xinhong Mech. & Elec. Co., Ltd.
 44. Funtec International Co., Ltd.
 45. Fuzhou Royal Floor Co., Ltd.
 46. FWU Kuang Enterprise Co., Ltd.
 47. H-H Fasteners Company
 48. H-Locker Components Inc.
 49. Hau Kawang Enterprise Co., Ltd.
 50. Hecny Group
 51. Hi-Sharp Industrial Corp., Ltd.
 52. Hom Wei Enterprise Corporation
 53. Hor Liang Industrial Corp.
 54. HWA Hsing Screw Industry Co., Ltd.
 55. Hwaguo Industrial Fasteners Co., Ltd.
 56. Hy-Mart Fastener Co., Ltd.
 57. Hyup Sung Indonesia
 58. In Precision Link Co., Ltd.
 59. Intai Technology Corporation
 60. Integral Building Products Inc.
 61. Ji Li Deng Fasteners Co., Ltd.
 62. Jinhai Hardware Co., Ltd.
 63. Jinn Her Enterprise Limited
 64. Jointech Fasteners International Co., Ltd.
 65. JunHai Enterprise Co. Ltd.
 66. Kan Good Enterprise Co., Ltd.
 67. Katsuhana Fasteners Corporation
 68. Key Use Industrial Works Co., Ltd.
 69. Kot Uniontek Co. Ltd.
 70. K. Ticho Industries Co., Ltd.
 71. K Win Fasteners Inc.
 72. Kuan Hsin Screw Industry Co., Ltd.
 73. Liang Ying Fasteners Industry Co., Ltd.
 74. Long Chan Enterprise Co., Ltd.
 75. Lu Chu Shin Yee Works Co., Ltd.
 76. M&W Fasteners Co. Ltd.
 77. Mechanical Hardwares Co.
 78. Min Hwei Enterprise Co., Ltd.
 79. Ming Cheng Precision Co., Ltd.
 80. Ming Zhan Industrial Co., Ltd.
 81. ML Global Ltd.
 82. New Pole Power System Com. Ltd.
 83. Newfast Co., Ltd.
 84. Noah Enterprise Co., Ltd.
 85. Nufasco Fastening System Corp.
 86. Nytags Taiwan Corporation
 87. Par Excellence Industrial Co., Ltd.
 88. Pengteh Industrial Co., Ltd.
 89. Pneumax Corp.
 90. Printech T Electronics Corporation
 91. Pro-an International Co., Ltd.
 92. Pro-Team Coil Nail Enterprise, Inc.
 93. Pronto Great China Corp.
 94. Professional Fasteners Development Co., Ltd.
 95. P.S.M. Fasteners (Asia) Limited
 96. PT Enterprise, Inc.
 97. Real Fasteners Inc.
 98. Region System Sdn. Bhd.
 99. Region Industries Co., Ltd.
 100. Region International Co., Ltd.
 101. Right Source Co., Ltd.
 102. Rong Chang Metal Co., Ltd.
 103. Romp Coil Nail Industries Inc.
 104. San Shing Fastech Corporation
 105. SBSCQ Taiwan Limited
 106. Shang Jeng Nail Co., Ltd.
 107. Shanxi Pioneer Hardware Industrial Co., Ltd.
 108. Shen Fong Industries Co.
 109. Shin Guang Yin Enterprise Co. Ltd.
 110. Somax Enterprise Co., Ltd.
 111. Soon Port International Co. Ltd.
 112. Star World Product and Trading Co., Ltd.

113. Sumeeko Industries Co., Ltd.
 114. Sunshine Spring Co., Ltd.
 115. Suntec Industries Co., Ltd.
 116. Super Nut Industrial Co., Ltd.
 117. Supreme Fasteners Corp.
 118. Szu I Industries Co., Ltd.
 119. Tag Fasteners Sdn. Bhd.
 120. Taifas Corporation
 121. Taiwan Geer-Tai Works Co., Ltd.
 122. Taiwan Quality Fastener Co., Ltd.
 123. Team Builder Enterprise Limited
 124. Techno Associates Taiwan Co., Ltd.
 125. Techup Development Co., Ltd.
 126. TG Co., Ltd.
 127. Tianjin Jinchi Metal Products Co. Ltd.
 128. Tong Hwei Enterprise Co., Ltd.
 129. Topps Wang International Ltd.
 130. Unicatch Industrial Co., Ltd.
 131. Unistrong Industrial Co., Ltd.
 132. United Nail Products Co. Ltd.
 133. United Tec Fastening Inc.
 134. Vanguard International Co., Ltd.
 135. Wa Tai Industrial Co., Ltd.
 136. Way Fast International Co., Ltd.
 137. Win Fastener Corporation
 138. World Kun Co., Ltd.
 139. Wumax Industry Co., Ltd.
 140. Wyser International Corporation
 141. Yiciscrew Co., Ltd.
 142. Yng Tran Enterprise Company Limited
 143. Yoh Chang Enterprise Company Limited
 144. Your Standing International, Inc.
 145. Yow Chern Company
 146. Yumark Enterprises Corporation
 147. Yu Tai World Co., Ltd.
 148. Zenith Good Enterprise Corporation
 149. Zonbix Enterprise Co. Ltd.

Appendix II

Companies Not Selected for Individual Examination

- Bestwell International Corporation
- Create Trading Co., Ltd.
- Dar Yu Enterprise Co., Ltd.
- Fastnet Corporation
- Foison Hardware Income
- GoFast Company Limited
- JCH Hardware Company Inc.
- Jockey Ben Metal Enterprise Co., Ltd.
- Liang Chyuan Industrial Co., Ltd.
- Midas Union Co., Ltd.
- Pao Shen Enterprises Co., Ltd.
- Rodex Fasteners Corp.
- Spec Products Corporation
- Ume-Pride International Inc.
- WTA International Co., Ltd.
- Wu Shun Enterprise Co.
- Yeun Chang Hardware Tool Company Limited

[FR Doc. 2024–15603 Filed 7–15–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–853]

Large Top Mount Combination Refrigerator-Freezers From Thailand: Initiation of Less-Than-Fair-Value Investigation

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

DATES: Applicable July 9, 2024.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6412.

SUPPLEMENTARY INFORMATION:

The Petition

On May 30, 2024, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) petition concerning imports of large top mount combination refrigerator-freezers (refrigerators) from Thailand, filed in proper form on behalf of Electrolux Consumer Products, Inc. (the petitioner), a domestic producer of refrigerators.¹

Between June 4 and 21, 2024, Commerce requested information pertaining to certain aspects of the Petition in supplemental questionnaires, as well as via a phone call.² The petitioner responded to Commerce's requests for additional information between June 6 and 24, 2024.³

On June 14, 2024, after considering comments regarding industry support, Commerce extended the initiation deadline by 20 days to poll the domestic industry, in accordance with section 732(c)(4)(D) of the Tariff Act of 1930, as amended (the Act), because “the Petition has not established that the domestic producers or workers

¹ See Petitioner's Letter, “Petition for the Imposition of Antidumping Duties,” dated May 30, 2024 (Petition).

² See Commerce's Letters, “Supplemental Questions,” dated June 3, 2024 (Supplemental Questionnaire); and “Supplemental Questions,” dated June 21, 2024 (Second Supplemental Questionnaire); see also Memorandum, “Phone Call with Counsel to the Petitioner,” dated June 10, 2024.

³ See Petitioner's Letters, “Response to Supplemental Questions,” dated June 6, 2024 (Supplement); “Response to Industry Support Supplemental Questions,” dated June 11, 2024 (Industry Support Response); and “Response to Supplemental Scope Questions,” dated June 24, 2024 (Scope Supplement).

accounting for more than 50 percent of total production support the Petition.”⁴

In accordance with section 732(b) of the Act, the petitioner alleges that imports of refrigerators from Thailand, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the refrigerators industry in the United States. Consistent with section 732(b)(1) of the Act, the Petition was accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested LTFV investigation.⁵

Period of Investigation

Because the Petition was filed on May 30, 2024, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) is April 1, 2023, through March 31, 2024.

Scope of the Investigation

The products covered by this investigation are refrigerators from Thailand. For a full description of the scope of this investigation, see the appendix to this notice.

Comments on the Scope of the Investigation

On June 4 and 21, 2024, Commerce requested information and clarification from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.⁶ On June 6 and 24, 2024, the petitioner provided clarifications and revised the scope.⁷ The description of merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to

raise issues regarding product coverage (*i.e.*, scope).⁸ Commerce will consider all scope comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,⁹ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that scope comments be submitted by 5:00 p.m. Eastern Time (ET) on July 29, 2024, which is 20 calendar days from the signature date of this notice.¹⁰ Any rebuttal comments, which may include factual information, and should also be limited to public information, must be filed by 5:00 p.m. ET on August 8, 2024, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of this investigation be submitted during that period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party must contact Commerce and request permission to submit the additional information.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹¹ An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of refrigerators to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical

characteristics of the subject merchandise in order to report the relevant cost of production (COP) accurately, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) general product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe refrigerators, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on July 29, 2024, which is 20 calendar days from the signature date of this notice.¹² Any rebuttal comments must be filed by 5:00 p.m. ET on August 8, 2024, which is 10 calendar days from the initial comment deadline.

All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the LTFV investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D)

⁴ See *Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping Duty Petition: Large Top Mount Combination Refrigerator-Freezers from Thailand*, 89 FR 54024 (June 21, 2024) (*Initiation Extension Notice*).

⁵ See section on “Determination of Industry Support for the Petition,” *infra*.

⁶ See Supplemental Questionnaire at 3; see also Second Supplemental Questionnaire at 1.

⁷ See Supplement at 1–7; see also Scope Supplement at 1–2 and Attachment.

⁸ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); see also 19 CFR 351.312.

⁹ See 19 CFR 351.102(b)(21) (defining “factual information”).

¹⁰ See 19 CFR 351.303(b)(1).

¹¹ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

¹² See 19 CFR 351.303(b)(1).

of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹³ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁴

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁵ Based on our analysis of the information submitted on the record, we have determined that refrigerators, as defined in the scope, constitute a single domestic like

product, and we have analyzed industry support in terms of that domestic like product.¹⁶

On June 6 and 12, 2024, we received comments on industry support from Haier U.S. Appliance Solutions Inc., d/b/a GE Appliances (GEA).¹⁷ On June 14, 2024, the petitioner responded to GEA’s comments.¹⁸ Based on the information provided in the Petition and the industry support comments, the supporters of the Petition did not account for more than 50 percent of total production of the domestic like product in 2023. Therefore, on June 14, 2024, Commerce extended the initiation deadline by 20 days to poll the domestic industry in accordance with section 732(c)(4)(D) of the Act.¹⁹

On June 17, 2024, Commerce issued polling questionnaires to all known producers of refrigerators identified in the Petition.²⁰ We requested that each company complete the polling questionnaire and certify its response by the due date specified in the cover letter to the questionnaire.²¹ We received timely responses to these questionnaires from domestic producers on June 18 and 21, 2024.²² We received timely comments on the questionnaire responses from the petitioner and Toshiba Consumer Products (Thailand) Co. Ltd., a Thai manufacturer, producer, or exporter of refrigerators, and Midea America Corp., a U.S. importer of refrigerators, (collectively, Toshiba and Midea) on June 26, 2024.²³ Toshiba and

Midea, as well as the petitioner, provided timely rebuttal comments on June 28, 2024.²⁴

Section 732(c)(4)(B) of the Act states that: (i) Commerce “shall disregard the position of domestic producers who oppose the petition if such producers are related to foreign producers, as defined in section 771(4)(B)(ii), unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of an antidumping duty order;” and (ii) Commerce “may disregard the position of domestic producers of a domestic like product who are importers of the subject merchandise.” In addition, 19 CFR 351.203(e)(4) states that the position of a domestic producer that opposes the petition: (i) will be disregarded if such producer is related to a foreign producer or to a foreign exporter under section 771(4)(B)(ii) of the Act, unless such domestic producer demonstrates to the Secretary’s satisfaction that its interests as a domestic producer would be adversely affected by the imposition of an antidumping order; and (ii) may be disregarded if the producer is an importer of the subject merchandise or is related to such an importer under section 771(4)(B)(ii) of the Act.

We received opposition to the Petition from producer(s) that are related to foreign producers of subject merchandise and/or who imported subject merchandise from the subject country. We have analyzed the information provided in the polling questionnaire responses and information provided in other submissions to Commerce. Based on our analysis, we disregarded opposition to the Petition, pursuant to section 732(c)(4)(B) of the Act. When such opposition is disregarded, the industry support requirements of section 732(c)(4)(A) of the Act are satisfied.²⁵

Accordingly, Commerce determines that the industry support requirements of section 732(c)(4)(A) of the Act have been met and that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.²⁶

²⁴ See Petitioner’s Letter, “Rebuttal to the Comments on Responses to Polling Questionnaire,” dated June 28, 2024; see also Toshiba and Midea’s Letter, “Toshiba Consumer Products (Thailand) Co. Ltd.’s and Midea America Corp.’s Rebuttal Comments Regarding the Polling Questionnaire and Industry Support for the Petition,” dated June 28, 2024.

²⁵ See Attachment II of the Thailand AD Initiation Checklist.

²⁶ *Id.*

¹⁶ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see Checklist, “Large Top Mount Combination Refrigerator-Freezers from Thailand,” dated concurrently with, and hereby adopted by, this notice (Thailand AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping Duty Petition Covering Large Top Mount Combination Refrigerator-Freezers from Thailand (Attachment II). The checklist is on file electronically via ACCESS.

¹⁷ See GEA’s Letters, “Comment on Industry Support,” dated June 6, 2024; and “Supplemental Comment on Industry Support,” dated June 12, 2024.

¹⁸ See Petitioner’s Letter, “Rebuttal Comments on Industry Support,” dated June 14, 2024.

¹⁹ See Initiation Extension Notice; see also Attachment II of the Thailand AD Initiation Checklist.

²⁰ See Commerce’s Letters, “Polling Questionnaire,” dated June 17, 2024 (Polling Questionnaire); see also Memorandum, “Emails to Counsel to Domestic Producers,” dated June 17, 2024.

²¹ See Polling Questionnaire.

²² See Petitioner’s Letter, “Response to Industry Support Questionnaire,” dated June 18, 2024; see also GEA’s Letter, “Response to Polling Questionnaire,” dated June 21, 2024.

²³ See Petitioner’s Letter, “Comments on Responses to Polling Questionnaire,” dated June 26, 2024; see also Toshiba and Midea’s Letter, “Toshiba Consumer Products (Thailand) Co. Ltd.’s and Midea America Corp.’s Comments Regarding the Polling Questionnaire and Industry Support for the Petition,” dated June 26, 2024.

¹³ See section 771(10) of the Act.

¹⁴ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d Algoma Steel Corp., Ltd. v. United States*, 865 F.2d 240 (Fed. Cir. 1989)).

¹⁵ See Petition at Volume I (pages 4–5, 9, 24–36, and Exhibits I–1, I–13 through I–15, I–17, I–19, and I–23 through I–27); see also Supplement at 10–12 and Exhibit SUPP–10 through Exhibit SUPP–12.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁷

The petitioner contends that the industry's injured condition is illustrated by the significant and increasing volume of subject imports; decline in market share; underselling and price depression and/or suppression; declines in the domestic industry's production, capacity utilization, shipments, and sales volumes; negative impact on investment, inventories, and financial performance; and lost sales and revenues.²⁸ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁹

Allegation of Sales at LTFV

The following is a description of the allegation of sales at LTFV upon which Commerce based its decision to initiate the LTFV investigation of imports of refrigerators from Thailand. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Thailand AD Initiation Checklist.

U.S. Price

The petitioner based export price (EP) on pricing information for sales, or offers for sale, of refrigerators produced in and exported from Thailand during the POI.³⁰ The petitioner made certain adjustments to U.S. price to calculate a net ex-factory U.S. price, where applicable.³¹

Normal Value³²

The petitioner based NV on pricing information it obtained from an online retailer for refrigerators produced in and sold, or offered for sale, in Thailand during the POI.³³ The petitioner provided information indicating that the prices for refrigerators sold or offered for sale in Thailand were below the COP; therefore, the petitioner calculated NV based on CV.³⁴ For further discussion of CV, see the section "Constructed Value," below.

Constructed Value

As noted above, the petitioner provided information indicating that the prices for refrigerators sold or offered for sale in Thailand were below COP. Therefore, the petitioner based NV on CV.³⁵ Pursuant to section 773(e) of the Act, the petitioner calculated CV as the sum of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, financial expenses, and profit.

In calculating the COM, the petitioner relied on its own production experience and input consumption rates, valued using publicly available information applicable to Thailand.³⁶ In calculating SG&A expenses, financial expenses, and profit ratios, the petitioner relied on the fiscal year 2023 financial statements of a producer of identical merchandise in Thailand.³⁷

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of refrigerators from Thailand are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV, in accordance with sections 772 and 773 of the Act, the estimated dumping margin for refrigerators from Thailand is 165.47 percent.³⁸

Initiation of LTFV Investigation

Based upon the examination of the Petition and supplements thereto, we find that it meets the requirements of section 732 of the Act. Therefore, we are initiating an LTFV investigation to determine whether imports of

refrigerators from Thailand are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

In the Petition, the petitioner identified 13 companies in Thailand as producers/exporters of refrigerators.³⁹ In the event Commerce determines that the number of companies is large, and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on quantity and value (Q&V) questionnaires issued to potential respondents. Following standard practice in AD investigations involving market economy countries, Commerce would normally select respondents based on U.S. Customs and Border Protection (CBP) entry data for imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the "Scope of the Investigations" in the Appendix. However, for this investigation, the main HTSUS subheading under which the subject merchandise would enter is a basket category under which non-subject merchandise may also enter. Therefore, instead of relying on CBP entry data in selecting respondents, we intend to issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

Commerce will also post the Q&V questionnaires along with filing instructions on Commerce's website at <https://www.trade.gov/ec-adcvd-case-announcements>. Exporters/producers of refrigerators from Thailand that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Commerce's website. Responses to the Q&V questionnaire must be submitted by the relevant Thai producers/exporters no later than 5:00 p.m. on July 23, 2024, which is two weeks from the signature date of this notice. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above. Commerce intends to finalize its decision regarding respondent selection within 20 days of publication of this notice.

²⁷ See Petition at Volume I (pages 42–44 and Exhibit I–30).

²⁸ *Id.* at Volume I (pages 1–2 and 41–61 and Exhibits I–30 through I–45); see also Supplement at 12–20 and Exhibits SUPP–13 through SUPP–17.

²⁹ See Thailand AD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation and the Antidumping Duty Petition Covering Large Top Mount Combination Refrigerator-Freezers from Thailand.

³⁰ See Thailand AD Initiation Checklist.

³¹ *Id.*

³² In accordance with section 773(b)(2) of the Act, for this investigation, Commerce will request information necessary to calculate the constructed value (CV) and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

³³ See Thailand AD Initiation Checklist.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ See Petition at Volume I (Exhibit I–20).

Interested parties must submit applications for disclosure under an administrative protective order (APO) in accordance with 19 CFR 351.305(b). As stated above, instructions for filing such applications may be found on Commerce's website at <https://www.trade.gov/administrative-protective-orders>.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the Government of Thailand via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of refrigerators from Thailand are materially injuring, or threatening material injury to, a U.S. industry.⁴⁰ A negative ITC determination will result in the investigation being terminated.⁴¹ Otherwise, this LTFV investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁴² and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or

correct.⁴³ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that "if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology." When an interested party submits a PMS allegation pursuant to section 773(e) of the Act (*i.e.*, a cost-based PMS allegation), the submission must be filed in accordance with the requirements of 19 CFR 351.416(b) and Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a cost-based PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), sets a deadline for the submission of cost-based PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a cost-based PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

We note that a PMS allegation filed pursuant to sections 773(a)(1)(B)(ii)(III) or 773(a)(1)(C)(iii) of the Act (*i.e.*, a sales-based PMS allegation) must be filed within 10 days of submission of a respondent's initial section B questionnaire response, in accordance with 19 CFR 351.301(c)(2)(i) and 19 CFR 351.404(c)(2).

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension

request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301, or as otherwise specified by Commerce.⁴⁴ For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances we will grant untimely filed requests for the extension of time limits, where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in this investigation.⁴⁵

Certification Requirements

Any party submitting factual information in an AD proceeding must certify to the accuracy and completeness of that information.⁴⁶ Parties must use the certification formats provided in 19 CFR 351.303(g).⁴⁷ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.*, by filing the required letter of appearance). Note that Commerce has amended certain of its

⁴⁴ See 19 CFR 351.301; see also *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

⁴⁵ See 19 CFR 351.302; see also, *e.g.*, *Time Limits Final Rule*.

⁴⁶ See section 782(b) of the Act.

⁴⁷ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Additional information regarding the *Final Rule* is available at <https://access.trade.gov/Resources/filing/index.html>.

⁴⁰ See section 733(a) of the Act.

⁴¹ *Id.*

⁴² See 19 CFR 351.301(b).

⁴³ See 19 CFR 351.301(b)(2).

requirements pertaining to the service of documents in 19 CFR 351.303(f).⁴⁸

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: July 9, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The products covered by this investigation are large top mount combination refrigerator-freezers with a refrigerated volume of at least 15.6 cubic feet or 442 liters. For the purposes of this investigation, the term “large top mount combination refrigerator-freezers” consists of freestanding or built-in cabinets that have an integral source of refrigeration using compression technology, with all of the following characteristics:

- The cabinet contains at least two interior storage compartments accessible through two separate external doors;
- The lower-most interior storage compartment(s) that is accessible through an external door is a fresh food or convertible compartment, but is not a freezer compartment, however, the existence of an interior sub-compartment for ice-making in the lower-most storage compartment does not render the lower-most storage compartment a freezer compartment; and
- There is a freezer or convertible compartment that is mounted above the lower-most interior storage compartment(s).

For the purposes of the investigation, a fresh food compartment is capable of storing food at temperatures above 32 degrees F (0 degrees C), a freezer compartment is capable of storing food at temperatures at or below 32 degrees F (0 degrees C), and a convertible compartment is capable of operating as either a fresh food compartment or a freezer compartment, as defined in this paragraph.

The products subject to this investigation are currently classifiable under subheading 8418.10.0075 of the Harmonized Tariff Schedule of the United States (HTSUS). Products subject to this investigation may also enter under HTSUS subheadings 8418.21.0090, 8418.40.0000, and 8418.69.0180. The HTSUS subheadings are provided for convenience and customs purposes, but the written description of the merchandise subject to this scope is dispositive.

[FR Doc. 2024–15601 Filed 7–15–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–176]

Certain Low Speed Personal Transportation Vehicles From the People’s Republic of China: Initiation of Less-Than-Fair-Value Investigation

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

DATES: Applicable July 10, 2024.

FOR FURTHER INFORMATION CONTACT:

Gorden Struck or Jerry Xiao, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8151 or (202) 482–2273, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On June 20, 2024, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) petition concerning imports of certain low speed personal transportation vehicles (LSPTVs) from the People’s Republic of China (China) filed in proper form on behalf of the American Personal Transportation Vehicle Manufacturers Coalition (the petitioner).¹ The AD Petition was accompanied by a countervailing duty (CVD) petition concerning imports of LSPTVs from China.²

Between June 24 and July 8, 2024, Commerce requested supplemental information pertaining to certain aspects of the Petition in supplemental questionnaires.³ The petitioner responded to Commerce’s supplemental questionnaires between June 28 and July 9, 2024.⁴

¹ See Petitioner’s Letter, “Petition for the Imposition of Antidumping and Countervailing Duties,” dated June 20, 2024 (the Petition). The members of the petitioning coalition are Club Car, LLC and Textron Specialized Vehicles Inc. See Petition at Volume I (page 1 and Exhibit I–1).

² See, generally, Petition.

³ See Commerce’s Letters, “Supplemental Questions,” dated June 24, 2024 (General Issues Questionnaire); and “Supplemental Questions,” dated June 24, 2024; and “Third General Issues Questionnaire,” dated July 8, 2024 (Third General Issues Questionnaire); see also Memorandum, “Phone Call with Counsel to Petitioner,” dated July 5, 2024 (July 5 Memorandum).

⁴ See Petitioner’s Letters, “Petitioner’s Response to First Supplemental Questionnaire Regarding Common Issues and Injury Volume I of the Petition,” dated June 28, 2024 (First General Issues Supplement); “Petitioner’s Response to First Supplemental Questionnaire Regarding China Antidumping Duty Volume II of the Petition,” dated June 28, 2024; “Petitioner’s Responses to the Scope

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of LSPTVs from China are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the LSPTVs industry in the United States. Consistent with section 732(b)(1) of the Act, the Petition was accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry, because the petitioner is an interested party, as defined in sections 771(9)(C) and (E) of the Act.⁵ Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested LTFV investigation.⁶

Period of Investigation

Because the Petition was filed on June 20, 2024, and because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for this China LTFV investigation is October 1, 2023, through March 31, 2024.

Scope of the Investigation

The products covered by this investigation are LSPTVs from China. For a full description of the scope of this investigation, see the appendix to this notice.

Comments on the Scope of the Investigation

Between June 24 and July 8, 2024, Commerce requested information and clarification from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.⁷ Between June 28 and July 9, 2024, the petitioner provided

Supplemental Questionnaire Regarding Common Issues and Injury Volume I of the Petition,” dated July 8, 2024 (Scope Supplement); and “Petitioner’s Responses to Second Supplemental Questionnaire Regarding Common Issues and Injury Volume I of the Petition,” dated July 9, 2024 (Second General Issues Supplement).

⁵ The American Personal Transportation Vehicle Manufacturers Coalition is an interested party under section 771(9)(E) of the Act, while the members of the petitioning coalition are interested parties under section 771(9)(C) of the Act.

⁶ See section on “Determination of Industry Support for the Petition,” *infra*.

⁷ See General Issues Questionnaire; see also July 5 Memorandum and Third General Issues Questionnaire.

⁴⁸ See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069 (September 29, 2023).

clarifications and revised the scope.⁸ The description of merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁹ Commerce will consider all scope comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,¹⁰ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that scope comments be submitted by 5:00 p.m. Eastern Time (ET) on July 30, 2024, which is 20 calendar days from the signature date of this notice.¹¹ Any rebuttal comments, which may include factual information, and should also be limited to public information, must be filed by 5:00 p.m. ET on August 9, 2024, which is 10 calendar days from the initial comment deadline.¹²

Commerce requests that any factual information that parties consider relevant to the scope of this investigation be submitted during that period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party must contact Commerce and request permission to submit the additional information. All scope comments must be filed simultaneously on the records of the concurrent LTFV and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹³ An

electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties with an opportunity to comment on the appropriate physical characteristics of LSPTVs to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOP) accurately, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all product characteristics comments must be filed by 5:00 p.m. ET on July 30, 2024, which is 20 calendar days from the signature date of this notice.¹⁴ Any rebuttal comments must be filed by 5:00 p.m. ET on August 9, 2024, which is 10 calendar days from the initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the LTFV investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support

using a statistically valid sampling method to poll the "industry."

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁵ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁶

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁷ Based on our analysis of the information submitted on the record, we have determined that LSPTVs, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁸

¹⁵ See section 771(10) of the Act.

¹⁶ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁷ See Petition at Volume I (pages 18–25 and Exhibits 4, 10, and 21–29); see also First General Issues Supplement at 18.

¹⁸ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see Checklist, "Certain Low Speed Personal Transportation Vehicles from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (China AD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Low Speed Personal Transportation Vehicles from the

⁸ See First General Issues Supplement at 1–17; see also Scope Supplement at 1–7 and Exhibits 1 and 2; and Second General Issues Supplement at 2–4.

⁹ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); see also 19 CFR 351.312.

¹⁰ See 19 CFR 351.102(b)(21) (defining "factual information").

¹¹ See 19 CFR 351.303(b)(1).

¹² *Id.*

¹³ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/>

[help.aspx](https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf) and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

¹⁴ See 19 CFR 351.303(b)(1).

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the appendix to this notice. To establish industry support, the petitioner provided its 2023 production of the domestic like product.¹⁹ The petitioner estimated the production of the domestic like product for the remaining U.S. producers of LSPTVs.²⁰ We relied on data provided by the petitioner for purposes of measuring industry support.²¹

Our review of the data provided in the Petition, the First General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.²² First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²³ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²⁴ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²⁵ Accordingly, Commerce determines that the Petition was filed on

behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.²⁶

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁷

The petitioner contends that the industry’s injured condition is illustrated by the significant and increasing volume of subject imports; declining market share; underselling and price depression and/or suppression; lost sales and revenues; declines in production, capacity utilization, and U.S. shipments; declines in production-related workers, hours worked, and wages paid; decline in financial performance; and the magnitude of the alleged dumping margins.²⁸ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁹

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate an LTFV investigation of imports of LSPTVs from China. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the China AD Initiation Checklist.

U.S. Price

The petitioner based constructed export price (CEP) on pricing information for sales, or offers for sale, of LSPTVs produced in and exported from China.³⁰ The petitioner made certain adjustments to U.S. price to

calculate a net ex-factory U.S. price, where applicable.³¹

Normal Value

Commerce considers China to be an NME country.³² In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of the initiation of this China LTFV investigation. Accordingly, we base NV on FOPs valued in a surrogate market economy country in accordance with section 773(c) of the Act.

The petitioner claims that Türkiye is an appropriate surrogate country for China because it is a market economy that is at a level of economic development comparable to that of China and is a significant producer of comparable merchandise.³³ The petitioner provided publicly available information from Türkiye to value all FOPs.³⁴ Based on the information provided by the petitioner, we believe it is appropriate to use Türkiye as a surrogate country for China to value all FOPs for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because information regarding the volume of inputs consumed by Chinese producers/exporters was not reasonably available, the petitioner used product-specific consumption rates from a U.S. producer of LSPTVs as a surrogate to value Chinese manufacturers’ FOPs.³⁵ Additionally, the petitioner calculated factory overhead, selling, general, and administrative expenses, and profit

People’s Republic of China (Attachment II). This checklist is on file electronically via ACCESS.

¹⁹ See Petition at Volume I (pages 2–3 and Exhibit 3); see also First General Issues Supplement at 18; and Second General Issues Supplement at 1–2.

²⁰ See Petition at Volume I (pages 2–3 and Exhibits 3 and 4); see also First General Issues Supplement at 18–21 and Exhibit I-Supp-2; and Second General Issues Supplement at 1–2.

²¹ See Petition at Volume I (pages 2–3 and Exhibits 3 and 4); see also First General Issues Supplement at 18–21 and Exhibit I-Supp-2; and Second General Issues Supplement at 1–2. For further discussion, see Attachment II of the China AD Initiation Checklist.

²² See Attachment II of the China AD Initiation Checklist.

²³ *Id.*; see also section 732(c)(4)(D) of the Act.

²⁴ See Attachment II of the China AD Initiation Checklist.

²⁵ *Id.*

²⁶ *Id.*

²⁷ See Petition at Volume I (pages 29–30 and Exhibit 30).

²⁸ See Petition at Volume I (pages 16–18, 26–48 and Exhibits 13, 18–22, 24–25, and 31–62); see also First General Issues Supplement at 21–22.

²⁹ See China AD Initiation Checklist at Attachment III, “Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Low Speed Personal Transportation Vehicles from the People’s Republic of China.”

³⁰ See China AD Initiation Checklist.

³¹ *Id.*

³² See, *e.g.*, *Certain Freight Rail Couplers and Parts Thereof from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances*, 88 FR 15372 (March 13, 2023), and accompanying Preliminary Decision Memorandum at 5, unchanged in *Certain Freight Rail Couplers and Parts Thereof from the People’s Republic of China: Final Affirmative Determination of Sales at Less-Than-Fair Value and Final Affirmative Determination of Critical Circumstances*, 88 FR 34485 (May 30, 2023).

³³ See China AD Initiation Checklist.

³⁴ *Id.*

³⁵ *Id.*

based on the experience of a Turkish producer of comparable merchandise.³⁶

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of LSPTVs from China are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of CEP to NV, in accordance with sections 772 and 773 of the Act, the estimated dumping margins range from 379.81 to 478.09 percent *ad valorem*.³⁷

Initiation of LTFV Investigation

Based upon the examination of the Petition and supplemental questionnaire responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating an LTFV investigation to determine whether imports of LSPTVs from China are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

In the Petition, the petitioners named 240 companies in China as producers and/or exporters of LSPTVs.³⁸ Our standard practice for respondent selection in AD investigations involving NME countries is to select respondents based on quantity and value (Q&V) questionnaires in cases where Commerce has determined that the number of companies is large, and it cannot individually examine each company based upon its resources. Therefore, considering the number of producers and/or exporters identified in the Petition, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce determines that the number is large and decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Because there are 240 Chinese producers and/or exporters identified in the Petition, Commerce has determined that it will issue Q&V questionnaires to the largest producers and/or exporters that are identified in the U.S. Customs and Border Protection data for which

there is complete address information on the record.³⁹

Commerce will post the Q&V questionnaires along with filing instructions on Commerce's website at <https://www.trade.gov/ec-adcvd-case-announcements>. Producers/exporters of LSPTVs from China that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Commerce's website. Responses to the Q&V questionnaire must be submitted by the relevant Chinese producers/exporters no later than 5:00 p.m. ET on July 24, 2024, which is two weeks from the signature date of this notice. All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above.

Interested parties must submit applications for disclosure under administrative protective order (APO) in accordance with 19 CFR 351.305(b). As stated above, instructions for filing such applications may be found on Commerce's website at <https://www.trade.gov/administrative-protective-orders>.

Separate Rates

In order to obtain separate rate status in an NME investigation, exporters and producers must submit a separate rate application. The specific requirements for submitting a separate rate application in an NME investigation are outlined in detail in the application itself, which is available on Commerce's website at <https://access.trade.gov/Resources/nme/nme-sep-rate.html>. The separate rate application will be due 30 days after publication of this initiation notice. Exporters and producers must file a timely separate rate application if they want to be considered for individual examination. Exporters and producers who submit a separate rate application and have been selected as mandatory respondents will be eligible for consideration for separate rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response both to the Q&V questionnaire and to the separate rate application by the respective deadlines to receive consideration for separate rate status. Companies not filing a timely

Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that {Commerce} will now assign in its NME investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the {weighted average} of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.⁴⁰

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the Government of China via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of LSPTVs from China are materially injuring, or threatening material injury to, a U.S. industry.⁴¹ A negative ITC determination will result in the investigation being terminated.⁴² Otherwise, this LTFV investigation will

³⁶ *Id.*

³⁷ *Id.*

³⁸ See Petition at Volume I (page 13 and Exhibit 12); see also First General Issues Supplement at 1 and Exhibit I-Supp-1.

³⁹ See Memorandum, "Release of U.S. Customs and Border Protection Entry Data," dated June 24, 2024.

⁴⁰ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation Involving NME Countries," (April 5, 2005), at 6 (emphasis added), available on Commerce's website at <https://access.trade.gov/Resources/policy/bull05-1.pdf>.

⁴¹ See section 733(a) of the Act.

⁴² *Id.*

proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁴³ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁴⁴ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301, or as otherwise specified by Commerce.⁴⁵ For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered

timely. An extension request must be made in a separate, standalone submission; under limited circumstances we will grant untimely filed requests for the extension of time limits, where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in this investigation.⁴⁶

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁴⁷ Parties must use the certification formats provided in 19 CFR 351.303(g).⁴⁸ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letter of appearance). Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).⁴⁹

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: July 10, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise covered by this investigation consists of certain low speed personal transportation vehicles (LSPTV) and subassemblies thereof, whether finished or unfinished and whether assembled or unassembled, with or without tires, wheels, seats, steering columns and steering wheels, canopies, roofs, or batteries. LSPTVs meeting

this description are generally open-air vehicles with a minimum of four wheels, a steering wheel, a traditional side-by-side or in-line row seating arrangement (i.e., non-straddle), foot operated accelerator and brake pedals, and a gross vehicle weight of no greater than 5,500 pounds. The main power source for subject LSPTVs is either an electric motor and battery (including but not limited to lithium-ion batteries, lithium phosphate batteries, lead acid batteries, and absorbed glass mat batteries) or a gas-powered internal combustion engine. Subject LSPTVs may be described as golf carts, golf cars, low speed vehicles, personal transportation vehicles, or light utility vehicles.

LSPTVs subject to this investigation typically have a maximum top nameplate speed of no greater than 25 miles per hour as required by federal, state, and local laws and regulations. Subject LSPTVs with a maximum top nameplate speed greater than 20 miles per hour normally must comply with the U.S. Department of Transportation's Federal Motor Vehicle Safety Standards for Low-Speed Vehicles set forth in 49 CFR 571.500. LSPTVs that otherwise meet the physical description of this scope but are not certified under 49 CFR 571.500 and are not certified under other sections of subpart B of the Federal Motor Vehicle Safety Standards (49 CFR part 571), are not excluded from this investigation. LSPTVs that are certified under both 49 CFR 571.500 and other sections of subpart B of the Federal Motor Vehicle Safety Standards remain subject to the scope of this investigation. Subject LSPTVs that have a maximum top nameplate speed of less than 25 miles per hour may be certified to the SAE International (SAE) standards SAE J2258 and SAE J2358. LSPTVs that have a maximum top nameplate speed of less than 20 miles per hour may also be certified to the Outdoor Power Equipment Institute (OPEI) standards OPEI Z130.1 and OPEI Z135.

An unfinished and/or unassembled LSPTV subject to this investigation covers at a minimum a subassembly, also known as a "rolling chassis," which is typically comprised of, but not limited to, a frame or body with front and/or rear suspension components (such as arms, springs, axles, spindles, and shafts) installed and powertrain components (including either an electric motor or a gas-powered internal combustion engine) installed or ready for installation.

When imported together with a rolling chassis subject to this investigation, other LSPTV components, such as batteries, bumpers, wheel and tire assemblies, cowlings, fenders, grills, kick plates, steering column and steering wheel assemblies, dash assembly, seat assemblies, pedal assemblies, brake assemblies, canopy or roof assemblies, temporary rain enclosures, windshields, mirrors, headlights, taillights, lighting systems, or storage—whether assembled or unassembled, whether as part of a kit or not, and whether or not accompanied by additional components—constitute part of an unfinished and/or unassembled LSPTV that is subject to this investigation. The inclusion of other products, components, or assemblies not described here does not remove the product from the scope.

⁴³ See 19 CFR 351.301(b).

⁴⁴ See 19 CFR 351.301(b)(2).

⁴⁵ See 19 CFR 351.301; see also *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

⁴⁶ See 19 CFR 351.302; see also, e.g., *Time Limits Final Rule*.

⁴⁷ See section 782(b) of the Act.

⁴⁸ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Additional information regarding the *Final Rule* is available at <https://access.trade.gov/Resources/filing/index.html>.

⁴⁹ See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069 (September 29, 2023).

Subject LSPTVs and subassemblies are covered by the scope of this investigation whether or not they are accompanied by other parts. This investigation covers all LSPTVs and subassemblies meeting the physical description of the scope, regardless of overall length, width, or height. Individual components that do not comprise a subject LSPTV or subassembly that are entered and sold by themselves are not subject to the investigation, but components entered with a LSPTV or subassembly, whether finished or unfinished and whether assembled or unassembled, are subject merchandise.

LSPTVs and subassemblies subject to this investigation include those that are produced in the subject country whether assembled with other components in the subject country or in a third country. Processing or completion of finished and unfinished LSPTVs and subassemblies either in the subject country or in a third country does not remove the product from the scope.

Specifically excluded from the scope of this investigation are all-terrain vehicles (which typically have straddle seating and are steered by handlebars), multipurpose off-highway utility vehicles (which typically have a maximum top nameplate speed of greater than 25 miles per hour), and recreational off-highway vehicles (which typically have a maximum top nameplate speed of greater than 30 miles per hour). Also excluded from the scope are go-karts, electric scooters, golf trolleys, and mobility aids (which include power wheelchairs and scooters which are used for the express purpose of enabling mobility for a person).

The LSPTVs subject to the investigation are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 8703.10.5030. LSPTVs subject to the investigation may also enter under HTSUS subheading 8703.90.0100. The LSPTV subassemblies that are subject to the investigation typically enter under HTSUS subheadings 8706.00.1540 and 8707.10.0040. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise subject to the investigation is dispositive.

[FR Doc. 2024–15604 Filed 7–15–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–177]

Certain Low Speed Personal Transportation Vehicles From the People's Republic of China: Initiation of Countervailing Duty Investigation

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

DATES: Applicable July 10, 2024.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade

Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3148.

SUPPLEMENTARY INFORMATION:

The Petition

On June 20, 2024, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of certain low speed personal transportation vehicles (LSPTV) from the People's Republic of China (China) filed in proper form on behalf of the American Personal Transportation Vehicle Manufacturers Coalition (the petitioner).¹ The Petition was accompanied by an antidumping duty (AD) petition concerning imports of LSPTVs from China.²

Between June 24 and July 8, 2024, Commerce requested supplemental information pertaining to certain aspects of the Petition.³ The petitioner responded to Commerce's requests between June 28 and July 9, 2024.⁴

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of LSPTVs from China, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing LSPTVs in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), the allegations on which we are initiating this CVD investigation are

¹ See Petitioners' Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties," dated June 20, 2024 (the Petition). The members of the petitioning coalition are Club Car, LLC and Textron Specialized Vehicles Inc. See Petition at Volume I (page 1 and Exhibit I–1).

² See generally Petition.

³ See Commerce's Letters, "Supplemental Questions," dated June 24, 2024 (General Issues Questionnaire); "Supplemental Questions regarding Volume III," dated June 25, 2024; and "Third General Issues Questionnaire," dated July 8, 2024 (Third General Issues Questionnaire); see also Memorandum, "Phone Call with Counsel to Petitioner," dated July 5, 2024 (July 5 Memorandum).

⁴ See Petitioner's Letters, "Petitioner's Response to First Supplemental Questionnaire Regarding Common Issues and Injury Volume I of the Petition," dated June 28, 2024 (First General Issues Supplement); "Petitioner's Responses to First Supplemental Questionnaire Regarding China Countervailing Duty Volume III of the Petition," dated July 1, 2024; "Petitioner's Responses to the Scope Supplemental Questionnaire Regarding Common Issues and Injury Volume I of the Petition," dated July 8, 2024 (Scope Supplement); and "Petitioner's Responses to Second Supplemental Questionnaire Regarding Common Issues and Injury Volume I of the Petition," dated July 9, 2024 (Second General Issues Supplement).

supported by information reasonably available to the petitioner.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in sections 771(9)(C) and (E) of the Act.⁵ Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.⁶

Period of Investigation

Because the Petition was filed on June 20, 2024, the period of investigation (POI) for China is January 1, 2023, through December 31, 2023.⁷

Scope of the Investigation

The merchandise covered by this investigation is LSPTVs from China. For a full description of the scope of this investigation, see the appendix to this notice.

Comments on the Scope of the Investigation

Between June 24 and July 8, 2024, Commerce requested information and clarification from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.⁸ Between June 28 and July 9, 2024, the petitioner provided clarifications and revised the scope.⁹ The description of merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).¹⁰ Commerce will consider all scope comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments

⁵ The American Personal Transportation Vehicle Manufacturers Coalition is an interested party under section 771(9)(E) of the Act, while the members of the petitioning coalition are interested parties under section 771(9)(C) of the Act.

⁶ See section on "Determination of Industry Support for the Petitions," *infra*.

⁷ See 19 CFR 351.204(b)(2).

⁸ See General Issues Questionnaire; see also July 5 Memorandum; and Third General Issues Questionnaire.

⁹ See First General Issues Supplement at 1–17; see also Scope Supplement at 1–7 and Exhibits 1 and 2; and Second General Issues Supplement at 2–4.

¹⁰ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); see also 19 CFR 351.312.

include factual information,¹¹ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that scope comments be submitted by 5:00 p.m. Eastern Time (ET) on July 30, 2024, which is 20 calendar days from the signature date of this notice.¹² Any rebuttal comments, which may include factual information, and should also be limited to public information, must be filed by 5:00 p.m. ET on August 9, 2024, which is 10 calendar days from the initial comment deadline.¹³

Commerce requests that any factual information that parties consider relevant to the scope of this investigation be submitted during the time period identified above. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All scope comments must be filed simultaneously on the records of the concurrent less than fair value and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹⁴ An electronically filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOC of the receipt of the Petition and provided an opportunity for consultations with respect to the Petition.¹⁵ Commerce held

consultations with the GOC on July 8, 2024.¹⁶

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the "industry."

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁷ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁸

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses

with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁹ Based on our analysis of the information submitted on the record, we have determined that LSPTVs, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.²⁰

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of the Investigation," in the appendix to this notice. To establish industry support, the petitioner provided its 2023 production of the domestic like product.²¹ The petitioner estimated the production of the domestic like product for the remaining U.S. producers of LSPTVs.²² We relied on data provided by the petitioner for purposes of measuring industry support.²³

Our review of the data provided in the Petition, the First General Issues Supplement, the Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.²⁴ First,

¹⁹ See Petition at Volume I (pages 18–25 and Exhibits 4, 10, and 21–29); see also First General Issues Supplement at 18.

²⁰ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see Checklist, "Certain Low Speed Personal Transportation Vehicles from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (China AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Low Speed Personal Transportation Vehicles from the People's Republic of China (Attachment II). This checklist is on file electronically via ACCESS.

²¹ See Petition at Volume I (pages 2–3 and Exhibit 3); see also First General Issues Supplement at 18; and Second General Issues Supplement at 1–2.

²² See Petition at Volume I (pages 2–3 and Exhibits 3 and 4); see also First General Issues Supplement at 18–21 and Exhibit I–Supp–2; and Second General Issues Supplement at 1–2.

²³ See Petition at Volume I (pages 2–3 and Exhibits 3 and 4); see also First General Issues Supplement at 18–21 and Exhibit I–Supp–2; and Second General Issues Supplement at 1–2. For further discussion, see Attachment II of the China AD Initiation Checklist.

²⁴ See Attachment II of the China AD Initiation Checklist.

¹¹ See 19 CFR 351.102(b)(21) (defining "factual information").

¹² See 19 CFR 351.303(b)(1).

¹³ *Id.*

¹⁴ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

¹⁵ See Commerce's Letters, "Invitation for Consultations to Discuss the Countervailing Duty Petition on Certain Low Speed Personal Transportation Vehicles from the People's Republic of China," dated June 24, 2024.

¹⁶ See Memorandum, "Consultations with Officials from the Government of China," dated July 9, 2024.

¹⁷ See section 771(10) of the Act.

¹⁸ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²⁵ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²⁶ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²⁷ Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.²⁸

Injury Test

Because China is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefiting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁹

The petitioner contends that the industry’s injured condition is illustrated by: the significant and increasing volume of subject imports; declining market share; underselling and price depression and/or suppression; lost sales and revenues; declines in production, capacity

utilization, and U.S. shipments; declines in production-related workers, hours worked, and wages paid; and a decline in financial performance.³⁰ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.³¹

Initiation of CVD Investigation

Based upon the examination of the Petition and supplemental response, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of certain LSPTV from China benefit from countervailable subsidies conferred by the GOC. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of these initiations.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 46 of the 54 programs alleged by the petitioner. For a full discussion of the basis for our decision to initiate on each program, *see* the China CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

In the Petition, the petitioner identifies 216 companies in China as producers and/or exporters of LSPTV.³² Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in these investigations. In the event that Commerce determines that the number of companies is large and it cannot individually examine each company based on Commerce’s resources, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of LSPTV during the POI under the appropriate Harmonized Tariff Schedule of the United States subheadings listed within the “Scope of the Investigations” in the appendix.

On July 9, 2024, Commerce released the CBP data for imports of LSPTV from China under administrative protective

order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of these investigations. Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date noted above. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce’s website at <https://www.trade.gov/administrative-protective-orders>.

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports LSPTV from China are materially injuring, or threatening material injury to, a U.S. industry.³³ A negative ITC determination for the GOC will result in the investigation being terminated with respect to that country.³⁴ Otherwise, this CVD investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors of production under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR

²⁵ *Id.*; *see also* section 732(c)(4)(D) of the Act.

²⁶ *See* Attachment II of the China AD Initiation Checklist.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *See* Petition at Volume I (pages 29–30 and Exhibit 30).

³⁰ *Id.* at 16–18, 26–48, and Exhibits 13, 18–22, 24–25, and 31–62; *see also* First General Issues Supplement at 21–22.

³¹ *See* Petition at Volume III (page 2 and Exhibit I–12).

³² *Id.* at Volume I (page 10 and Exhibit I–6).

³³ *See* section 703(a)(1) of the Act.

³⁴ *Id.*

351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce’s regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³⁵ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.³⁶ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301, or as otherwise specified by Commerce.³⁷ For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances we will grant untimely filed requests for the extension of time limits, where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce’s regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in these investigations.³⁸

³⁵ See 19 CFR 351.301(b).

³⁶ See 19 CFR 351.301(b)(2).

³⁷ See 19 CFR 351.302.

³⁸ See 19 CFR 351.301; see also *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20,

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³⁹ Parties must use the certification formats provided in 19 CFR 351.303(g).⁴⁰ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letters of appearance). Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).⁴¹

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: July 10, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigation

The merchandise covered by this investigation consists of certain low speed personal transportation vehicles (LSPTV) and subassemblies thereof, whether finished or unfinished and whether assembled or unassembled, with or without tires, wheels, seats, steering columns and steering wheels, canopies, roofs, or batteries. LSPTVs meeting this description are generally open-air vehicles with a minimum of four wheels, a steering wheel, a traditional side-by-side or in-line row seating arrangement (i.e., non-straddle), foot operated accelerator and brake pedals, and a gross vehicle weight of no greater than 5,500 pounds. The main power source for subject LSPTVs is either an electric motor and battery (including but not limited to lithium-ion batteries, lithium phosphate batteries, lead acid batteries, and absorbed glass mat batteries) or a gas-powered internal combustion engine. Subject

2013) (*Time Limits Final Rule*), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

³⁹ See section 782(b) of the Act.

⁴⁰ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

⁴¹ See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069 (September 29, 2023).

LSPTVs may be described as golf carts, golf cars, low speed vehicles, personal transportation vehicles, or light utility vehicles.

LSPTVs subject to this investigation typically have a maximum top nameplate speed of no greater than 25 miles per hour as required by federal, state, and local laws and regulations. Subject LSPTVs with a maximum top nameplate speed greater than 20 miles per hour normally must comply with the U.S. Department of Transportation’s Federal Motor Vehicle Safety Standards for Low-Speed Vehicles set forth in 49 CFR 571.500. LSPTVs that otherwise meet the physical description of this scope but are not certified under 49 CFR 571.500 and are not certified under other sections of subpart B of the Federal Motor Vehicle Safety Standards (49 CFR part 571), are not excluded from this investigation. LSPTVs that are certified under both 49 CFR 571.500 and other sections of subpart B of the Federal Motor Vehicle Safety Standards remain subject to the scope of this investigation. Subject LSPTVs that have a maximum top nameplate speed of less than 25 miles per hour may be certified to the SAE International (SAE) standards SAE J2258 and SAE J2358. LSPTVs that have a maximum top nameplate speed of less than 20 miles per hour may also be certified to the Outdoor Power Equipment Institute (OPEI) standards OPEI Z130.1 and OPEI Z135.

An unfinished and/or unassembled LSPTV subject to this investigation covers at a minimum a subassembly, also known as a “rolling chassis,” which is typically comprised of, but not limited to, a frame or body with front and/or rear suspension components (such as arms, springs, axles, spindles, and shafts) installed and powertrain components (including either an electric motor or a gas-powered internal combustion engine) installed or ready for installation.

When imported together with a rolling chassis subject to this investigation, other LSPTV components, such as batteries, bumpers, wheel and tire assemblies, cowlings, fenders, grills, kick plates, steering column and steering wheel assemblies, dash assembly, seat assemblies, pedal assemblies, brake assemblies, canopy or roof assemblies, temporary rain enclosures, windshields, mirrors, headlights, taillights, lighting systems, or storage—whether assembled or unassembled, whether as part of a kit or not, and whether or not accompanied by additional components—constitute part of an unfinished and/or unassembled LSPTV that is subject to this investigation. The inclusion of other products, components, or assemblies not described here does not remove the product from the scope.

Subject LSPTVs and subassemblies are covered by the scope of this investigation whether or not they are accompanied by other parts. This investigation covers all LSPTVs and subassemblies meeting the physical description of the scope, regardless of overall length, width, or height. Individual components that do not comprise a subject LSPTV or subassembly that are entered and sold by themselves are not subject to the investigation, but components entered with a LSPTV or subassembly, whether finished or

unfinished and whether assembled or unassembled, are subject merchandise.

LSPTVs and subassemblies subject to this investigation include those that are produced in the subject country whether assembled with other components in the subject country or in a third country. Processing or completion of finished and unfinished LSPTVs and subassemblies either in the subject country or in a third country does not remove the product from the scope.

Specifically excluded from the scope of this investigation are all-terrain vehicles (which typically have straddle seating and are steered by handlebars), multipurpose off-highway utility vehicles (which typically have a maximum top nameplate speed of greater than 25 miles per hour), and recreational off-highway vehicles (which typically have a maximum top nameplate speed of greater than 30 miles per hour). Also excluded from the scope are go-karts, electric scooters, golf trolleys, and mobility aids (which include power wheelchairs and scooters which are used for the express purpose of enabling mobility for a person).

The LSPTVs subject to the investigation are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 8703.10.5030. LSPTVs subject to the investigation may also enter under HTSUS subheading 8703.90.0100. The LSPTV subassemblies that are subject to the investigation typically enter under HTSUS subheadings 8706.00.1540 and 8707.10.0040. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise subject to the investigation is dispositive.

[FR Doc. 2024–15605 Filed 7–15–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Artificial Intelligence Advisory Committee

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) announces that the National Artificial Intelligence Advisory Committee (NAIAC or Committee) will hold a virtual briefing session. This session will be held via web conference on Thursday, August 1, 2024, from 2:00 p.m.–3:30 p.m. Eastern Time. The primary purpose of this informational briefing organized by the NAIAC's AI in Work and the Workforce Working Group is to have invited guests brief the full Committee on topics of interest related to AI the workforce. The briefings are from outside subject matter experts to the full Committee. The final agenda

will be posted on the NIST website at <https://www.nist.gov/itl/national-artificial-intelligence-advisory-committee-naiac>.

DATES: The NAIAC will meet on Thursday, August 1, 2024 from 2:00 p.m.–3:30 p.m. Eastern Time.

ADDRESSES: The meeting will be held via webinar. Please note participation instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT:

Cheryl L. Gendron, Designated Federal Officer, Information Technology Laboratory, National Institute of Standards and Technology, Telephone: (301) 975–2785, Email address: cheryl.gendron@nist.gov. Please direct any inquiries to the committee at naiac@nist.gov.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. 1001 *et seq.*, notice is hereby given that the NAIAC will meet virtually as set forth in the **DATES** section of this notice. The meetings will be open to the public.

The NAIAC is authorized by section 5104 of the National Artificial Intelligence Initiative Act of 2020 (Pub. L. 116–283), in accordance with the provisions of the Federal Advisory Committee Act, as amended (FACA), 5 U.S.C. 1001 *et seq.* The Committee advises the President and the National Artificial Intelligence Initiative Office on matters related to the National Artificial Intelligence Initiative. Additional information on the NAIAC is available at ai.gov/naiac/.

The primary purpose of this meeting is to have the AI and Workforce Working Group of the NAIAC host a panel on AI and Just Transitions for American Workers, exploring how the nation can take fresh and innovative worker-first approaches to help people enjoy lifelong career success. Ensuring that workers have job experiences that are dignified, career-enhancing, and allow for job mobility is not only an imperative for worker and community wellbeing; it ensures a stronger and more competitive US economy. The panels will seek to encourage a pragmatic, multi-disciplinary, and multi-stakeholder approach to the problem. Thus, it seeks participation from organizations, experts, workers, and employers interested in offering a range of perspectives and fresh ideas supporting worker success in an increasingly AI-influenced workforce and economy. Additional information, including the speaker names, will be available on the agenda, which will be posted online. Members of the public interested in reviewing the agenda in

advance and viewing the sessions are encouraged to visit <https://www.nist.gov/itl/national-artificial-intelligence-advisory-committee-naiac> for session details and to register to watch virtually. The agenda items may change to accommodate NAIAC business. The final agenda will be posted on the NIST website at <https://www.nist.gov/itl/national-artificial-intelligence-advisory-committee-naiac>.

Comments: Individuals and representatives of organizations who would like to offer comments and suggestions related to items on the Committee's agenda for this meeting are invited to submit comments in advance of the event. Please note that all comments submitted via email will be treated as public documents and will be made available for public inspection. All comments must be submitted via email with the subject line "August 1, 2024, NAIAC Public Meeting" to naiac@nist.gov by 5 p.m. Eastern Time, July 31, 2024. NIST will not accept comments accompanied by a request that part or all of the comment be treated confidentially because of its business proprietary nature or for any other reason. Therefore, do not submit confidential business information or otherwise sensitive, protected, or personal information, such as account numbers, Social Security numbers, or names of other individuals. Members of the public may also submit written comments to the NAIAC at any time.

Virtual Meeting Registration

Instructions: The meetings will be broadcast via web conference. Requests for special accommodations may be made by emailing cheryl.gendron@nist.gov. Registration is required to view the web conference. Instructions on how to register will be made available at <https://www.nist.gov/itl/national-artificial-intelligence-advisory-committee-naiac>. Registration will remain open until the conclusion of the meetings.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2024–15528 Filed 7–15–24; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Industrial Advisory Committee

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Industrial Advisory Committee (Committee) will hold an open meeting both in-person and via web conference on Thursday, August 1, 2024, from 10:00 a.m. to 3:00 p.m., Eastern Time.

DATES: The Industrial Advisory Committee will meet on Thursday, August 1, 2024, from 10:00 a.m. to 3:00 p.m. Eastern Time. The meeting will be open to the public.

ADDRESSES: The meeting will be held in person and via web conference from the Hubert H. Humphrey Building, located at 200 Independence Avenue SW, Washington, DC, 202201. For instructions on how to attend and/or participate in the meeting, please see the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Tamiko Ford at Tamiko.Ford@NIST.gov. Tamiko's phone number is (202) 594-6793.

SUPPLEMENTARY INFORMATION: The Committee was established pursuant to 15 U.S.C. 4656(b). The Committee is currently composed of 22 members, appointed by the Secretary of Commerce, to provide advice to the United States Government on matters relating to microelectronics research, development, manufacturing, and policy. Background information on the CHIPS Act and information on the Committee are available at <https://www.nist.gov/chips/industrial-advisory-committee>.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. 1001 *et seq.* App., notice is hereby given that the Industrial Advisory Committee will have a meeting at the date and time in the **DATES** section and will be open to the public. The meeting will be open to the public and will be held via web conference. Interested members of the public will be able to participate in the meeting from remote locations. The primary purposes of this meeting are to update the Committee on the progress of the CHIPS R&D Programs, receive updates from the Committee working groups, and allow the Committee to deliberate and discuss the progress that has been made. The final agenda will be posted on the NIST website at <https://www.nist.gov/chips/industrial-advisory-committee>.

Individuals and representatives of organizations who would like to offer comments and suggestions related to items on the Committee's agenda for this meeting are invited to submit comments in advance of the meeting. Written comments may be submitted via the registration link. Approximately ten minutes will be reserved for public

comments. Please note that all submitted comments, including those not read during the meeting, will be treated as public documents and will be made available for public inspection. The Committee will not consider or deliberate upon comments from the public during this period. All those wishing to submit a comment must submit their request and comment via the registration link <https://events.nist.gov/profile/web/8399> by 5:00 p.m. Eastern Time, Friday, July 24, 2024.

All visitors to the meeting are required to pre-register to attend. Additional instructions for entry will be provided to registrants. Space is limited, and attendance will be granted on a first-come, first-serve basis during registration. Anyone wishing to attend either in person must register by 5:00 p.m. on July 24, 2024. To attend via web conference you must register by 5:00 p.m. Eastern Time, Friday, July 31, 2024, to attend. Please submit your full name, the organization you represent (if applicable), email address, and phone number via <https://events.nist.gov/profile/web/8399>. Non-U.S. citizens must submit additional information; please contact Tamiko Ford at Tamiko.Ford@nist.gov.

Alicia Chambers,
NIST Executive Secretariat.

[FR Doc. 2024-15527 Filed 7-15-24; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Management and Oversight of the National Estuarine Research Reserve System

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public

comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before September 16, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at NOAA.PRA@noaa.gov. Please reference OMB Control Number 0648-0121 in the subject line of your comments. All comments received are part of the public record and will generally be posted on <https://www.regulations.gov> without change. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Elizabeth Mountz, Stewardship Division Operations Manager, NOAA's Office for Coastal Management, N/OCM6, Silver Spring, MD 20910, 240-533-0819, Elizabeth.Mountz@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a current information collection. The Coastal Zone Management Act of 1972, 16 U.S.C. 1451-1465, provides for the designation of estuarine research reserves representative of various regions and estuarine types in the United States to provide opportunities for long-term research, education and interpretation. During the site selection and designation process, information is collected from states in order to prepare a management plan and environmental impact statement. Designated reserves apply annually for operations funds by submitting a work plan; subsequently progress reports are required every six months for the duration of the award. Each reserve compiles an ecological characterization or site profile to describe the biological and physical environment of the reserve, research to date and research gaps. Reserves revise their management plans every five years. A competitive fellowship program supports opportunities for graduate students to conduct research at each reserve. This information is required to ensure that reserves are adhering to regulations and that the reserves are in keeping with the purpose for which they were designated.

II. Method of Collection

All information is collected electronically.

III. Data

OMB Control Number: 0648–0121.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Non-profit institutions; State, local, or Tribal governments.

Estimated Number of Respondents: 75.

Estimated Time per Response: Management Plan revisions: 1,600 hours/response; Site Profile: 1,800 hours/response; Reserve Designation: 2,500 hours/response; Cooperative Agreement progress reporting (including performance measures)—comprehensive: 10 hours/response; Cooperative Agreement reporting—final, non-comprehensive 2 hours/response; Performance Measures associated with Cooperative Agreement progress reporting: 3 hours/response; Cooperative Agreement application: 24 hours/response; NEPA and State Historic Preservation Office review: 2 hours/response.

Please note that not all collection instruments listed above apply to all respondents. Also, some of the actions/collection instruments listed above (Management Plan revisions, Site Profile, and Reserve Designations) take place over a multiyear period; NOAA has listed the total estimated response time for these actions rather than the estimated annual response time.

Estimated Total Annual Burden Hours: 9,632.

Estimated Total Annual Cost to Public: \$0.

Respondent's Obligation: Required to Obtain or Retain Funding.

Legal Authority: 16 U.S.C. 1461. Regulations implementing the National Estuarine Research Reserve System are at 15 CFR part 921.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–15627 Filed 7–15–24; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Atlantic Highly Migratory Species Individual Bluefin Quota (IBQ) Tracking and Appeals

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements, and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before September 16, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at Adrienne.Thomas@noaa.gov. Please reference OMB Control Number 0648–0677 in the subject line of your comments. Do not submit Confidential

Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or specific questions related to collection activities should be directed to Elsa Gutierrez, Atlantic Highly Migratory Species Management Division, 1315 East West Hwy., Bldg. SSMC3, Silver Spring, MD 20910–3282, (301) 427–8503 or Elsa.Gutierrez@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for renewal and extension of a currently approved information collection. Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the National Marine Fisheries Service (NMFS) is responsible for management of the Nation's marine fisheries. NMFS must also promulgate regulations, as necessary and appropriate, to carry out obligations the United States undertakes internationally regarding tuna management through the Atlantic Tunas Convention Act (ATCA, 16 U.S.C. 971 *et seq.*).

Amendment 7 to the 2006 Consolidated HMS Fishery Management Plan (79 FR 71510, December 2, 2014) implemented individual Bluefin tuna quota (IBQ) shares and allocations for vessels permitted in the Atlantic Tunas Longline category through the IBQ online system. IBQs are intended to fairly and effectively allocate limited quota for incidental capture of Atlantic Bluefin tuna among vessels in the Longline category, while minimizing dead discards and discouraging interactions with Bluefin tuna. An online system developed by NMFS tracks allocations and allocation leases, and reconciles allocation with bluefin tuna catches for quota monitoring. This collection of information accounts for the reporting burden associated with allocation and lease tracking.

First-time vessel permit holders in the affected categories must obtain and set up an IBQ account in the online “IBQ Catch Shares Program” in order to be issued IBQ shares and resultant allocation, to lease IBQ, and to resolve quota debt. To use the electronic IBQ System, first-time participants will need to request an account and set their account up with background information. The information collected during account issuance and set-up will be used by NMFS to verify the identity of the individual/business and whether they qualify for IBQ allocation leasing.

The lease monitoring information collected by the online system will be

used by each permit holder to keep track of their individual IBQ allocation, and document allocation leases with other IBQ participants. NMFS will use these data to ensure proper accounting of allocations among participants, and to track use of quota allocations and reconcile allocation usage with Bluefin tuna catch and landings.

II. Method of Collection

Method of submission is electronic.

III. Data

OMB Control Number: 0648–0677.

Form Number(s): None.

Type of Review: Regular submission [extension of a currently approved information collection].

Affected Public: Business or other for-profit organization.

Estimated Number of Respondents: 320.

Estimated Time per Response: 10 minutes for initial application for IBQ account, 15 minutes per IBQ allocation lease, and 15 minutes per IBQ Cost Recovery.

Estimated Total Annual Burden Hours: 79.

Estimated Total Annual Cost to Public: \$0.

Respondent's Obligation: Mandatory.

Legal Authority: Legal authority for these data collections are authorized under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA, 16 U.S.C. 971 *et seq.*).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that

your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–15626 Filed 7–15–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Pacific Islands Region Seabird-Fisheries Interaction Recovery Reporting

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before September 16, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at Adrienne.thomas@noaa.gov. Please reference OMB Control Number 0648–0456 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Walter Ikehara, Fishery Information Specialist, NMFS Pacific Islands Region, 1845 Wasp Blvd., Bldg. 176, Honolulu, HI

96818, (808) 725–5175, walter.ikehara@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection. Federal regulations at <https://www.ecfr.gov/current/title-50/chapter-VI/part-665/subpart-F/section-665.815> require that the operator of a vessel with a Hawaii longline limited access permit notify NMFS in the event an endangered short-tailed albatross is hooked or entangled during fishing operations. Following the retrieval of the albatross from the ocean, the vessel operator must record the condition of the bird on a recovery data form. A veterinarian will use the information to provide advice to the vessel operator for caring for the bird. If the albatross is dead, the vessel operator must attach an identification tag to the carcass to assist U.S. Fish and Wildlife Service (USFWS) biologists in follow-up studies on the specimen. This collection is one of the terms and conditions contained in the Endangered Species Act Section 7 biological opinion issued by USFWS and is intended to maximize the probability of the long-term survival of short-tailed albatross accidentally taken by longline gear. NMFS did not change anything in the collection.

II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include email or electronic forms, or mail or facsimile transmission of paper forms within 72 hours of landing.

III. Data

OMB Control Number: 0648–0456.

Form Number(s): None.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business or other for-profit organizations; individuals or households.

Estimated Number of Respondents: 1 (same person will make notification).

Estimated Time per Response: 1.0 hour for report, 0.25 hour for notification.

Estimated Total Annual Burden

Hours: 1.25.

Estimated Total Annual Cost to

Public: \$35.

Respondent's Obligation: Mandatory.

Legal Authority: 50 CFR 665.815.

IV. Request for Comments

We are soliciting public comments to permit the Department to: (a) Evaluate whether the proposed information

collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this information collection request. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–15628 Filed 7–15–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE100]

Gulf of Mexico Fishery Management Council; Public Meeting; Correction

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

ACTION: Notice of a correction of a public meeting notice.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a two-day in-person meeting of its Standing, Reef Fish, Socioeconomic, and Ecosystem Scientific and Statistical Committees (SSC).

DATES: The meeting will be held Wednesday, July 31, 2024, from 8:30 a.m. to 5 p.m., EDT, and Thursday, August 1, 2024, from 8:30 a.m. to 5:30 p.m., EDT.

ADDRESSES: The meeting will take place at the Gulf Council's office. Registration information will be available on the Council's website by visiting www.gulfcouncil.org and clicking on the "meeting tab".

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Rindone, Lead Fishery Biologist, Gulf of Mexico Fishery Management Council; ryan.rindone@gulfcouncil.org, telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: A meeting notice was published in the **Federal Register** on July 10, 2024 (89 FR 56738). Below are the following corrections:

In the **DATES** section, the notice read: The meeting will be held Wednesday, July 31, 2024, from 8:30 a.m. to 5 p.m., EDT, and Thursday, Wednesday, August 1, 2024, from 8:30 a.m. to 5:30 p.m., EDT.

It should read: The meeting will be held Wednesday, July 31, 2024, from 8:30 a.m. to 5 p.m., EDT, and Thursday, August 1, 2024, from 8:30 a.m. to 5:30 p.m., EDT.

In the **SUPPLEMENTARY INFORMATION**, the second date was listed as Wednesday, May 8, 2024; 8:30 a.m.–5:30 p.m., EDT.

The date is incorrect and should read Thursday, August 1, 2024; 8:30 a.m.–5:30 p.m., EDT.

All other information previously published remains unchanged.

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

Dated: July 10, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–15487 Filed 7–15–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Application for Appointment in the NOAA Commissioned Officer Corps

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general

public and other federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on May 9, 2024 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration, Commerce.

Title: Application for Appointment in the NOAA Commissioned Officer Corps. **OMB Control Number:** 0648–0047.

Form Number(s): NOAA Forms 56–42 & 56–42a and Form 56–80A.

Type of Request: Regular submission [revision and extension of a current information collection].

Number of Respondents: 300.

Average Hours per Response: 2 hours—Written applications; 5 hours—Interviews; 15 minutes—References; 15 minutes—Aviation Summary.

Total Annual Burden Hours: 2,550.

Needs and Uses: This is a request for revision and extension of an existing information collection.

The NOAA Commissioned Officer Corps is the uniformed service of the National Oceanic and Atmospheric Administration (NOAA), a bureau of the United States Department of Commerce. Officers serve under Senate-confirmed appointments and Presidential commissions (33 U.S.C. chapter 17, subchapter 1, sections 853 and 854). The NOAA Corps provides a cadre of professionals trained in engineering, earth sciences, oceanography, meteorology, fisheries science, and other related disciplines who serve their country by supporting NOAA's mission of surveying the Earth's oceans, coasts, and atmosphere to ensure the economic and physical well-being of the Nation.

NOAA Corps officers operate vessels and aircraft engaged in scientific missions and serve in leadership positions throughout NOAA. Individuals wishing to apply for an appointment in the NOAA Commissioned Officer Corps must complete an application package, including NOAA Form 56–42, at least three letters of recommendation, and official transcripts. A personal interview must also be conducted. Eligibility requirements include a bachelor's degree with at least 48 credit hours of science, engineering, or other disciplines related to NOAA's mission, excellent health, and normal color vision with uncorrected visual acuity no worse than 20/400 in each eye (correctable to 20/20).

This request is to add a new form to the collection in order to collect information about an applicant's aviation experience. Form 56–80A is included as part of the NOAA Corps Direct-to-Aviation application process. Form 56–80A is specific to those public applicants who wish to follow the Direct-to-Aviation career path.

Affected Public: Individuals.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

Legal Authority: 33 U.S.C. chapter 17, subchapter 1, sections 853 and 854.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0047.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–15625 Filed 7–15–24; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–C–2024–0031]

Performance Review Board

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: In conformance with the Civil Service Reform Act of 1978, the United States Patent and Trademark Office (USPTO) announces the appointment of persons to serve as members of its Performance Review Board (PRB). The PRB reviews and makes recommendations concerning proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions for incumbents of Senior Level and Senior Executive Service positions at the USPTO.

ADDRESSES: Office of Human Resources, USPTO, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Lari B. Washington, Director, Human Capital Management, USPTO, at 571–272–5187.

SUPPLEMENTARY INFORMATION: The membership of the USPTO's PRB is as follows:

Derrick Brent, Chair, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the USPTO

Frederick W. Steckler, Vice Chair, Chief Administrative Officer, USPTO

Vaishali Udupa, Commissioner for Patents, USPTO

David S. Gooder, Commissioner for Trademarks, USPTO

Dennis J. Hoffman, Chief Financial Officer, USPTO

Henry J. Holcombe, Chief Information Officer, USPTO

David L. Berdan, General Counsel, USPTO

Sharon Israel, Chief Policy Officer and Director for International Affairs, USPTO

Gerard F. Rogers, Chief Administrative Trademark Judge, USPTO

Scott R. Boalick, Chief Administrative Patent Judge, USPTO

Bismarck Myrick, Director of the Office of Equal Employment Opportunity and Diversity, USPTO

Cara Duckworth, Chief Corporate Communications Officer, USPTO

Shirin Bidel-Niyat, Chief of Staff, USPTO

Alternates:

Robin Evans, Deputy Commissioner for Patents, USPTO

Amy Cotton, Deputy Commissioner for Trademark Examination Policy, USPTO

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2024–15595 Filed 7–15–24; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket No. ARY–240628A–PL]

Notice of Intent To Grant an Exclusive Patent License

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Notice of intent.

SUMMARY: Pursuant to the Bayh-Dole Act and implementing regulations, the Department of the Air Force hereby gives notice of its intent to grant an exclusive patent license agreement to

Raider Technologies, LLC, a limited liability company of the State of Ohio, having a place of business at 526 Garden Road, Oakwood, OH 419.

DATES: Written objections must be filed no later than fifteen (15) calendar days after the date of publication of this Notice.

ADDRESSES: Submit written objections to Richard Mescher, Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Room 260, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733; or email: afmclo.jaz.tech@us.af.mil. Include Docket No. ARY–240628A–PL in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Richard Mescher, Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Rm. 260, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733; email: afmclo.jaz.tech@us.af.mil.

SUPPLEMENTARY INFORMATION: The Department of the Air Force intends to grant the partially exclusive patent license agreement for the invention described in: U.S. Patent Application Serial No. 17/761.326, filed September 19, 2020, and entitled "A Continuous-Phase Modulation Based Power Efficient Tunable Joint Radar/Communications System".

Abstract of Patent Application

Systems, methods, and computer-readable storage media for generating and utilizing radar signals with embedded data are disclosed. Data is encoded onto a CPM waveform, which is then combined with a base radar waveform to produce a radar-embedded communication (REC) waveform. Both the CPM waveform and the base radar waveform may have a continuous phase and constant envelope, resulting in the REC waveform having a continuous phase and constant envelope. The changing (e.g., on a pulse-to-pulse basis) nature of the REC waveform causes RSM of clutter which may result in residual clutter after clutter cancellation, decreasing target detection performance of the radar system. In an aspect, various parameters may be utilized to dynamically adjust the performance of the radar system for a particular operating scenario, such as to enhance radar signal processing or enhance data communication capabilities.

The Department of the Air Force may grant the prospective license unless a timely objection is received that sufficiently shows the grant of the license would be inconsistent with the Bayh-Dole Act or implementing regulations. A competing application for

a patent license agreement, completed in compliance with 37 CFR 404.8 and received by the Air Force within the period for timely objections, will be treated as an objection and may be considered as an alternative to the proposed license.

Authority: 35 U.S.C. 209; 37 CFR 404.

Tommy W. Lee,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2024–15489 Filed 7–15–24; 8:45 am]

BILLING CODE 3911–44–P

DELAWARE RIVER BASIN COMMISSION

Notice of Public Hearing and Business Meeting; August 7 and September 5, 2024

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, August 7, 2024. A business meeting will be held the following month on Thursday, September 5, 2024. Both the hearing and the business meeting are open to the public and will be conducted virtually.

Public Hearing. The Commission will conduct the public hearing virtually on August 7, 2024, commencing at 1:30 p.m. Hearing items will include draft dockets for withdrawals, discharges, and other projects that could have a substantial effect on the basin's water resources. A list of the projects scheduled for hearing, including project descriptions, along with links to draft docket approvals, will be posted on the Commission's website, www.drbc.gov, in a long form of this notice at least ten days before the hearing date.

Written comments on matters scheduled for hearing on August 7, 2024 will be accepted through 5:00 p.m. on Monday, August 12, 2024.

The public is advised to check the Commission's website periodically during the ten days prior to the hearing date, as items scheduled for hearing may be postponed if additional time is needed to complete the Commission's review. Items also may be added up to ten days prior to the hearing date. In reviewing docket descriptions, the public is asked to be aware that the details of projects may change during the Commission's review, which is ongoing.

Business Meeting. The business meeting on September 5, 2024 will be held virtually commencing at 10:30 a.m. and will include: adoption of the Minutes of the Commission's June 5, 2024 business meeting; announcements

of upcoming meetings and events; a report on hydrologic conditions; reports by the Executive Director and the Commission's General Counsel; and consideration of any items for which a hearing has been completed or is not required. The agenda is expected to include consideration of the draft dockets for withdrawals, discharges, and other projects that were subjects of the public hearing on August 7, 2024.

After all scheduled business has been completed and as time allows, the business meeting will be followed by up to one hour of Open Public Comment, an opportunity to address the Commission off the record on any topic concerning management of the basin's water resources outside the context of a duly noticed, on-the-record public hearing.

There will be no opportunity for additional public comment for the record at the September 5, 2024 business meeting on items for which a hearing was completed on August 7, 2024 or a previous date. Commission consideration on September 5, 2024 of items for which the public hearing is closed may result in approval of the item as proposed, approval with changes, denial, or deferral. When the Commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the Commission on a future date.

Advance Registration and Sign-Up for Oral Comment. Registration links for those who wish to attend and speak during the (virtual) public hearing and for those who wish to speak during the (in-person) Open Public Comment session immediately following the business meeting will be posted at www.drbc.gov at least ten days before each meeting date. The Commission's public hearing, business meeting, and Open Public Comment session will also be livestreamed on YouTube at https://www.youtube.com/@DRBC_1961. For assistance, please contact Ms. Patricia Hausler of the Commission staff, at patricia.hausler@drbc.gov.

Addresses for Written Comment. Written comment on items scheduled for hearing may be made through the Commission's web-based comment system, a link to which is provided at www.drbc.gov. Use of the web-based system ensures that all submissions are captured in a single location and their receipt is acknowledged. Exceptions to

the use of this system are available based on need, by writing to the attention of the Commission Secretary, DRBC, P.O. Box 7360, 25 Cosey Road, West Trenton, NJ 08628–0360. For assistance, please contact Patricia Hausler at patricia.hausler@drbc.gov.

Accommodation for Special Needs. Closed captioning will be available on both webinar and live-stream platforms. Those with limited internet access may listen and speak at virtual public meetings of the DRBC using any of several toll-free phone numbers that will be provided to all virtual meeting registrants.

Other individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the virtual hearing or the in-person business meeting should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Additional Information, Contacts. Additional public records relating to hearing items may be examined at the Commission's offices by appointment by contacting Donna Woolf, 609–477–7222. For other questions concerning hearing items, please contact David Kovach, Project Review Section Manager, at 609–477–7264.

Authority. Delaware River Basin Compact, Public Law 87–328, Approved September 27, 1961, 75 Statutes at Large, 688, sec. 14.4.

Dated: July 10, 2024.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 2024–15631 Filed 7–15–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Fusion Energy Public-Private Consortium Framework; Extension of Comment Period

AGENCY: Fusion Energy Sciences, Office of Science, Department of Energy.

ACTION: Request for information; extension of public comment period.

SUMMARY: On June 7, 2024, the U.S. Department of Energy (DOE) published a request for information (RFI) regarding input on a proposed fusion energy public-private consortium framework (PPCF). The RFI provided an opportunity for submitting written comments, data, and information by July 22, 2024. DOE has received a request to extend the public comment period for an additional 15 days. DOE

has reviewed this request and is granting an extension of the public comment period to allow comments to be submitted until August 6, 2024.

DATES: The comment period for the RFI published on June 7, 2024 (89 FR 48605) is extended. DOE will accept comments, data, and information regarding the RFI on or before August 6, 2024.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Colleen Nehl, U.S. Department of Energy, Office of Fusion Energy Sciences, Office of Science, 1000 Independence Avenue SW, Washington, DC 20585, (301) 903-4920, email: ppcf@science.doe.gov.

SUPPLEMENTARY INFORMATION: On June 7, 2024, DOE published an RFI to invite interested parties to provide input on a proposed fusion energy public-private consortium framework (PPCF). The RFI set a comment period deadline of July 22, 2024. An interested party in the matter, the Fusion Industry Association (FIA), a non-profit organization composed of dozens private fusion companies and fusion affiliates, requested a 15-day extension of the public comment period to review and comment on the RFI given the substantial overlap in the timeline for a current fusion funding opportunity announcement, and the significant impact of a fusion consortium. DOE believes that additional time is warranted and is extending the comment period for 15 additional days, as requested. Therefore, comments on this RFI will be accepted until August 6, 2024.

Signing Authority

This document of the Department of Energy was signed on July 10, 2024, by Harriet Kung, Acting Director, Office of Science, 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 July 11, 2024.

Treena V. Garrett,

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

[FR Doc. 2024-15591 Filed 7-15-24; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC24-99-000.

Applicants: Ellwood Power, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Ellwood Power, LLC.

Filed Date: 7/8/24.

Accession Number: 20240708-5161.

Comment Date: 5 p.m. ET 7/29/24.

Docket Numbers: EC24-100-000.

Applicants: Conemaugh Power Pass-Through Holders LLC, Keystone Power Pass-Through Holders LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Conemaugh Power Pass-Through Holders LLC et al.

Filed Date: 7/8/24.

Accession Number: 20240708-5167.

Comment Date: 5 p.m. ET 7/29/24.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL24-125-000.

Applicants: EDP Renewables North America LLC v. PJM Interconnection, LLC.

Description: Complaint of EDP Renewables North America LLC v. PJM Interconnection, LLC.

Filed Date: 7/5/24.

Accession Number: 20240705-5012.

Comment Date: 5 p.m. ET 7/25/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-1790-024; ER11-2041-019; ER11-3325-007; ER12-1825-038; ER13-33-009; ER14-2672-025; ER23-652-001; ER23-2802-001.

Applicants: Oxbow Solar Farm 1, LLC, Happy Solar 1, LLC, BP Energy Retail Company LLC, Collegiate Clean Energy, LLC, BP Energy Retail Company California LLC, Whiting Clean Energy, Inc., Innovative Energy Systems, LLC, BP Energy Company.

Description: Triennial Market Power Analysis for Central Region of BP Energy Company et al.

Filed Date: 7/1/24.

Accession Number: 20240701-5474.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: ER10-1818-039.

Applicants: Public Service Company of Colorado.

Description: Notice of Change in Status and WEIS Price Separation Analysis of Public Service Company of Colorado.

Filed Date: 7/1/24.

Accession Number: 20240701-5472.

Comment Date: 5 p.m. ET 7/22/24.

Docket Numbers: ER10-1874-019; ER10-2201-008; ER13-291-007; ER18-97-006; ER19-9-013.

Applicants: Mankato Energy Center II, LLC, MS Solar 3, LLC, EnergyMark, LLC, Marina Energy, LLC, Mankato Energy Center, LLC.

Description: Update Triennial Market Power Analysis for Central Region of Mankato Energy Center, LLC et al.

Filed Date: 7/1/24.

Accession Number: 20240701-5473.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: ER16-582-011; ER24-1183-001.

Applicants: Fanfare Energy, LLC, Think Energy, LLC.

Description: Triennial Market Power Analysis for Central Region of Think Energy, LLC et al.

Filed Date: 7/1/24.

Accession Number: 20240701-5471.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: ER17-815-005; ER10-2606-016.

Applicants: Consolidated Water Power Company, Billerud Escanaba LLC.

Description: Triennial Market Power Analysis for Central Region of Billerud Escanaba LLC et al.

Filed Date: 7/1/24.

Accession Number: 20240701-5476.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: ER18-2118-018; ER10-1849-032; ER10-1852-094; ER10-1951-068; ER11-2642-026; ER11-4462-092; ER12-569-027; ER12-895-031; ER12-1228-033; ER12-2227-026; ER13-712-034; ER13-2474-027; ER14-2707-028; ER14-2708-029; ER14-2709-028; ER14-2710-028; ER15-30-026; ER15-58-026; ER15-1925-026; ER15-2676-025; ER16-1440-022; ER16-1672-024; ER16-2190-022; ER16-2191-022; ER16-2240-022; ER16-2241-021; ER16-2275-021; ER16-2276-021; ER16-2297-022; ER16-2453-023; ER17-838-066; ER17-2152-019; ER18-882-020; ER18-1981-017; ER18-2003-017; ER18-2032-017; ER18-2066-012; ER18-2182-018; ER18-2314-015; ER19-1128-011; ER19-2495-013; ER19-2513-013; ER20-637-011; ER20-780-011; ER20-

792-011; ER20-1907-010; ER20-1986-009; ER20-1991-011; ER20-2019-010; ER20-2064-011; ER20-2179-010; ER20-2237-011; ER20-2597-011; ER20-2603-011; ER20-2648-010; ER21-2117-009; ER21-2149-009; ER21-2225-009; ER21-2699-010; ER22-1982-008; ER22-2516-004; ER23-2629-003

Applicants: High Banks Wind, LLC, Chaves County Solar II, LLC, Great Prairie Wind, LLC, Minco Wind Energy III, LLC, Irish Creek Wind, LLC, Minco Wind Energy II, LLC, Little Blue Wind Project, LLC, Northern Divide Wind, LLC, Skeleton Creek Wind, LLC, Soldier Creek Wind, LLC, Weatherford Wind, LLC, Baldwin Wind Energy, LLC, High Majestic Wind I, LLC, Gray County Wind, LLC, Ponderosa Wind, LLC, Day County Wind I, LLC, Minco Wind I, LLC, Oklahoma Wind, LLC, Sooner Wind, LLC, Wilton Wind Energy I, LLC, Wilton Wind Energy II, LLC, Wessington Springs Wind, LLC, Rush Springs Energy Storage, LLC, Sholes Wind, LLC, Minco IV & V Interconnection, LLC, Minco Wind IV, LLC, Wildcat Ranch Wind Project, LLC, Lorenzo Wind, LLC, Pratt Wind, LLC, Elk City Renewables II, LLC, Cottonwood Wind Project, LLC, NextEra Energy Marketing, LLC, Brady Interconnection, LLC, Osborn Wind Energy, LLC, Kingman Wind Energy II, LLC, Kingman Wind Energy I, LLC, Ninnescah Wind Energy, LLC, Rush Springs Wind Energy, LLC, Brady Wind II, LLC, Brady Wind, LLC, Chaves County Solar, LLC, Roswell Solar, LLC, Cedar Bluff Wind, LLC, Breckinridge Wind Project, LLC, Palo Duro Wind Interconnection Services, LLC, Seiling Wind Interconnection Services, LLC, Palo Duro Wind Energy, LLC, Seiling Wind II, LLC, Seiling Wind, LLC, Mammoth Plains Wind Project, LLC, Steele Flats Wind Project, LLC, Cimarron Wind Energy, LLC, Ensign Wind, LLC, High Majestic Wind II, LLC, Minco Wind Interconnection Services, LLC, Blackwell Wind, LLC, NEPM II, LLC, FPL Energy South Dakota Wind, LLC, NextEra Energy Services Massachusetts, LLC, Florida Power & Light Company, Elk City Wind, LLC, Armadillo Flats Wind Project, LLC.

Description: Triennial Market Power Analysis for Southwest Power Pool Inc. Region of Armadillo Flats Wind Project, LLC et al. under ER18-2118 et al.

Filed Date: 6/28/24.

Accession Number: 20240628-5409.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: ER20-1996-005; ER16-1990-005; ER21-1187-004; ER21-1188-004; ER21-1217-004; ER21-1218-004; ER21-1370-005;

ER21-1916-003; ER21-1961-003;

ER24-482-001; ER24-847-001.

Applicants: Sunlight Road Solar, L.L.C., River Fork Solar, LLC, Big River Solar, LLC, Assembly Solar III, LLC, Assembly Solar II, LLC, St. James Solar, LLC, Iris Solar, LLC, Prairie State Solar, LLC, Dressor Plains Solar, LLC, North Star Solar PV LLC, Assembly Solar I, LLC.

Description: Triennial Market Power Analysis for Central Region of Assembly Solar I, LLC et al.

Filed Date: 7/1/24.

Accession Number: 20240701-5475.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: ER24-1420-002.

Applicants: Sierra Estrella Energy Storage LLC.

Description: Notice of Change in Status of Sierra Estrella Energy Storage LLC.

Filed Date: 7/3/24.

Accession Number: 20240703-5235.

Comment Date: 5 p.m. ET 7/24/24.

Docket Numbers: ER24-1421-002.

Applicants: Superstition Energy Storage LLC.

Description: Notice of Change in Status of Superstition Energy Storage LLC.

Filed Date: 7/3/24.

Accession Number: 20240703-5236.

Comment Date: 5 p.m. ET 7/24/24.

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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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: July 9, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-15522 Filed 7-15-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL24-120-000]

Kestrel Acquisition LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On July 5, 2024, the Commission issued an order in Docket No. EL24-120-000 pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether Kestrel Acquisition LLC's proposed rate schedule is unjust, unreasonable, unduly, discriminatory or preferential, or otherwise unlawful. *Kestrel Acquisition LLC*, 188 FERC ¶ 61,002 (2024).

The refund effective date in Docket No. EL24-120-000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL24-120-000 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. 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: July 9, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024-15525 Filed 7-15-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG24-222-000.

Applicants: Solar Star 3, LLC.

Description: Solar Star 3, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 7/9/24.

Accession Number: 20240709-5054.

Comment Date: 5 p.m. ET 7/30/24.

Docket Numbers: EG24-223-000.

Applicants: Solar Star 4, LLC.

Description: Solar Star 4, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 7/9/24.

Accession Number: 20240709-5056.

Comment Date: 5 p.m. ET 7/30/24.

Docket Numbers: EG24-224-000.

Applicants: Buckeye Plains Solar Project, LLC.

Description: Buckeye Plains Solar Project, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 7/9/24.

Accession Number: 20240709-5078.

Comment Date: 5 p.m. ET 7/30/24.

Docket Numbers: EG24-225-000.

Applicants: Pickaway County Solar Project, LLC.

Description: Pickaway County Solar Project, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 7/9/24.

Accession Number: 20240709-5095.

Comment Date: 5 p.m. ET 7/30/24.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL24-124-000.

Applicants: Affirmed Energy LLC v. PJM Interconnection, LLC.

Description: Complaint of Affirmed Energy LLC v. PJM Interconnection, LLC.

Filed Date: 7/5/24.

Accession Number: 20240705-5010.

Comment Date: 5 p.m. ET 7/19/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-2042-052;

ER10-1862-045; ER10-1863-014;

ER10-1893-045; ER10-1934-045;

ER10-1938-046; ER10-1942-043;

ER10-2985-049; ER10-3049-050;

ER10-3051-050; ER11-4369-030;

ER16-2218-031; ER17-696-031; ER23-944-008.

Applicants: Calpine Community Energy, LLC, Calpine Energy Solutions, LLC, North American Power Business, LLC, North American Power and Gas, LLC, Champion Energy, LLC, Champion Energy Services, LLC, Champion Energy Marketing LLC, Calpine Construction Finance Co., L.P., Calpine Power America—CA, LLC, CES Marketing IX, LLC, CES Marketing X, LLC, Pine Bluff Energy, LLC, Power Contract Financing, L.L.C., Calpine Energy Services, L.P.

Description: Triennial Market Power Analysis for Region of Calpine Energy Services, L.P. et al.

Filed Date: 7/1/24.

Accession Number: 20240701-5480.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: ER10-2822-026;

ER12-2076-008; ER12-2077-008;

ER12-2078-008; ER12-2081-008;

ER12-2083-008; ER12-2084-008;

ER12-2086-008; ER12-2097-008;

ER12-2101-008; ER12-2102-009;

ER12-2106-008; ER12-2107-008;

ER12-2108-008; ER12-2109-008;

ER16-1250-020.

Applicants: Avangrid Renewables, LLC, Northern Iowa Windpower II LLC,

MinnDakota Wind LLC, Trimont Wind I LLC, Rugby Wind LLC, New Harvest Wind Project LLC, Moraine Wind II LLC, Moraine Wind LLC, Flying Cloud Power Partners, LLC, Farmers City Wind, LLC, Elm Creek Wind II LLC, Elm Creek Wind, LLC, Buffalo Ridge II LLC, Buffalo Ridge I LLC, Barton Windpower LLC, Atlantic Renewable Projects II LLC.

Description: Triennial Market Power Analysis for Central Region of Atlantic Renewable Projects II LLC et al.

Filed Date: 7/1/24.

Accession Number: 20240701-5477.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: ER19-158-015;

ER10-2421-013; ER10-2616-027;

ER10-3247-016; ER11-2457-013;

ER10-2586-003; ER11-4400-024;

ER12-75-016; ER12-1769-015; ER12-

2250-014; ER12-2251-014; ER12-2252-

015; ER12-2253-014; ER14-883-019;

ER14-922-009; ER14-924-009; ER14-

1569-020; ER14-2245-014; ER15-1599-

020; ER15-1596-020; ER15-2535-006;

ER19-102-013; ER19-2803-012; ER11-

2449-004; ER19-2807-012; ER19-2809-

012; ER19-2810-012; ER19-2811-012.

Applicants: Viridian Energy, LLC, Viridian Energy PA, LLC, Viridian Energy NY, LLC, Energy Rewards, LLC, Connecticut Gas & Electric, Inc., Cincinnati Bell Energy LLC, Luminant Energy Company LLC, Midwest Electric Power, Inc., Luminant Commercial Asset Management LLC, Dynegy Energy Services (East), LLC, TriEagle Energy, LP, Dynegy Energy Services, LLC, Illinois Power Resources Generating, LLC, Illinois Power Generating Company, Illinois Power Marketing Company, Public Power & Utility of Maryland, LLC, Public Power (PA), LLC, Public Power & Utility of NY, Inc, Everyday Energy NJ, LLC, Everyday Energy, LLC, Public Power, LLC, Dynegy Power Marketing, LLC, Dynegy Midwest Generation, LLC, Massachusetts Gas & Electric, Inc., Electric Energy, Inc., Dynegy Marketing and Trade, LLC, Energy Services Providers, LLC., Ambit Northeast, LLC.

Description: Triennial Market Power Analysis for Central Region of Ambit Northeast, LLC, et al.

Filed Date: 6/28/24.

Accession Number: 20240628-5410.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: ER19-1280-008;

ER10-2407-012; ER10-2424-012;

ER10-2425-014; ER13-1816-022;

ER17-554-002; ER17-1316-010; ER18-

1186-009; ER23-1582-003; ER23-1583-

002; ER23-1584-003; ER24-560-001;

ER24-563-001; ER24-1737-001; ER24-

1738-001.

Applicants: Ragsdale Solar, LLC, Hickory Solar LLC, Crooked Lake Solar

II LLC, Carpenter Wind Farm LLC, Pearl River Solar Park LLC, Indiana Crossroads Wind Farm II LLC, Crooked Lake Solar, LLC, Turtle Creek Wind Farm LLC, Quilt Block Wind Farm LLC, Wolf Run Energy LLC, Sustaining Power Solutions LLC, Pioneer Prairie Wind Farm I, LLC, Rail Splitter Wind Farm, LLC, Lost Lakes Wind Farm LLC, Broadlands Wind Farm LLC.

Description: Triennial Market Power Analysis for Central Region and Notice of Change in Status of Broadlands Wind Farm LLC et al.

Filed Date: 7/1/24.

Accession Number: 20240701–5479.

Comment Date: 5 p.m. ET 8/30/24.

Docket Numbers: ER23–2837–001; ER23–2838–001.

Applicants: BCD 2023 Fund 1 Lessee, LLC, Earp Solar, LLC.

Description: Notice of Non-Material Change in Status of Earp Solar, LLC et al.

Filed Date: 7/9/24.

Accession Number: 20240709–5085.

Comment Date: 5 p.m. ET 7/30/24.

Docket Numbers: ER24–548–001; ER10–3057–006; ER14–1348–008; ER14–1349–008.

Applicants: Union Carbide Corporation, The Dow Chemical Company, Dow Pipeline Company, Dow Hydrocarbons and Resources LLC.

Description: Triennial Market Power Analysis for Central Region of Dow Hydrocarbons and Resources LLC, et al.

Filed Date: 7/2/24.

Accession Number: 20240702–5237.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: ER24–1544–002.
Applicants: Duke Energy Indiana, LLC.

Description: Tariff Amendment: DEI—Amendment Filing to be effective 7/1/2023.

Filed Date: 7/9/24.

Accession Number: 20240709–5082.

Comment Date: 5 p.m. ET 7/30/24.

Docket Numbers: ER24–1641–000.

Applicants: Fuse Energy NY LLC.

Description: Supplement to the 03/28/2024 Market Based Rate Authority tariff filing of Fuse Energy NY LLC.

Filed Date: 7/5/24.

Accession Number: 20240705–5166.

Comment Date: 5 p.m. ET 7/26/24.

Docket Numbers: ER24–2477–000.

Applicants: American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: American Electric Power Service Corporation submits tariff filing per 35.13(a)(2)(iii): AEP submits ILDSA, SA No. 1679 to be effective 10/1/2024.

Filed Date: 7/9/24.

Accession Number: 20240709–5045.

Comment Date: 5 p.m. ET 7/30/24.

Docket Numbers: ER24–2478–000.

Applicants: Soldier Creek Wind, LLC.

Description: Tariff Amendment: Notice of Cancellation of Interim Shared Facilities Agreement to be effective 7/10/2024.

Filed Date: 7/9/24.

Accession Number: 20240709–5046.

Comment Date: 5 p.m. ET 7/30/24.

Docket Numbers: ER24–2479–000.

Applicants: Desert Quartzite, LLC.

Description: § 205(d) Rate Filing: 2024–07–09 Desert Quartzite Cotenancy, Common Assets & Common Use Agreement to be effective 7/22/2024.

Filed Date: 7/9/24.

Accession Number: 20240709–5047.

Comment Date: 5 p.m. ET 7/30/24.

Docket Numbers: ER24–2480–000.

Applicants: Soldier Creek Wind, LLC.

Description: § 205(d) Rate Filing: Second Amended Shared Interconnection Facilities Co-Owners Agreement to be effective 7/10/2024.

Filed Date: 7/9/24.

Accession Number: 20240709–5048.

Comment Date: 5 p.m. ET 7/30/24.

The filings are accessible in the Commission's eLibrary system by clicking on the links or 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: July 9, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15523 Filed 7–15–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD24–10–000]

Reliability Technical Conference; Notice of Reliability Technical Conference

Take notice that the Federal Energy Regulatory Commission (Commission) will convene its annual Commissioner-led Reliability Technical Conference in the above-referenced proceeding on Wednesday, October 16, 2024, from approximately 10:00 a.m. to 12:00 p.m. Eastern time. The conference will be held in-person at the Commission's headquarters at 888 First Street NE, Washington, DC 20426 in the Commission Meeting Room. The meeting will be available to view online.

The purpose of this conference is to discuss policy issues related to the reliability and security of the Bulk-Power System.

The conference will be open for the public to attend, and there is no fee for attendance. Supplemental notices will be issued prior to the conference with further details regarding the agenda. Information on this technical conference will also be posted on the Calendar of Events on the Commission's website, www.ferc.gov, prior to the event.

The conference will also be transcribed. Transcripts will be available for a fee from Ace Reporting, (202) 347–3700.

Commission conferences 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.

For more information about this conference, please contact Michael Gildea at Michael.Gildea@ferc.gov or (202) 502–8420. For information related to logistics, please contact Sarah McKinley at Sarah.Mckinley@ferc.gov or (202) 502–8368.

Dated: July 9, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15521 Filed 7–15–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Notice of Staff Attendance at the Technical Talk With ReliabilityFirst**

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission and/or Commission staff may attend the following virtual meeting:

Technical Talk with ReliabilityFirst:

July 15, 2024 | 2:00 p.m.–3:30 p.m. Eastern

Further information regarding this meeting may be found at: <https://www.rfirst.org/event/technical-talk-with-rf-20/>.

The discussions at the above meeting may address matters at issue in the following Commission proceedings:

Docket Nos.

RD24–5–000—Extreme Cold Weather

RD24–1–000—Reliability Standards

For further information, please contact Chanel Chasanov, 202–502–8569, or chanel.chasanov@ferc.gov.

Dated: July 10, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15612 Filed 7–15–24; 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 in Existing Proceedings

Docket Numbers: RP24–333–002.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: Compliance filing: Implementation of Settlement Tariff Records to be effective 7/1/2024.

Filed Date: 7/10/24.

Accession Number: 20240710–5035.

Comment Date: 5 p.m. ET 7/22/24.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

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Dated: July 10, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15608 Filed 7–15–24; 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: EG24–226–000.

Applicants: Ash Creek Solar, LLC.

Description: Ash Creek Solar LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 7/10/24.

Accession Number: 20240710–5068.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: EG24–227–000.

Applicants: Prairie Mist Solar Project, LLC.

Description: Prairie Mist Solar Project, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 7/10/24.

Accession Number: 20240710–5070.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: EG24–228–000.
Applicants: Buckeye Plains Solar Project, LLC.

Description: Buckeye Plains Solar Project, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 7/10/24.

Accession Number: 20240710–5071.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: EG24–229–000.

Applicants: Pickaway County Solar Project, LLC.

Description: Pickaway County Solar Project, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 7/10/24.

Accession Number: 20240710–5072.

Comment Date: 5 p.m. ET 7/31/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2475–028;

ER10–2474–027; ER10–3246–021;

ER13–1266–039; ER22–1385–000;

ER15–2211–037; ER10–2984–057;

ER22–1385–010.

Applicants: Merrill Lynch Commodities, Inc., MidAmerican Energy Services, LLC, BHER Market Operations, LLC., CalEnergy, LLC, PacifiCorp, Sierra Pacific Power Company, Nevada Power Company.

Description: Errata to 06/29/2022, Triennial Market Power Analysis for Northwest Region of Nevada Power Company, et al.

Filed Date: 12/5/22.

Accession Number: 20221205–5175.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: ER24–2360–001.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Amendment: Amendment to Certificate of Concurrence Filing to Revise Effective Date to be effective 5/29/2024.

Filed Date: 7/10/24.

Accession Number: 20240710–5147.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: ER24–2482–000.

Applicants: American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: American Electric Power Service Corporation submits tariff filing per 35.13(a)(2)(iii): AEP submits one Facilities Agreement re: ILDSA, SA No. 1336 to be effective 6/13/2024.

Filed Date: 7/10/24.

Accession Number: 20240710–5038.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: ER24–2483–000.

Applicants: Arizona Public Service Company.

Description: 205(d) Rate Filing: Rate Schedule No. 217, Exhibit B.BSE to be effective 9/9/2024.

Filed Date: 7/10/24.

Accession Number: 20240710–5061.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: ER24–2484–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA No. 4493, AB1–096 to be effective 9/9/2024.

Filed Date: 7/10/24.

Accession Number: 20240710–5065.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: ER24–2485–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: 4287 Caprock Wind GIA to be effective 7/3/2024.

Filed Date: 7/10/24.

Accession Number: 20240710–5091.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: ER24–2486–000.

Applicants: Cottontail Solar 1, LLC.

Description: Tariff Amendment: Notice of Cancellation to be effective 7/11/2024.

Filed Date: 7/10/24.

Accession Number: 20240710–5098.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: ER24–2487–000.

Applicants: Cottontail Solar 2, LLC.

Description: Tariff Amendment: Notice of Cancellation to be effective 7/11/2024.

Filed Date: 7/10/24.

Accession Number: 20240710–5101.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: ER24–2488–000.

Applicants: Cottontail Solar 4, LLC.

Description: Tariff Amendment: Notice of Cancellation to be effective 7/11/2024.

Filed Date: 7/10/24.

Accession Number: 20240710–5102.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: ER24–2489–000.

Applicants: Cottontail Solar 5, LLC.

Description: Tariff Amendment: Notice of Cancellation to be effective 7/11/2024.

Filed Date: 7/10/24.

Accession Number: 20240710–5103.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: ER24–2490–000.

Applicants: Cottontail Solar 6, LLC.

Description: Tariff Amendment: Notice of Cancellation to be effective 7/11/2024.

Filed Date: 7/10/24.

Accession Number: 20240710–5105.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: ER24–2491–000.

Applicants: Cottontail Solar 8, LLC.

Description: Tariff Amendment: Notice of Cancellation to be effective 7/11/2024.

Filed Date: 7/10/24.

Accession Number: 20240710–5106.

Comment Date: 5 p.m. ET 7/31/24.

Docket Numbers: ER24–2492–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 6838; AF2–356 to be effective 9/9/2024.

Filed Date: 7/10/24.

Accession Number: 20240710–5140.

Comment Date: 5 p.m. ET 7/31/24.

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.

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: July 10, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15613 Filed 7–15–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC24–108–000]

Entergy Services, LLC; Notice of Filing

Take notice that on July 1, 2024, Entergy Services, LLC, on behalf of Entergy Louisiana, LLC (ELL), submitted a petition to the Chief Accountant of the Federal Energy Regulatory Commission (Commission or FERC) seeking a limited

duration waiver of the use of Account 593, Maintenance of Overhead Lines, to permit capitalization of approximately \$87.5 million of anticipated transfer costs for one-time replacements of distribution poles associated with ELL's Future Ready Resilience Plan, for the period July 2024 through 2028, with an effective date of July 31, 2024.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy which must reference the Project docket number.

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.

Comment Date: 5:00 p.m. Eastern Time on August 7, 2024.

Dated: July 9, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15520 Filed 7–15–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 15348–000]

Turnagain Arm Tidal Energy Corporation; Notice of Effectiveness of Withdrawal of Preliminary Permit Application

On April 8, 2024, Turnagain Arm Tidal Energy Corporation (Turnagain) filed a preliminary permit application for the Unalga and Akutan Passes Tidal Project No. 15348. On June 5, 2024, Turnagain filed a notice of withdrawal of the preliminary permit application.

No motion in opposition to the notice of withdrawal has been filed, and the Commission has taken no action to disallow the withdrawal. Pursuant to Rule 216(b) of the Commission's Rules of Practice and Procedure,¹ the withdrawal of the preliminary permit application became effective on June 20, 2024, and this proceeding is hereby terminated.

Dated: July 9, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024–15526 Filed 7–15–24; 8:45 am]

BILLING CODE 6717–01–P

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: July 9, 2024.

Debbie-Anne A. Reese,
Acting Secretary.

[FR Doc. 2024–15524 Filed 7–15–24; 8:45 am]

BILLING CODE 6717–01–P

EPA should consider in its evaluation of DOE's PCR.

DATES: Comments may be submitted on or before September 16, 2024.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2024–0309, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov> (our preferred method). Follow the online instructions for submitting comments.

- *Email:* a-and-r-Docket@epa.gov. Include Docket ID No. EPA–HQ–OAR–2024–0309 in the subject line of the message.

- *U.S. Postal Service Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

- *Hand Delivery/Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. EPA–HQ–OAR–2024–0309. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments, see the **SUPPLEMENTARY INFORMATION** section of this document. A copy of the DOE's 2024 PCR is linked on EPA's WIPP website (<https://www.epa.gov/system/files/documents/2024-03/24-0168-wipp-pcr-panels-letter-enclosures.pdf>).

FOR FURTHER INFORMATION CONTACT: Ray Lee, Radiation Protection Division, Office of Radiation and Indoor Air, Mail Code 6608T, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 343–9463; email address: lee.raymond@epa.gov.

SUPPLEMENTARY INFORMATION: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2024–0309, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section.

Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The written comment is considered the official comment and should include discussion of all points you wish to

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:* RP24–900–000.*Applicants:* Eastern Gas Transmission and Storage, Inc.*Description:* Compliance filing:

EGTS—July 9, 2024 Termination of Service Agreement to be effective N/A.

Filed Date: 7/9/24.*Accession Number:* 20240709–5021.*Comment Date:* 5 p.m. ET 7/22/24.

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.

¹ 18 CFR 385.216(b) (2023).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2024–0309; FRL–12079–01–OAR]

Planned Change Request for Waste Isolation Pilot Plant Replacement Panels 11 and 12

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) seeks public comment on a Planned Change Request (PCR) recently submitted by the U.S. Department of Energy (DOE) to modify the Waste Isolation Pilot Plant (WIPP) to replace lost disposal capacity resulting from the 2014 radiological incident and ground control issues throughout WIPP's operational history. The proposed change will involve adding two additional waste panels to the west of the current repository and connecting those panels to the existing facility via the west main access drifts (tunnels) currently under construction. EPA is soliciting public comments on both the DOE application and on what

make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Tips for preparing your comments. When submitting comments, remember to:

- Identify the document by docket number, subject heading, **Federal Register** date, and page number.
- Provide a brief description of yourself and your role or organization.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- Illustrate your concerns with specific examples and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Public information session. EPA will be hosting public information sessions during the comment period in the Carlsbad, NM and Santa Fe, NM locales. Additional details about timing and the registration process for the information sessions will be shared on EPA's WIPP website at <https://www.epa.gov/radiation/wipp-news>. This information will also be distributed by the WIPP-NEWS email listserv. The information sessions will include presentations from both EPA and DOE regarding the content and review of the PCR. Additionally, there will be a facilitated discussion surrounding questions EPA plans to address/has addressed with DOE related to the PCR. Participants will also have an opportunity to ask clarifying questions and provide comments on the contents of the PCR.

I. Background

The Waste Isolation Pilot Plant (WIPP) is a transuranic (TRU) radioactive waste disposal system developed by the DOE that is located near Carlsbad in southeastern New Mexico. TRU radioactive waste is emplaced about 650 meters (2,150 feet) underground in an ancient layer of salt that will eventually "creep," encapsulate, and isolate the waste from the surrounding environment. The 1992

WIPP Land Withdrawal Act (Pub. L. 102–579) (LWA) limits radioactive waste disposal in the WIPP to TRU radioactive wastes generated by defense-related activities.¹ The WIPP LWA provides EPA with authority to oversee and regulate the WIPP. The WIPP must meet EPA's generic radioactive waste disposal standards at 40 CFR part 191, subparts B and C. These standards limit releases of radioactive materials from disposal systems for radioactive waste and require implementation of measures to provide confidence for compliance with the radiation release limits. Additionally, the regulations limit radiation doses to members of the public and protect ground water resources by establishing maximum concentrations for radionuclides in ground water.

In 1996, the Agency issued the WIPP Compliance Criteria, which are located at 40 CFR part 194, as mandated by WIPP LWA, section 8(c).² DOE submitted the initial WIPP Compliance Certification Application (CCA) in 1996. The Agency then issued the certification decision on May 18, 1998, determining that the WIPP met the standards for radioactive waste disposal. Since the 1998 certification decision, EPA has conducted ongoing independent technical reviews, certification/recertifications, and inspections of all WIPP activities related to compliance with the Agency's disposal regulations. The WIPP has been recertified four times since the initial CCA in 1996, with the most recent recertification decision occurring in 2022.³

As part of the original design of the WIPP repository in the initial CCA, the underground waste disposal region at WIPP is divided into panels. A panel is a group of rooms mined into the salt, connected by tunnels called drifts. EPA certified the WIPP in 1998 and most recently recertified the WIPP in 2022 based on a planned footprint of 10 waste panels.

On March 14, 2024, EPA received a planned change request (PCR) from DOE per 40 CFR 194.4(b)(3) that seeks the Agency's approval to add two replacement waste panels to the west of the current repository. These two panels, 11 and 12, are being constructed to replace waste disposal volume that was lost in panels 7 and 9 due to the 2014 radiological release that contaminated the south end of the

repository.⁴ Additionally, panels 1 and 2 were not completely filled due to ground control issues from being kept open so long before waste was emplaced. DOE has calculated that to replace the volume lost, 1.7 panels of waste volume will be needed, rounded up to 2 panels for construction.⁵ DOE also states that the waste volume with panels 11 and 12 will not exceed the LWA waste disposal volume limit. The PCR contains a performance assessment DOE has conducted to support a demonstration that the repository will continue to meet the numeric release limits of EPA's disposal regulations for the WIPP. As part of the performance assessment, DOE calculated releases based on a repository design of 19 panels, which is the anticipated WIPP repository configuration at the time of closure. With this PCR, DOE is only seeking EPA's approval of the two new planned panels and has provided documentation to address the two new panels within the context of the 19-panel design. DOE would have to submit a separate request for approval of any additional panels beyond panels 11 and 12.

II. Request for Comments

The Agency is soliciting public comment on DOE's documentation of its PCR to add two new waste panels—panels 11 and 12—at the WIPP facility, and the demonstration of compliance with EPA's disposal regulations. Additional background information related to the Agency's review of DOE's application—including an electronic copy of the PCR itself—is available in the public docket⁶ established for this action and on the EPA WIPP website.⁷

The Agency will accept comment until the September 16, 2024. Upon completion of EPA's evaluation of the PCR, the Agency will announce a decision on the proposed two new panels along with a response to comments document and related technical support documents.

Jonathan D. Edwards,

Director, Office of Radiation and Indoor Air.

[FR Doc. 2024–15560 Filed 7–15–24; 8:45 am]

BILLING CODE 6560–50–P

⁴ For a discussion of the 2014 incidents at the WIPP, see EPA's third recertification determination. 82 FR 33106, 33107 (July 19, 2017).

⁵ Knerr, R. (DOE/CBFO), Dunagan, S. (NWP LLC). *Class 3 Permit Modification Request* [Letter to Maestas, R. (NMED)] (July 30, 2021).

⁶ Docket ID No. EPA–HQ–OAR–2024–0309 (<https://www.regulations.gov>).

⁷ <https://www.epa.gov/radiation/wipp-news#WIPP-PCR>.

¹ TRU waste is defined as waste containing more than 100 nano-curies per gram of alpha-emitting radioactive isotopes, with half-lives greater than twenty years and atomic numbers greater than 92.

² 61 FR 5224–5245 (February 9, 1996).

³ 87 FR 26126 (May 3, 2022).

ENVIRONMENTAL PROTECTION AGENCY**[EPA-HQ-OPP-2024-0093; FRL-12044-01-OCSPP]****Cancellation Order for Certain Pesticide Registrations and/or Amendments To Terminate Uses****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: This notice announces EPA's order for the cancellations and/or amendments to terminate uses, voluntarily requested by the registrants, and accepted by the Agency, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a May 7, 2024, **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 3 of Unit II, to voluntarily cancel and/or amend to terminate uses of these product registrations. In the May 7, 2024, notice, EPA indicated that it would issue an order implementing the cancellations and/or amendments to terminate uses, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency did not receive any comments on the notice. Further, the registrant for

product registration 4-474 withdrew their request for cancellation; therefore, the registration has been removed from this order. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations and/or amendments to terminate uses. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations and/or amendments are effective July 16, 2024.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460-0001; telephone number: (202) 566-2707; email address: green.christopher@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information***A. Does this action apply to me?*

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the

Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2024-0093, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (202) 566-1744. Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

II. What action is the Agency taking?

This notice announces the cancellations and/or amendments to terminate uses, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Tables 1 and 2 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
4-473	4	Bonide Garden Dust	Basic copper sulfate (008101/1344-73-6)—(5%), Pyrethrins (069001/8003-34-7)—(.03%), Sulfur (077501/7704-34-9)—(25%).
100-1441	100	Bravo Top	Chlorothalonil (081901/1897-45-6)—(40%), Difenoconazole (128847/119446-68-3)—(4%).
228-423	228	DQD Selective Herbicide	2,4-D, dimethylamine salt (030019/2008-39-1)—(25.4%), Dicamba (029801/1918-00-9)—(2.64%), Quinclorac (128974/84087-01-4)—(7.91%).
228-594	228	Quincept Herbicide Ready to Use	2,4-D, dimethylamine salt (030019/2008-39-1)—(.331%), Dicamba (029801/1918-00-9)—(.034%), Quinclorac (128974/84087-01-4)—(.206%).
228-703	228	Quincept LT Herbicide Ready-to-Use.	2,4-D (030001/94-75-7)—(.331%), Dicamba (029801/1918-00-9)—(.034%), Quinclorac (128974/84087-01-4)—(.137%).
228-704	228	Quincept LT Herbicide Premium Lawn Weed Killer Concentrate.	2,4-D (030001/94-75-7)—(6.557%), Dicamba (029801/1918-00-9)—(.681%), Quinclorac (128974/84087-01-4)—(2.724%).
228-705	228	NUP-09066 Herbicide	2,4-D (030001/94-75-7)—(13.2%), Dicamba (029801/1918-00-9)—(1.38%), Quinclorac (128974/84087-01-4)—(5.5%).
228-706	228	Quincept LT MC	2,4-D (030001/94-75-7)—(13.2%), Dicamba (029801/1918-00-9)—(1.38%), Quinclorac (128974/84087-01-4)—(5.5%).
279-3372	279	FMC Mop Up	Boron sodium oxide (B8Na2O13), tetrahydrate (12280-03-4) (011103/12280-03-4)—(98%).
279-3384	279	Roach Kil Commercial	Boric acid (011001/10043-35-3)—(99%).
279-3385	279	DRAX Ant Kill Gel	Boric acid (011001/10043-35-3)—(5%).
279-3386	279	DRAX Ant Kil-PF	Boric acid (011001/10043-35-3)—(5%).
279-3387	279	Aerosol Boric Acid	Boric acid (011001/10043-35-3)—(20%).
279-3398	279	DRAX Roach Assault SWT	Boric acid (011001/10043-35-3)—(50%).
279-3399	279	DRAX Liquid Ant Killer II SWT	Boric acid (011001/10043-35-3)—(1%).
279-3400	279	DRAX Granular Bait with Boric Acid & Nylar.	Boric acid (011001/10043-35-3)—(1%), Pyriproxyfen (129032/95737-68-1)—(.25%).
279-3402	279	DRAX Bait Station	Boric acid (011001/10043-35-3)—(5%).
279-3403	279	DRAX-PF Bait Station	Boric acid (011001/10043-35-3)—(5%).

TABLE 1—PRODUCT CANCELLATIONS—Continued

Registration No.	Company No.	Product name	Active ingredients
279–3565	279	Edition BroadSpec Herbicide	Thifensulfuron (128845/79277–27–3)—(25%), Tribenuron-methyl (128887/101200–48–0)—(25%).
279–3576	279	Solida Herbicide	Rimsulfuron (129009/122931–48–0)—(25%).
352–938	352	Fexapan Plus Vaporgrip Technology.	Dicamba, diglycolamine salt (128931/104040–79–1)—(42.8%).
499–535	499	LX417 Lambda-Cyhalothrin	Lambda-Cyhalothrin (128897/91465–08–6)—(9.7%).
4822–607	4822	Lauda	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride (069165/32426–11–2)—(.072%), 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride (069149/7173–51–5)—(.036%), 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride (069166/5538–94–3)—(.036%), Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16) (069105/68424–85–1)—(.096%).
42750–253	42750	Captan 4L ST	Captan (081301/133–06–2)—(38.75%).
67979–38	67979	BT11 X MIR162 X MIR604 and BT11 X MIR604 Corn.	Bacillus thuringiensis CryIA(b) delta-endotoxin and the genetic material necessary for its production (plasmid vector pZ01502) in corn, when used as a plant pesticide in all raw agricultural commodities of field corn, sweet corn and popcorn. (006461/)—(.001829%), Bacillus thuringiensis Vip3Aa20 protein encoded by vector pNOV1300 in event MIR162 corn (SYN–IR162–4), % dw (006599/)—(.0088%), Modified Cry3A protein and the genetic material necessary for its production (via elements of pZM26) in Event MIR604 corn (006509/)—(.002757%).
67979–39	67979	BT11 X MIR604 X TC1507 X 5307 and BT11 X MIR162 X MIR604 X TC1507 X 5307 5% Refuge Seed Blend Corn.	Bacillus Thuringiensis eCry3.1Ab protein and the genetic material necessary for its production (vector pSYN12274) in Event 5307 corn (SYN–05307–1) (016483/)—(.00261%), Bacillus thuringiensis Cry1F protein and the genetic material necessary for its production (plasmid insert PHI8999) in corn (006481/)—(.00122%), Bacillus thuringiensis CryIA(b) delta-endotoxin and the genetic material necessary for its production (plasmid vector pZ01502) in corn, when used as a plant pesticide in all raw agricultural commodities of field corn, sweet corn and popcorn. (006461/)—(.00495%), Bacillus thuringiensis Vip3Aa20 protein encoded by vector pNOV1300 in event MIR162 corn (SYN–IR162–4), % dw (006599/)—(.00431%), Modified Cry3A protein and the genetic material necessary for its production (via elements of pZM26) in Event MIR604 corn (006509/)—(.0006%).
71771–12	71771	PHC–91398	Ea peptide 91398 (005200/)—(1%).
71840–14	71840	Tricho Plus Biofungicide	Trichoderma asperelloides strain JM41R (119000/)—(5.5%).
71840–15	71840	Trichoderma Asperelloides Strain JM41R Technical.	Trichoderma asperelloides strain JM41R (119000/)—(100%).
89635–4	89635	KM1110 WDG	Metschnikowia fructicola NRRL Y–27328 (012244/)—(58.5%).
91234–369	91234	X1110.28	Chlorantraniliprole (090100/500008–45–7)—(47.85%).
93653–5	93653	ZS 2,4–D Technical	2,4–D (030001/94–75–7)—(98.5%).
AR–070008	279	Spartan 4F	Sulfentrazone (129081/122836–35–5)—(39.6%).
ID–180005	10163	Magister SC Miticide	Fenazaquin (044501/120928–09–8)—(18.79%).
KS–150002	352	Dupont Realm Q Herbicide	Mesotrione (122990/104206–82–8)—(31.25%), Rimsulfuron (129009/122931–48–0)—(7.5%).
LA–150005	352	Dupont Realm Q Herbicide	Mesotrione (122990/104206–82–8)—(31.25%), Rimsulfuron (129009/122931–48–0)—(7.5%).
MN–120004	279	AIM EC	Carfentrazone-ethyl (128712/128639–02–1)—(22.3%).
OR–100009	279	Dupont Coragen Insect Control	Chlorantraniliprole (090100/500008–45–7)—(18.4%).
OR–130012	19713	Drexel Captan 4 Flowable Seed Protectant.	Captan (081301/133–06–2)—(37.99%).
OR–170004	279	Dupont Verimark Insect Control	Cyantraniliprole (090098/736994–63–1)—(18.66%).
OR–180011	33906	Quintec	Quinoxifen (055459/878790–59–1)—(22.58%).
OR–220008	68506	UVASYS	Sodium metabisulfite (111409/7681–57–4)—(36.5%).
OR–960025	10163	Beacon Herbicide	Primisulfuron-methyl (128973/86209–51–0)—(75%).
TN–140002	352	Dupont Realm Q Herbicide	Mesotrione (122990/104206–82–8)—(31.25%), Rimsulfuron (129009/122931–48–0)—(7.5%).
TX–180006	70506	Comite II	Propargite (097601/2312–35–8)—(69.6%).
TX–180007	70506	Terrazole 4EC	Etridiazole (084701/2593–15–9)—(44.3%).
TX–220004	71512	Tiafenacil 339SC Herbicide	Tiafenacil (012311/1220411–29–9)—(30%).
VA–150005	279	F6482 45DF Herbicide	Metribuzin (101101/21087–64–9)—(27%), Sulfentrazone (129081/122836–35–5)—(18%).
WI–190002	10163	Sonalan HFP	Ethalfuralin (113101/55283–68–6)—(35.4%).

TABLE 2—PRODUCT REGISTRATION AMENDMENTS TO TERMINATE USES

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
1021–1682	1021	Multicide Intermediate 2738 ..	Cyphenothrin (129013/39515–40–7)—(13.34%), MGK 264 (057001/113–48–4)—(12.77%), Prallethrin (128722/23031–36–9)—(1%).	Human Article use.
1021–1770	1021	Evergreen Crop Protection EC 60–6.	Piperonyl butoxide (067501/51–03–6)—(60%), Pyrethrins (069001/8003–34–7)—(6%).	Residential space spray use.
39967–128	39967	N–2050–PG Antimicrobial	Dodecylguanidine hydrochloride (044303/13590–97–1)—(35%).	Sewage disposal lagoon use.
42750–230	42750	Captan Technical	Captan (081301/133–06–2)—(95.9%).	Seed treatment use.
85678–13	85678	Captan 4L	Captan (081301/133–06–2)—(37.7%).	Seed treatment use.
98985–6	98985	Ike's Pest Killer	Bifenthrin (128825/82657–04–3)—(7.9%).	Pet Kennels and Indoor use for Hornets and Yellow Jackets.

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Tables 1

and 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA

registration numbers of the products listed above.

TABLE 3—REGISTRANTS OF CANCELLED AND/OR AMENDED PRODUCTS

EPA Company No.	Company name and address
4	Bonide Products, LLC, 6301 Sutliff Road, Oriskany, NY 13424.
100	Syngenta Crop Protection, LLC, 410 Swing Road, P.O. Box: 18300, Greensboro, NC 27419–8300.
228	NuFarm Americas, Inc., Agent Name: NuFarm Americas, Inc., 4020 Aerial Center Pkwy., Ste. 101, Morrisville, NC 27560.
279	FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104.
352	Corteva Agriscience, LLC, 9330 Zionsville Road, Indianapolis, IN 46268.
499	BASF Corporation, 26 Davis Drive, P.O. Box: 13528, Research Triangle Park, NC 27709–3528.
1021	McLaughlin Gormley King Company D/B/A MGK, 7325 Aspen Lane N, Minneapolis, MN 55428.
4822	S.C. Johnson & Son, Inc., 1525 Howe Street, Racine, WI 53403.
10163	Gowan Company, LLC, 370 S. Main St., Yuma, AZ 85366.
19713	Drexel Chemical Company, P.O. Box: 13327, Memphis, TN 38113–0327.
33906	Nissan Chemical Corporation, Agent Name: Lewis & Harrison, LLC, 2461 South Clark Street, Suite 710, Arlington, VA 22202.
39967	Lanxess Corporation, 111 RIDC Park West Drive, Pittsburgh, PA 15275–1112.
42750	Albaugh, LLC, 1525 NE 36th Street, Ankeny, IA 50021.
67979	Syngenta Seeds, LLC—Field Crops—NAFTA, 9 Davis Drive, Research Triangle Park, NC 27709.
68506	Tessara (PTY) Ltd., Agent Name: Pyxis Regulatory Consulting, Inc., 4110 136th St. Ct., NW, Gig Harbor, WA 98332.
70506	MacDermid Agricultural Solutions, Inc., Agent Name: UPL NA, Inc., 630 Freedom Business Center, Suite 402, King Of Prussia, PA 19406.
71512	ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, OH 44077.
71771	Plant Health Care, Inc., Agent Name: Ramboll, 4245 North Fairfax Drive, Suite 700, Arlington, VA 22203.
71840	BASF Corporation, 26 Davis Drive, P.O. Box: 13528, Research Triangle Park, NC 27709.
85678	RedEagle International, LLC, Agent Name: Wagner Regulatory Associates, Inc., 7217 Lancaster Pike, Suite A, P.O. Box: 640, Hockessin, DE 19707.
89635	Koppert Biological Systems, Inc., 1502 Old US 23, Howell, MI 48843.
91234	Atticus, LLC, Agent Name: Pyxis Regulatory Consulting, Inc., 4110 136th Street Ct., NW, Gig Harbor, WA 98332–9122.
93653	ZSChem USA, Inc., Agent Name: Pyxis Regulatory Consulting, Inc., 4110 136th Street Ct., NW, Gig Harbor, WA 98332.
98985	Ike's, LLC, Agent Name: Wagner Regulatory Associates, 7217 Lancaster Pike, Suite A, P.O. Box: 640, Hockessin, DE 19707.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in

response to the May 7, 2024, **Federal Register** notice announcing the Agency's receipt of the requests for voluntary cancellations and/or amendments to terminate uses of the

products listed in Tables 1 and 2 of Unit II.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)(1)), EPA hereby approves the requested cancellations and/or amendments to terminate uses of pesticide registrations identified in Tables 1 and 2 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Tables 1 and 2 of Unit II, are canceled and/or amended to terminate the affected uses. The effective date of the cancellations that are subject of this notice is July 16, 2024. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 of Unit II, in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI, will be a violation of FIFRA.

V. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of May 7, 2024 (89 FR 38126) (FRL-11877-01-OCSP). The comment period closed on June 6, 2024.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States, and which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provision for the products subject to this order is as follows.

For: 352-938:

For 352-938, Corteva, the registrant of the product subject to this cancellation order, did not request that EPA allow the continued sale, distribution, or use of existing stocks of this product. Additionally, Corteva confirmed that they ceased selling this product in 2021. Thus, all sale, distribution, and use of existing stocks of this product is prohibited, except for the sale or distribution of this product for export consistent with FIFRA section 17 (7 U.S.C. 136o) and for proper disposal.

For all other voluntary cancellations listed in Table 1 of Unit II, the registrants may continue to sell and

distribute existing stocks of all other products listed in Table 1 until July 16, 2025, which is 1 year after publication of this cancellation order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing all other products listed in Table 1 of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Now that EPA has approved product labels reflecting the requested amendments to terminate uses, registrants are permitted to sell or distribute products listed in Table 2 of Unit II, under the previously approved labeling until January 16, 2026, a period of 18 months after publication of the cancellation order in this **Federal Register**, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the terminated uses identified in Table 2 of Unit II, except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products and/or products whose labels include the terminated uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products and/or terminated uses.

Authority: 7 U.S.C. 136 et seq.

Dated: July 10, 2024.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2024-15554 Filed 7-15-24; 8:45 am]

BILLING CODE 6560-50-P

EXPORT-IMPORT BANK

Sunshine Act Meetings; Notice of an Open Meeting of the Board of Directors of the Export-Import Bank of the United States

TIME AND DATE: Thursday, July 18, 2024 at 10:30 a.m.

PLACE: The meeting will be held via teleconference.

STATUS: The meeting will be open to public observation for Item Numbers 1 and 2.

MATTERS TO BE CONSIDERED:

1. Appointment of EXIM Advisory Committee for 2024-25
2. Appointment of EXIM Sub-Saharan Africa Advisory Committee for 2024-25

CONTACT PERSON FOR MORE INFORMATION: Deidre Hodge (202-509-4195). Members

of the public who wish to attend the meeting via teleconference should register via using the link below: <https://events.teams.microsoft.com/event/33697276-5305-4b36-a246-e8c8fa73e2f0@b953013c-c791-4d32-996f-518390854527> by noon Wednesday, July 17, 2024. Individuals will be directed to a Webinar registration page and provided call-in information.

Deidre E. Hodge,

Assistant Corporate Secretary.

[FR Doc. 2024-15699 Filed 7-12-24; 11:15 am]

BILLING CODE 6690-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1265; FR ID 232207]

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 September 16, 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: 3060–1265.

Title: Administrative Order—Performance Testing Measures.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 1,705 unique respondents; 7,681 responses.

Estimated Time per Response: 15–23 hours.

Frequency of Response: Biennial reporting requirements, quarterly reporting requirements and annual reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–154, 155, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, 405, 410, and 1302.

Total Annual Burden: 170,620 hours.

Total Annual Cost: No Cost.

Needs and Uses: In the *USF/ICC Transformation Order*, the Commission laid the groundwork for today's universal service programs providing \$4.5 billion in support for broadband internet deployment in high-cost areas. *Connect America Fund*, et al., WC Docket No. 10–90, et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*). The *USF/ICC Transformation Order* required, among other things, that high-cost universal service recipients “test their broadband networks for compliance with speed and latency metrics and certify to and report the results to the Universal Service Administrative Company (USAC) on an annual basis.” *Id.* at 17705, para. 109. Pursuant to the Commission's direction in that Order, the Wireline Competition Bureau, the Wireless Telecommunications Bureau, and the Office of Engineering and Technology (the Bureaus and OET) adopted more specific methodologies for such testing in the *Performance Measures Order*. See

generally Performance Measures Order. See also 47 CFR 54.313(a)(6) (requiring that recipients of high-cost support provide “[t]he results of network performance tests pursuant to the methodology and in the format determined by the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Office of Engineering and Technology”). Addressing petitions for reconsideration, the Bureaus and OET adopted certain modifications and clarifications to the requirements pertaining to high-latency bidders in the Connect America Fund (CAF) Phase II auction, and the Commission refined the general testing requirements further. See *generally Connect America Fund*, WC Docket No. 10–90, Order on Reconsideration, DA 19–911 (WCB/WTB/OET 2019) (*Satellite-Related Performance Measures Order*); *Performance Measures Reconsideration Order*. In the *High Cost Administrative Order*, the Commission adopted a quarterly reporting and certification schedule, replacing the previous annual requirement, such that all carriers receiving high-cost support are required to report and certify their quarterly performance testing results within two weeks, rather than within one week, after the end of the quarter in which the tests are conducted. See *High Cost Administrative Order*, FCC 25–87, para. 138. Accordingly, this collection includes the requirements for testing speed and latency, and reporting and certifying such performance measures within two weeks after the end of each quarter to ensure that carriers are meeting the public interest obligations associated with their receipt of high-cost universal service support.

Carriers will identify, from among the locations they have already submitted and certified in USAC's High Cost Universal Broadband (HUBB) portal, the locations where they have an active subscriber (deployment locations are reported under OMB Control Number 3060–1228, and active locations will be reported under this control number). From those subscriber locations, USAC will then select a random sample from which the carrier will be required to perform testing for speed and latency. Carriers that do not provide location information in the HUBB will use a randomization tool provided by USAC to select a random sample of locations for testing. Due to the rule changes that the Commission adopted on the *High Cost Administrative Order*, the carrier will then be required to submit to USAC the results of the testing on a quarterly basis. The quarterly filing will include the testing results from the prior quarter.

The carrier's sample for each service tier (e.g., 10 Mbps/1 Mbps, 25 Mbps/3 Mbps) shall be regenerated every two years. During the two-year cycle, carriers will have the ability to add and remove subscriber locations if necessary, e.g., as subscribership changes. Also, in July 2023, the Commission adopted the Enhanced Alternative-Connect America Cost Model (E–ACAM) support mechanism, a new model-based offer to existing Alternative-Connect America Cost Model (A–CAM) I, A–CAM II, and Connect America Fund Broadband Loop Support (CAF BLS) carriers. See *Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support et al.*, WC Docket No. 10–90 et al., Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 23–60, at 23–24, para. 49 (July 24, 2023) (*Enhanced A–CAM Order*). Revisions proposed include (1) a process for E–ACAM carriers to get a performance measures testing sample from non-HUBB reported locations, and (2) and reporting and certifying such performance measures within two weeks after the end of each quarter. The proposed revisions also include the retitling of this collection from “Connect America Fund—Performance Testing Measures” to “Administrative Order—Performance Testing Measures.”

The Commission therefore proposes to revise this information collection to reflect these modified requirements.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2024–15634 Filed 7–15–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 19–329; FR ID 231564]

Federal Advisory Committee Act; Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission) Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United

States (Task Force) will hold its next meeting live and via live internet link.

DATES: August 14, 2024. The meeting will come to order at 10:00 a.m. EDT.

ADDRESSES: The meeting will be open to the public and held in the Commission Meeting Room at FCC Headquarters, located at 45 L Street NE, Washington, DC 20554, and will also be available via live feed from the FCC's web page at www.fcc.gov/live.

FOR FURTHER INFORMATION CONTACT: Emily Caditz, Designated Federal Officer, at (202) 418-2268, or Emily.Caditz@fcc.gov; or Thomas Hastings, Deputy Designated Federal Officer, at (202) 418-1343, or Thomas.Hastings@fcc.gov.

SUPPLEMENTARY INFORMATION: The meeting will be held on August 14, 2024 at 10:00 a.m. EDT in the Commission Meeting Room at FCC Headquarters, 45 L Street NE, Washington, DC, and will be open to the public, with admittance limited to seating availability. Any questions that arise during the meeting should be sent to PrecisionAgTTF@fcc.gov and will be answered at a later date. Members of the public may submit comments to the Task Force in the FCC's Electronic Comment Filing System, ECFS, at www.fcc.gov/ecfs. Comments to the Task Force should be filed in GN Docket No. 19-329.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to fcc504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted but may not be possible to fill.

Proposed Agenda: At this meeting, the Task Force and Working Group Leadership will provide updates on the progress of their respective reports, begin to discuss Executive Summary details, review and discuss program and policy expectations relevant to the Task Force's duties, and continue to discuss strategies to advance broadband deployment on agricultural land and promote precision agriculture. This agenda may be modified at the discretion of the Task Force Chair and the Designated Federal Officer.

(5 U.S.C. App 2 sec. 10(a)(2))

Federal Communications Commission

Jodie May,

Division Chief, Competition Policy Division, Wireline Competition Bureau.

[FR Doc. 2024-15607 Filed 7-15-24; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL LABOR RELATIONS AUTHORITY

[FLRA Docket No. DE-RP-22-0028]

Notice of Opportunity To Submit Amici Curiae Briefs in a Representation Proceeding Pending Before the Federal Labor Relations Authority

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: The Federal Labor Relations Authority (Authority) provides an opportunity for all interested persons to submit briefs as amici curiae on an issue arising in a case pending before the Authority. The issue concerns the manner in which the Authority, in applying its decision in *Naval Facilities Engineering Service Center, Port Hueneme, California*, 50 FLRA 363 (1995) (*Port Hueneme*), determines whether an election is necessary to determine representation of an appropriate bargaining unit following an agency reorganization. In *Department of the Army, U.S. Army Aviation Missile Command, Redstone Arsenal, Alabama*, 56 FLRA 126 (2000) (*AMCOM*), the Authority applied *Port Hueneme* to conclude that a union that represents more than 70 percent of the employees in a newly combined unit formerly represented by two or more unions is sufficiently predominant to render an election unnecessary to determine representation of the newly combined unit. The Authority seeks amici briefs addressing whether, in making this determination, the Federal Service Labor-Management Relations Statute (the Statute) allows the Authority to combine employees exclusively represented by an affiliate of a parent labor organization with employees exclusively represented by the parent organization or another affiliate of the parent organization. Because this issue is likely to be of concern to agencies, labor organizations, and other interested persons, the Authority finds it appropriate to provide for the filing of amici briefs addressing the questions set forth below.

DATES: To be considered, briefs must be received on or before August 15, 2024.

ADDRESSES: Mail or deliver briefs to Erica Balkum, Chief, Office of Case

Intake and Publication, Federal Labor Relations Authority, Docket Room, Suite 300, 1400 K Street NW, Washington, DC 20424-0001. For personal delivery of briefs, schedule an appointment at least one business day in advance by calling (771) 444-5805.

FOR FURTHER INFORMATION CONTACT:

Erica Balkum, Chief, Office of Case Intake and Publication, Federal Labor Relations Authority, (771) 444-5809.

SUPPLEMENTARY INFORMATION: On September 29, 2023, the Authority issued an order granting the application for review of the Regional Director's (RD's) decision and order (decision), and deferring action on the merits, in *Defense Health Agency, El Paso Market*, Case No. DE-RP-22-0028 (*DHA*). A summary of the case follows.

1. Background and RD's Decision

As part of a reorganization, the Department of Defense (DOD) established the Defense Health Agency (DHA) El Paso Market (El Paso Market), which consists of employees who previously worked for Department of the Army (Army) medical and dental treatment facilities in and around El Paso, Texas. Before these employees were transferred to the El Paso Market, the American Federation of Government Employees, Local 2516 (Local 2516 or Local) was certified as the exclusive representative of approximately 1,048 nonprofessional employees and 518 professional employees; the American Federation of Government Employees (AFGE) was certified as the exclusive representative of approximately seventy-seven nonprofessional employees and one professional employee; and the National Federation of Federal Employees (NFFE) was certified as the exclusive representative of approximately eleven nonprofessional employees and eleven professional employees.¹

AFGE solicited, and Local 2516 provided, a designation of AFGE as the Local's representative for the purpose of filing a petition with the FLRA to clarify the transferred employees' representation.² However, during the RD's investigation of the petition, Local 2516 withdrew its designation of AFGE as its representative.

Before the RD, AFGE argued that Authority precedent required the RD to combine the number of unit employees that AFGE and Local 2516 represented

¹ NFFE has disclaimed interest in representing the transferred employees.

² DHA filed a cross-petition, seeking a finding that the employees are in two separate, appropriate units—one professional, one nonprofessional—at DHA El Paso Market. AFGE did not object to the separate units.

in the professional and non-professional units, respectively, with AFGE “remain[ing] the successor exclusive representative of” that combined group of employees. Citing *AMCOM*, AFGE argued that Authority precedent “has treated a national union and its constituent locals as one union” by focusing on the number of “unions” involved, rather than the number of “exclusive representatives.” AFGE claimed that because AFGE and Local 2516 are part of the same labor organization, the Region should treat them as the same entity for purposes of the petition.

To resolve the petition, the RD applied the three-prong test the Authority set forth in *Port Hueneme*. As to the first prong, the RD found the transferred employees share a community of interest, the proposed professional and nonprofessional units would promote effective dealings and efficiency of operations, and the transferred employees represent a majority of the employees in the proposed units. The RD also found the second *Port Hueneme* prong met because post-transfer, the employees have a substantially similar mission as pre-transfer; and the transferred employees have the same, or substantially similar, job titles, position descriptions, and other general conditions of employment as they had before the transfer.

As to the third *Port Hueneme* prong, the RD found that Local 2516 represented approximately ninety-two percent of the nonprofessional employees and ninety-eight percent of the professional employees. Therefore, the RD concluded Local 2516 was sufficiently predominant with regard to both units, rendering it unnecessary to conduct elections to determine the units’ exclusive representatives. In reaching this conclusion, the RD rejected AFGE’s argument that it should be treated as the same labor organization as Local 2516 for purposes of resolving the petitions. Specifically, the RD rejected AFGE’s argument that *AMCOM* focused on the number of “unions” involved, and not the number of “exclusive representatives,” in determining whether a union was sufficiently predominant. The RD further noted that Local 2516 “vehemently objected” to AFGE’s assertion that AFGE and Local 2516 should be treated as one entity for the purposes of the petition.

Based on these findings, the RD concluded that: (1) DHA, El Paso Market is the transferred employees’ successor employer; (2) the transferred employees are in two appropriate units—one

professional, one nonprofessional—under section 7112(a) of the Statute; and (3) Local 2516 is the exclusive representative of those units.

2. Application for Review

In an application for review of the RD’s decision, AFGE argued that the RD failed to follow Authority precedent; the RD’s decision raises an issue for which there is an absence of precedent; and the RD committed prejudicial procedural errors. AFGE contends the RD erred by treating AFGE and Local 2516 as separate unions for the purpose of determining who would represent the successor bargaining units. According to AFGE, both *AMCOM* and the Statute support treating AFGE and Local 2516 as one “union” or “labor organization” for purposes of applying *Port Hueneme*’s third prong.

3. Questions on Which Briefs Are Solicited

In *DHA*, the Authority issued an unpublished order dated September 29, 2023 and concluded, upon preliminary review of the record, that AFGE’s application raised issues warranting further review. The Authority deferred action on the application’s merits. In order to assist with such action, the Authority now solicits additional briefs.

As noted above, when applying the third prong of the *Port Hueneme* test to determine whether it has been demonstrated that an election is necessary, the Authority has held that a union that represents more than 70 percent of the employees in a newly combined unit formerly represented by two or more unions is sufficiently predominant to render an election unnecessary. *AMCOM*, 56 FLRA at 131. The Authority directs the parties, and invites all interested persons, to file briefs addressing the following questions:

1. For purposes of assessing whether a union represents more than 70 percent of the employees, does the Statute allow the Authority to combine employees exclusively represented by an affiliate of a parent labor organization with employees exclusively represented by the parent organization or another affiliate of the parent organization?

2. If the answer to Question 1 is yes and the combined employees represented by related entities are more than 70 percent of the employees in a newly combined unit, then which of the related entities becomes the certified exclusive representative?

3. Does the answer to either of these questions depend on whether the affiliate(s) have designated the parent organization to act as their representative for successorship proceedings?

For purposes of addressing these questions, the term “parent organization” should be interpreted to mean the national or

international union with which a subsidiary union, acting as a bargaining unit’s exclusive representative, is affiliated.

4. Required Format for Briefs

All briefs shall be captioned “*Defense Health Agency, El Paso Market*, Case No. DE-RP-22-0028.” Briefs shall contain separate headings for each issue covered. Interested persons must submit an original of each amicus brief, with any enclosures, on 8½ x 11 inch paper. Briefs must include a signed and dated statement of service that complies with the Authority’s Regulations showing service of one copy of the brief on all counsel of record or other designated representatives as well as the Federal Labor Relations Authority Regional Director involved in this case. 5 CFR 2429.27. Accordingly, briefs must be served on: Jennifer Giambastiani, Chief, Labor and Employment Law Branch, Defense Health Agency, Office of the General Counsel, 7700 Arlington Blvd., Falls Church, VA 22042; Sam Romirowsky, Labor Management Employee Relations, Defense Health Agency, Human Capital Division, 7700 Arlington Blvd., Falls Church, VA 22042; Felicia Sharp, Legal Administrative Specialist, Defense Health Agency, Office of the General Counsel, 7700 Arlington Blvd., Falls Church, VA 22042; Jessica Clarke, Assistant General Counsel, Office of the General Counsel American Federation of Government Employees, 80 F Street NW, Washington, DC 20001; Julian Patrick, President, AFGE Local 2516, 3135 Forney Ln., El Paso, TX 79935; and Timothy Sullivan, Regional Director, Denver Regional Office, Federal Labor Relations Authority, 1244 Speer Blvd., Suite 446, Denver, CO 80204. Interested persons may obtain copies of the Authority’s decision granting the application for review in this case by contacting Erica Balkum, Chief, Office of Case Intake and Publication, Federal Labor Relations Authority, (771) 444-5809.

Dated: July 11, 2024.

Thomas Tso,

Solicitor and Federal Register Liaison, Federal Labor Relations Authority.

[FR Doc. 2024-15606 Filed 7-15-24; 8:45 am]

BILLING CODE 6727-01-P

FEDERAL MARITIME COMMISSION

Notice of Release of Federal Maritime Commission’s FY 2022 Service Contract Inventory Analysis

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: The Federal Maritime Commission (Commission) is publishing this notice to advise the public of the availability of its FY 2022 Service Contract Inventory Analysis. The FY 2022 Service Contract Inventory Analysis includes Scope, Methodology, Findings, Actions Taken or Planned, and Accountable Officials.

DATES: The inventory is available on the Commission's website as of June 24, 2024.

FOR FURTHER INFORMATION CONTACT: Katona Bryan-Wade, Director of the Office of Management Services; Phone: (202) 523-5900; Email: omsmaritime@fmc.gov.

SUPPLEMENTARY INFORMATION: Acting in compliance with sec. 743 of Division C of the Consolidated Appropriations Act 2010, the Commission is publishing this notice to advise the public of the availability of its FY 2022 Service Contract Inventory Analysis. The FY 2022 Service Contract Inventory Analysis includes Scope, Methodology, Findings, Actions Taken or Planned, and Accountable Officials.

Objectives, and Agency Findings

This analysis was developed in accordance with guidance issued by the Office of Management and Budget (OMB), the Office of Federal Procurement Policy (OFPP), and in accordance with FAR subpart 4.17—Service Contracts Inventory. The Federal Maritime Commission has posted its FY 2022 Service Contract Inventory Analysis at the following link: <https://www.fmc.gov/about/strategies-budgets-and-performance/service-contract-inventory-analysis/>.

By the Commission.

David Eng,
Secretary.

[FR Doc. 2024-15585 Filed 7-15-24; 8:45 am]

BILLING CODE 6730-02-P

GENERAL SERVICES ADMINISTRATION

[Notice-MRB-2024-04; Docket No. 2024-0002; Sequence No. 32]

Notice of a Federal Advisory Committee Call for Nominations

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Notice.

SUMMARY: The GSA Acquisition Policy Federal Advisory Committee (hereinafter “the Committee” or “the GAP FAC”), a discretionary advisory

committee, is announcing a call for membership nominations.

DATES: GSA will consider nominations that are submitted via email by August 15, 2024.

ADDRESSES: Please submit nominations to Stephanie Hardison or David Cochennic by email to gapfac@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Stephanie Hardison, Designated Federal Officer, OGP, 202-258-6823, or David Cochennic, OGP, 904-403-0829, or email: gapfac@gsa.gov.

SUPPLEMENTARY INFORMATION: This notice announces a call for membership nominations to the GAP FAC.

On July 3, 2024, GSA renewed the GAP FAC which it had established on July 6, 2022. The renewed GAP FAC shall be composed of no less than ten (10) and no more than thirty (30) Federal and non-Federal members, with expertise in acquisition and emerging technology. We are seeking the following skill sets to support our new focus area: Artificial Intelligence and Data Learning, Programming and Software Development, Data Science and Machine Learning, Cloud Computing and Infrastructure, Big Data and Analytics, and Cybersecurity. GSA continues to be interested in perspectives of small business, science, manufacturing, engineering, academia, technology, law, State and local governments, independent associations or councils, and other appropriate industry sectors along with perspectives across the US Government. GSA values opportunities to increase participation in its federal advisory committees.

Advisory Committee

The GAP FAC will operate in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. 1001–1013). The GAP FAC will be solely advisory in nature. Consistent with FACA and its requirements, each meeting of the GAP FAC will be open to the public unless otherwise notified in accordance with the Government in the Sunshine Act. A notice of each meeting will be published in the **Federal Register** at least fifteen (15) days in advance of the meeting. Records will be maintained for each meeting and made available for public inspection. All activities of the GAP FAC will be conducted in an open, transparent, and accessible manner.

Members will be designated as Regular Government Employees (RGEs), Special Government Employees (SGEs), or Representative members as appropriate. GSA's Office of General Counsel will assist the Designated

Federal Officers (DFO) to determine the advisory committee member designations.

In general, SGEs are experts in their field who provide Federal advisory committees with their own best independent judgment based on their individual expertise.

Representatives are members selected to represent a specific point of view held by a particular group, organization, or association. Members who are full-time or permanent part-time Federal civilian officers or employees shall be appointed to serve as Regular Government Employee (RGE) members. In accordance with OMB Final Guidance published in the **Federal Register** on October 5, 2011, and revised on August 13, 2014, federally registered lobbyists may not serve on the Committee in an individual capacity to provide their own individual best judgment and expertise, such as SGEs and RGEs members. This ban does not apply to lobbyists appointed to provide the Committee with the views of a particular group, organization, or association, such as a representative member.

Committee Focus

The focus areas outlined are intended to serve as general guidelines. These topics will be developed into more detailed and actionable priorities.

- Identifying regulatory and policy changes to enable use of generative AI in federal acquisition.
- Identifying methods that enable GSA acquisition policy to strengthen the role of emerging disruptive technologies in the acquisition process.
- Prioritizing cybersecurity and accessibility considerations, to ensure a secure and equitable environment.
- Using emerging technology and data to streamline and optimize acquisition processes; without sacrificing quality or oversight.
- Identifying guardrails to safeguard the acquisition of disruptive technology—to ensure clarity on requirements and business value.

Member Nominations

In the selection of members for the advisory committee, GSA will follow the process in GSA Order ADM 5420.40E, GSA Federal Advisory Committee Management Program, and consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the advisory committee. Membership will depend upon several factors, including: (i) The advisory committee's mission; (ii) The geographic, ethnic, social, economic, or scientific impact of

the advisory committee's recommendations; (iii) The types of specific perspectives required, for example, such as those of consumers, technical experts, the public at-large, academia, business, or other sectors; (iv) The need to obtain divergent points of view on the issues before the advisory committee; and (v) The relevance of State, local, or tribal governments to the development of the advisory committee's recommendations.

Member Selection Criteria

The following selection criteria will be used to evaluate nominees.

Committee Members

- a. Educational background (*e.g.*, degree in business, Information Technology, law, public policy, or engineering);
- b. Professional experiences and accomplishments (*e.g.*, projects, nature of work, or publications);
- c. Current employment and membership in associations or other activities (*e.g.*, manufacturers, academia, and civil society organizations); and
- d. Subject matter expertise in the key issue the GAP FAC is examining for the current period.
- e. Willingness to commit time to the Committee and demonstrated ability to work constructively and effectively on committees;

Members will serve one (1) to three (3) year terms.

Miscellaneous

The GAP FAC will meet approximately four times per year. Such meetings will be open to the public unless an appropriate authority determines, in accordance with the FACA, that a meeting shall be closed or partially closed. The Committee will meet virtually with the potential exception of one in person meeting per year.

Committee members (including the Committee Chair) will not be compensated for their services but will be allowed travel expenses, including per diem, in accordance with 5 U.S.C. 5703. Regardless of the type of committee membership appointment, any travel expenses shall be paid at rates equivalent to that allowable to Federal employees.

Nomination Submissions

Any interested person and/or organization may nominate qualified individuals for membership. Individuals are also encouraged to self-nominate. The following items must be submitted in a nomination package:

- (1) A letter of nomination stating the nominee's name and organizational

affiliation(s), nominee's field of expertise, specific qualifications to serve on the Committee, and a brief statement of interest;

- (2) A professional resume or curriculum vitae (CV); and

- (3) A short biography (no more than two paragraphs) describing the nominee's professional and educational qualifications, including a list of relevant activities and any current or previous service on advisory committees.

The letter of nomination, resume or CV, and a short biography should include the candidate's full name, address of the current organization, position title, email address, and daytime telephone number(s) of the nominee and nominator.

In preparing the letter of nomination, please describe how the nominee's background, knowledge, and experience will bring value to the work of the Committee and how these qualifications would contribute to the overall diversity of the Committee. Also, describe any previous involvement with GSA through employment, grant funding, and/or contracting sources, if applicable.

Nominations are due by August 15, 2024 and must be submitted via email to: gapfac@gsa.gov.

Jeffrey A. Koses,

Senior Procurement Executive and Acting Chief Acquisition Officer, Office of Government-wide Policy, General Services Administration.

[FR Doc. 2024-15596 Filed 7-15-24; 8:45 am]

BILLING CODE 6820-61-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-24-0199]

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 "Import Permit Applications (42 CFR 71.54)" 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 February 5, 2024 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

Import Permit Applications (42 CFR 71.54) (OMB Control No. 0920-0199, Exp. 8/31/2024)—Revision—Office of Readiness and Response (ORR), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 361 of the Public Health Service Act (42 U.S.C. 264), as amended, authorizes the Secretary of Health and Human Services to make and enforce such regulations as are

necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. Part 71 of title 42, Code of Federal Regulations (Foreign Quarantine) sets forth provisions to prevent the introduction, transmission, and spread of communicable disease from foreign countries into the United States. Subpart F—Importations—contains provisions for the importation of infectious biological agents, infectious substances, and vectors (42 CFR 71.54); requiring persons that import these materials to obtain a permit issued by the CDC.

The Application for Permit to Import Biological Agents, Infectious Substances and Vectors of Human Disease into the United States form is used by laboratory facilities, such as those operated by government agencies, universities, and research institutions to request a permit for the importation of biological agents, infectious substances, or vectors of human disease. This form currently requests applicant and sender contact information; description of material for importation; facility isolation and containment information; and personnel qualifications. Based on questions we have received from prior applicants, CDC is proposing to reduce open text questions and replace them with more streamlined check boxes. The goal is that this will clarify what is being asked of applicants and will increase efficiency and speed of processing by reducing back and forth communication necessary to clarify to applicants.

On February 5, 2024, CDC published in the **Federal Register** a 60-day notice

(89 FR 7712) seeking public comments on “Application for Permit to Import Biological Agents and Vectors of Human Disease into the United States,” “Application for Permit to Import or Transport Live Bats,” “Application for Permit to Import Infectious Human Remains into the United States,” and “Importer Certification Statement” to initiate the revision of the information collection. As a result of this notice, CDC received one comment that was not related to the notice or CDC’s Import Permit Program’s regulatory authority, therefore, no changes to the data collection instruments were made.

The Application for Permit to Import or Transport Live Bats form is used by laboratory facilities such as those operated by government agencies, universities, research institutions, and for educational, exhibition, or scientific purposes to request a permit for the importation, and any subsequent distribution after importation, of live bats. This form currently requests the applicant and sender contact information; a description and intended use of bats to be imported; and facility isolation and containment information. CDC does not plan to revise this application.

The Application for Permit to Import Infectious Human Remains into the United States is used by facilities that will bury/cremate the imported cadaver and educational facilities to request a permit for the importation and subsequent transfers throughout the U.S. of human remains or body parts that contains biological agents, infectious substances, or vectors of human disease. This form will request applicant and sender contact

information; facility processing human remains; cause of death; biosafety and containment information; and final destination(s) of imported infectious human remains. CDC does not plan to revise this application.

The Importer Certification Statement is a new form and will be used as an attestation by an importer stating that they are importing only noninfectious biological agent(s) or biological substance(s). The noninfectious, imported agent or substance must be accompanied by an importer certification statement confirming that the material is not known to contain or suspected of containing an infectious biological agent or has been rendered noninfectious. This form requests a detailed description of the material, statements affirming that the material is not known or suspected to contain an infectious biological agent, and one of the following: (1) How the person knows that the material does not contain an infectious biological agent; (2) Why there is no reason to suspect that the material contains an infectious biological agent; or (3) A detailed description of how the material was rendered noninfectious.

Annualized burden hours were calculated based on updated data obtained from the CDC import permit database on the number of permits issued on annual basis since 2021. There is an increase in burden from 764 hours to 2,044 hours which reflects the new, proposed form (Importer Certification Statement) and the increase in the number of respondents, to this project. There was no change due to program changes or adjustments.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Applicants Requesting to Import Biological Agents, Infectious Substances and Vectors.	Application for Permit to Import Biological Agents, Infectious Substances and Vectors of Human Disease into the United States.	3,300	1	20/60
Applicants Requesting to Import Biological Agents, Infectious Substances and Vectors.	Application for Permit to Import Biological Agents, Infectious Substances and Vectors of Human Disease into the United States Subsequent Transfer.	650	1	10/60
Applicants Requesting to Import Live Bats	Application for a Permit to Import Live Bats	3	1	20/60
Applicants Requesting to Import Infectious Human Remains into the United States.	Application for Permit to Import Infectious Human Remains into the United States.	3	1	20/60
Importer Attestation that the Imported Biological Agent or Substance is Noninfectious.	Importer Certification Statement	5,000	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. 2024–15535 Filed 7–15–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–24–0493]

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 “2025 and 2027 National Youth Risk Behavior Survey (YRBS)” 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 February 9, 2024 to obtain comments from the public and affected agencies. CDC received one non-substantive 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

2025 and 2027 National Youth Risk Behavior Survey (OMB Control No. 0920–0493)—Reinstatement with Change—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The purpose of this request is to obtain OMB approval for a Reinstatement with Change, of the data collection titled National Youth Risk Behavior Survey (YRBS), a school-based survey that has been conducted biennially since 1991. OMB approval for the 2021 YRBS and 2023 YRBS expired November 30, 2023 (OMB Control No.

0920–0493). CDC seeks a three-year approval to conduct the YRBS in Spring 2025 and Spring 2027. Changes incorporated into this Reinstatement request include the addition of a validation study of fruit and vegetable intake, the results of which will be used to inform changes to the 2027 YRBS questionnaire. Additional changes include an updated title for the information collection to accurately reflect the years in which the survey will be conducted and minor changes to the data collection instrument.

The YRBS assesses priority health risk behaviors related to the major preventable causes of mortality, morbidity, and social problems among both youth and young adults in the United States. Data on health risk behaviors of adolescents are the focus of approximately 65 national health objectives in Healthy People 2030, an initiative of the U.S. Department of Health and Human Services (HHS). The YRBS provides data to measure 14 Healthy People 2030 objectives. In addition, the YRBS can identify racial and ethnic disparities in health risk behaviors. No other national source of data measures as many of the Healthy People 2030 objectives addressing adolescent health risk behaviors as the YRBS. The data also will have significant implications for policy and program development for school health programs nationwide.

In Spring 2025 and Spring 2027, the YRBS will be conducted among nationally representative samples of students attending public and private schools in grades 9–12, and in 2025, the validation study will be conducted among a convenience sample of schools and students. Information supporting the YRBS also will be collected from state-, district-, and school-level administrators and teachers. The table below reports the number of respondents annualized over the three-year project period. The total estimated annualized burden hours are 4,389. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)
State Administrators	State-level Recruitment Script for the Youth Risk Behavior Survey.	17	1	30/60
District Administrators	District-level Recruitment Script for the Youth Risk Behavior Survey.	80	1	30/60
School Administrators	School-level Recruitment Script for the Youth Risk Behavior Survey.	133	1	30/60
School Administrators	School-level Recruitment Script for the Validation Study	6	1	30/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)
Teachers	Permission Form Tracking Log for the Youth Risk Behavior Survey.	440	1	15/60
Teachers	Permission Form Tracking Log for the Validation Study ..	14	1	15/60
Students	Youth Risk Behavior Survey	8045	1	30/60
Students	Dietary Behavior Questionnaire	200	1	10/60
Students	24-hour Dietary Recall Interview	200	1	30/60

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. 2024–15536 Filed 7–15–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3454–FN]

Medicare and Medicaid Programs: Application by DNV Healthcare USA Inc. for Continued CMS Approval of Its Psychiatric Hospital Accreditation Program

AGENCY: Centers for Medicare &
Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice acknowledges the approval of an application from DNV Healthcare USA Inc. for continued CMS approval as a national accrediting organization for its psychiatric hospitals that wish to participate in the Medicare or Medicaid programs.

DATES: This notice is applicable on July 30, 2024 through July 30, 2028.

FOR FURTHER INFORMATION CONTACT:

Joann Fittell (410) 786–4280.

Lillian Williams (410) 786–8636.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a psychiatric hospital provided certain requirements established by the Secretary of the Department of Health and Human Services (the Secretary) are met. Section 1861(f) of the Social Security Act (the Act) establishes distinct criteria for facilities seeking designation as a psychiatric hospital under Medicare. Regulations concerning provider agreements and supplier approval are at 42 CFR part 489 and those pertaining to

activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 482 subpart E specify the minimum conditions that a psychiatric hospital must meet to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for psychiatric hospitals.

Generally, to enter into a provider agreement with the Medicare program, a psychiatric hospital must first be certified by a State Survey Agency as complying with the conditions or requirements set forth in part 482 subpart E of CMS regulations. Thereafter, the psychiatric hospital is subject to regular surveys by a State Survey Agency to determine whether it continues to meet the Medicare requirements. There is an alternative, however, to surveys by State agencies. Certification by a nationally recognized accreditation program can substitute for ongoing State review.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization (AO) that all applicable Medicare conditions are met or exceeded, we may treat the provider entity as having met those conditions, that is, we may “deem” the provider entity as having met the requirements. Accreditation by an AO is voluntary and is not required for Medicare participation.

If an AO is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body’s approved program may be deemed to meet the Medicare conditions. A national AO applying for approval of its accreditation program under part 488, subpart A, must provide CMS with reasonable assurance that the AO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of AOs are set forth at § 488.5. The regulations at § 488.5(e)(2)(i) require the AO to reapply

for continued approval of its accreditation program every 6 years or sooner as determined by CMS.

II. Application Approval Process

Section 1865(a)(2) of the Act and CMS regulations at § 488.5 require that our findings concerning review and approval of an AO’s requirements consider, among other factors, the applying AO’s requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities that were not in compliance with the conditions or requirements; and their ability to provide CMS with the necessary data for validation.

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS approval of an accreditation program is conducted in a timely manner. The Act provides CMS 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination, to complete our survey activities and application process. Within 60 days after receiving a complete application, CMS must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, CMS must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice

In the February 6, 2024 **Federal Register** (89 FR 8203), we published a proposed notice announcing DNV’s request for approval of its Medicare psychiatric hospital accreditation program. In the proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.5, we conducted a review of DNV’s Medicare psychiatric hospital accreditation application in accordance with the criteria specified by

our regulations, which include, but are not limited to the following:

- An onsite administrative review of DNV's: (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its psychiatric hospital surveyors; (4) ability to investigate and respond appropriately to complaints against accredited psychiatric hospitals; and (5) survey review and decision-making process for accreditation.

- The comparison of DNV's Medicare psychiatric hospital accreditation program standards to our current Medicare hospitals Conditions of Participation (CoPs) and psychiatric hospital special CoPs.

- A documentation review of DNV's psychiatric hospital survey process to do the following:

- ++ Determine the composition of the survey team, surveyor qualifications, and DNV's ability to provide continuing surveyor training.

- ++ Compare DNV's processes to those we require of State Survey Agencies, including periodic re-survey and the ability to investigate and respond appropriately to complaints against accredited psychiatric hospitals.

- ++ Evaluate DNV's procedures for monitoring psychiatric hospitals it has found to be out of compliance with DNV's program requirements. (This pertains only to monitoring procedures when DNV identifies non-compliance. If noncompliance is identified by a State Survey Agency through a validation survey, the State Survey Agency monitors corrections as specified at § 488.9(c)(1)).

- ++ Assess DNV's ability to report deficiencies to the surveyed hospital and respond to the psychiatric hospital's plan of correction in a timely manner.

- ++ Establish DNV's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

- ++ Determine the adequacy of DNV's staff and other resources.

- ++ Confirm DNV's ability to provide adequate funding for performing required surveys.

- ++ Confirm DNV's policies with respect to surveys being unannounced.

- ++ DNV's policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys or participate in accreditation decisions.

- ++ Obtain DNV's agreement to provide CMS with a copy of the most current accreditation survey together

with any other information related to the survey as we may require, including corrective action plans.

++ As authorized under 488.8(h), CMS reserves the right to conduct onsite observations of accrediting organization operations at any time as part of the ongoing review and continuing oversight of an AO's performance.

In accordance with section 1865(a)(3)(A) of the Act, the February 6, 2024, proposed notice also solicited public comments regarding whether DNV's requirements met or exceeded the Medicare CoPs for psychiatric hospitals. No comments were received in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between DNV's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared DNV's psychiatric hospital accreditation program requirements and survey process with the Medicare CoPs at 42 CFR part 482 subpart E, and the survey and certification process requirements of parts 488 and 489. Our review and evaluation of DNV's psychiatric hospital application, which were conducted as described in section III. of this final notice, yielded the following areas where, as of the date of this notice, DNV has completed revising its standards and certification processes in order to meet the requirements at:

- Section 482.41(c)(2), to address the requirements regarding the Health Care Facilities Code waiver allowance.

- Section 488.5(4)(ii), to address the requirements to include the requirement for Life Safety Specialist to have training or experience in the Health Care Facilities Code.

B. Term of Approval

Based on our review and observations described in section III of this final notice, we have determined that DNV's psychiatric hospital accreditation program requirements meet or exceed our requirements, and its survey processes are also comparable. Therefore, we approve DNV as a national accreditation organization for psychiatric hospitals that request participation in the Medicare program, effective July 30, 2024 through July 30, 2028.

V. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements.

Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Vanessa Garcia, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Vanessa Garcia,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2024-15519 Filed 7-15-24; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS-P-0015A, CMS-10316, and CMS-10054]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by August 15, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT:

William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection*

Request: Revision of a currently approved collection; *Title of Information Collection:* Medicare Current Beneficiary Survey (MCBS); *Use:* CMS is the largest single payer of health care in the United States. The agency plays a direct or indirect role in administering health insurance coverage for more than 120 million people across the Medicare, Medicaid, CHIP, and Exchange populations. A critical aim for CMS is to be an effective steward, major force, and trustworthy partner in supporting innovative approaches to improving quality, accessibility, and affordability in healthcare. CMS also

aims to put patients first in the delivery of their health care needs.

The MCBS is the most comprehensive and complete survey available on the Medicare population and is essential in capturing information not otherwise collected through operational or administrative data on the Medicare program. The MCBS is a nationally-representative, longitudinal survey of Medicare beneficiaries that is sponsored by CMS and is directed by the Office of Enterprise Data and Analytics (OEDA). MCBS data collection includes both in-person and phone interviewing. The survey captures beneficiary information whether aged or disabled, living in the community or facility, or serviced by managed care or fee-for-service. Data produced as part of the MCBS are enhanced with administrative data (e.g., fee-for-service claims, prescription drug event data, enrollment, etc.) to provide users with more accurate and complete estimates of total health care costs and utilization. The MCBS has been continuously fielded for more than 30 years, encompassing over 1.2 million interviews and more than 140,000 survey participants. Respondents participate in up to 11 interviews over a four-year period. The MCBS provides a holistic view of Medicare beneficiaries’ social and medical risk factors and rich information on the relationship between these risk factors, healthcare utilization, and health outcomes—at a point in time and over time.

The MCBS continues to provide unique insight into the Medicare program and helps CMS and its external stakeholders better understand and evaluate the impact of existing programs and significant new policy initiatives. In the past, MCBS data have been used to assess potential changes to the Medicare program. For example, the MCBS was instrumental in supporting the development and implementation of the Medicare prescription drug benefit by providing a means to evaluate prescription drug costs and out-of-pocket burden for these drugs to Medicare beneficiaries. Beginning in 2025, this proposed revision would add new measures to the questionnaire and remove a few items that are no longer relevant for administration. The revisions would result in a net increase in respondent burden. *Form Number:* CMS–P–0015A (OMB control number: 0938–0568); *Frequency:* Occasionally; *Affected Public:* Business or other for-profits and Not-for-profits institutions; *Number of Respondents:* 35,015; *Total Annual Responses:* 35,015; *Total Annual Hours:* 35,344. (For policy questions regarding this collection

contact: William Long at 410–786–7927.)

2. *Type of Information Collection*
Request: Revision of a currently approved collection; *Title of Information Collection:* Implementation of the Medicare Prescription Drug Plan (PDP) and Medicare Advantage (MA) Plan Disenrollment Reasons Survey; *Use:* Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) provides a requirement to collect and report performance data for Part D prescription drug plans. Section 1860D–4 (Information to Facilitate Enrollment) of the MMA requires CMS to conduct consumer satisfaction surveys regarding the PDP and MA contracts. Plan disenrollment is generally believed to be a broad indicator of beneficiary dissatisfaction with some aspect of plan services, such as access to care, customer service, cost of the plan, services, benefits provided, or quality of care.

This data collection complements the enrollee beneficiary experience data collected through the Medicare Consumer Assessment of Healthcare Providers and Systems (Medicare CAHPS) survey by providing information on the reasons for disenrollment from a Medicare Advantage (with or without prescription drug coverage) or Prescription Drug Plan.

The Disenrollment Survey results are an important source of information for CMS to monitor contract performance and identify potential problems (e.g., plans providing incorrect information to beneficiaries or creating access problems). CMS uses the results to monitor the quality of service that Medicare beneficiaries get from contracted plans and their providers and to understand beneficiaries’ expectations relative to provided benefits and services for MA and PDPs. *Form Number:* CMS–10316 (OMB control number: 0938–1113); *Frequency:* Yearly; *Affected Public:* Individuals and households; *Number of Respondents:* 36,050; *Total Annual Responses:* 36,050; *Total Annual Hours:* 6,730. (For policy questions regarding this collection contact Beth Simon at 415–744–3780.)

3. *Type of Information Collection*
Request: Extension of a currently approved collection; *Title of Information Collection:* New Technology Services for Ambulatory Payment Classifications Under Outpatient Prospective Payment System; *Use:* In the April 7, 2000 (65 FR 18434) final rule with comment period (HCFA–1005–FC, RIN 0938–AI56) first implementing the hospital outpatient

prospective payment system (OPPS), we created a set of New Technology ambulatory payment classifications (APCs) to pay for certain new technology services under the OPPS. These APCs are intended to pay for new technology services that were not covered by the transitional pass-through payments provisions authorized by the Balanced Budget Refinement Act (BBRA) of 1999.

Since implementation of the OPPS on August 1, 2000, transitional pass-through payments have been made to hospitals for certain drugs, biologicals, and medical devices. These are temporary additional payments required by section 1833(t)(6) of the Social Security Act which was added by section 201(b) of the BBRA. The law required the Secretary to make these additional payments to hospitals for at least 2 but no more than 3 years.

In the April 7, 2000 final rule with comment period, we specified an application process and the information that must be supplied for us to consider a request for payment under the New Technology APCs (65 FR 18478). We posted the application process on our website at www.cms.hhs.gov. Services were only considered eligible for assignment to a New Technology APC if we listed them in one of a number of lists published in Medicare Program Memoranda, which are posted to our website (<https://www.cms.gov/medicare/regulations-guidance/transmittals/cms-program-memoranda>). We established a quarterly application process by which interested parties could submit applications to us for particular services. We assign new services to the New Technology APCs that we determine cannot be placed appropriately in clinical APCs. Under our current policy, we retain services in a New Technology APC until we gain sufficient information about actual hospital costs incurred to furnish a new technology service. *Form Number:* CMS-10054 (OMB control number: 0938-0860); *Frequency:* Once; *Affected Public:* Private sector, Business or other for-profit; *Number of Respondents:* 25; *Number of Responses:* 25; *Total Annual Hours:* 400. (For policy questions regarding this collection contact Josh Mcfeeters at 410-786-9732.)

William N. Parham III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024-15581 Filed 7-15-24; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Announcing the Intent To Award a Single-Source Supplement for the National Paralysis Resource Center (NPRC)

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) announces the intent to award a single-source supplement to the current cooperative agreement held by the Christopher and Dana Reeve Foundation. The National Paralysis Resource Center (NPRC) is operated by the Christopher and Dana Reeve Foundation and offers important programmatic opportunities for persons with disabilities and older adults. The NPRC provides comprehensive information for people living with spinal cord injury, paralysis, and mobility-related disabilities and their families. Resources include information and referral by phone and email in multiple languages; a peer and family support mentoring program; a military and veterans' program; multicultural outreach services; multiple quality of life grants; and a national website. The administrative supplement for FY 2024 will be in the amount of \$1,300,000, bringing the total award for FY 2024 to \$10,000,000.

DATES: The supplement award will be issued to extend the project period to August 1, 2024, through June 30, 2025.

FOR FURTHER INFORMATION CONTACT: For further information or comments regarding this program supplement, contact Elizabeth Leef, U.S. Department of Health and Human Services, Administration for Community Living, Administration on Disabilities, Office of Disability Services Innovations; telephone (202) 475-2482; email elizabeth.leef@acl.hhs.gov.

SUPPLEMENTARY INFORMATION: The purpose of the supplemental funding is to support the expansion the National Paralysis Resource Center to improve the health and quality of life of individuals living with paralysis and their families by raising awareness of and facilitating access to a broad range of services relevant to individuals with paralysis. With the additional funding, the NPRC will work to expand the National Resource and Information Center; increase the health and quality of life of Americans with disabilities living with paralysis; increase support and resources to people with paralysis,

their families and caregivers; expand collaboration with federal agencies and other national organizations that have a vested interest in the paralysis community; and strengthen performance measures.

Program Name: National Paralysis Resource Center.

Recipient: Christopher and Dana Reeve Foundation.

Period of Performance: The supplement award will be issued for the current project period, July 1, 2024, through June 30, 2025.

Award Amount: \$1,300,000.

Award Type: Cooperative Agreement.

Basis for Award: The Christopher and Dana Reeve Foundation is currently funded to carry out the National Paralysis Resource Center (NPRC) for the period of July 1, 2024, through June 30, 2025. As a result of the 2024 budget, Congress appropriated additional funds for the expansion of the NPRC. It would be unnecessarily time consuming and disruptive to the NPRC project and the beneficiaries being served for the ACL to establish a new grantee at this time when critical services are presently being provided in an efficient manner.

Statutory Authority: This program is authorized under Section 317 of the Public Health Service Act (42 U.S.C. 247(b-4)); Consolidated and Further Continuing Appropriations Act, 2016, Public Law 114-113 (Dec. 18, 2015).

Dated: July 10, 2024.

Alison Barkoff,

Principal Deputy Administrator for the Administration for Community Living, performing the delegable duties of the Administrator and the Assistant Secretary for Aging.

[FR Doc. 2024-15611 Filed 7-15-24; 8:45 am]

BILLING CODE 4154-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2024-N-2888]

Agency Information Collection Activities; Proposed Collection; Comment Request; Substantial Equivalence Reports for Tobacco Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of

1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on substantial equivalence reports for tobacco products.

DATES: Either electronic or written comments on the collection of information must be submitted by September 16, 2024.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 16, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2011-D-0147 for "Substantial Equivalence Reports." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT:

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, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Substantial Equivalence Reports for Tobacco Products—21 CFR 1107.18 and 1107.19

OMB Control Number 0910-0673—Revision

This information collection supports FDA requirements for the content and format of Substantial Equivalence (SE) Reports which are utilized to establish the substantial equivalence of a tobacco product. Sections 905(j)(1)(A)(i) and 910(a) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 387e(j)(1)(A)(i) and 387j(a)) established requirements for substantial equivalence and premarket review of new tobacco

products and the implementing regulations per the SE final rule (86 FR 55224) are found in §§ 1107.18 and 1107.19 (21 CFR 1107.18 and 1107.19).

An SE Report can be submitted by any manufacturer for any new tobacco product seeking an FDA substantially equivalent order, under section 905(j) of the FD&C Act. A substantially equivalent tobacco product is one that has been found by FDA to have either the same characteristics as a predicate product or has different characteristics than the predicate tobacco product, but the SE Report demonstrates that the new product does not raise different questions of public health. A predicate tobacco product is one that was commercially marketed (other than for test marketing) in the United States as of February 15, 2007, or is a product previously found to be substantially equivalent by FDA. Generally, an applicant may amend its SE Report (21 CFR 1107.20), withdraw its SE Report after submission (21 CFR 1107.22), and change the ownership of its SE Report (21 CFR 1107.24). Electronic submission of SE Reports is required, unless the applicant requests and is granted a waiver.

FDA will have three forms required for use (once this revision is approved) under § 1107.18(a) when submitting an SE Report to the Agency: Form FDA 3965; Form FDA 3965a; and Form FDA 3965b.

Form FDA 3965 is for use when submitting a tobacco SE Report to the Agency. Form FDA 3965 and its corresponding instructions have been updated to assist industry users in completing the form efficiently and correctly. The flow and organization of the form have been updated to follow a consistent style and appearance with other FDA forms related to tobacco product submissions.

Form FDA 3965a is the Tobacco Substantial Equivalence Report Amendment and General Correspondence Submission form that was formerly Form FDA 3964. FDA has revised the form number of Form FDA 3964 to Form FDA 3965a to align to Form FDA 3965, the Tobacco Substantial Equivalence Report Submission. Form FDA 3965a is for use when firms are submitting amendments and other general correspondence for an SE Report to the Agency. Form FDA 3965a and its corresponding instructions have been updated to assist industry users in completing the form efficiently and correctly. The flow and organization of the form have been updated to follow a consistent style and appearance with Form FDA 3965. As part of the form organization update,

Form FDA 3965a has been split into three main parts: Applicant Information, Amendment Information, and General Correspondence. Industry users are able to select the submission type, selecting from Amendment or General Correspondence, in Part B of Section I—Applicant Information. After a selection is made, industry users may skip to the appropriate section to complete. Form FDA 3965b is the new SE Unique Identification for New and Predicate Tobacco Products form that assists industry and FDA in identifying the products that are the subject of a submission where an applicant groups multiple SE Reports into a single submission (referred to as a bundled submission or a grouped submission).

The Consolidated Appropriations Act of 2022 (Pub. L. 117–103) (the Appropriations Act), enacted on March 15, 2022, amended the definition of the term “tobacco product” in section 201(rr) of the FD&C Act (21 U.S.C. 321(rr)) to include products that contain nicotine from any source. As a result, non-tobacco nicotine (NTN) products that were not previously subject to the FD&C Act (e.g., products containing synthetic nicotine) are now subject to all of the tobacco product provisions in the FD&C Act that began on April 14, 2022, including the requirement of premarket review for new tobacco products. The Appropriations Act also makes all regulations and guidances applicable to tobacco products apply to NTN products on that same effective date.

The Center for Tobacco Products (CTP) is planning a significant upgrade to the submission process for SE applications. This upgrade, known as the CTP Portal Next Generation (CTP Portal NG), is a pivotal step forward in streamlining the application process for the tobacco industry. Presently, the tobacco industry uses multiple tools in the preparation and submission of SE applications to CTP, including PDF-editing software, FDA’s eSubmitter Desktop tool, and FDA’s CTP Portal web application. A submitter must first download and complete PDF versions of Form FDA 3965 and 3965a for SE applications and amendments, respectively, using any PDF-editing software. Once the PDF form is complete, the tobacco industry uses the eSubmitter Desktop tool (<https://www.fda.gov/industry/fda-esubmitter/using-esubmitter-prepare-tobacco-product-submissions>) to prepare the submission for delivery to CTP, which requires creating a new submission using eSubmitter’s electronic CTP Transmittal Form and providing contact information, the completed Form FDA 3965 and/or 3965a, and any supporting

documentation. When complete, the eSubmitter tool then packages the submission form, data, and documents into a ZIP file, saved locally, and the tobacco industry must log into their CTP Portal account (<https://www.fda.gov/tobacco-products/manufacturing/submit-documents-ctp-portal>) and upload the packaged submission ZIP file. To use CTP Portal, an organization must first go through the process of setting up an Industry Account Manager (IAM) (<https://www.fda.gov/tobacco-products/manufacturing/request-industry-account-manager-iam-ctp-portal>), which will then allow the IAM to manage CTP Portal accounts for their organization and submit submissions.

The new CTP Portal NG application transforms this process by providing the tobacco industry with the ability to create, prepare, and deliver their submissions in one place. CTP Portal NG will provide web forms of Form FDA 3965 and 3965a for SE applications and amendments, respectively, which will improve the submission preparation process for the tobacco industry as it will provide tools to expedite the entry of data and supporting documentation, dynamically guide users to relevant sections of the forms based on their input, and improve quality by providing helpful information on the questions being requested and verifying all required data has been provided. CTP Portal NG has a built-in process for applicants to upload Form FDA 3965b after applicants complete Form FDA 3965b and validate it using a new validator tool. When complete, CTP Portal NG allows applicants to submit the completed web forms to CTP for review. This innovation eliminates the current three-step process using PDF-editing software, eSubmitter, and CTP Portal and provides a more integrated, user-friendly experience. A copy of Form FDA 3965, 3965a, 3965b and the validator tool will be available in the docket of this notice for review.

Existing CTP Portal user accounts will be migrated to CTP Portal NG. Users may be prompted for a password reset during their initial login to the new system. The process for creating new user accounts and overall user account management will largely remain consistent with the current system. CTP is committed to ensuring a smooth transition to CTP Portal NG and will provide necessary support and guidance throughout this change.

Submitters can visit the following web page which describes the process for submitting a SE Report: <https://www.fda.gov/tobacco-products/market->

*and-distribute-tobacco-product/
substantial-equivalence.*

FDA estimates the burden of this
collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN^{1 3}

Activity; FDA form; 21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
SE Report—1107.18	1,139	1	1,139	300	341,700
SE Report where applicant provides certification for identical characteristics—1107.18(g) and 1107.18(l)(2).	431	1	431	10	4,310
Form FDA 3965—Tobacco Substantial Equivalence Report Submission.	1,570	1	1,570	0.75 (45 minutes)	1,178
Form FDA 3965a ² —Tobacco Amendment and General Correspondence Report.	628	1	628	0.16 (10 minutes)	100
Form FDA 3965b—SE Unique Identification for New and Predicate Tobacco Products.	1,570	1	1,570	1	1,570
SE Grouping Spreadsheet Validator	1,570	1	1,570	0.08 (5 minutes)	126
Waiver from Electronic submission—1107.62(b) ...	5	1	5	0.25 (15 minutes)	1
Totals	2,203	.....	6,913	.....	348,985

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² Formerly Form FDA 3964, Tobacco Substantial Equivalence Report Amendment and General Correspondence Submission.

³ Totals may not sum due to rounding.

FDA has based these estimates on experience with this information collection, information we have available from interactions with industry, registration and listing data, information related to other regulated products, and FDA expectations regarding the tobacco industry's use of the substantial equivalence pathway to market their products. We have revised our previous estimates based on these experiences. Utilizing registration and listing data for deemed tobacco products, the estimated annual number of SE Reports is expected to be 1,570.

When several full SE Reports contain identical content, these SE Reports may be bundled into a single submission. Similarly, SE Reports in which the characteristics of the products are certified as identical and the contents of the SE Reports are also identical, these may also be bundled. FDA anticipates the burden for an applicant to be generally the same if they submit bundled submissions or individual applications as such, both are captured under SE Reports. As mentioned previously, NTN products that were not previously subject to the FD&C Act (*e.g.*, products containing synthetic nicotine) are now subject to all tobacco product provisions in the FD&C Act beginning on April 14, 2022. Based on this new authority, we do not believe a change is needed in our burden estimates because FDA has received significantly fewer NTN SE Reports than anticipated.

Table 1 describes the annual reporting burden per the requirements in §§ 1107.18 and 1107.19. FDA estimates that we will receive 1,139 full initial SE Reports for a new tobacco product each

year under § 1107.18 that take a manufacturer approximately 300 hours to prepare. We have consolidated our previous numbers in the burden chart of full and bundled SE Reports (683 and 456) to reach the 1,139 estimate. In addition, anyone submitting an SE Report is required to submit an environmental assessment prepared in accordance with 21 CFR 25.40 under § 1107.18(k). The burden for environmental reports has been included in the burden per response for each type of SE Report.

FDA estimates receiving 239 SE Reports where applicants provide a certification for some identical characteristics under §§ 1107.18(g) and 1107.18(l)(2). We also estimate receiving 192 bundled SE Reports where applicants provide a certification for some identical characteristics under §§ 1107.18(g) and 1107.18(l)(2) (other than the initial SE Report in the bundle). FDA anticipates the burden for an applicant to be generally the same if they submit bundled submissions or individual applications as such, both are captured under SE Report where applicant provides certification for identical characteristics. We believe that the number of SE Reports that include a certification will increase because applicants may certify that certain characteristics are identical in the new tobacco product and the predicate tobacco product. However, in the absence of specific information on how many more applicants might choose to certify, we are maintaining our previous estimates at this time. As certification statements and additional guidance are given by the Agency within Form FDA

3965, FDA expects applicants to submit less technical information. As a result, we expect applicants total burden hours per applications to decrease. Therefore, we have decreased the burden per response for these SE Reports.

Manufacturers are required to submit SE Reports electronically (§ 1107.62 (21 CFR 1107.62)). We estimate that it would initially take about 45 minutes per product to fill out the Form FDA 3965. However, for amendments, we estimate that filling out Form FDA 3965a will take 10 minutes as applicants can copy and paste from the first submission. Section 1107.62(b) also allows applicants to request a waiver from the electronic format requirement. Based on experience since implementing the Premarket Tobacco Product Application (PMTA) rule, FDA does not believe we will receive many waivers, so we have decreased the number of respondents to five respondents to acknowledge the option to submit a waiver. Consistent with our other application estimates for waivers, we believe it would take 0.25 hours (15 minutes) per waiver for a total of 1 hour.

We anticipate five respondents will request meetings with CTP's Office of Science (OS) to discuss investigational plans. We base this figure on the average number of meeting requests received over the past 3 years and assume this will include meetings regarding NTN products. To request this meeting, applicants should compile and submit information to FDA for meeting approval. We assume 90 hours are necessary to compile and request a meeting with OS. This burden is already

covered under OMB control number 0910–0731.

FDA is revising this collection to include a new form (Form FDA 3965b) and a validator tool for Form FDA 3965b that will help applicants submit information for their SE Reports in the correct format. Form FDA 3965b assists industry and FDA in identifying the products that are the subject of a submission, particularly where an applicant groups multiple new tobacco products into a single submission. This includes grouping products that are from the same manufacturer or domestic importer and in the same product category and subcategory into a single submission. FDA discussed bundled submissions in the SE rule (86 FR 55224) and noted that FDA intends to consider information on each new tobacco product and its corresponding predicate tobacco product as a separate, individual SE Report as required under § 1107.18(c)(7), § 1107.18(g), and § 1107.19. By having the identifying information for products contained in an SE Report be more clearly organized within the required forms, FDA will be able to process and review the

applications contained in a grouped submission more efficiently.

The form assists applicants in providing the unique identifying information for each product in single and grouped submissions of SE Reports. A respondent would utilize Form FDA 3965b once for each submission. We assume the submitter could include from 1 to 2,000 products in each Form FDA 3965b. Entering data for up to 2,000 rows can take approximately 4 hours on average per Form FDA 3965b for manual data entry. We reflect the average time of 60 minutes per response based on the assumption that we expect to receive an average of 25 bundled products per submission. Assuming 60 minutes per Form FDA 3965b for 1,570 applications, we estimate a total burden of 1,570 hours for this activity.

The FDA Tobacco Product Grouping Spreadsheet Validator (Validator) is a free software that validates the content of FDA product grouping spreadsheets such as “Form FDA 3965b—SE Unique Identification for New and Predicate Tobacco Products.” The Validator is available for voluntary use by the tobacco industry (sponsors, manufacturers, and importers) prior to

submitting a product grouping spreadsheet to FDA.

The Validator allows industry users to validate product attributes in their product grouping spreadsheet with the defined and accepted product data standards and to make corrections as needed. If there are no errors found in a spreadsheet, the Validator will produce a certificate of completion that can be saved locally and included with the applicants FDA submission voluntarily. If errors are found during validation, the Validator will provide the applicants with the error at the end of each impacted row of the spreadsheet, allowing applicants to make necessary changes.

The software and any output files reside locally on an applicant's computer, allowing them to work on the product grouping spreadsheet offline. The Validator does not transmit any data across the web to FDA. FDA does not have the ability to access, review, or supplement the information on local computers through this application. We estimate that use of the Validator will take an average of 5 minutes per response.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

Activity; 21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Recordkeeping SE Report under 1107.18–1107.58	471	1	471	5	2,355

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA estimates that 30 percent of SE Reports or 471 respondents will maintain required records related to their SE Reports at 5 hours per record for a total of 2,355 recordkeeping hours (table 2). The first SE Report in a chain must use a tobacco product commercially marketed (other than for test marketing) in the United States as of February 15, 2007, as a predicate product for the SE Report. Therefore, we believe that manufacturers will have records on those “original” predicate tobacco products from their initial SE Reports.

Our estimated burden for the information collection reflects an overall increase of 69,010 hours and a corresponding increase of 2,905 responses/records. We attribute this adjustment to adding a new form, the validator tool, and reevaluating our current estimates.

Dated: July 11, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–15569 Filed 7–15–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–N–2889]

Agency Information Collection Activities; Proposed Collection; Comment Request; Premarket Tobacco Product Applications and Recordkeeping Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency.

Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on premarket tobacco product applications and recordkeeping requirements.

DATES: Either electronic or written comments on the collection of information must be submitted by September 16, 2024.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 16, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be

considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2024-N-2889 for "Premarket Tobacco Product Applications and Recordkeeping Requirements."

Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper

submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT:

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, PRASaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information,

before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Premarket Tobacco Product Applications and Recordkeeping Requirements—Part 1114 (21 CFR Part 1114)

OMB Control Number 0910-0879—Revision

This information collection supports FDA regulations. Tobacco products are governed by chapter IX of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (sections 900 through 920) (21 U.S.C. 387 through 21 U.S.C. 387t). Section 910(a) established requirements for premarket review of new tobacco products.

The Consolidated Appropriations Act of 2022 (the Appropriations Act), that was enacted on March 15, 2022, amended the definition of the term "tobacco product" in section 201(rr) of the FD&C Act to include products that contain nicotine from any source. As a result, non-tobacco nicotine (NTN) products that were not previously subject to the FD&C Act (e.g., products containing synthetic nicotine) are now subject to all of the tobacco product provisions in the FD&C Act beginning on April 14, 2022, including the requirement of premarket review for new tobacco products. The Appropriations Act also makes all rules and guidances applicable to tobacco products apply to NTN products on that same effective date. Additionally, the Appropriations Act includes a transition period for premarket review requirements, directing companies to submit premarket tobacco product applications (PMTAs) for NTN products by May 14, 2022, to receive an additional 60-day period of marketing

without being considered in violation of premarket review requirements.

The Premarket Tobacco Product Applications and Recordkeeping Requirements regulation (§ 1114.45) outlines requirements for the content, format, submission, and review of PMTAs, as well as other requirements related to PMTAs, including recordkeeping requirements, and postmarket reporting. FDA also requires recordkeeping regarding the legal marketing of Pre-Existing Tobacco Products (*i.e.*, those products that were commercially marketed as of February 15, 2007) and products that are exempt from the requirements of demonstrating substantial equivalence. Section 910(a)(2) of the FD&C Act requires that a new tobacco product be the subject of a PMTA marketing granted order unless FDA has issued an order finding it to be substantially equivalent to a predicate product or exempt from the requirements of demonstrating substantial equivalence.

An applicant may submit a PMTA to demonstrate that a new tobacco product meets the requirements to receive a marketing granted order. A new tobacco product may not be introduced or delivered for introduction into interstate commerce under FDA regulations until FDA has issued a marketing granted order for the product (§ 1114.5). Further, § 1114.7 describes the required content and format of the PMTA. The PMTA must contain sufficient information for FDA to determine whether any of the grounds for denial specified in section 910(c)(2) of the FD&C Act apply. The application must contain the following sections: general information, descriptive information, product samples, labeling, a statement of compliance with 21 CFR part 25, a summary, product formulation, manufacturing, health risk investigations, effect on the population as a whole, and a certification statement. Submitters can visit the following web page, which describes the process for submitting a PMTA (<https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/premarket-tobacco-product-applications>).

FDA has three forms required for use under §§ 1114.7(b) and 1114.9(a) when submitting PMTA information to the Agency: Form FDA 4057; Form FDA 4057a; and Form FDA 4057b. Form FDA 4057 is for use when submitting PMTA single and bundled submissions. For the purposes of this notice, no significant changes have been made to Form FDA 4057. Form FDA 4057a is for use when firms are submitting amendments and other general correspondence. Form

FDA 4057a and the corresponding instructions have been updated to assist industry users in completing the form efficiently and correctly. The flow and organization of the form have been updated to follow a consistent style and sequence with Form FDA 4057. Form FDA 4057a instructions have been updated to reflect plain language principles as well as accurately mapped to correspond to the updates made to Form FDA 4057a. Form FDA 4057b assists industry and FDA in identifying the products that are the subject of a submission where an applicant groups multiple PMTAs into a single submission (referred to as a bundled submission or a grouped submission). Form FDA 4057b has been updated to add the following columns: Brand; Subbrand; Manufacturer. This update aligns with the requirements of part 1114. Additionally, Characterizing Flavor has been included as a required field.

The Center for Tobacco Products (CTP) is planning a significant upgrade to the submission process for PMTA applications. This upgrade, known as the CTP Portal Next Generation (CTP Portal NG), is a pivotal step forward in streamlining the application process for the tobacco industry. Presently, the tobacco industry uses multiple tools in the preparation and submission of PMTA applications to CTP, including PDF-editing software, FDA's eSubmitter Desktop Tool, and FDA's CTP Portal web application.

A submitter must first download and complete PDF versions of FDA Form 4057 and/or 4057a for PMTA applications and amendments, respectively, using any PDF-editing software. After the PDF form is complete, the tobacco industry uses the eSubmitter Desktop tool (<https://www.fda.gov/industry/fda-esubmitter/using-esubmitter-prepare-tobacco-product-submissions>) to prepare the submission for delivery to CTP, which requires creating a new submission using eSubmitter's electronic CTP Transmittal Form and providing contact information, the completed FDA Form 4057 and/or 4057a, and any supporting documentation. When complete, the eSubmitter tool then packages the submission form, data, and documents into a ZIP file, saved locally, and the tobacco industry must log into their CTP Portal account (<https://www.fda.gov/tobacco-products/manufacturing/submit-documents-ctp-portal>) and upload the packaged submission ZIP file. To use CTP Portal, an organization must first go through the process of setting up an Industry Account Manager (IAM) (<https://www.fda.gov/tobacco->

[products/manufacturing/request-industry-account-manager-iam-ctp-portal](https://www.fda.gov/tobacco-products/manufacturing/request-industry-account-manager-iam-ctp-portal)), which will then allow the IAM to manage CTP Portal accounts for their organization and submit submissions.

The new CTP Portal NG application transforms this process by providing the tobacco industry with the ability to create, prepare, and deliver their submissions in one place. CTP Portal NG will provide web forms of the FDA Forms 4057 and 4057a for PMTA applications and amendments, respectively, which will improve the submission preparation process for the tobacco industry as it will provide tools to expedite the entry of data and supporting documentation, dynamically guide users to relevant sections of the forms based on their input, and improve quality by providing helpful information on the questions being requested and verifying all required data has been provided. CTP Portal NG has a built-in process for applicants to upload Form FDA 4057b after applicants complete Form FDA 4057b and validate it using a new validator tool. When complete, CTP Portal NG allows applicants to submit the completed web forms to CTP for review. When complete, CTP Portal NG allows applicants to submit the completed web forms to CTP for review. This innovation eliminates the current three-step process using PDF-editing software, eSubmitter, and CTP Portal, and provides a more integrated and user-friendly experience. A copy of revised FDA Form 4057, 4057a, 4057b and the validator tool will be available in the docket of this notice for review.

Existing CTP Portal user accounts will be migrated to CTP Portal NG. Users may be prompted for a password reset during their initial login to the new system. The process for creating new user accounts and overall user account management will largely remain consistent with the current system. CTP is committed to ensuring a smooth transition to CTP Portal NG and will provide necessary support and guidance throughout this change.

After submission of a PMTA, FDA may request, and an applicant may submit, an amendment to a pending PMTA. FDA generally expects that when an applicant submits a PMTA, the submission will include all information required by section 910(b)(1) of the FD&C Act and part 1114 to enable FDA to determine whether it should authorize the marketing of a new tobacco product. However, FDA recognizes that additional information may be needed to complete the review of a PMTA and, therefore FDA allows

the submission of amendments to a pending application.

An applicant may transfer ownership of its PMTA at any time, including when FDA has yet to act on it. Section 1114.13 describes the steps that an applicant would be required to take when it changes ownership of a PMTA. This section is intended to facilitate transfers of ownership and help ensure that FDA has current information regarding the ownership of a PMTA.

Supplemental PMTAs are an alternative format of submitting a PMTA (§ 1114.15). Applicants that have received a marketing granted order are able to submit a supplemental PMTA to seek marketing authorization for a new tobacco product that results from a modification or modifications to the original tobacco product that received the marketing granted order. FDA restricts the use of supplemental PMTAs to only changes that require the submission of limited information or revisions to ensure that FDA can efficiently review the application.

If an applicant receives a marketing denial order, they may submit a resubmission to respond to the deficiencies outlined in the marketing denial order (§ 1114.17). A resubmission may be submitted for the same tobacco product that received a marketing denial order or for a different new tobacco product that results from changes necessary to address the deficiencies outlined in a marketing denial order. This application format allows an applicant to address the deficiencies described in a marketing denial order without having to undertake the effort of submitting a standard PMTA. The

resubmission format is not available for PMTAs that FDA refused to accept, refused to file, cancelled, or administratively closed, or that the applicant withdrew because FDA has not previously completed reviews of such applications upon which it can rely, and such applications may need significant changes to be successfully resubmitted.

FDA requires applicants that receive a marketing granted order to submit postmarket reports. Postmarket reports determine or facilitate a determination of whether there may be grounds to withdraw or temporarily suspend a marketing granted order (§ 1114.41). Additionally, § 1114.41 describes the reports that FDA would require through this regulation; however, FDA may require additional reporting in an individual applicant's marketing granted order. Applicants are required to submit two types of postmarket reports after receiving a marketing granted order: periodic reports and adverse experience reports. Periodic reports are required to be submitted within 60 calendar days of the reporting date specified in the marketing granted order. FDA anticipates that the reports would be required on an annual basis, but FDA may require in a specific order that reports be made more or less frequently depending upon several factors.

Applicants are also required to report all serious and unexpected adverse experiences associated with the tobacco product that have been reported to the applicant or of which the applicant is aware. The serious and unexpected adverse experience reports must be

submitted to the Center for Tobacco Products' Office of Science through the HHS Safety Reporting Portal (<https://www.safetyreporting.hhs.gov/>) within 15 calendar days after receiving or becoming aware of a serious or unexpected adverse experience. FDA's Safety Reporting Portal is approved under OMB control number 0910–0291.

Applicants receiving a marketing granted order are required to maintain all records necessary to facilitate a determination of whether there are or may be grounds to withdraw or temporarily suspend the marketing granted order, including records related to both the application and postmarket reports, and ensure that such records remain readily available to FDA upon request (§ 1114.45). Under § 1114.45(a)(1), an applicant must also retain any additional documentation supporting the application and postmarket reports that was not submitted to FDA.

Section 1114.49 requires an applicant to submit a PMTA and all supporting and related documents to FDA in electronic format. Under § 1114.49(c), an applicant that has a waiver would submit a paper submission to the address that FDA provides in the letter granting the waiver.

Submitters can visit the following web page, which describes the process for submitting a PMTA (<https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/premarket-tobacco-product-applications>).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ^{1 2 3}

21 CFR part; Activity; Form FDA #	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total Hours
1114.5; Submission of Standard Bundled PMTAs ²	215	1	215	1,713	368,295
PMTA Submission; Form FDA 4057	215	1	215	0.58 (35 minutes)	125
PMTA Amendment and General Correspondence Submission; Form FDA 4057a	80	4	320	0.16 (10 minutes)	51
PMTA Unique Identification for New Tobacco Products; Form FDA 4057b	215	1	215	0.58 (35 minutes)	125
Tobacco Product Grouping Spreadsheet Validator	215	1	215	0.08 (5 minutes)	17
1114.41; Reporting Requirements (periodic reports)	10	3	30	50	1,500
1114.9; Amendments	24	2	48	188	9,024
1114.13; Change in Ownership	10	1	10	1	10
1114.15; Supplemental applications	2	1	2	428	856
1114.17; Resubmissions	5	1	5	565	2,825
1114.49(b) and (c); Waiver from Electronic Submission	1	1	1	0.25 (15 minutes)	1
Total	347	.....	1,276	.....	382,828

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² FDA anticipates that applicants will submit bundled PMTAs, which are single submissions containing PMTAs for several similar or related products. We estimate that a bundle will contain on average between 6 and 11 distinct products.

³ Totals may not sum due to rounding.

Table 1 describes the estimated annual reporting burden. FDA has based these estimates on Agency experience

with current PMTA submissions. FDA has based these estimates on experience with this information collection,

information available from interactions with industry, and FDA expectations regarding established requirements for

premarket review of new tobacco products. We have revised our previous estimates based on these experiences. In addition, FDA is revising this collection to incorporate the burden for PMTA submissions received under OMB control number 0910–0768 (which covers the burden for electronic nicotine delivery system (ENDS) products PMTA submissions). We believe the original PMTA burden in 0910–0768 is now covered by the current PMTA process under this control number. Although that burden only covered ENDS products these estimates include all categories of products.

FDA estimates that we will receive 215 PMTAs for a new tobacco product each year under part 1114. Our average represents a wide range of hours that will be required for these applications under different circumstances, with some requiring more hours (*e.g.*, as many as 5,000 hours for early applications that involve complex products and for which the company has no experience conducting studies or preparing analysis of public health impacts, or for which reliance on master files is not possible) as well as many requiring fewer hours (*e.g.*, as few as 50 hours for applications for products that are very similar to other new products). FDA estimates that it will take each respondent approximately 1,500 hours to prepare a PMTA seeking an order from FDA allowing the marketing of a new tobacco product. FDA also estimates that it would on average take an additional 213 hours to prepare an environmental assessment (EA) in accordance with the requirements of 21 CFR 25.40, for a total of 1,713 hours per PMTA application.

FDA assumes that firms will submit all applications as PMTA bundles. We believe that bundling PMTAs results in efficiencies for applicants when compared to submitting standalone, full-text submissions for each product. We expect to receive bundled PMTAs where applicants can use the same evidence to support PMTAs for similar or related products. Bundling PMTAs into a single submission would eliminate the administrative burden of having to reproduce the same evidence in a standalone PMTA for each product.

FDA has three forms required for use under §§ 1114.7(b) and 1114.9(a) when submitting PMTA information to the Agency. Form FDA 4057 for use when submitting PMTA single and bundled submissions. FDA estimates that 215 respondents will submit PMTA bundles using this form at 0.58 (35 minutes) per response. Included in this estimate are the 15 expected bundles submitted for NTN products. The number 215 is

accounting for the bundles of ENDS products and the 1 bundle we expect to receive yearly for originally regulated products for a total of 125 hours.

Form FDA 4057a is for use when firms are submitting amendments and other general correspondence; as such, we expect 80 applicants to submit 4057a for either amendments or general correspondence submissions. Our estimate is 0.16 (10 minutes) per response to fill out this form. Included in this estimate are the 15 expected submissions submitted from NTN products. We estimate there will be at least four amendments per application for a total of 51 hours. With most applications being submitted toward the end of our 3-year range, we expect fewer amendments during this period. With updated forms and additional guidance given by the Agency, FDA expects applicants to submit more complete applications, reducing the need for the issuance of Deficiency letters and Environmental Information request letters. As a result, we expect applicants to submit fewer amendments with Form FDA 4057a. However, FDA expects amendments from earlier applications to be submitted during this period. As a result, we have decreased the number of responses per respondent (from 14 to 4 responses) associated with Form FDA 4057.

Form FDA 4057b assists industry and FDA in identifying the products that are the subject of a submission where an applicant groups multiple PMTAs into a single submission (referred to as a bundled submission or a grouped submission). FDA has previously stated that one approach to submitting PMTAs could be to group applications for products that are both from the same manufacturer or domestic importer and in the same product category and subcategory into a single submission. FDA intends to consider information on each tobacco product as a separate, individual PMTA as required under § 1114.7(c)(3)(iii). By having the identifying information for products contained in a submission be more clearly organized within the required forms, FDA will be able to process and review the applications contained in a grouped submission more efficiently. As a result, we decreased the average burden per response associated with the Form FDA 4057b by 10 minutes (from 45 to 35 minutes per response).

The form assists applicants in providing the unique identifying information for each product in a grouped submission of PMTAs. A respondent would utilize Form FDA 4057b once for each submission. We assume the submitter could include

from 1 to 2,000 products in each Form FDA 4057b. Entering data for up to 2,000 rows can take approximately 4 hours on average per Form FDA 4057b for manual data entry. We reflect the average time of 35 minutes per response based on the assumption that we expect to receive an average of nine bundled products per submission. Included in this estimate are the 15 expected submissions submitted from NTN products. Assuming 35 minutes per Form FDA 4057b for 215 applications, we estimate a total burden of 125 hours for this activity.

The FDA Tobacco Product Grouping Spreadsheet Validator (Validator) is a free software that validates the content of FDA product grouping spreadsheets such as “FDA 4057b—PMTA Unique Identification for New Tobacco Products.” The validator is available for voluntary use by the tobacco industry (sponsors, manufacturers, and importers) prior to submitting a product grouping spreadsheet to FDA.

The Validator allows industry users to validate product attributes in their product grouping spreadsheet with the defined and accepted product data standards, and make corrections as needed. If there are no errors found in a spreadsheet, the Validator will produce a certificate of completion that can be saved locally and included with the applicants FDA submission voluntarily. If errors are found during validation, the Validator will provide the applicants with the error to the end of each impacted row of the spreadsheet, allowing applicants to make necessary changes.

The software and any output files reside locally on an applicant's computer, allowing them to work on the product grouping spreadsheet offline. The Validator does not transmit any data across the web to FDA. FDA does not have the ability to access, review, or supplement the information on local computers through this application. We estimate the use of the validator tool will take an average of 5 minutes per response.

Applicants are required under § 1114.41 to submit two types of reports after receiving a marketing granted order: periodic reports and adverse experience reports. Applicants must submit periodic reports within 60 calendar days of the reporting date specified in the marketing granted order (or potentially sooner if they choose to use the application as the basis for a supplemental PMTA under § 1114.15). FDA anticipates that the reports will be required on an annual basis, but FDA may require, by a specific order, that reports be made more or less frequently

depending upon a number of factors (e.g., the novelty of the type of product). As such, FDA estimates under § 1114.41 that 10 respondents will submit a periodic report with 3 responses per respondent. This number is based on the average number of periodic report submissions received between 2020 and 2022. The Agency estimates that periodic reports will take on average of 50 hours per response for a total of 1,500 hours. FDA expects this number to increase as we continue to authorize more products in the PMTA pathway. As FDA continues to grant marketing authorization for more submissions, FDA expects the number of respondents and total responses to grow. As a result, we have increased the number of responses per respondent (from one to three responses per respondent) associated with periodic reports.

Section 1114.13 allows an applicant to transfer ownership of a PMTA to a new owner. FDA believes this will be infrequent, so we have assigned 1 hour acknowledging the requirement.

Section 1114.15 is an alternative format of submitting a PMTA, supplemental PMTA, meeting the requirements of § 1114.7 that would reduce the burden associated with the submission and review of an application. Our estimated number of 2 respondents is based on the number estimated for postmarket reports, which is 4 bundles (approximately 34 products). Not all applicants will resubmit modifications to previously authorized products, so we estimate 2 bundles (which is approximately 17 products). FDA estimates further that a supplemental PMTA will take 25 percent of the time it takes (estimated at 428 hours per response) to complete an original submission (including EA

hours). We estimate a total of 856 burden hours for this activity.

Under § 1114.17 an applicant may submit a resubmission for the same tobacco product that received a marketing denial order or for a different new tobacco product that results from changes necessary to address the deficiencies outlined in a marketing denial order. Based on Agency experience, we are estimating that of all bundles received in 2020 through 2023, that an average of three bundles are authorized. If we receive 24 bundles yearly, and based on historical data, 58 percent fail at acceptance (8 bundles remaining), 17 percent fail at filing (7 bundles remaining), and 25 percent receive marketing orders (5 bundles remaining). We estimate that 50 percent will resubmit in a year. Thus, the number of respondents is three. FDA estimates that a resubmission will take 33 percent of the time it takes to complete an original submission (including EA hours) estimated at 565 hours per response for a total of 1,695 hours. As FDA continues to deny marketing authorization for more submissions FDA expects the number of respondents and total responses to grow.

Firms must also submit adverse experience reports (§ 1114.41(a)(2)) for tobacco products with marketing orders. We assume the same number of firms submitting periodic reports will submit adverse experience reports. Firms may submit voluntary and mandatory adverse experience reports using Form FDA 3800 under OMB control number 0910–0291.

Under § 1114.9 firms will prepare amendments to PMTA bundles in response to deficiency letters. These amendments contain additional

information that we need to complete substantive review. We anticipate 2 responses back per bundle and therefore, we estimate that 24 respondents will submit 48 amendments (24 × 2). Assuming 1,500 hours as the time to prepare and submit a full PMTA and amendments may on average take 10 percent to 15 percent of that time (150–225 hours). We averaged this time out (12.5 percent of a full submission preparation time) and arrived at 188 hours per response. FDA estimates the total burden hours for preparing amendments is 9,024 hours.

We anticipate 40 respondents will request meetings with CTP’s Office of Science to discuss investigational plans. We base this figure on the average number of meeting requests received over the past 3 years and assume this will include meetings regarding NTN products. To request this meeting, applicants should compile and submit information to FDA for meeting approval. We assume 720 hours is necessary to compile and request a meeting with OS. This burden is covered under OMB control number 0910–0731, Meetings with Industry and Investigators on the Research and Development of Tobacco Products.

An applicant is required to submit a PMTA and all supporting and related documents to FDA in electronic format that FDA can process, review, and archive unless an applicant requests, and FDA grants, a waiver from this requirement (§ 1114.49). FDA does not believe we will receive many waivers, so we have assigned one respondent to acknowledge the option to submit a waiver. Consistent with our other application estimates for waivers, we believe it would take 0.25 hours (15 minutes) per waiver for a total of 1 hour.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

21 CFR part; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
1114.45; PMTA records	215	1	215	2	430
1100.204; Pre-existing products records	1	1	1	2	2
1107.3; Exemptions from Substantial Equivalence (SE) records	1	1	1	2	2
Total .....	.....	.....	217	.....	434

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Table 2 describes the annual recordkeeping burden. FDA estimates that 215 recordkeepers will maintain records at 2 hours per record. Included in this estimate are the 15 expected recordkeepers of NTN products. Firms are also required to establish and

maintain records related to SE exemption requests and pre-existing products. We expect the burden hours to be negligible for SE exemption requests. Firms would have already established the required records when submitting the SE exemption request.

Similarly, we expect the hours to be negligible for any pre-existing tobacco products that have already submitted stand-alone pre-existing tobacco product submissions, because firms would have established the required records when submitting the stand-

alone pre-existing tobacco product submissions. We estimate that it would take 2 hours per record to establish the required records for a total of 4 hours for pre-existing products records and SE exemptions.

Our estimated burden for the information collection reflects an overall increase of 369,555 hours and a corresponding increase of 1,302 responses/records. We attribute this adjustment to adding a new form, the validator tool, and reevaluating our current estimates.

Dated: July 11, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–15570 Filed 7–15–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Ryan White HIV/AIDS Program Client-Level Data Reporting System

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than August 15, 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 Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Joella Roland, the HRSA Information Collection Clearance Officer, at paperwork@hrsa.gov or call (301) 443–3983.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Ryan White HIV/AIDS Program Client-Level Data Reporting System, OMB No. 0906–0039—Revision.

Abstract: The Ryan White HIV/AIDS Program (RWHAP), authorized under Title XXVI of the Public Health Service Act, is administered by the HIV/AIDS Bureau within HRSA. HRSA awards funding to recipients in areas of the greatest need to respond effectively to the HIV epidemic, with an emphasis on providing life-saving and life-extending medical care, treatment, and support services for people with HIV in the United States.

The RWHAP reporting requirements include the annual submission of client-level data in the RWHAP Services Report (RSR). The RSR is designed to collect information from grant recipients and their subawarded service providers, funded under Parts A, B, C, and D of the RWHAP statute.

HRSA is requesting a revision of the current RSR with two proposed updates:

Health Coverage

- HRSA proposes adding Medicare Advantage as a response option to the client's healthcare coverage data element.

Drug Addiction Treatment Act of 2000 Waiver Requirement

Current Questions

- Within your organization/agency, identify the number of physicians, nurse practitioners, or physician assistants who obtained a Drug Addiction Treatment Act of 2000 waiver to treat opioid use disorder with medication assisted treatment, (e.g., buprenorphine, naltrexone) specifically approved by the U.S. Food and Drug Administration.
- How many of the above physicians, nurse practitioners, or physician assistants prescribed medication assisted treatment (e.g., buprenorphine, naltrexone) for opioid use disorders in the reporting period?

Proposed Change to Question in 2024 RSR Form

- How many physicians, nurse practitioners, or physician assistants in your organization prescribed

medications for opioid use disorder (e.g., buprenorphine, naltrexone) for opioid use disorders during the reporting period?

A 60-day notice published in the **Federal Register** on April 24, 2024, vol. 89, No. 79; pp. 30384–85. There were no public comments.

Need and Proposed Use of the Information: The RWHAP statute specifies HRSA's responsibilities in administering grant funds, allocating funding, assessing HIV care outcomes (e.g., viral suppression), and serving priority populations. The RSR collects data on the characteristics of RWHAP-funded recipients, their contracted service providers, and the patients or clients served. The RSR system consists of two primary components (the Recipient Report and the Provider Report) and a data file containing de-identified client-level data elements. Data are submitted annually. The RWHAP statute specifies the importance of recipient accountability. The RSR is used to ensure recipient compliance with the law, including evaluating the effectiveness of programs, monitoring recipient and provider performance, and preparing annual reports to Congress. Information collected through the RSR is critical for HRSA, state and local grant recipients, and individual providers to assess the status of existing HIV-related service delivery systems, monitor trends in service utilization, evaluate the impact of data reporting, and identify areas of greatest need.

Likely Respondents: RWHAP grant recipients, as well as their subawarded service providers, funded under RWHAP Parts A, B, C, and D.

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
Recipient Report	595	1	595	11	6,545
Provider Report	2,063	1	2,063	13	26,819
Client Report	1,532	1	1,532	113	173,116
Total	4,190	.....	4,190	.....	206,480

Maria G. Button,
Director, Executive Secretariat.
[FR Doc. 2024–15616 Filed 7–15–24; 8:45 am]
BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Blood and Tissue Safety and Availability

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.
ACTION: Notice.

SUMMARY: The U.S. Department of Health and Human Services is hereby giving notice that the Advisory Committee on Blood and Tissue Safety and Availability (ACBTSA) will hold a meeting. The meeting will be open to the public via webcast. The committee will discuss and vote on recommendations related to tissue biovigilance. The committee will also hear presentations and updates on recent committee work related to blood and organ safety.
DATES: The meeting will take place on September 4–5, 2024 from approximately 9:00 a.m.–4:00 p.m. Eastern Time (ET) on September 4th and approximately 9:00 a.m.–1:00 p.m. Eastern Time (ET) on September 5th. Meeting times are tentative and subject to change. The confirmed times and agenda items for the meeting will be posted on the ACBTSA web page at <https://www.hhs.gov/oidp/advisory-committee/blood-tissue-safety-availability/meeting-summary/fifty-ninth-acbtsa-meeting/index.html> when this information becomes available.
FOR FURTHER INFORMATION CONTACT: James Berger, Designated Federal Officer for the ACBTSA; Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, Tower Building, 1101 Wootton Parkway, Rockville, MD 20852. Email:

ACBTSA@hhs.gov. Phone: 202–795–7608.
SUPPLEMENTARY INFORMATION: On the day of the meeting, please go to <https://www.hhs.gov/live/index.html> to view the meeting. The public will have an opportunity to present their views to the ACBTSA by submitting a written public comment or providing a verbal public comment during the meeting. Comments should be pertinent to the meeting discussion. Persons who wish to provide written or verbal public comment should review instructions at <https://www.hhs.gov/oidp/advisory-committee/blood-tissue-safety-availability/meeting-summary/fifty-ninth-acbtsa-meeting/index.html> and respond by midnight August 27, 2024, ET.
Background and Authority: The ACBTSA is a discretionary Federal advisory committee and is governed by the provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. app), which sets forth standards for the formation and use of advisory committees. The ACBTSA functions to provide advice to the Secretary through the Assistant Secretary for Health on a range of policy issues to include: (1) Identification of public health issues through surveillance of blood and tissue safety issues with national survey and data tools; (2) identification of public health issues that affect availability of blood, blood products, and tissues; (3) broad public health, ethical, and legal issues related to the safety of blood, blood products, and tissues; (4) the impact of various economic factors (e.g., product cost and supply) on safety and availability of blood, blood products, and tissues; (5) risk communications related to blood transfusion and tissue transplantation; and (6) identification of infectious disease transmission issues for blood, organs, blood stem cells and tissues. The Committee has met regularly since its establishment in 1997.

Dated: July 1, 2024.
James J. Berger,
Designated Federal Officer, Advisory Committee on Blood and Tissue Safety and Availability, Office of Infectious Disease and HIV/AIDS Policy.
[FR Doc. 2024–15566 Filed 7–15–24; 8:45 am]
BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.
The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Mentored Career Development K-Awards.
Date: August 21, 2024.
Time: 11:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Zhihong Shan, Ph.D., MD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute National Institutes of Health, 6705 Rockledge Drive, Room 205–J Bethesda, MD 20892, (301) 827–7085, zhihong.shan@nih.gov.
Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Opportunities for Collaborative Research at the NIH Clinical Center (U01).
Date: August 28, 2024.

Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Zhihong Shan, Ph.D., MD, Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 205–J Bethesda, MD 20892, (301) 827–7085, zhihong.shan@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 10, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–15578 Filed 7–15–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; NIH NeuroBioBank Tissue Access Request Form, National Institutes of Health

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH) will

publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Andrew Hooper, National Institute of Mental Health (NIMH) Project Clearance Liaison, Science Policy and Evaluation Branch, Office of Science Policy, Planning and Communications, NIMH, Neuroscience Center, 6001 Executive Boulevard, MSC 9667, Bethesda, Maryland 20892, call (301) 480–8433, or email your request, including your mailing address, to nimhprapubliccomments@mail.nih.gov. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3)

Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: NIH NeuroBioBank Tissue Access Request Form, REVISION, OMB #0925–0723, exp., date 10/31/2024, National Institutes of Health (NIH).

Need and Use of Information Collection: This request serves as notice that the National Institutes of Health (NIH) plans to continue supporting the research community studying neurological, developmental, and psychiatric disorders by coordinating access to human post-mortem brain tissue and related biospecimens stored by our federation of networked brain and tissue repositories known as the NIH NeuroBioBank. To facilitate this process, researchers wishing to obtain brain tissue and biospecimens stored by the NIH NeuroBioBank must continue completing the NIH NeuroBioBank Tissue Access Request Form. The primary use of the information collected by this instrument is to document, track, monitor, and evaluate the appropriate use of the NIH NeuroBioBank resources, as well as to notify interested recipients of updates, corrections or changes to the system.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 100.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Researchers	400	1	15/60	100
Total	400	400	.....	100

Dated: July 10, 2024.

Andrew A. Hooper,

Project Clearance Liaison, National Institute of Mental Health, National Institutes of Health.

[FR Doc. 2024–15588 Filed 7–15–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Partially Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory

Council on Minority Health and Health Disparities.

This will be a hybrid meeting held in-person and virtually and will be open to the public as indicated below. Individuals who plan to attend in-person or view the virtual meeting and need special assistance or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session can be accessed from the NIH

Videocast at the following link: <https://videocast.nih.gov/>.

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 Advisory Council on Minority Health and Health Disparities.

Date: September 5, 2024.

Closed: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, 45 Center Drive, Building 45, Rooms E1/E2, F/G Bethesda, MD 20894, (In-Person and Virtual Meeting).

Name of Committee: National Advisory Council on Minority Health and Health Disparities.

Date: September 6, 2024.

Open: 8:00 a.m. to 4:30 p.m.

Agenda: Opening Remarks, Administrative Matters, Director's Report, Presentations, and Other Business of the Council.

Address: National Institutes of Health, 45 Center Drive, Building 45, Rooms E1/E2, F/G Bethesda, MD 20894 (In-Person and Virtual Meeting).

Contact Person: Paul Cotton, RDN, Ph.D., Director, National Institute on Minority Health and Health Disparities, National Institutes of Health, 7201 Wisconsin Ave. Ste 533, Bethesda, MD 20892, (301) 402-1366, cottonp@mail.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has procedures at <https://www.nih.gov/about-nih/visitor-information/campus-access-security> for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: NIMHD: <https://www.nimhd.nih.gov/about/>

advisory-council/, where an agenda and any additional information for the meeting will be posted when available.

Dated: July 11, 2024.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-15582 Filed 7-15-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Support for Conferences and Scientific Meetings (R13).

Date: August 7, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Melissa E. Nagelin, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208-R, Bethesda, MD 20892, (301) 827-7951, nagelinmh2@nhlbi.nih.gov.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI SBIR Phase IIB Small Market and Bridge Awards.

Date: August 9, 2024.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 209-B,

Bethesda, MD 20892, (301) 435-0297, goltrykl@mail.nih.gov.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Catalyze Product Definition.

Date: August 15, 2024.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 209-B, Bethesda, MD 20892, (301) 435-0297, goltrykl@mail.nih.gov.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Catalyze: Enabling Technologies.

Date: August 16, 2024.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 209-B, Bethesda, MD 20892, (301) 435-0297, goltrykl@mail.nih.gov.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI R35 Emerging Investigator Award (EIA).

Date: August 21, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208-Z, Bethesda, MD 20892, (301) 827-7987, susan.sunnarborg@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 10, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-15577 Filed 7-15-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Complementary and Integrative Health.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend in person and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session can also be accessed at the following NIH Videocast URL link <https://videocast.nih.gov>

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 Advisory Council for Complementary and Integrative Health

Date: September 13, 2024.

Closed: 9:00 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, 31 Center Drive, Building 31C/6th Floor, Conference Room A&B, Bethesda, MD 20892, In Person.

Open: 10:40 a.m. to 4:00 p.m.

Agenda: Reports and Updates about Recent and Ongoing NCCIH Led or Involved Activities by NCCIH staff and its Director.

Place: National Institutes of Health, 31 Center Drive, Building 31C 6th Floor, Conference Room A&B, Bethesda, MD 20892, In Person.

Contact Person: Martina Schmidt, PHD, Director, Division of Extramural Activities, National Center for Complementary & Integrative Health, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, (301) 594-3456, schmidma@mail.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should be less than 700 words in length, and should include the name, email address, telephone number and

when applicable, the business or professional affiliation of the interested person. Any member of the public may submit written comments no later than August 30th, 2024 (14 days before the council meeting).

In the interest of security, NIH has procedures at <https://www.nih.gov/about-nih/visitor-information/campus-access-security> for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: <https://www.nccih.nih.gov/news/events/advisory-council-88th-meeting>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: July 11, 2024.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-15583 Filed 7-15-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The purpose of this meeting is to evaluate requests for preclinical development resources for potential new therapeutics for the treatment of cancer. The outcome of the evaluation will provide information to internal NCI committees that will decide whether NCI should support requests and make available contract resources for development of the potential therapeutic to improve the treatment of various forms of cancer. The research proposals and the

discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; JUN2024 Cycle 47 NExT SEP Committee Meeting.

Date: August 13, 2024.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To evaluate the NCI Experimental Therapeutics Program Portfolio.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Room 3A44, Bethesda, Maryland 20892 (Virtual Meeting).

Contact Persons: Barbara Mroczkowski, Ph.D., Executive Secretary, Discovery Experimental Therapeutics Program, National Cancer Institute, NIH, 31 Center Drive, Room 3A44, Bethesda, Maryland 20817, 301-496-4291, mroczkoskib@mail.nih.gov.

Toby Hecht, Ph.D., Executive Secretary, Development Experimental Therapeutics Program, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 3W110, Rockville, Maryland 20850, 240-276-5683, toby.hecht2@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: July 10, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-15579 Filed 7-15-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Meeting of the Substance Abuse and Mental Health Services Administration, Center for Mental Health Services National Advisory Council

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given of the meeting on August 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 can also be accessed virtually (best option as space is restricted). Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: <https://www.samhsa.gov/about-us/advisory-councils/meetings>. The meeting will include, but not be limited to, consideration of the meeting minutes from the February 27, 2024, SAMHSA, CMHS NAC meeting; updates from the CMHS Director; remarks from SAMHSA's Assistant Secretary; updates on Disasters; and updates on Subcommittee Tasks.

DATES: August 27, 2024, 9:00 a.m. to 4:00 p.m. (EDT), Open.

ADDRESSES: Hubert H. Humphrey Bldg., 200 Independence Ave. SW, Washington, DC 20201, Room 325A.

FOR FURTHER INFORMATION CONTACT: Pamela Foote, Designated Federal Officer; CMHS NAC, 5600 Fishers Lane, Rockville, MD 20857 (mail); telephone: (240) 276-1279; Email: pamela.foote@samhsa.hhs.gov.

SUPPLEMENTARY INFORMATION: Interested persons may present data, information, or views, orally or in writing, on issues pending before the Council. Written submissions must be forwarded to the contact person no later than 7 days before the meeting. Oral presentations from the public will be scheduled at the end of council discussion during the public comment section. Individuals interested in making oral public comments must notify the contact person, on or before 1 p.m. (EDT), August 17, 2024. Up three minutes will be allotted for each public comment as time permits, as these are presented in the order received.

Public comments received will become part of the meeting records.

To obtain the call-in number, access code, and/or web access link; submit written or brief oral comments; or request special accommodations for persons with disabilities, please register on-line at: <https://snacregister.samhsa.gov>, or communicate with the contact person.

Meeting information and a roster of Council members may be obtained by accessing the SAMHSA Committee website at: <https://www.samhsa.gov/about-us/advisory-councils/cmhs-national-advisory-council> or by contacting Pam Foote.

Authority: Public Law 92-463.

Dated: July 10, 2024.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2024-15493 Filed 7-15-24; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2024-0233]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625-0011

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625-0011, Applications for Private Aids to Navigation and for Class I Private Aids to Navigation on Artificial Islands and Fixed Structures; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before August 15, 2024.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at <https://www.regulations.gov>. Search for docket number [USCG-2024-0233]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>.

Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

A copy of the ICR is available through the docket on the internet at <https://www.regulations.gov>. Additionally, copies are available from: Commandant (CG-6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593-7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202-475-3528, fax 202-372-8405, or email hqs-dg-m-cg-61-pii@uscg.mil for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.*, chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, USCG-2024-0233, and must be received by August 15, 2024.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to <https://www.regulations.gov> and will include any personal information you have

provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the <https://www.reginfo.gov>, comment-submission web page. OIRA posts its decisions on ICRs online at <https://www.reginfo.gov/public/do/PRAMain> after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0011.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (89 FR 21527, March 28, 2024) required by 44 U.S.C. 3506(c)(2). That notice received three off-topic comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Applications for Private Aids to Navigation and for Class I Private Aids to Navigation on Artificial Islands and Fixed Structures.

OMB Control Number: 1625–0011.

Summary: Under the provision of 14 U.S.C. 81, the Coast Guard is authorized to establish aids to navigation. 14 U.S.C. 83 prohibits establishment of aids to navigation without permission of the Coast Guard. 33 CFR 66.01–5 provides a means for private individuals to establish privately maintained aids to navigation. Under 43 U.S.C. 1333(d), the Secretary of Homeland Security has the authority to promulgate and enforce regulations concerning lights and other warning devices relating to the promotion of safety of life and property on artificial islands, installations, and other devices on the outer continental shelf involved in the exploration, development, removal, or transportation of resources there from. The Secretary delegated this authority to the Commandant of the Coast Guard under Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3. Coast Guard's regulations in 33 CFR part 67 prescribe the type of aids to navigation that must be installed on artificial islands and fixed structures. Under the provision of 33 U.S.C. 409, Congress requires owners of vessels to immediately mark sunken craft unless Coast Guard issues a waiver. The Coast Guard's regulations for marking of sunken vessels are set out in 33 CFR part 64.11. The information collected for private aids to navigations and markings can only be obtained from the owners of sunken vessels. The information

collection requirements related to these aids to navigation applications are contained in 33 CFR 66.01–5 and 67.35–5.

Need: The information in these private aids to navigation applications (CG–2554 and CG–4143) provides the Coast Guard with vital information about private aids to navigation and is essential for safe marine navigation. These forms are required under 33 CFR parts 66 and 67. The information is reviewed to ensure the private aid is in compliance with current regulations. Additionally, these forms provide the Coast Guard with information which can be distributed to the public to advise of new, or changes to private aids to navigation. In addition, collecting the applicant's contact information is important because it allows the Coast Guard to contact the applicant should there be a discrepancy or mishap involving the permitted private aid to navigation. Certain discrepancies create hazards to navigation and must be responded to and promptly corrected or repaired.

Forms:

- CG–2554, Private Aids to Navigation Application.
- CG–4143, Application for Class I Private Aids to Navigation on Artificial Islands and Fixed Structures.

Respondents: Owners of private aids to navigation.

Frequency: On occasion.

Hour Burden Estimate: The estimated annual burden has decreased from 2,000 hours to 1,709 hours due to a decrease in the number of respondents a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. *et seq.*, chapter 35, as amended.

Dated: June 10, 2024.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2024–15494 Filed 7–15–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0234]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0102

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the

U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0102, National Response Resource Inventory; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before August 15, 2024.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at <https://www.regulations.gov>. Search for docket number [USCG–2024–0234]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>.

Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

A copy of the ICR is available through the docket on the internet at <https://www.regulations.gov>. Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, fax 202–372–8405, or email hqs-dg-m-cg-61-pii@uscg.mil for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.*, chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary

for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, USCG–2024–0234, and must be received by August 15, 2024.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the <https://www.reginfo.gov>, comment-submission web page. OIRA posts its decisions on ICRs online at <https://www.reginfo.gov/public/do/PRAMain> after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0102.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day

notice (89 FR 21528, March 28, 2024) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: National Response Resource Inventory.

OMB Control Number: 1625–0102.

Summary: The information is needed to improve the effectiveness of deploying response equipment in the event of an oil spill. It may also be used in the development of contingency plans.

Need: Section 4202 of the Oil Pollution Act of 1990 (Pub. L. 101–380) requires the Coast Guard to compile and maintain a comprehensive list of spill removal equipment in a response resource inventory (RRI). This collection helps fulfill that requirement.

Forms: None.

Respondents: Oil spill removal organizations.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 1,378 hours to 1,964 hours a year, primarily due to the addition of the new optional Non-Floating Oils/Dispersants application.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. *et seq.*, chapter 35, as amended.

Dated: June 10, 2024.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2024–15495 Filed 7–15–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0239]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0106

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0106, Unauthorized Entry into Cuban Territorial Waters;

without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before August 15, 2024.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at <https://www.regulations.gov>. Search for docket number [USCG–2024–0239]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>.

Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

A copy of the ICR is available through the docket on the internet at <https://www.regulations.gov>. Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, fax 202–372–8405, or email hqs-dg-m-cg-61-pii@uscg.mil for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.*, chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection;

and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, USCG–2024–0239, and must be received by August 15, 2024.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the <https://www.reginfo.gov>, comment-submission web page. OIRA posts its decisions on ICRs online at <https://www.reginfo.gov/public/do/PRAMain> after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0106.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (89 FR 23603, April 4, 2024) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Unauthorized Entry into Cuban Territorial Waters.

OMB Control Number: 1625–0106.

Summary: The Coast Guard, pursuant to Presidential proclamation and order of the Secretary of Homeland Security, is requiring U.S. vessels, and vessels without nationality, less than 100 meters, located within the internal waters or the 12 nautical mile territorial sea of the United States, that thereafter enter Cuban territorial waters, to apply for and receive a Coast Guard permit.

Need: The information is collected to regulate departure from U.S. territorial waters of U.S. vessels, and vessels without nationality, and entry thereafter into Cuban territorial waters. The need to regulate this vessel traffic supports ongoing efforts to enforce the Cuban embargo, which is designed to bring about an end to the current government and a peaceful transition to democracy. Accordingly, only applicants that demonstrate prior U.S. government approval for exports to and transactions with Cuba will be issued a Coast Guard permit.

The permit regulation requires that applicants hold United States Department of Commerce, Bureau of Industry and Security (BIS) and U.S. Department of Treasury the Office of Foreign Assets Control (OFAC) licenses that permit exports to and transactions with Cuba. The USCG permit process thus allows the agency to collect information from applicants about their status vis-à-vis BIS and OFAC licenses and monitor compliance with BIS and OFAC regulations. These two agencies administer statutes and regulations that proscribe exports to (BIS) and transactions with (OFAC) Cuba. Accordingly, in order to assist BIS and OFAC in the enforcement of these license requirements, as directed by the President and the Secretary of Homeland Security, the Coast Guard is requiring certain U.S. vessels, and vessels without nationality, to demonstrate that they hold these licenses before they depart for Cuban waters.

Forms: CG–3300, Application for Permit to Enter Cuban Territorial Seas.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden remains around 5 hours per year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. *et seq.*, chapter 35, as amended.

Dated: June 10, 2024.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2024–15496 Filed 7–15–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2024–0008; OMB No. 1660–0023]

Agency Information Collection Activities: Submission for OMB Review, Comment Request; Community Assistance Contact (CAC) Reports, Community Assistance Visit (CAV) Reports, and National Flood Insurance Program (NFIP) Compliance Audit Reports

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 30-Day notice of revision and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. FEMA invites the general public to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, this notice seeks comments concerning the effectiveness of a community's implementation of the National Flood Insurance Program's (NFIP's) Community Assistance Contact (CAC) and Community Assistance Visits (CAV) Reports. FEMA is moving away from CAV and CAC reports to the newly designed process of NFIP Compliance Audits in response to a report issued on May 5, 2020, by the Government Accounting Office (GAO) entitled "National Flood Insurance Program: FEMA Can Improve Community Oversight and Data Sharing." This report gave several recommendations including the following: assess different approaches for ensuring compliance with NFIP requirements and ensure data on community visits are up-to-date and complete. While the new NFIP Compliance Audit process aligns with the old CAV and CAC processes, it is more organized, more consistent, more transparent, allows for better

documentation, and more efficiently focuses resources to where they are needed most.

DATES: Comments must be submitted on or before August 15, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address FEMA-Information-Collections-Management@fema.dhs.gov or Sarah Owen, Program Specialist, Floodplain Management Division, Mitigation Directorate, Federal Insurance and Mitigation Administration, FEMA at Sarah.Owen@fema.dhs.gov or (510) 409-4818.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) codified at 42 U.S.C. 4001, *et seq.* is authorized by Public Law 90-448 (1968) and expanded by Public Law 93-234 (1973). The Department of Homeland Security, Federal Emergency Management Agency (FEMA) administers the NFIP. The NFIP’s major objective is to assure that participating communities are achieving the flood loss reduction objectives through adoption and enforcement of adequate land use and control measures. Sections 1315 and 1361 provide the basis for FEMA’s process to evaluate how well communities are implementing their floodplain management programs. Title 44 CFR 59.22 directs the respondent to submit evidence of the corrective and preventive measures taken to meet the flood loss reduction objectives.

The two key methods FEMA uses in determining community assistance needs are through the Community Assistance Contact (CAC) and Community Assistance Visit (CAV), which serve to provide a systematic means of monitoring community NFIP compliance. Through the CAC and CAV, FEMA can also determine to what extent communities are achieving the flood loss reduction objectives of the NFIP. By providing assistance to communities, the CAC and CAV also serve to enhance FEMA’s goals of reducing future flood losses, thereby achieving the NFIP’s cost-containment objective. The burden hours and costs

associated with this collection were re-evaluated which led to the main revision in this extension request.

FEMA is moving away from CAV and CAC reports to the newly designed process of NFIP Compliance Audits in response to a report issued on May 5, 2020, by the Government Accounting Office (GAO) entitled “National Flood Insurance Program: FEMA Can Improve Community Oversight and Data Sharing.” This report gave several recommendations including the following: assess different approaches for ensuring compliance with NFIP requirements and ensure data on community visits are up-to-date and complete. While the new NFIP Compliance Audit process aligns with the old CAV and CAC processes, it is more organized, more consistent, more transparent, and allows for better documentation. The main efficiency gained in the new process is that it is a progressive audit which allows for varying depths of investigation based on the community’s needs. Another efficiency is a compliance score. These two improvements will allow FEMA to better utilize limited resources to increase community compliance.

FEMA is also adding the collection of information from NFIP-participating communities in order to comply with the Endangered Species Act. The information may include the impact of the proposed development on the natural floodplain functions, the amount of fill, compensatory storage information, the amount of impervious surface, the area in which clearing/grading may occur, the number of trees removed, and other information related to hydraulic connections.

This proposed information collection previously published in the **Federal Register** on March 28, 2024, at 89 FR 21534 with a 60-day public comment period. FEMA received no public comments. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Community Assistance Contact (CAC) Reports, Community Assistance Visit (CAV) Reports, and National Flood Insurance Program (NFIP) Compliance Audit Reports.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660-0023.

FEMA Forms: FEMA Form FF-206-FY-21-141 (formerly 086-0-28(E)), Community Assistance Visit (CAV)

Report; FEMA Form FF-206-FY-21-142 (formerly 086-0-29(E)), Community Assistance Contact (CAC) Report; and FEMA Form FF-206-FY-24-100, NFIP Compliance Audit Report.

Abstract: FEMA previously used the Community Assistance Contact (CAC) and the Community Assistance Visit (CAV) to make a comprehensive assessment of a community’s floodplain management program. Through this assessment, FEMA assisted the community to understand the NFIP’s requirements and implement effective flood loss reductions measures. Communities can achieve cost savings through flood mitigation actions by way of insurance premium discounts and reduced property damage. The CAV and CAC processes have been updated recently to the NFIP Compliance Audit process which aims to do a more efficient, consistent and transparent job of assessing the community’s floodplain management program, providing them with the needed technical assistance to improve it, and documenting the results for data analysis.

Affected Public: State, Local or Tribal Governments.

Estimated Number of Respondents: 102.

Estimated Number of Responses: 4,002.

Estimated Total Annual Burden Hours: 48,002.

Estimated Total Annual Respondent Cost: \$2,361,698.

Estimated Respondents’ Operation and Maintenance Costs: \$0.

Estimated Respondents’ Capital and Start-Up Costs: \$0.

Estimated Total Annual Cost to the Federal Government: \$2,216,556.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (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.

Millicent Brown Wilson,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2024–15592 Filed 7–15–24; 8:45 am]

BILLING CODE 9111–47–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2024–0021; OMB No. 1660–0144]

Agency Information Collection Activities: Proposed Collection; Comment Request; Individual & Community Preparedness Division (ICPD) Youth Preparedness Council (YPC) Application Form

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day notice of extension and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on an extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning this collection allowing potential candidates to apply for FEMA's Youth Preparedness Council.

DATES: Comments must be submitted on or before September 16, 2024.

ADDRESSES: To avoid duplicate submissions to the docket, please submit comments at www.regulations.gov under Docket ID FEMA–2024–0021. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Shanna Scherbinske, Emergency Management Specialist, Individual and Community Preparedness Division at 202–286–3052 or Shanna.Scherbinske@fema.dhs.gov. You may contact the Information Management Division for copies of the proposed collection of information at email address: FEMA-Information-Collections-Management@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: The FEMA Youth Preparedness Council (YPC) was formed to bring together youth leaders from across the country who are highly interested and engaged in advocating youth preparedness and making a difference in their communities. This collection meets the requirements of 6 U.S.C. 742, National Preparedness, and Presidential Policy Directive—8 (PPD–8) which emphasize the need for involvement from all sectors of society in preparing for and responding to threats and hazards.

This application form is used to select interested council members based on dedication to public service, efforts in making a difference in their community, and potential for expanding their impact as a national advocate for youth preparedness.

Council member activities and their involvement in the Council are in alignment with goals 5.2. and 5.3 from the Quadrennial Homeland Security Review (QHSR). Members are expected to represent the youth perspective on emergency preparedness and take information back to their communities to share. Council members are expected to develop and complete preparedness-related projects.

Youth apply using personal identifiable demographic and contact information, which FEMA retains confidentially for the purposes of providing acceptance/denial responses to applicants and determining a representative sample of applicants. Letters of recommendation and academic records are required, while supplemental materials highlighting past achievements are encouraged.

Collection of Information

Title: Individual & Community Preparedness Division (ICPD) Annual Youth Preparedness Council (YPC) Application Form.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0144.

FEMA Forms: FEMA Form FF–008–FY–21–111 (formerly 008–0–0–24), FEMA Youth Preparedness Council Application.

Abstract: The FEMA Youth Preparedness Council (YPC) was formed to bring together youth leaders from across the country who are highly interested and engaged in advocating youth preparedness and making a difference in their communities. This collection meets the requirements of 6 U.S.C. 742, National Preparedness, and Presidential Policy Directive—8 (PPD–8) which emphasize the need for involvement from all sectors of society in preparing for and responding to threats and hazards. This application form is used to select interested council members based on dedication to public service, efforts in making a difference in their community, and potential for expanding their impact as a national advocate for youth preparedness.

Affected Public: Individuals and Households; State, Local, or Tribal Governments.

Estimated Number of Respondents: 200.

Estimated Number of Responses: 200.

Estimated Total Annual Burden

Hours: 283.

Estimated Total Annual Respondent

Cost: \$2,974.

Estimated Respondents' Operation and Maintenance Costs: \$0.

Estimated Respondents' Capital and Start-Up Costs: \$0.

Estimated Total Annual Cost to the Federal Government: \$77,538.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (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.

Millicent Brown Wilson,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2024–15593 Filed 7–15–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**[Docket No. 6481–N–01]****Notice of HUD-Held Healthcare Loan Sale (HLS 2024–1)**

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, U.S. Department of Housing and Urban Development (HUD).

ACTION: Notice of sale of sixteen (16) healthcare mortgage loans secured by 15 properties including one hospital.

SUMMARY: This notice announces HUD's intention to sell sixteen unsubsidized healthcare mortgage loans, without Federal Housing Administration (FHA) insurance, in a competitive, sealed bid sale on or about August 21, 2024 (HLS 2024–1 or Loan Sale). This notice also describes generally the bidding process for the sale and certain persons who are ineligible to bid.

DATES: A Bidder's Information Package (BIP) will be made available on or about July 19, 2024. Bids for the loans must be submitted on the bid date, which is currently scheduled for August 21, 2024, between certain specified hours. HUD anticipates that an award or awards will be made on or before August 26, 2024. Closing is expected to take place on September 11, 2024.

ADDRESSES: To become a qualified bidder and receive the BIP, prospective bidders must complete, execute, and submit a Confidentiality Agreement and a Qualification Statement acceptable to HUD. Both documents will be available on the Mission Capital Advisors bidding system website:

market.missioncap.com. This website contains information and links for sale registration and electronically completing and submitting the documents. Questions about bidder qualification process may be sent to: Transaction Specialist at 1–844–709–0763 or email *HUDSales@FalconAssetSales.com*.

FOR FURTHER INFORMATION CONTACT: John Lucey, Director, Asset Sales, U.S. Department of Housing and Urban Development, Room 3136, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410–8000; telephone 202–708–2625, extension 3927 (this is not a toll-free number), or at *john.w.lucey@hud.gov*. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible

telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION: HUD announces its intention to sell, in HLS 2024–1, sixteen (16) unsubsidized mortgage loans (Mortgage Loans), consisting of fourteen (14) first lien and one second lien healthcare notes secured by skilled nursing and assisted living facilities located in various locations within Massachusetts, Pennsylvania, Arizona, Kansas, Illinois, Ohio, Virginia, New Jersey, and California, and one first lien note secured by a hospital located in Texas. The Healthcare Mortgage Loans are non-performing mortgage loans. The listing of the Mortgage Loans is included in the BIP. The Mortgage Loans will be sold without FHA insurance and with HUD servicing released. HUD will offer qualified bidders an opportunity to bid competitively on the Mortgage Loans.

The Mortgage Loans will be stratified for bidding purposes into mortgage loan pools as appropriate. Each pool will contain Mortgage Loans that generally have similar performance, property type, geographic location, lien position and other characteristics. Loans may be offered in pools of more than one loan and, or in single loan pools. Qualified bidders may bid on one or more pools.

Bidder eligibility criteria are set forth in the Qualification Statement. As detailed in the Qualification Statement, certain entities/individuals may be precluded from bidding depending on their prior involvement with the loan(s).

The Bidding Process

The BIP describes in detail the procedure for bidding in HLS 2024–1. The BIP also includes a standardized non-negotiable loan sale agreement (Loan Sale Agreement).

As part of its bid, each bidder must submit a minimum deposit of the greater of One Hundred Thousand Dollars (\$100,000) or ten percent (10%) of the aggregate bid prices for all of such bidder's bids. In the event the bidder's aggregate bid is less than One Hundred Thousand Dollars (\$100,000), the minimum deposit shall be not less than fifty percent (50%) of the bidder's aggregate bid. HUD will evaluate the bids submitted and determine the successful bid(s) in its sole and absolute discretion. If a bidder is successful, the bidder's deposit will be non-refundable and will be applied toward the purchase price, with any amount beyond the purchase price being returned to the bidder. Deposits will be returned to unsuccessful bidders after notification to successful bidders. Closings are

expected to take place on September 11, 2024.

The Loan Sale Agreement, which is included in the BIP, contains additional terms and details. To ensure a competitive auction, the terms of the bidding process and the Loan Sale Agreement are not subject to negotiation.

Due Diligence Review

The BIP describes the due diligence process for reviewing loan files in HLS 2024–1. Qualified bidders will be able to access loan information remotely via a high-speed internet connection. Further information on performing due diligence review of the Mortgage Loans is provided in the BIP.

Mortgage Loan Sale Policy

HUD reserves the right to add Mortgage Loans to or delete Mortgage Loans from HLS 2024–1 at any time prior to the award date. HUD also reserves the right to reject any and all bids, in whole or in part, without prejudice to HUD's right to include the Mortgage Loans in a later sale. The Mortgage Loans will not be withdrawn after the award date except as is specifically provided for in the Loan Sale Agreement.

This is a sale of unsubsidized mortgage loans, pursuant to Section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1997 (12 U.S.C. 1715z–11a(a)).

Mortgage Loan Sale Procedure

HUD selected a competitive auction as the method to sell the Mortgage Loans. This method of sale optimizes HUD's return on the sale of these Mortgage Loans, affords the greatest opportunity for all qualified bidders to bid on the Mortgage Loans, and provides the most efficient vehicle for HUD to dispose of the Mortgage Loans.

Bidder Eligibility

In order to bid in the sale, a prospective bidder must complete, execute, and submit both a Confidentiality Agreement and a Qualification Statement acceptable to HUD. The following individuals and entities are among those INELIGIBLE to bid on the Mortgage Loans being sold in HLS 2024–1:

1. A mortgagor or healthcare operator, including its principals, affiliates, family members, and assigns, with respect to one or more of the Mortgage Loans being offered in the Loan Sale, or an Active Shareholder (as such term is defined in the Qualification Statement);

2. With respect to any other HUD multifamily and/or healthcare mortgage loan not offered in the Loan Sale, any mortgagor or healthcare operator, including any Related Party (as such term is defined in the Qualification Statement) of either, that has failed to file financial statements or is otherwise in default under such mortgage loan or is in violation or noncompliance of any regulatory or business agreements with HUD and that fails to cure such default or violation by no later than August 1, 2024;

3. Any individual or entity that is debarred, suspended, or excluded from doing business with HUD pursuant to title 2 of the Code of Federal Regulations, part 2424;

4. Any contractor, subcontractor and/or consultant or advisor (including any agent, employee, partner, director, principal or affiliate of any of the foregoing) who performed services for, or on behalf of, HUD in connection with HLS 2024–1;

5. Any employee of HUD, a member of such employee's family, or an entity owned or controlled by any such employee or member of such an employee's family;

6. Any individual or entity that uses the services, directly or indirectly, of any person or entity ineligible under provisions (3) through (5) above to assist in preparing its bid on any Mortgage Loan;

7. An FHA-approved mortgagee, including any principals, affiliates, or assigns thereof, that has received FHA insurance benefits for one or more of the Mortgage Loans being offered in the Loan Sale;

8. An FHA-approved mortgagee and/or loan servicer, including any principals, affiliates, or assigns thereof, that originated one or more of the Mortgage Loans being offered in the Loan Sale if the Mortgage Loan defaulted within two years of origination and resulted in the payment of an FHA insurance claim;

9. Any affiliate, principal or employee of any person or entity that, within the two-year period prior to August 1, 2024, serviced any Mortgage Loan or performed other services for or on behalf of HUD in regard to any Mortgage Loan;

10. Any contractor or subcontractor working for or on behalf of HUD that had access to information concerning any Mortgage Loan or provided services to any person or entity which, within the two-year period prior to August 1, 2024, had access to information with respect to any Mortgage Loan; and/or

11. Any employee, officer, director or any other person that provides or will

provide services to the prospective bidder with respect to the Mortgage Loans during any warranty period established for the Loan Sale, that serviced the Mortgage Loans or performed other services for or on behalf of HUD or within the two-year period prior to August 1, 2024, provided services to any person or entity which serviced, performed services or otherwise had access to information with respect to any Mortgage Loan for or on behalf of HUD.

Other entities/individuals not described herein may also be restricted from bidding on the Mortgage Loans, as fully detailed in the Qualification Statement.

The Qualification Statement provides further details pertaining to eligibility requirements. Prospective bidders should carefully review the Qualification Statement to determine whether they are eligible to submit bids on the Mortgage Loans in HLS 2024–1.

Freedom of Information Act Requests

HUD reserves the right, in its sole and absolute discretion, to disclose information regarding HLS 2024–1, including, but not limited to, the identity of any successful bidder and its bid price or bid percentage for the Mortgage Loans, upon the closing of the sale of the Mortgage Loans. Even if HUD elects not to publicly disclose any information relating to HLS 2024–1, HUD may be required to disclose information relating to HLS 2024–1 pursuant to the Freedom of Information Act and all regulations promulgated thereunder.

Scope of Notice

This notice applies to HLS 2024–1 and does not establish HUD's policy for the sale of other mortgage loans.

Julia R. Gordon,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2024–15491 Filed 7–15–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7080–N–30]

30-Day Notice of Proposed Information Collection: Eviction Protection Grant Program; OMB Control No.: 2528–0331

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget

(OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 15, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. 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. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna Guido, Clearance Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410–5000; email PaperworkReductionActOffice@hud.gov.

FOR FURTHER INFORMATION CONTACT:

Anna P. Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; email: PaperworkReductionActOffice@hud.gov. telephone (202)–402–5535. This is not a toll-free number, HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit: <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on November 16, 2023 at 88 FR 78776.

A. Overview of Information Collection

Title of Information Collection:
Eviction Protection Grant Program.
OMB Approval Number: 2528–0331.

Type of Request: Revision of a currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: The Office of Policy Development and Research (PD&R), at the U.S. Department of Housing and Urban Development (HUD), is proposing the collection of additional information for the Eviction Protection Grant Program (EPGP).

The goal of this effort is to facilitate required management functions and analyses of the outcomes of HUD's Eviction Protection Grant Program. This research is expected to help the Federal government, states, and communities throughout the United States improve

housing stability for households at risk of eviction or subject to eviction. In addition, this program can benefit municipalities and landlords per avoidance of evictions, improved timelines for evictions, reducing unpaid unit vacancies, and reducing the costs of litigation. This research will be used to assess the overall program, to include grantee and client outcomes. It will also assess variations in regional and local implementation of EPGP grants. The findings will support HUD in identifying opportunities for changes to legislation, policy, and program implementation for eviction support services.

This **Federal Register** Notice provides an opportunity to comment on the

information collection for this effort entitled Updating Eviction Protection Grant Program Documents. This information collection is designed to support the study of households at risk of or subject to eviction, specifically to identify effective processes and corresponding outcomes for eviction support programs and translate this research into actionable programmatic recommendations with appropriate timelines, policy making and implementation changes to improve these outcomes. The project includes data collection among HUD EPGP grantees and clients who receive eviction support services.

Information collection	Number of respondents	Frequency of response	Response per year	Burden hours per response	Annual burden hours	Hourly cost per response	Annual cost
Grant work plan	21	1	21	2	42	\$61.33	\$2,575.86
Detailed Budget Worksheet, 424 CBW	21	1	21	3	63	61.33	3,863.79
Household Services and Outcomes Report, 52698	21	1,000	21,000	0.25	5,250	61.33	321,982.50
Household Services and Outcomes Submission Report 52698(a)†	21	4	84	1	84	61.33	5,151.72
Benchmarks Plan and Report, 52699	21	4	84	0.5	42	61.33	2,575.86
Grant Detailed Voucher Worksheet, 52700 ..	21	4	84	1	84	61.33	5,151.72
Grant reporting (narratives, existing process)	21	4	84	2	168	61.33	10,303.44
Total	21	18	21,378	9.75	5,733	61.33	351,604.89

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35

Anna P. Guido,

*Department Reports Management Office,
Office of Policy Development and Research,
Chief Data Officer.*

[FR Doc. 2024-15540 Filed 7-15-24; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7086-N-21]

60-Day Notice of Proposed Information Collection: Request for Termination of Multifamily Mortgage Insurance; OMB Control No.: 2502-0416

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice

is to allow for 60 days of public comment.

DATES: *Comments Due Date:* September 16, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 60-day Review—Open for Public Comments" or by using the search function. Interested persons are also invited to submit comments regarding this proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; telephone (202) 402-3400 (this is not a toll-free number) or email: PaperworkReductionActOffice@hud.gov.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email: Colette.Pollard@hud.gov or telephone

(202) 402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Insurance Termination Request for Multifamily Mortgage.

OMB Approval Number: 2502–0416.

Type of Request: Reinstatement, with change, of previously approved collection for which approval has expired.

Form Number: 9807.

Description of the need for the information and proposed use: This information collection is used for mortgagees to request HUD to terminate a mortgage insurance contract for an FHA-insured mortgage upon prepayment in full of the mortgage prior to its maturity date, or by an owner's and mortgagee's mutual agreement to voluntarily terminate the contract of mortgage insurance without a prepayment. Adjustments were necessary for the number of respondents and number of responses as the previous collection did not capture the correct information. This revision captures the correct information.

Respondents: Business (mortgage lenders).

Estimated Number of Respondents: 14,580.

Estimated Number of Responses: 14,580.

Frequency of Response: 1.

Average Hours per Response: .25.

Total Estimated Burdens: 3,645.

B. Solicitation of Public Comment

This Notice is soliciting comments from members of the public and affected agencies concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Jeffrey D. Little,

General Deputy Assistant Secretary, Office of Housing.

[FR Doc. 2024–15544 Filed 7–15–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7080–N–31]

30-Day Notice of Proposed Information Collection: Implementation of the Violence Against Women Reauthorization Act of 2013; OMB Control No.: 2577–0286

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 15, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal.

Written comments and recommendations for the proposed information collection can 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. Interested persons are also invited to submit comments regarding this proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports

Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410–5000; telephone (202) 402–3400 (this is not a toll-free number) or email: PaperworkReductionActOffice@hud.gov.

FOR FURTHER INFORMATION CONTACT:

Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; email: PaperworkReductionActOffice@hud.gov or telephone (202) 402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on November 4, 2022, at 87 FR 66723.

A. Overview of Information Collection

Title of Information Collection: Implementation of the Violence Against Women Reauthorization Act of 2013.

OMB Approval Number: 2577–0286.

Type of Request: Reinstatement, with changes and an additional form, of previously approved collection for which approval has expired.

Form Numbers: HUD–5380, HUD–5381, HUD–5382, HUD–5383, and VAWA Emergency Transfer Data Collection Form.

Description of the need for the information and proposed use: The Violence Against Women Reauthorization Act of 2013 (VAWA 2013), Public Law 113–4, 127 Stat. 54, reauthorized and amended the Violence Against Women Act of 1994, as previously amended (title IV, sec. 40001–40703 of Pub. L. 103–322, 42 U.S.C. 13925 *et seq.*). In doing so, VAWA 2013 expanded the VAWA protections that applied to HUD's Section 8 and Public Housing programs and widened the range of HUD's housing programs that are subject to VAWA protections. The provisions of VAWA 2013 that afford protections to

victims of domestic violence, dating violence, sexual assault, and stalking are statutory and statutorily directed to be implemented. Accordingly, on November 16, 2016, HUD published a final rule at 81 FR 80724 (VAWA Rule), implementing VAWA 2013's provisions in its housing programs. The Violence Against Women Act Reauthorization Act of 2022 (VAWA 2022) was signed into law on March 15, 2022. However, certain provisions of VAWA 2022 are not self-implementing. Once VAWA 2022 has been implemented, this PRA will be further updated, as appropriate.

The HUD programs that include VAWA protections as required by VAWA 2013 and the VAWA Rule include:

- Section 202 Supportive Housing for the Elderly (12 U.S.C. 1701q);
- Section 811 Supportive Housing for Persons with Disabilities (42 U.S.C. 8013);
- Housing Opportunities for Persons with AIDS (HOPWA) program (42 U.S.C. 12901 *et seq.*);
- HOME Investment Partnerships (HOME) program (42 U.S.C. 12741 *et seq.*);
- Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 *et seq.*), including the Emergency Solutions Grants (ESG) program; the Continuum of Care (CoC) program; and the Rural Housing Stability Assistance program;
- Multifamily rental housing under section 221(d)(3) of the National Housing Act (12 U.S.C. 17151(d)) with a below-market interest rate (BMIR) pursuant to section 221(d)(5);
- Multifamily rental housing under section 236 of the National Housing Act (12 U.S.C. 1715z-1);
- HUD programs assisted under the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*); specifically, public housing under section 6 of the 1937 Act (42 U.S.C. 1437d), tenant-based and project-based rental assistance under section 8 of the 1937 Act (42 U.S.C. 1437f), and the Section 8 Moderate Rehabilitation Single Room Occupancy; and
- The Housing Trust Fund (12 U.S.C. 4568).

To assure covered housing providers (CHPs) under the programs listed above comply with VAWA 2013 and the VAWA Rule, the Department must provide to all CHPs certain documents for use, as follows:

- *Form HUD-5380: Notice of Occupancy Rights Under the Violence Against Women Act.* HUD must provide this notice to CHPs, which must, in turn, distribute it to tenants and to applicants at the times specified in the

VAWA Rule at minimum to ensure they are aware of their rights under VAWA and its implementing regulations. CHPs must add specific information to this form as indicated by the imbedded instructions, including contact information of the CHP and information on how to request a VAWA emergency transfer.

- *Form HUD-5381: Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.* HUD must provide this model document to CHPs. CHPs must develop their own VAWA Emergency Transfer Plans, as required by the VAWA Rule, must make their VAWA Emergency Transfer Plan available upon request, and, when feasible, must make their plan publicly available. CHPs may, at their discretion, use HUD-5381 to develop these plans. This model contains only general provisions of an emergency transfer plan that apply across the covered HUD programs. Adoption of this model plan without further customization and information concerning how the emergency transfer plan will operate will not be sufficient to meet a covered housing provider's responsibility to adopt an emergency transfer plan. CHPs must consult the applicable regulations and are encouraged to consult program-specific HUD guidance when developing their own VAWA emergency transfer plans to ensure those plans contain all required elements.

- *Form HUD-5382: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation.* HUD must provide this certification form to CHPs, which must, in turn, distribute it to tenants and applicants as a required complement and extension of the required Notice of Occupancy Rights Under the Violence Against Women Act (Form HUD-5380). As further explained on the Form HUD-5382, an applicant or tenant who is asking for or about VAWA protections may choose to fill out and submit this certification form as one of the four legally acceptable options the VAWA Rule provides for answering any CHP's written request for documentation that an individual is or has been a victim of domestic violence, dating violence, sexual assault, or stalking or that a covered incident or incidents of domestic violence, dating violence, sexual assault, and stalking occurred.

- *Form HUD-5383: Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.* HUD provides this model emergency transfer request form to CHPs. CHPs may, at

their discretion, distribute it to tenants. This form serves as a model for use by a CHP to accept requests for emergency transfers under its required VAWA Emergency Transfer Plan.

- *VAWA Emergency Transfer Data Collection Form:* HUD must provide the Emergency Transfer Data Collection form to CHPs, and it is the responsibility of CHPs to complete and submit this form to HUD, for purposes of fulfilling recordkeeping and reporting requirements. CHPs must keep a record of all emergency transfers requested under its emergency transfer plan, the outcomes of such requests, and retain these records for a period of three years, or for a period as specified in program regulations and guidance. Requests and outcomes of emergency transfers must also be reported to HUD annually. See 24 CFR 5.2005(e)(12). HUD may tailor this form to ask certain questions by selecting different areas of this form that are relevant to specific covered housing programs.

Discussion of Significant Revisions

HUD made changes to the VAWA forms in response to public comment received as part of the 60-day notice-and-comment period. As part of this package, HUD has revised the forms to more closely align with the VAWA Rule and clarify language. In addition to minor changes, HUD makes the specific changes described below.

General Comments

Form readability. Commenters had suggestions to make the forms easier to read and understand. Commenters noted that the forms should be accessible, readable, and understandable for people with low literacy and those who have disabilities, are cognitively impaired, are color blind, or have visual impairments. Another suggested that the forms should be written such that someone who knows nothing about VAWA can understand the housing protections and rights. Some commenters suggested that HUD should strike repetitive or unnecessary words and should streamline the forms to give essential information. Another suggested that HUD should use simpler sentences or a chart form, including for illustrating program-specific terminology. Commenters noted that HUD should ensure it is using consistent language throughout the forms, such as referring consistently to "violence/abuse" instead of just "abuse," and not alternating between "perpetrator" and "abuser." Another commenter noted that the distinction between "tenant" versus "household member" is unclear, as is

the status of minors. Other commenters suggested that HUD should refer to the Notice of Occupancy Rights by form number and title when it's referenced in the other forms, and HUD should hyperlink documents and resources when referring to them. A commenter noted that HUD should encourage covered housing providers to use plain language and accessible practices in the development of the forms for their use.

HUD response: HUD appreciates these suggestions from commenters. HUD has made edits throughout the forms to address these concerns about readability, including the specific edits described later in this Notice. Housing providers are encouraged to use plain language to the extent possible as they customize these forms.

Language access. Commenters suggested that HUD translate the forms into other languages. One commenter suggested that HUD translate into the top 15 most commonly spoken languages. Commenters stated that HUD should prominently place the language access requirements for the VAWA forms as a stand-alone provision so survivors who have limited English proficiency (LEP) can easily see it and be informed of their right to have the forms interpreted or translated to them if necessary. Currently, the information is too low down on the form and is likely to be missed. A commenter suggested that HUD could create a cover document containing a simple statement in all relevant languages stating that it is an important VAWA document and providing information about where to seek language assistance.

HUD response: HUD anticipates translating the forms into multiple languages, consistent with its Language Access Plan (LAP). The previously published versions of these forms are available in multiple languages on HUD's website. HUD has also revised the forms to emphasize language-access requirements, including placing information about language-access prominently and early on the HUD-5380 proposed form. HUD reminds covered housing providers that they have an obligation to take reasonable steps to ensure meaningful access to their programs and activities by LEP individuals. Covered housing providers should follow their LAPs and conduct the four-fact analysis described in HUD and DOJ guidance to understand the reasonable steps they are required to take, and they must provide language assistance as required.

Administrative burden. Commenters suggested that HUD's estimate of the administrative burden is too low.

HUD response: HUD thanks commenters and has reviewed the burden estimate and does not think further revisions are necessary.

Funding. A commenter asked for funding to assist some VAWA survivors in escaping violence/abuse and for shelters for survivors.

HUD response: HUD appreciates the need for funding to assist VAWA survivors, but it is beyond the scope of this proposed information collection.

Safety and resources for survivors. According to commenters, HUD should ensure information about whether to seek additional help is on each form (5380, 5382, and 5383) because consistent information across all forms will strengthen survivor's access to and awareness of the resources and service options available. Commenters also suggested that the forms provide information about local and culturally specific services, such as by including a link to culturally specific hotlines. Some commenters urged HUD to ensure the forms and related training underscore the danger that survivors face when taking steps to end the abusive relationship and ensure safe housing because housing providers often disregard the danger that survivors face and the urgency of their circumstances, and there must be safety protocols in place when a survivor asserts their rights. Commenters noted that to meet safety planning needs, housing providers need to competently refer the survivors to a provider that understands and is trained on the escalation of violence, lethality indicators, or cultural nuances in the way violence may be described. One commenter supported that the forms list national hotlines, but suggested that HUD should consider whether such groups need training on specific VAWA rights. A commenter proposed that HUD should create a safety planning form for family break-ups and lease bifurcation processes that considers both short-term and long-term needs. Commenters throughout noted that HUD has an obligation to ensure that, whenever possible, survivors are empowered to choose what works best for them, their families, and their situation, and safety planning should take this into consideration.

HUD response: HUD thanks commenters for these suggestions. Where appropriate in the forms, HUD has included information about where to seek additional help, and covered housing providers are strongly encouraged to customize the Notice of Occupancy Rights and Emergency Transfer Plan to include information about local resources and other

resources for survivors, consistent with Federal requirements. HUD agrees that it is critical to empower survivors and encourages covered housing providers to work with survivors to best meet their needs and ensure that their VAWA rights are protected so that they do not need to choose between their safety and their housing. HUD will take these comments into consideration as it issues future VAWA guidance.

Lease bifurcation and family breakup. Commenters had suggestions for the lease bifurcation and family breakup processes in general. Some commenters want HUD to make bifurcation more available or otherwise mandatory. A commenter suggested that HUD should make family break-up and lease bifurcation rights available to all survivors, regardless of what program they participate in. A commenter stated that 24 CFR 982.315 empowers the survivor to request that the perpetrator be removed from their Housing Choice Voucher by requiring that following a family-break up, the survivor retain the assistance. The commenter states that all VAWA covered housing survivors, not just those in the HCV program, should be prioritized in this way to retain the subsidy. Another noted that survivors should be able to affirmatively request to have their lease bifurcated and covered housing providers must process those requests and offer, but not mandate, safety planning. A commenter stated that HUD must reverse its position that the availability of lease bifurcation depends on "applicable state law" because it's resulting in inconsistent access to this protection. HUD has the authority to mandate specific lease provisions to allow for lease bifurcation regardless of state law. If HUD does this, it should amend its forms as necessary. Another suggested that HUD should issue guidance to clarify that covered housing providers must have a lease bifurcation policy and should provide lease bifurcations to survivors who are able to verify their status as a survivor.

A commenter asked HUD to clarify that no additional certification besides the HUD-5382 is required for a lease bifurcation. According to a commenter, covered housing providers are interpreting HUD's regulation at 24 CFR 5.2009(a) to elevate the proof requirements when considering bifurcation by putting the burden on survivors to demonstrate a nexus between criminal activity and VAWA violence/abuse. If a bifurcation is denied, all a survivor can do is grieve the decision, but bifurcation is not mandatory and such grievances are not expedited. The commenter states that,

therefore, HUD should remove the “criminal activity” requirement.

Commenters suggest that the forms should provide information about lease bifurcation and family break-up, and how it interrelates to emergency transfers. Since emergency transfers are not successful when the perpetrator is on the lease and receiving subsidy, it’s important to make survivors aware of bifurcation and family break-up rights. A commenter suggested that the three options need to be viewed collectively as a spectrum of housing retention options for survivors.

HUD response: HUD thanks commenters for this feedback. Many of the suggestions go beyond the scope of this information collection, but HUD will consider them as it engages in rulemaking to implement the most recent reauthorization of VAWA and for future VAWA guidance. HUD directs covered housing providers, survivors, and the public to existing VAWA guidance, specifically PIH–2017–08 (Violence Against Women Reauthorization Act of 2013 Guidance) and H–2017–05 (Violence Against Women Act (VAWA) Reauthorization Act of 2013—Additional Guidance for Multifamily Owners and Management Agents). HUD also reminds covered housing providers that they must comply with the documentation requirements described at 24 CFR 5.2007 when seeking information about an individual’s status as a survivor of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfers. Commenters had suggestions for the emergency transfer requirements under VAWA. Commenters asked HUD to stop distinguishing between internal and external transfers, since internal transfers rarely protect safety or reduce trauma and external transfers rarely occur. Instead, they request that HUD require transfers when there is an available, safe unit within the same subsidy program (or, in the case of RAD converted projects, also to public housing units) regardless of waitlist. Others suggested that HUD should consider transfers to other properties owned and/or managed by the same entities as internal transfers, requiring providers to coordinate across their own portfolios to facilitate survivor relocation. Commenters also noted that HUD should mandate that covered housing providers cover moving expenses for an emergency transfer. A commenter recommended that HUD should encourage providers to utilize their resources or partner with community organizations to alleviate

survivors’ cost burdens when there’s a transfer.

HUD response: HUD thanks commenters for these suggestions, but they go beyond the scope of this proposed information collection. With respect to moving costs, while HUD’s regulations do not make covered housing providers responsible for covering moving costs for survivors, HUD encourages covered housing providers to bear these costs where possible, or to work with victims to identify possibilities for funding transfers.

Confidentiality. A commenter noted that HUD must do more to protect survivors’ confidentiality and hold accountable providers who violate confidentiality rules. The commenter directed HUD to available resources on confidentiality practices.

HUD response: HUD reiterates that complying with the confidentiality requirements in HUD’s VAWA regulations is critical for protecting survivors’ safety. If a survivor believes their VAWA confidentiality rights have been violated, they may file a complaint with HUD’s Office of Fair Housing and Equal Opportunity (FHEO).

Failure to issue notices and forms. A commenter requested that HUD make clear that compliance and occupancy reviews of HUD covered housing programs will flag covered housing providers who fail to issue required HUD VAWA notifications and plans and will cite them for corrective action.

HUD response: HUD thanks commenters for their feedback. Covered housing providers are required to comply with HUD’s regulations implementing VAWA at 24 CFR part 5, subpart L, which include requirements for when these forms must be provided or otherwise made available, and HUD will enforce these requirements as applicable.

Lease addendum. A commenter stated that HUD should require covered housing providers to use a VAWA lease addendum, and covered housing providers should have to certify that they are using it and that households are informed about the terms of the addendum during initial lease signing and subsequent renewals.

HUD response: HUD’s existing VAWA regulations require descriptions of VAWA protections in leases, lease addendum or contracts, as specified in the regulations for the HOME, HOPWA, ESG, and CoC programs. For the Housing Choice Voucher program under 24 CFR part 982, the project-based voucher program under 24 CFR part 983, the public housing admission and occupancy requirements under 24 CFR

part 960, and renewed funding or leases of the Section 8 project-based program under 24 CFR parts 880, 882, 883, 884, 886, as well as project-based section 8 provided in connection with housing under part 891, the HUD-required lease, lease addendum, or tenancy addendum, as applicable, must include a description of specific protections afforded to the victims of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD’s regulations implementing VAWA at 24 CFR part 5, subpart L.

Technical assistance. Commenters noted a need for VAWA training and technical assistance on various topics, such as VAWA’s housing provisions, facilitating emergency transfers, partnering with victim service providers, and meeting reporting requirements.

HUD response: HUD appreciates the commenters’ feedback and is working closely with VAWA Technical Assistance Providers to provide training and technical assistance that will address these needs.

Form HUD–5380

Form readability. A commenter states that the revisions to the form are an improvement and make it easily readable. The commenter believes the question-and-answer format will assist residents in understanding what is required of them to assert their rights.

Other commenters had suggestions to make the form more readable. A commenter notes that the question “What is the Violence Against Women Act (VAWA)” is followed by information that does not answer the question, and it does not explain that VAWA is a federal law that provides survivors rights in housing. Additionally, the definition of VAWA violence contains terms not defined in the form. To keep the document short and simple, a commenter suggested including an appendix or cross-referencing the definitions in HUD–5382, since that form must be provided at the same time. Another commenter recommended that HUD should include a chart addressing the answer to the question, “how can I remove an abuser from my household” by each program.

A commenter notes that due in part to confusing language in the form, some housing providers may think that survivors of sexual assault are only eligible for an emergency transfer if the assault occurred on the property in the prior 90 days, but such survivors are also eligible if they have a reasonable fear of further violence if they remain in the housing.

HUD response: HUD thanks commenters for their responses and agrees that the forms should be as simple as possible and accessible to a wide audience. HUD has made edits to the response to the question on the form that asks “What is the Violence Against Women Act (VAWA)” to better explain that it is a Federal law that protects survivors’ housing rights. HUD has also included additional definitions; an answer to the question, “Can the perpetrator be evicted or removed from my lease?”, and has added a chart to provide responses by program to the question, “What happens if the lease bifurcation ends up removing the only tenant who qualified for the housing or assistance?”

HUD also made edits to emphasize that survivors of sexual assault are eligible for an emergency transfer either based on a fear of imminent harm from further violence or because the assault occurred on the property in the prior 90-days. These edits include capitalizing and bolding the words “either” and “or,” and including a designated note that reiterates this point.

Form title. A commenter recommends changing the title to “Rights for Survivors” or “Help for Survivors” because these are public facing documents and this will inform more survivors and help them understand that the Notice contains rights they have under Federal law. The Commenter notes that other Federal agencies have simplified titles of documents to help members of the public understand their rights.

HUD response: HUD appreciates commenter’s recommendation but declines to make this change. The title of this form is included in HUD’s regulations implementing VAWA at 24 CFR 5.2005(a), limiting HUD’s ability to make this change through the Paperwork Reduction Act process. Additionally, such a change is likely to cause confusion.

Confidentiality. A commenter states that HUD should include confidentiality requirements in Form 5380, particularly the requirement prohibiting personally identifying information about survivors without informed, time-limited written consent. The form should clarify that the release must be in writing and time-limited.

HUD response: While the form already included some information about confidentiality, HUD has now expanded the discussion of confidentiality to include the requirements that commenters mentioned.

Bifurcation. A commenter states that the bifurcation language, while it helps

survivors understand that their housing provider may remove the abuser from the lease, is too dense. The commenter recommends streamlined language. Additionally, HUD should amend the answer to the question, “How can I remove an abuser from my household?” to make clear that survivors can affirmatively request their lease bifurcated and that covered housing providers are required to have a lease bifurcation policy.

HUD response: HUD has amended the question, “How can I remove an abuser from my household?” to instead ask, “Can the perpetrator be evicted or removed from my lease?” and provided a simplified response that explains that depending on the specific situation, a covered housing provider may be able to divide the lease to evict just the perpetrator and this is called “bifurcating the lease.”

Adverse factors. A commenter notes that VAWA prohibits covered housing providers from denying admission to, denying assistance under, terminating participation in, or evicting a tenant based on an adverse factor, if the adverse factor is determined to be a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. HUD should include the list of adverse factors that it has included in its guidance in the form in order to provide notice to survivors.

HUD response: HUD thanks commenters for this suggestion but declines to add the list of adverse factors to form HUD-5380. HUD has included a list of examples of adverse factors in guidance, specifically PIH-2017-08 (Violence Against Women Reauthorization Act of 2013 Guidance) and H-2017-05 (Violence Against Women Act (VAWA) Reauthorization Act of 2013—Additional Guidance for Multifamily Owners and Management Agents). This guidance includes non-exhaustive lists of potential adverse factors that could be a direct result of domestic violence, dating violence, sexual assault, or stalking. Covered housing providers and survivors are encouraged to use this guidance, but there may be other adverse factors, in addition to those included in these lists, that are also a direct result of domestic violence, dating violence, sexual assault, or stalking. The determination of an adverse factor will be fact specific. Because of this, and to limit the length of these forms, HUD has not added a list of adverse factors to HUD-5380.

Reasonable accommodations. Commenters recommend changes to better address reasonable

accommodations that may be necessary for individuals with disabilities. HUD should revise the form to inform survivors that individuals with a disability may make a reasonable accommodation request at any time, including for the first time in an eviction. Also, the form should inform survivors that the law prohibits the housing provider from inquiring about the nature of the survivor’s disability and that in the event of a denial of a reasonable accommodation, the housing provider may need to engage in the interactive process to determine the accommodation that will work to allow survivors to submit their forms. Additionally, HUD should include a footnote to joint HUD-DOJ guidance about reasonable accommodations.

HUD response: HUD appreciates commenter’s suggestions and has added much of this information to the form while still ensuring that it is consistent with relevant fair housing and civil rights laws, including the Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.

Actual and imminent threat.

Commenters state that HUD needs to make clear that the actual and imminent threat exception to VAWA is quite limited by regulation and sub-regulatory guidance. HUD should include the factors under 24 CFR 5.2003 that a PHA or housing provider must consider in determining whether a situation involving a survivor falls under the “actual and imminent” exception. Without clarification, it appears that evicting a survivor without examining if there are mitigating circumstances is lawful. As boldly and prominently as HUD can make it, HUD should state that evictions should only occur if there is no other action to be taken that would reduce or eliminate the threat.

HUD response: VAWA does not limit covered housing providers’ authority to terminate assistance or evict a tenant under a covered housing program in the limited circumstances in which a covered housing provider can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property of the covered housing provider would be present if that tenant or lawful occupant is not evicted or terminated from assistance. An actual or imminent threat is one in which there is physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include the duration of the

risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur. Only if no other action can be taken to reduce or eliminate the threat should a covered housing provider evict or end the assistance of the survivor. HUD has edited the answer to the question, “Are there any reasons that I can be evicted or lose assistance?” to better convey that this is a limited circumstance, and that eviction or termination should only be used as a last resort.

Documentation. Commenters are concerned that the HUD–5380 does not adequately explain the types of documentation that a survivor may provide to establish their status as a survivor of VAWA violence/abuse, as described at 24 CFR 5.2007. HUD needs to revise the documentation section to include that a statement or other evidence can be used to satisfy a documentation request, and the housing provider must describe it in detail. Another commenter stated that this option (“any other statement or evidence that can be provided as documentation the applicant or tenant is a victim”) should be separated from the third option in the list of available documentation and have its own section. Additionally, the Notice needs to be clear that a covered housing provider is not required to request documentation when a survivor requests protections. Further, HUD needs to clarify that it is the survivor’s choice about what form of documentation to provide and that the covered housing provider must accept this documentation and may not seek additional documentation. HUD also needs to clarify on the forms that only one form of documentation is required unless the documentation does not meet the criteria or there is conflicting information, as provided in HUD regulations.

HUD response: HUD regulations provide a list of permissible types of documentation that a covered housing provider must accept from a tenant or applicant when the covered housing provider requests documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. To address commenter’s concerns that the fourth type of acceptable documentation (“at the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant”) be appropriately accounted for, HUD has revised the form to list this option on a separate line with its own numbering. HUD has also revised the response to the question, “What do I need to

document that I am a victim of VAWA abuse/violence?” to clarify that only one form of documentation is required and that the survivor chooses which type of documentation to provide. HUD also added more information about the requirements that apply when a covered housing provider receives conflicting information.

Failure to issue the HUD–5380. A commenter suggests that HUD should state that a failure to send the Notice with any notification of termination of subsidy or tenancy renders the termination notice defective under HUD regulations.

HUD response: Where the form discusses the limited circumstances in which a survivor can be evicted or lose their assistance, HUD has included a reminder that covered housing providers must provide a copy of Form HUD–5380 and Form HUD–5382 with eviction or termination notices and prior to termination of tenancy.

VAWA complaints. Commenters suggest that HUD should add information on the Office of Fair Housing and Equal Opportunity (FHEO) new complaint process for potential VAWA violations under “have your protections under VAWA been denied?” The current information about contacting HUD field offices is insufficient because field offices are rarely equipped to process complaints.

HUD response: HUD has revised the form to include a link to FHEO’s website which provides more information about filing a complaint and the link to the complaint form.

Form HUD–5381

Readability. Commenters state that the drafting notes are helpful and will help correct the issue of housing providers failing to provide necessary specific information.

HUD response: HUD thanks commenters for this feedback.

Use as a model form. Commenters are concerned that housing providers cannot rely on the model plan to be fully in compliance with the law. The intent of the statute was to make it easier for housing providers to comply with VAWA, but HUD’s template requires each provider to “reinvent the wheel” and thus is not a “model” plan. Housing providers do not have equal level of resources and smaller ones are relying on their ability to adopt HUD’s form. A commenter suggested that HUD provide a model plan for each applicable program that can be effectively used with only minor customization. Another suggestion is to provide a “key elements” notice that informs tenants of the key elements that

need to be present in emergency transfer plans.

A commenter recommends specific jurisdictions for HUD to evaluate emergency transfer policies as it considers its model plan because commenter believes these jurisdictions’ plans demonstrate a level of commitment, innovation, and partnership to support survivors.

HUD response: HUD appreciates this feedback from commenters. HUD’s Model Emergency Transfer Plan serves as a model, but it is inherently necessary for covered housing providers to customize the form to their program and their housing portfolio to account for the distinctions among both program requirements and the discretionary choices made by covered housing providers. HUD has revised some drafting notes and customization instructions to clarify the necessary elements that covered housing providers must fill in.

Burden estimate. A commenter thinks the number of hours required to tailor the HUD model plan is closer to 24 hours, not 8 as HUD suggests.

HUD response: HUD thanks commenters and has reviewed the burden estimate and does not think further revisions are necessary.

Defining timeframes. Commenters state that HUD should require providers to provide a timeframe for processing Emergency Transfer requests. Further, covered housing providers should identify a time frame by which they will confirm receipt or respond to a survivor’s request.

HUD response: While the form already prompts covered housing providers to insert time frames as part of their policies, HUD has clarified that it means time frames “for approving or denying an emergency transfer request.”

Availability of emergency transfer plans. A commenter states that Emergency Transfer Plans must be publicly available, including being displayed prominently on housing provider websites and tenant-accessible bulletin boards. They further suggest that any member of the public should be able to receive a free copy of the plan in whatever format is accessible to them, and HUD should give further guidance on how to make plans publicly available using these methods.

HUD response: HUD thanks commenters for these suggestions but declines to make changes to the form. HUD regulations at 24 CFR 5.2005(e)(11) require emergency transfer plans to be made publicly available when feasible, and the forms already conform to this standard. However, HUD notes that it is not aware of any instances in which it

has been infeasible to make a plan publicly available, such as by posting it on a covered housing provider's website or having a physical copy available in the covered housing provider's office, and HUD will consider issuing further guidance on this subject.

Safety. Commenters suggest that Emergency Transfer Plans must allow survivors to consent in writing for a victim service provider, culturally specific organization, legal aid organization, friend, or family to be their point of contact to protect safety.

HUD response: HUD declines to make this a mandatory requirement, but covered housing providers are encouraged to include a section on "Safety and Security of Tenants" in their emergency transfer plans. HUD reminds covered housing providers that survivors may have different needs based on their circumstances and that they should strive to communicate with survivors in the way that best meets the survivor's safety needs.

Memoranda of understanding. A commenter states that HUD should include more details in its drafting notes about what a memorandum of understanding should include, why it's important to establish cross-provider partnerships, and that covered housing providers who are establishing these memoranda should work with victim service providers, culturally-specific organizations, and local HUD offices. This is particularly important because emergency transfers are difficult in project-based Section 8 housing and other HUD multifamily housing.

HUD response: HUD thanks commenters for these suggestions but declines to make these changes. HUD believes this information is more appropriately conveyed in guidance and technical assistance, and HUD will consider future information the agency can release on this subject.

Transfer prioritization. A commenter states that HUD needs to provide more guidance on how to prioritize emergency transfer requests. The commenter points out an example of how a large public housing agency considers such transfer requests "resident-initiated" and thus low-priority, and, as a result of their policies for processing such transfers, VAWA survivors may have to wait over a year to move after an emergency transfer request has been approved.

HUD response: HUD will consider issuing guidance on this topic.

Protection of emergency transfer rights. A commenter states that HUD should include language in the forms that better explains to survivors the difference between an internal and an

external transfer. The language from the Notice of Occupancy Rights should be included in the model plan regarding what a household can do if their transfer request is denied or other VAWA rights are otherwise violated.

HUD response: The forms provide space for covered housing providers to describe their policies for internal and external emergency transfers. HUD expects that covered housing providers will fill in information with respect to their specific policies. Survivors should also be provided with the Notice of Occupancy Rights at all required times, and that document also elaborates on emergency transfer requirements and information, if a survivor believes their rights have been violated.

Status in "good standing." Commenters state that HUD needs to more directly state that whether a survivor is in good standing is irrelevant to the determination of whether they qualify for an emergency transfer. The current use of the words "should not" suggests that a provider may, if they choose, consider whether the survivor is in good standing when making the determination. They further suggest that HUD should provide examples of not being in good standing and explain that sometimes, this is due to VAWA violence/abuse, and HUD guidance such as PIH-2017-08 provides clear explanations of adverse factors that might be a direct result of VAWA violence/abuse, including examples that directly connect to good standing.

HUD response: HUD thanks commenters for these suggestions. Where the form notes that covered providers should not evaluate whether a tenant is in good standing when assessing eligibility for an emergency transfer, HUD has added, "Whether or not a tenant is in good standing does not impact their ability to request an emergency transfer under VAWA." HUD notes that survivors, covered housing providers, and others are encouraged to review existing HUD guidance, including PIH-2017-08 (Violence Against Women Reauthorization Act of 2013 Guidance) and H-2017-05 (Violence Against Women Act (VAWA) Reauthorization Act of 2013—Additional Guidance for Multifamily Owners and Management Agents) for further guidance on adverse factors.

Form HUD-5382

Confidentiality. Commenters suggest that HUD should adopt protocols to ensure the safety of the survivor and the confidentiality of their status as a VAWA survivor, including but not limited to clarifying the question that asks a survivor to identify the best

method of contact. It should be reframed to ask through which method of contact they can "safely and securely receive communications" regarding their rights and options, and should leave additional space for other circumstances to consider when communicating with a survivor. The form should note that survivors can regularly update their contact information as needed for safety purposes. The form should also permit a survivor to offer written consent and a release of information to another person, such as an advocate or lawyer, as the point of contact.

HUD response: HUD has revised the section of the form that asks a survivor to provide contact information in response to these comments. The question now asks for the "safest and most secure way" to contact a survivor and allows them to select multiple options. It also provides space for survivors to include other information in response to a newly added question, "Are there any additional circumstances your covered housing provider should consider to ensure your safety before communicating with you?"

Reasonable accommodations. Commenters state that the form should inform survivors that the law prohibits the housing provider from inquiring about the nature of the survivor's disability and that in the event of a denial of a reasonable accommodation, the housing provider may need to engage in the interactive process to determine the accommodation that will work to allow survivors to submit their forms.

HUD response: HUD thanks commenters for these suggestions. HUD has revised the response to the question, "Can I request a reasonable accommodation?" to provide more information regarding reasonable accommodations that may be necessary for individuals with disabilities.

Actual and imminent threat. A commenter suggests that as boldly and prominently as HUD can make it, HUD should state that evictions should only occur if there is no other action to be taken that would reduce or eliminate the threat.

HUD response: As explained elsewhere in this Notice, HUD has revised Form HUD-5380 to address commenter's suggestions regarding actual and imminent threat. Form HUD-5380 must be provided to survivors along with the HUD-5382.

Failure to issue the form. A commenter states that HUD should make clear that failure to send the 5382 with any notification of termination of subsidy or tenancy renders the

termination notice defective under HUD regulations.

HUD response: As noted above, where the HUD-5380 form discusses the limited circumstances in which a survivor can be evicted or lose their assistance, HUD has included a reminder that covered housing providers must provide a copy of Form HUD-5380 and Form HUD-5382 with eviction or termination notices and prior to termination of tenancy.

Form HUD-5383

Readability. A commenter recommends removing the check boxes under number 9 (“Note”) because they’re confusing and suggested using bullets instead.

HUD response: HUD retains the check boxes so survivors can indicate which features they are requesting.

Requesting contact information. Commenters support changes made to this form regarding the best contact method for survivors and encourage further changes including allowing contact information to be updated, and providing space for survivors to list additional considerations, such as calling at certain times of day and not identifying the reason for the call if the survivor is not alone. The form should include space for survivors to give consent to speak with or work through a third-party, as allowed by confidentiality provisions, to support survivors who are under surveillance from the person harming them and offer additional safety means to communicate. Under the Best Method of Contact section, the form should allow space to list this third-party contact and consent to communicate with that contact.

HUD response: HUD has revised the section of the form that asks a survivor to provide contact information in response to public comments. The question now asks for the “safest and most secure way” to contact a survivor and allows them to select multiple options. It also provides space for survivors to include other information in response to a newly added question, “Are there any additional circumstances your covered housing provider should consider to ensure your safety before communicating with you?” HUD reminds covered housing providers that survivors may have different needs based on their circumstances and that they should strive to communicate with survivors in the way that best meets the survivor’s safety needs.

Additions to the form. Commenters suggest additions to the form. The form should provide space for survivors to identify if they will be temporarily

absent from the unit to eliminate common issues caused by the survivor’s absence, including a housing provider issuing an eviction notice or considering the unit vacant.

Commenters further suggest that HUD should explicitly identify space for survivors to request a reasonable accommodation, including space to describe what is needed. The form should also explain what a reasonable accommodation is in the explanatory section at the beginning of the form.

Commenters also state that the form should include a section for survivors to request bifurcation of the lease. This section should be at the top of the form so survivors understand they have options to address both short-term and long-term needs. The form should make clear that is not either/or when it comes to bifurcation and emergency transfers, and both can be requested at the same time.

HUD response: HUD thanks commenters for their suggestions but believes the Form HUD-5383 should be tailored as narrowly as possible for use as an emergency transfer request form to minimize confusion and be as simple for use as possible. HUD has edited the form to provide space for additional circumstances for the covered housing provider to consider so as to ensure safety before communicating with a survivor, and survivors can include additional information in that space, such as if they will not be reachable in the unit for safety purposes. Similarly, HUD has provided space in the section that asks a survivor what features they are requesting for a safe unit, and survivors may write-in other applicable considerations here that would facilitate a suitable transfer, such as accessibility needs. The other forms in this package also explain that individuals can request a reasonable accommodation for a disability, and covered housing providers remain subject to obligations to provide reasonable accommodations as applicable under laws including the Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.

Safety considerations. Commenters support HUD’s options for survivors to identify features of a safe unit. They note additional factors include whether a unit allows essential parts of their safety network to remain accessible, such as job, childcare, healthcare, family, or victim service providers, and HUD should include access to safety network supports as an option in the section. The list reads as an exclusive list as written, even though it does provide an option for “other.”

HUD response: HUD does not intend for the list of potential requested features to be an exclusive list. HUD regulations at 24 CFR 5.2005(e)(1)(iii) establish that a safe unit is one that the survivor believes is safe. HUD anticipates that survivors will have varied, fact-specific safety needs that will impact whether a unit for transfer is safe, and, therefore, the list provided in the form is intended to capture common potential features, but it cannot include every potential feature that a survivor may need. To address commenter’s concern, HUD has included additional space for a survivor to write in “other” requested features. While the form included limited space before, HUD has revised the form to provide more room for survivors to write-in their needs when they select the “other” box.

Confidentiality. Commenters note that confidentiality is critical to ensure safety and to alleviate fear of reporting violence. They further suggest that consequently, HUD should inform survivors that they can request a compliance review from HUD if their information is improperly shared.

HUD response: If a survivor believes their VAWA confidentiality rights have been violated, they may file a complaint with HUD.

Use as an optional form. A commenter states that while the form is optional, HUD should make clear that all information contained in the form must be asked in writing by covered housing providers as survivors seek help.

HUD response: HUD’s regulations and guidance do not address this specific issue. HUD will consider releasing further guidance on this matter in the future.

VAWA Emergency Transfer Data Collection Form

Support for the information collection. Commenters state that they support HUD’s collection of this information and in defining what data covered housing providers must collect and report to HUD regarding emergency transfers. They further indicate that if done correctly, it will inform owners, agents, program offices, and HUD on both the effectiveness of existing emergency transfer plans and barriers to providing survivors such transfers.

HUD response: HUD thanks commenters for this feedback.

Submission of reports. Commenters raise concerns regarding methods for data collection suggesting that the data collection should be streamlined and not entail a new system. They also suggest that HUD develop standardized

tools for covered housing providers. A commenter recommends that HUD review this information during Management and Occupancy reviews (MORs) performed at assisted housing sites and record the information in the appropriate HUD database. According to a commenter, for the Voucher program, HUD should coordinate the submission of data with other data collection requirements and record the information in the appropriate HUD database.

HUD response: HUD appreciates commenters' concerns about efficiently collecting this information in a way that minimizes burden on covered housing providers to the extent possible. HUD intends to collect the information in the form through different methods depending on the program so that it can tailor the collection method to address this concern. Methods may include email communication, DocuSign, Microsoft Forms, or any other survey method collection.

Accuracy of the burden estimate. A commenter notes that the proposed information collection may require new systems to be developed, which will take time and resources. The commenter states that HUD needs to develop standardized tools for covered housing providers to use to facilitate the process to ease burden. Another commenter suggests that burden estimate will vary based on factors such as the internal structure of the program, whether the covered housing program has an operable and streamlined emergency transfer plan, and whether HUD will develop an electronic tracking sheet.

HUD response: HUD thanks commenters for this feedback and has considered it in its burden estimate.

Ways to enhance the quality, utility, and clarity of the information to be collected. Commenters state that HUD should use a standardized data collection form. HUD should use close-ended questions with standardized answer options because it will allow for better evaluation of the data. A mix of quantitative and qualitative information will allow for a more robust assessment. A commenter reminds HUD that it will need to make sure there is consistency among responses within a given report, to ensure reliable information is being collected.

HUD response: HUD has taken these suggestions into account in developing the questions in the form. The questions seek to collect both quantitative and qualitative information and aggregate data, and some questions are broken into parts that are intended to build on each other to ensure internal consistency.

Is HUD's list of potential outcomes adequate or are there outcomes that should be added or modified? A commenter states that the list of potential outcomes is adequate. Another commenter notes that the list of outcomes is great, and HUD can add additional outcomes. This includes adding process outcomes by program to capture the steps and processes used to develop best business practices. For example, looking at whether the covered housing provider has a VAWA coordinator, whether there's a step-by-step process for conducting transfers, whether there's software for searching housing across a portfolio, are there alerts when a unit becomes available, and the relationships that exist. For internal transfers, HUD should consider collecting data on how many requests resulted in transfers and did other transfers take precedence over the VAWA emergency transfer, and if so, why? For external transfers, HUD should collect information on how many requests resulted in transfers and of those, how many were to units in the covered housing provider's portfolio and how many not in their portfolio, as well as whether the receiving location had a VAWA preference.

HUD response: HUD appreciates commenters' suggestions and has included many of them in the form. HUD proposes to ask about whether a covered housing provider has a VAWA coordinator, the relationships that exist for facilitating transfers, and other process questions.

What is an appropriate measure for "length of time" for emergency transfers? Should a covered housing provider only measure from when the emergency transfer was requested to approval/denial and/or should it be measured to move-in date? If a victim is issued a Housing Choice Voucher (HCV) as a result of their emergency transfer request, should the length of time be measured from request to voucher issuance and/or lease-up date? A commenter suggests that the length of time should be based on the initial request and approval/denial decision or voucher issuance. Basing the measurement on move-in date or lease-up date would be an inaccurate reflection of the housing provider's obligations, since they do not have control over when the tenant can move. Another commenter said that a covered housing provider should measure both from when the request was made either orally or in writing to both the approval date and move-in date. The obligation continues past the approval of the transfer, but measuring only by move-in date does not facilitate the prompt

processing of requests. For survivors who are issued Housing Choice Vouchers (HCVs), the length of time should be measured from the transfer request to both the issuance of the voucher and lease-up date. This will help identify barriers to using vouchers and if there are patterns of discrimination.

Commenters note that the appropriate measure may vary. A reasonable timeframe depends on multiple factors, including whether the program has flexibility because it is inherently mobile or allows for short-term placements for a survivor; the covered housing provider's housing portfolio, both in terms of size, number of management companies, internal waiting lists, preferences, and other criteria; and the housing stock available for the unit size and type in the appropriate geographic area, including turnover, waitlists, and preferences. Timeframe should be established by providing program-specific best practices.

HUD response: HUD thanks commenters for this feedback. Based on these responses, HUD proposes to use multiple metrics to measure the timeframe. The form asks covered housing providers how long it took for VAWA emergency transfer requests to be approved, denied, or determined to be incomplete after they were received (*i.e.* the time between when a request was expressly made to when the housing provider finished its review and (1) approved the request, (2) denied the request, or (3) determined that the request was incomplete). The form also asks how long it took for VAWA emergency transfer requests to be completed after they were approved (*i.e.*, the time between when a request was approved to when the tenant has moved into a safe unit). The form then asks for length of time for VAWA emergency transfer requests to be completed after they were received (*i.e.*, the time between when a request was expressly made to a housing provider to when the tenant has moved into a safe unit).

Should covered housing providers be able to explain the circumstances that affected the length of time for emergency transfers (e.g., the victim turned down offered units due to safety concerns)? A commenter asserts that covered housing providers should not be required to explain the circumstances that affected the length of time for emergency transfer but should be able to offer that voluntarily for HUD to document.

Other commenters assert that covered housing providers should be required to

explain the circumstances that affected the length of time for emergency transfers. Documenting efforts to comply with legal requirements is standard operating procedure and holds the covered housing provider accountable. It also protects staff and prevents liability. Similar processes are used for tracking reasonable accommodation requests.

Understanding the reasons why is key for covered housing providers to self-evaluate their policies and practices and take corrective steps as necessary, and allows HUD to identify best practices.

HUD response: HUD appreciates commenters' feedback. In the form, HUD asks questions to collect data on the circumstances that affected the length of time for emergency transfers, but the questions are designed such that covered housing providers will report aggregate data instead of explaining each request individually. HUD believes this will minimize burden on covered housing providers while still allowing for the collection of vital information that can be used to improve the emergency transfer process and ensure that survivors are receiving their VAWA protections, and their safety is prioritized.

Additional emergency transfer information for HUD to collect.

Commenters suggest other categories and types of data for HUD to collect about emergency transfers. Commenters recommend that HUD track the number of survivors who leave a housing program while their emergency transfer is pending. Since emergency transfers can take months to years to complete and survivors are left in unsafe housing, HUD should track whether the survivor gave up the subsidy, abandoned the unit, or was evicted while the transfer was pending. Another commenter suggests tracking the safety measures requested and provided while the transfer is pending.

Covered housing providers should report on the average length of time between an emergency transfer request and approval and average length of time between approval and the tenant moving-in to the new housing unit. HUD should also collect whether the tenant was denied an emergency transfer and the reason why if so. If the denial occurred, did the covered housing provider identify another unit? A commenter suggests tracking the geographic location of the site being requested to transfer from and the parameters of the requested geographic area.

Commenters suggest that covered housing providers should identify partnerships with local victim service

providers and culturally specific organization and the amount of referrals made through that partnership. A commenter suggests tracking whether the survivor was working with an advocate and including a "no-knowledge" checkbox if the housing provider doesn't know. HUD should also ask if the covered housing provider had a working relationship with a service provider who assisted in the process.

Commenters note that providers should identify if they have a VAWA coordinator on staff, including the number of hours the staff person has dedicated to this role and how many survivors have utilized this service. If they do not have a coordinator, they should identify who facilitated the emergency transfers.

Commenters further recommend that providers should report if they have or have considered an admission preference, and if they determined not to provide a preference, the covered housing provider should explain the analysis it used. Covered housing providers should also describe the priority given to VAWA transfer requests relative to other transfer requests, such as overcrowding, reasonable accommodations and non-tenant initiated emergencies, and to waitlist applicants.

Commenters also state that providers should report on how many emergency transfer requests are coupled with requests for an accessible unit or a reasonable accommodation request, and how many emergency transfers are requested in this situation and whether needs are met. Providers should also report if residents needed reasonable accommodations to participate in the emergency transfer request process. Providers should also report on whether the requestor had limited English proficiency and if so, what language they requested be used.

A commenter suggests that providers should report on how many emergency transfer requests are provided to survivors of sexual assault that are not premised on fear of imminent threat of future violence.

A commenter recommends that HUD should collect from providers a list of explanations for why admission to a housing program is denied and track whether decisions are later reversed for a VAWA-related reason, such as by tracking how many applicants submitted a VAWA 5382 and were later admitted.

A commenter further notes that providers should list all moving resources/transfer costs they provide and the number of survivors who have

utilized these resources for a VAWA emergency transfer.

A commenter recommends that providers should use a point-in-time count to track the number of internal and external units they have available for transfer. HUD should collect data on both inter- and intra-development transfers separately. Public Housing Agencies (PHAs) should be required to report how residents in former public housing units converted to project-based vouchers under the Rental Assistance Demonstration ("RAD") program have access to both RAD and public housing units within the housing authority's jurisdiction in the event they need to seek an emergency transfer, since there is a statutory obligation that former public housing tenants in RAD converted properties retain the same rights and protection they had prior to conversion.

HUD response: HUD thanks commenters for these suggestions. As explained elsewhere in this Notice, HUD designed this form to collect aggregate information about emergency transfers, as opposed to collecting information on each individual transfer request. HUD believes that this will produce the most useful data, minimize burden on covered housing providers, and protect the confidentiality of individual survivors. To that end, HUD has incorporated commenters' suggestions to the extent possible within this framework.

The form asks covered housing providers to report on why emergency transfer requests were not completed, which includes an option for "victim vacated unit." The form also collects information about why an emergency transfer request was denied. There is also space for housing providers to indicate types of safety measures they offer, such as offering interim housing for survivors waiting for emergency transfers.

As explained elsewhere in this Notice, HUD also seeks to collect information about timeframes throughout the emergency transfer process. As commenters suggested, the form proposes to collect information about how long it takes for a VAWA emergency transfer request to be completed after it is approved. The form also asks about incomplete and denied emergency transfer requests.

HUD also proposes to collect other information suggested by commenters, including whether covered housing providers: collaborate or coordinate with public housing authorities, Continuums of Care, owners/managers, consortiums, or other providers for purposes of providing housing and

services for victims; offer interim housing for VAWA victims waiting for emergency transfers; provide a waitlist preference for victims of domestic violence, sexual assault, dating violence, and stalking; have a VAWA service coordinator or someone who functions as a VAWA service coordinator; and conduct outreach activities to organizations that assist or provide resources to VAWA victims. HUD declines to collect all of the information suggested by commenters, as the form must prioritize collection of certain emergency transfer information to maximize the utility of the data collected while balancing concerns about burden on covered housing providers. HUD thanks commenters for these suggestions and will consider other ways to issue guidance on these and related matters.

Respondents: Public housing agencies, private multifamily housing owners and management agents, state and local agencies, and grant recipients.

Estimated Number of Respondents: 293,176.

Estimated Number of Responses: 5,044,764.

Frequency of Responses: Varies. For the HUD-5380, there are approximately 3,918 Public Housing and Housing Choice Voucher respondents with 65 responses per respondent. For Multifamily Housing, there are approximately 23,000 respondents with 34 responses per respondent. For HOME, there are 1,874 respondents with approximately 44 responses per respondent. For HOPWA, there are 255 respondents with 50 responses per respondent. For Homelessness programs (CoC, ESG, Rural Housing Stability) there are 6,350 respondents with 7 responses per respondent.

Each respondent indicated will have to complete an emergency transfer plan using the HUD-5381 or other format. For the HUD-5382 certification for documentation by survivor and emergency transfer request, there are approximately 231,965 responses.

Average Hours per Response: Varies depending on form (0.44 based on total burden hours/total responses).

Total Estimated Burden Hours: 2,230,480.58.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of

the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

(5) Ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Colette Pollard,

*Department Reports Management Officer,
Office of Policy Development and Research,
Chief Data Officer.*

[FR Doc. 2024-15555 Filed 7-15-24; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R3-ES-2024-0070;
FXES11140300000-245-FF03E00000]

Draft Environmental Assessment and Proposed Habitat Conservation Plan; Receipt of an Application for an Incidental Take Permit; Alliant Energy, Iowa and Minnesota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment and information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Alliant Energy's Interstate Power and Light Company and Wisconsin Power and Light Company (Alliant; applicant), for an incidental take permit (ITP) under the Endangered Species Act, for wind facilities in Iowa and Minnesota (project). The applicant requests the ITP for the take of four bat species incidental to the otherwise lawful activities associated with the project. The applicant proposes a conservation program to minimize and mitigate for the unavoidable incidental take as

described in their habitat conservation plan (HCP). The Service requests public comment on the application, which includes the applicant's proposed HCP, and the Service's draft environmental assessment, prepared pursuant to the National Environmental Policy Act. The Service provides this notice to seek comments from the public and Federal, Tribal, State, and local governments.

DATES: We will accept comments received or postmarked on or before August 15, 2024.

ADDRESSES:

Obtaining Documents: Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS-R3-ES-2024-0070 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-R3-ES-2024-0070.

- **U.S. mail:** Public Comments Processing, Attn: Docket No. FWS-R3-ES-2024-0070; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041-3803.

FOR FURTHER INFORMATION CONTACT:

Kraig McPeck, Field Supervisor, Illinois-Iowa Ecological Services Field Office, by email at kraig_mcpeek@fws.gov or by telephone at 309-757-5800, extension 202; or Andrew Horton, Regional HCP Coordinator, by email at andrew_horton@fws.gov or by telephone at 612-713-5337. 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 an application from Alliant Energy's Interstate Power and Light Company and Wisconsin Power and Light Company (Alliant; applicant), for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), for its eight wind facilities in Iowa and one facility in Minnesota (project). The applicant requests the ITP, which would be for a 30-year period, for the take of the four covered bat species in table 1, incidental to the otherwise lawful activities associated with the project.

TABLE 1—COVERED SPECIES

Common name	Scientific name	Federal listing status
Indiana bat	<i>Myotis sodalis</i>	Endangered.
Northern long-eared bat	<i>Myotis septentrionalis</i>	Endangered.
Tricolored bat	<i>Perimyotis subflavus</i>	Proposed endangered.
Little brown bat	<i>Myotis lucifugus</i>	Under review for listing.

The applicant proposes a conservation program to minimize and mitigate for the unavoidable incidental take as described in their habitat conservation plan (HCP). The Service requests public comment on the application, which includes the applicant's proposed HCP, and the Service's draft environmental assessment, prepared pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). The Service provides this notice to seek comments from the public and Federal, Tribal, State, and local governments.

Background

Section 9 of the ESA and its implementing regulations prohibit the "take" of animal 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. 1532(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 incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

Applicant's Proposed Project

The applicant requests a 30-year ITP for take of the four covered species in table 1. The applicant determined that the covered activities (operation, refurbishment, and repowering) of the wind projects are reasonably certain to result in incidental take of these covered species. The authorized level of take from the covered activities over the 30-year project duration is expected to be 123 Indiana bats; 246 northern long-eared bats; 2,520 tricolored bats; and 3,536 little brown bats.

The proposed conservation strategy in the applicant's proposed HCP is designed to avoid, minimize, and mitigate the impacts of the covered activities on the covered species. The biological goals and objectives are to

minimize potential take of the covered species through on-site minimization measures and to provide habitat conservation measures for the covered species to offset the impact of the taking. On-site minimization measures have been designed based on the apparent risk level of each project, and include feathering turbines when wind is below manufacturer's cut-in speed, below 4.0 meters per second (m/s), and below 5.0 m/s during periods of highest bat risk, as described in table 5.1 in the HCP. Minimization measures will be implemented nightly from sunset to sunrise. To offset the impacts of the taking, the applicant proposes to protect and restore known maternity colony habitat for the covered species. The Service requests public comments on the permit application, which includes a proposed HCP, and an EA prepared in accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*).

The applicant's HCP describes the activities that will be undertaken to implement the project, as well as the mitigation and minimization measures proposed to address the impacts to the covered species. Pursuant to NEPA, the EA analyzes the impacts the ITP issuance would have on the covered species and the environment.

National Environmental Policy Act

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA. We prepared a draft EA that analyzes the environmental impacts on the human environment resulting from three alternatives: A no-action alternative, the applicant's proposed action, and a more restrictive alternative consisting of feathering at a rate of wind speed that results in less impacts to bats.

Next Steps

The Service will evaluate the permit application and the comments received to determine whether the application meets the requirements of section 10(a) of the ESA. 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 above findings, 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 the requested ITP to the applicant.

Request for Public Comments

The Service invites comments and suggestions from all interested parties during a 30-day public comment period (see **DATES**). In particular, information and comments regarding the following topics are requested:

- The direct, indirect, or cumulative effects that implementation of any alternative could have on the human environment.
- Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed.
- Any other information pertinent to evaluating the effects of the proposed action on the human environment.

Availability of Public Comments

You may submit comments by one of the methods shown under **ADDRESSES**. We will post on <https://regulations.gov> all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing

regulations (40 CFR 1506.6; 43 CFR part 46).

Lori Nordstrom,

Assistant Regional Director, Ecological Services.

[FR Doc. 2024–15594 Filed 7–15–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX24EE000101000]

Draft National Spatial Data Infrastructure Strategic Plan

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice; request for public comment.

SUMMARY: The Federal Geographic Data Committee (FGDC) is soliciting public comments on the draft strategic plan for the National Spatial Data Infrastructure (NSDI).

DATES: Comments must be received by August 6, 2024.

ADDRESSES: Information about the FGDC is available at www.fgdc.gov. The draft strategic plan, along with instructions for submitting comments, is posted at: www.fgdc.gov/nsdi-plan. You may provide comments by either of the following methods:

- Electronically to nsdicomments@fgdc.gov.
- By mail to Federal Geographic Data Committee, 12201 Sunrise Valley Drive, Mail Stop 590, Reston, VA 20192.

FOR FURTHER INFORMATION CONTACT:

Joshua Delmonico, U.S. Geological Survey (703–648–5752).

SUPPLEMENTARY INFORMATION: The FGDC is the interagency committee that serves as the lead entity in the executive branch for the development, implementation, and review of policies, practices, and standards relating to geospatial data. The FGDC operates under the authority of the Geospatial Data Act of 2018 (GDA) and Office of Management and Budget (OMB) Circular A–16. One of the FGDC's responsibilities under the GDA is to “prepare and maintain a strategic plan for the development and implementation of the NSDI in a manner consistent with national security, national defense, and emergency preparedness program policies regarding data accessibility.” The GDA describes the NSDI as “the technology, policies, criteria, standards, and employees necessary to promote geospatial data sharing throughout the Federal Government, State, Tribal, and

local governments, and the private sector (including nonprofit organizations and institutions of higher education).”

The draft NSDI strategic plan has been developed with inputs from a variety of sources, including FGDC member agencies, the National Geospatial Advisory Committee, and geospatial partner organizations. The plan describes a broad national vision for the NSDI and includes goals and objectives for the sustainable development of the NSDI. Following the public comment period, a revised draft of the plan will be prepared for final review and adoption by the FGDC Steering Committee. Following adoption of the strategic plan, the FGDC will develop more detailed project plans for the goals and objectives in the strategic plan.

Kenneth M. Shaffer,

Deputy Executive Director, Federal Geographic Data Committee.

[FR Doc. 2024–15508 Filed 7–15–24; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2024–0002; EEEE500000 245E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0017]

Agency Information Collection Activities; Safety and Environmental Management Systems

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 16, 2024.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to <http://www.regulations.gov>. In the Search box, enter BSEE–2024–0002 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email nikki.mason@bsee.gov, fax (703) 787–1546, or mail or hand-carry comments to the Department of the

Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nikki Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0017 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nikki Mason by email at nikki.mason@bsee.gov or by telephone at (703) 787–1607. 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 PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies 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 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. 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: Regulations governing Safety and Environmental Management Systems (SEMS) are covered in 30 CFR 250, Subpart S and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NLTs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

We consider the information to be critical for us to monitor industry's operations record of safety and environmental management on the OCS. The Subpart S regulations hold the operator accountable for the overall safety of the offshore facility, including ensuring that all employees, contractors, and subcontractors have safety policies and procedures in place that support the implementation of the operator's SEMS program and align with the principles of managing safety. An operator's SEMS program must describe management's commitment to safety and the environment, as well as policies and procedures to assure safety and environmental protection while conducting OCS operations (including those operations conducted by all personnel on the facility). BSEE will use the information obtained by submittals and observed via SEMS audits to ensure that operations on the OCS are conducted safely, as they pertain to both human and environmental factors, and in accordance with BSEE regulations, including industry practices incorporated by reference within the regulations. Job Safety Analyses (JSA's) and other recordkeeping required by the SEMS regulation will be reviewed diligently by BSEE during inspections and other oversight activities and by SEMS auditors during regulatory required audits, to ensure that industry is using the documentation required by the SEMS regulation to manage their safety and environmental risks.

Information on Form BSEE-0131, which the SEMS regulation requires to be submitted to BSEE annually, includes company identification, number of company/contractor injuries and/or illnesses suffered, company/contractor hours worked, EPA National Pollutant Discharge Elimination System (NPDES) permit non-compliances, and oil spill volumes for spills less than 1 barrel. Such information is reported on a calendar year basis, with data broken out by calendar quarter. The information is used to develop industry average incident rates that help to describe how well the offshore oil and gas industry is performing. Operators use these incident rates to benchmark against their own performance, and to focus on areas that need improvement. Using the produced data allows BSEE to better focus our regulatory and research programs on areas where the performance measures indicate that operators are having difficulty meeting our expectations. BSEE will be more effective in leveraging resources by redirecting research efforts, promoting appropriate regulatory initiatives, and shifting inspection and Directed Audit program emphasis based on performance results.

Title of Collection: 30 CFR part 250, subpart S, Safety and Environmental Management Systems (SEMS).

OMB Control Number: 1014-0017.

Form Number: BSEE-0131, Performance Measures Data.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way and/or third-party personnel or organization.

Total Estimated Number of Annual Respondents: Currently there are approximately 555 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 686.

Estimated Completion Time per Response: Varies from 39 hours to 11,926 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 1,487,634.

Respondent's Obligation: Responses are mandatory.

Frequency of Collection: Submissions are on occasion.

Total Estimated Annual Nonhour Burden Cost: \$3,259,727.

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.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2024-15584 Filed 7-15-24; 8:45 am]

BILLING CODE 4310-VH-P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE-2023-0011; EEEE500000 245E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014-0021]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Operations in the Outer Continental Shelf for Minerals Other Than Oil, Gas, and Sulphur

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 15, 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 Nikki Mason, BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to nikki.mason@bsee.gov. Please reference OMB Control Number 1014-0021 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nikki Mason at 703-787-1607 or by email at nikki.mason@bsee.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. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA 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 June 16, 2023 [88 FR 39459]. 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: BSEE will use the information required by 30 CFR 282 to determine if lessees are complying with the regulations that implement the mining operations program for minerals other than oil, gas, and sulphur. Specifically, BSEE will use the information:

- To ensure that operations for the production of minerals other than oil, gas, and sulphur in the OCS are conducted in a manner that will result in orderly resource recovery, development, and the protection of the human, marine, and coastal environments.
- To ensure that adequate measures will be taken during operations to prevent waste, conserve the natural resources of the OCS, and to protect the environment, human life, and correlative rights.
- To determine if suspensions of activities are in the national interest, to facilitate proper development of a lease including reasonable time to develop a mine and construct its supporting facilities, and to allow for the construction or negotiation for use of transportation facilities.
- To identify and evaluate the cause(s) of a hazard(s) generating a suspension, the potential damage from a hazard(s) and the measures available to mitigate the potential for damage.
- For technical evaluations that provide a basis for BSEE to make informed decisions to approve, disapprove, or require modification of the proposed activities.

Title of Collection: 30 CFR 282, Operations in the Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulphur.

OMB Control Number: 1014–0021.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 555 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 16.

Estimated Completion Time per Response: Varies from 1 hour to 20 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 56.

Respondent's Obligation: Required to obtain or retain a benefit, or Voluntary.

Frequency of Collection: Submissions are as a result of situations encountered.

Total Estimated Annual Nonhour Burden Cost: \$100,000.

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.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2024–15586 Filed 7–15–24; 8:45 am]

BILLING CODE 4310–VH–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–732 and 731–TA–1701 (Preliminary)]

Tungsten Shot From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty Investigation Nos. 701–TA–732 and 731–TA–1701 (Preliminary) pursuant to the Tariff Act of 1930 (“the Act”) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of tungsten shot from China, provided for in subheading 8101.99.80 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce (“Commerce”) extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by August 26, 2024. The Commission's views must be transmitted to Commerce within five business days thereafter, or by September 3, 2024.

DATES: July 10, 2024.

FOR FURTHER INFORMATION CONTACT: Alejandro Orozco (202–205–3177),

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 these investigations may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to petitions filed on July 10, 2024, by Tungsten Parts Wyoming, Inc., Laramie, Wyoming.

For further information concerning the conduct of these investigations 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 and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioner) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven

days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Office of Investigations will hold a staff conference in connection with the preliminary phase of these investigations beginning at 9:30 a.m. on July 31, 2024. Requests to appear at the conference should be emailed to preliminaryconferences@usitc.gov (DO NOT FILE ON EDIS) on or before July 29, 2024. Please provide an email address for each conference participant in the email. Information on conference procedures, format, and participation, including guidance for requests to appear as a witness via videoconference, will be available on the Commission's Public Calendar (<https://usitc.gov/calendar>). A nonparty who has testimony that may aid the Commission's deliberations may request permission to participate by submitting a short statement.

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.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before 5:15 p.m. on August 5, 2024, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties shall file written testimony and supplementary material in connection with their presentation at the conference no later than noon on July 30, 2024. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also 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 investigations must be served on all other parties to the investigations (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.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations 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 these or related investigations or reviews, 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, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: July 10, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024-15530 Filed 7-15-24; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1407]

Certain Eye Cosmetics and Packaging Therefor; Notice of Institution of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 20, 2024, under section 337 of the Tariff Act of 1930, as amended, on behalf of Amarte USA Holdings, Inc. of Redding, California. An amended complaint was filed on May 31, 2024, a second amended complaint was filed on June 7, 2024, and a supplement was filed on June 28, 2024. The second amended complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within

the United States after importation of certain eye cosmetics and packaging therefor by reason of the infringement of U.S. Trademark Registration No. 4,328,655 (“the ‘655 mark”). The second amended complaint also alleges that an industry in the United States exists as required by the applicable Federal Statute. The second amended complaint further alleges violations of section 337 based upon the importation into the United States, or in the sale of certain eye cosmetics and packaging therefor by reason of unfair competition and false advertising, the threat or effect of which is to destroy or substantially injure an industry in the United States. The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained 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 at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2024).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on July 10, 2024, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of

certain products identified in paragraph (2) by reason of infringement of the ‘655 mark, and whether an industry in the United States exists as required by subsection (a)(2) of section 337; and

(b) Whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, or in the sale of certain products identified in paragraph (2) by reason of unfair competition or false advertising, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “eye cosmetics, *i.e.*, eye creams, eye palettes, eye kits, eye patches, eye serums and eye lashes”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Amarte USA Holdings, Inc., 1731 California St., Redding, California 96001.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served: Unilever PLC, Port Sunlight, Wirral, Merseyside CH62 4ZD, United Kingdom

Unilever United States, Inc., 800 Sylvan Avenue, Englewood Cliffs, New Jersey 07632

Carver Korea Co., Ltd., 81 Tojeong-ro 31-gil, Mapo-gu, Seoul (Daeheung-dong), South Korea

Bourne & Morgan Ltd., 71–75 Shelton Street, Covent Garden, London, United Kingdom, WC2H 9JQ

MZ Skin Ltd., 5 Elstree Gate, Elstree Way, Borehamwood, Hertfordshire, United Kingdom, WD61JD

Kaibeautey, 104 Nanjing W Rd., Zhongshan District, Taipei City, Taiwan 10491

I’ll Global Co., Ltd., 3F, Samdeok Bldg., 315, Sinbanporro, Seocho-gu, Seoul, South Korea 06546

Hikari Laboratories Ltd., 207 Rishonim Street, Bnei Atarot 60991, Israel

Iman Cosmetics, P.O. Box 6867,

London, Greater London, E14 5AN, United Kingdom; and, 363 7th Ave Suite 8, New York, NY 10001

Strip Lashed, 38 Main Street, Rawmarsh, Rotherham, South Yorkshire, S62 5WV, United Kingdom
Kelz Beauty, Almassy Ter 11, 1077, Budapest, Hungary

(c) The Office of Unfair Import Investigations, U.S. International Trade

Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: July 11, 2024.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2024–15630 Filed 7–15–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On July 11, 2024, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of North Dakota in the lawsuit entitled *United States v. Marathon Oil Company*, Civil Action No. 1:24–cv–00136–DMT–CRH.

The United States filed this lawsuit under the Clean Air Act against Defendant Marathon Oil Company, alleging two types of violations at oil

and gas production facilities on the Fort Berthold Indian Reservation in North Dakota: (1) violation of requirements to obtain preconstruction permits under the prevention of significant deterioration program and operating permits under the Title V permitting program; and (2) violation of design, operation and maintenance requirements applicable to oil and gas production facilities. The complaint seeks injunctive relief and civil penalties for the defendants' alleged violations. The consent decree requires the defendants to perform injunctive relief to address the alleged violations, perform additional projects to mitigate excess emissions, and pay a \$64.5 million civil penalty.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Marathon Oil Company*, D.J. Ref. No. 90–5–2–1–10388/4. 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.

Any comments submitted in writing may be filed in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the consent decree, you may request assistance by email or mail to the addresses provided above for submitting comments.

Laura Thoms,
Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024–15615 Filed 7–15–24; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0858]

Permit-Required Confined Spaces Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Permit-Required Confined Spaces Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by September 16, 2024.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at <https://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to <https://www.regulations.gov>. Documents in the docket are listed in the <https://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the websites. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2011–0858) for the Information Collection Request (ICR). OSHA will place all comments, including any personal information, in the public docket, which may be made available online. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates.

For further information on submitting comments, see the “Public Participation” heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:
Seleda Perryman, Directorate of

Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The following sections describe who uses the information collected under each requirement, as well as how they use it. The purpose of these requirements is to ensure that employers systematically evaluate the dangers in permit spaces before entry is attempted, and to ensure that adequate measures are taken to make the spaces safe for entry.

Section 1910.146(c)(2) requires the employer to post danger signs to inform exposed employees of the existence and location of, and the dangers posed by, permit spaces.

Section 1920.146(c)(4) requires the employer to develop and implement a written “permit-space program” when the employer decides that its employees will enter permit spaces. The written program is to be made available for inspection by employees and their authorized representatives. Section 1910.146(d) provides the employer with the requirements of a permit-required confined space program.

Section 1910.146(c)(5)(i)(E) requires that the determinations and supporting data specified by paragraphs (c)(5)(i)(A), (c)(5)(i)(C) of this section are

documented by the employer and are made available to each employee who enters a permit space of to that employee's authorized representative.

Under paragraph (c)(5)(ii)(H) of § 1910.146, the employer is required to verify that the space is safe for entry and that the pre-entry measures required by paragraph (c)(5)(ii) of this section have been taken, using a written certification that contains the date, the location of the space, and the signature of the person providing the certification. The certification is to be made before entry and is required to be made available to each employee entering the space or to that employee's authorized representative.

Section 1910.146(c)(7)(iii) requires the employer to document the basis for determining that all hazards in a permit space have been eliminated using a certification that contains the date, the location of the space, and the signature of the person making the determination. The certification is to be made available to each employee entering the space or to that employee's authorized representative.

Section 1910.146(c)(8)(i) requires that the employer inform the contractor that the workplace contains permit spaces and that permit space entry is allowed only through compliance with a permit space program meeting the requirements of this section. Section 1910.146(c)(8)(ii) requires that the employer apprise the contractor of the elements, including the hazards identified and the host employer's experience with the space, that make the space in question a permit space. Section 1910.146(c)(8)(iii) requires that the employer apprise the contractor of any precautions or procedures that the host employer has implemented for the protection of employees in or near permit spaces where contractor personnel will be working. Section 1910.146(c)(8)(v) requires the employer to debrief the contractor at the conclusion of the entry operations regarding the permit space program followed and regarding any hazards confronted or created in permit spaces during entry operations.

Section 1910.146(c)(9)(iii) requires that the contractor inform the host employer of the permit space program that the contractor will follow and of any hazards confronted or created in permit spaces, either through a debriefing or during the entry operation.

Section 1910.146(d)(5)(vi) requires the employer to immediately provide each authorized entrant or that employee's authorized representative with the results of any testing conducted in accord with paragraph (d) of the Standard.

Section 1910.146(d)(14) requires employers to review the permit space program, using the canceled permits retained under paragraph (e)(6) within 1 year after each entry and revise the program as necessary, to ensure that employees participating in entry operations are protected from permit space hazards.

Section 1910.146(e)(1) requires the employer to document the completion of measures required by paragraph (d)(3) by preparing an entry permit before employee entry is authorized. Paragraph (f) of § 1910.146 specifies the information to be included on the entry permit. Paragraph (e)(3) requires that the employer make the completed permit available at the time of entry to all authorized entrants by posting the permit at the entry portal or by any other equally effective means, so that the entrants can confirm that pre-entry preparations have been completed. Paragraph (e)(6) requires the employer to retain each canceled entry permit for at least one year; any problems encountered during an entry operation must be noted on the pertinent permit so that revisions to the permit space program can be made.

Section 1910.146(g)(4) requires that the employer certify that the training required by paragraphs (g)(1) through (g)(3) has been accomplished by preparing a written certification record.

Section 1910.146(h)(3) requires the employer to ensure that all authorized entrants communicate with the attendant as necessary to enable the attendant to monitor entrant status and to enable the attendant to alert entrants of the need to evacuate the space as required by paragraph (1)(6) of the Standard. Section 1910.146(h)(4) requires the employer to ensure that all authorized entrants alert the attendant whenever the entrant recognizes any warning sign or symptom of exposure to a dangerous situation (paragraph ((h)(4)(i)), or the entrant detects a prohibited condition (paragraph (h)(4)(ii)).

Section 1910.146(i)(5) requires the employer to ensure that each attendant communicate with authorized entrants as necessary to monitor entrant status and to alert entrants of the need to evacuate the space under the conditions specified in paragraphs (i)(6)(i)–(i)(6)(iv) of the Standard. Section 1910.146(i)(7) requires the employer to ensure that the attendant summon rescue and other emergency services as soon as the attendant determines that authorized entrants may need assistance to escape from permit space hazards. Section 1910.146(i)(8) requires that the employer ensure that the attendant warn

unauthorized persons that they must stay away from the permit space (paragraph (i)(8)(i)); advise unauthorized persons that they must exit immediately if they have entered the permit space (paragraph (i)(8)(ii)); and inform authorized entrants and the entry supervisor if unauthorized persons have entered the permit space (paragraph (i)(8)(iii)).

Section 1910.146(j)(2) requires the employer to ensure that each entry supervisor verifies, by checking that the appropriate entries have been made on the permit, that all tests specified by the permit have been conducted and that all procedures and equipment specified by the permit are in place before endorsing the permit and allowing entry to begin.

Section 1910.146(k)(l)(i) requires the employer to evaluate a prospective rescuer's ability to respond to a rescue summons in a timely manner, considering the hazard(s) identified. Section 1910.146(k)(l)(ii) requires the employer to evaluate a prospective rescue service's ability, in terms of proficiency with rescue-related tasks and equipment, to function appropriately while rescuing entrants from the particular permit space or types of permit spaces identified. Section 1910.146(k)(l)(iv) requires that the employer inform each rescue team or service of the hazards they may confront when called on to perform rescue at the site. Section 1910.146(k)(l)(v) requires that the employer inform each rescue team or service of the hazards they may confront when called on to perform rescue at the site. Section 1910.146(k)(l)(v) requires that the employer provide the rescue team or service selected with access to all permit spaces from which rescue may be necessary so that the rescue service can develop appropriate rescue plans.

Section 1910.146(k)(4) requires that if an injured entrant is exposed to a substance for which a "Material Safety Data Sheet" (MSDS) [now referred to as an SDS (Safety Data Sheet)] or other similar written information is required to be kept at the worksite, that the employer make the MSDS or written information available to the medical facility treating the exposed entrant.

Section 1910.146(l)(1) requires that employers consult with affected employees and their authorized representatives on the development and implementation of all aspects of the permit space program required by paragraph (c). Section 1910.146(l)(2) requires that employers make all information required to be developed by this section available to affected

employees and their authorized representatives.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information, and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of the information collection requirements contained in the Permit-Required Confined Spaces Standard. The agency is requesting an adjustment increase in burden hours from 2,076,039 hours to 2,110,225 hours, a difference of 34,186 hours. This increase is due to the increase in the number of permit space entrants from 1,488,877 to 1,505,672, and due to the increase in the number of establishments with permit spaces from 214,994 to 221,852. It is also related to the adjustment of the estimated percentage of establishments assumed to incur burden hour costs conducting atmospheric monitoring and testing.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: Permit-Required Confined Spaces Standard.

OMB Control Number: 1218-0203.

Affected Public: Business or other for-profits.

Number of Respondents: 221,852

Number of Responses: 14,169,717.

Frequency of Responses: On occasion.

Average Time per Response: Varies.

Estimated Total Burden Hours: 2,110,225.

Estimated Cost (Operation and Maintenance): \$665,700.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at <https://www.regulations.gov>, which is the Federal eRulemaking Portal; or (2) by facsimile (fax), if your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693-1648. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA-2011-0858). You may supplement electronic submission by uploading document files electronically.

Comments and submissions are posted without change at <https://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the <https://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download from this website. All submission, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <https://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips" link.

Contact the OSHA Docket Office at (202) 693-2350, (TTY) (877) 889-5627 for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 8-2020 (85 FR 58393).

Signed at Washington, DC, on July 9, 2024.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2024-15510 Filed 7-15-24; 8:45 am]

BILLING CODE 4510-26-P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Thursday, July 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. NCUA Rules and Regulations, Parts 701 and 741, Succession Planning.
2. NCUA Rules and Regulations, Parts 741 and 751, Incentive-Based Compensation Arrangements.
3. Federal Credit Union Loan Interest Rate Ceiling.

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. 2024-15664 Filed 7-12-24; 11:15 am]

BILLING CODE 7535-01-P

NUCLEAR REGULATORY COMMISSION

Request for Qualified Candidates for Appointment to the Advisory Committee on Reactor Safeguards

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for resumes.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) seeks qualified candidates for appointment to the Advisory Committee on Reactor Safeguards (ACRS or Committee).

ADDRESSES: Submit resumes to Sandra Walker, ACRS, Mail Stop: T2B50, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or email Sandra.Walker@nrc.gov.

SUPPLEMENTARY INFORMATION: The ACRS is a part-time advisory group, which is statutorily mandated by the Atomic Energy Act of 1954, as amended. The ACRS provides independent expert advice on matters related to the safety of existing and proposed nuclear reactor facilities and on the adequacy of proposed reactor safety standards. Of primary importance are the safety issues associated with the operation of commercial nuclear power plants in the United States and related regulatory initiatives, including risk-informed and performance-based regulation, license renewals, enhanced burnup for the operating reactor fleet, and, importantly,

new licensing applications for non-light water reactors.

An increased emphasis is being given to safety issues associated with new light water and non-light water reactor designs and technologies, including topics related to: neutronics and reactor kinetics analyses, thermal-hydraulic phenomena, passive and inherently safe design features, and integrated reactor core and systems performance; nuclear fuels and fuel management, chemistry, and materials; structural and seismic design and engineering; radiation protection, shielding, and health physics; probabilistic risk analysis and assessment; application of digital instrumentation and control systems; and international codes and industrial standards used in multinational and domestic nuclear design certifications and reviews.

In addition, the ACRS may be requested to provide advice on radiation protection, radioactive waste management, and geosciences in the agency's licensing reviews for fuel fabrication and enrichment facilities, and for waste disposal facilities. The ACRS also has some involvement in security matters related to the integration of safety and security of commercial reactors and facilities. For additional information about the ACRS, see the NRC website at: <https://www.nrc.gov/about-nrc/regulatory/advisory/acrs.html>.

Criteria used to evaluate candidates include education and experience, demonstrated skills in nuclear reactor safety matters, the ability to solve complex technical problems, and the ability to work collegially on a board, panel, or committee. The Commission, in selecting its ACRS members, also considers the need for specific expertise to accomplish the work expected to be before the Committee. ACRS members are appointed for four-year terms with no term limits. The Commission looks to fill two vacancies as a result of this request. Candidates are desired that have broad, extensive experience in nuclear safety, such as multiple areas of current emphasis (listed previously) or multi-disciplinary expertise in similar fields of nuclear reactor and nuclear fuel cycle safety. Candidates with broad nuclear safety experience in industry, academia, laboratory, or regulatory backgrounds, or work between those environments, are encouraged to apply. The candidates should also have approximately 20 years of education and experience and a distinguished record of achievement in multiple areas of nuclear science and technology, or related engineering disciplines. Candidates with pertinent graduate

level education will be given additional consideration, and candidates with relevant experience and a distinguished record who do not quite meet the 20-year threshold are also encouraged to apply.

Consistent with the requirements of the Federal Advisory Committee Act, the Commission seeks candidates with diverse backgrounds, so that the membership on the Committee is fairly balanced in terms of the points of view represented and functions to be performed by the Committee. Candidates will undergo a thorough security background check to obtain the security clearance that is mandatory for all ACRS members. The security background check will involve the completion and submission of paperwork to the NRC. Candidates for ACRS appointment may be involved in or have financial interests related to NRC-regulated aspects of the nuclear industry. However, because conflict-of-interest considerations may restrict the participation of a candidate in ACRS activities, the degree and nature of any such restriction on an individual's activities as a member will be considered in the selection process. Each qualified candidate's financial interests must be reconciled with applicable Federal and NRC rules and regulations prior to final appointment. This might require divestiture of securities or discontinuance of certain contracts or grants. Information regarding these restrictions will be provided upon request. As a part of the Stop Trading on Congressional Knowledge Act of 2012, which bans insider trading by members of Congress, their staff, and other high-level federal employees, candidates for appointment will be required to disclose additional financial transactions.

A resume describing the educational and professional background of each candidate, including any special accomplishments, publications, and professional references should be provided. Candidates should provide their current address, telephone number, and email address. All candidates will receive careful consideration. The NRC does not discriminate in employment on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, political affiliation, sexual orientation, marital status, disability, genetic information, age, membership in an employee organization, retaliation, parental status, military service, or other non-merit factor. Candidates must be citizens of the United States and be able to devote approximately 100 days per year to

Committee business, but may not be compensated for more than 130 calendar days. Appointees may be able to attend some Committee meetings virtually. Resumes will be accepted until October 15, 2024.

Dated: July 11, 2024.

For the Nuclear Regulatory Commission.

Carrie Safford,

Secretary of the Commission.

[FR Doc. 2024–15562 Filed 7–15–24; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: Date of notice: July 16, 2024.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 3, 2024, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 39 to Competitive Product List*.

Documents are available at www.prc.gov, Docket Nos. MC2024–406 and CP2024–414.

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2024–15531 Filed 7–15–24; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Privacy Act System of Records; Correction

AGENCY: Postal Service.

ACTION: Notice of a corrected system of records.

SUMMARY: The United States Postal Service® (Postal Service) is providing a correction to a General Privacy Act

System of Records (SOR) that was previously published on August 18, 2021. The previous modifications to the SOR were made to support improved communication efforts within USPS Human Resources employee applications or systems and to reflect current system manager titles. This corrected version of the SOR is being provided to provide notice and promote transparency.

DATES: These corrections are effective immediately without further notice.

ADDRESSES: Privacy and Records Management Office, United States Postal Service Headquarters, USPSPrivacyFedRegNotice@usps.gov.

FOR FURTHER INFORMATION CONTACT: Janine Castorina, Chief Privacy and Records Management Officer, Privacy and Records Management Office, (202) 268-2000 or via email at USPSPrivacyFedRegNotice@usps.gov.

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Privacy Act requirement that agencies publish their systems of records in the **Federal Register** when there is a correction, revision, change, or addition, or when the agency establishes a new system of records. The Postal Service is publishing a corrected version of USPS SOR 100.00, General Personnel Records.

I. Background

The Postal Service previously published an incorrect version of USPS SOR 100.000, that erroneously duplicated the content of USPS SOR 100.100, Recruiting, Examining, and Placement Records, that appeared in the same **Federal Register** Notice (Document Citation—86 FR 46281). As information, SOR 100.000 was formerly published in its entirety on February 25, 2019 (Document Citation—84 FR 6022).

II. Rationale for Changes to USPS Privacy Act Systems of Records

The Postal Service is publishing a corrected version of USPS SOR 100.000, General Personnel Records. This notice is being provided to correct the previous version published on August 18, 2021. As indicated in the previous **Federal Register** Notice, Human Resources required the need to capture and store an employee's personal email and phone number for both pre-hire and after the effective date of the appointment in order to:

- Communicate relevant Human Resource information to employees.
- Communicate with employees about human resource related topics, employment, and gather feedback through surveys.

- Communicate with employees regarding training assignments and requirements both prior to and after effective date of employment or placement.

Summary of changes added to facilitate communication between the Postal Service and individual employees:

- Added purposes 7 through 9
- Added additional items to

Categories of Individuals Covered by the System

- Added additional items to Categories of Records in the System, #1

III. Description of the Modified Systems of Records

A report of the correction to SOR 100.000 has been sent to Congress and to the Office of Management and Budget. The Postal Service does not expect that the corrected version of the system of records will have any adverse effect on individual privacy rights. Accordingly, for the reasons stated above, the Postal Service is providing the corrected version of USPS SOR 100.000, General Personnel Records in its entirety as follows:

SYSTEM NAME AND NUMBER:

USPS 100.000 General Personnel Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

All USPS facilities and personnel offices; Integrated Business Solutions Services Centers; National Personnel Records Center; Human Resources Information Systems; Human Resources Shared Services Center; Headquarters; Computer Operations Service Centers; and contractor sites.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Postmaster General and Chief Human Resources Officer, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260.

Vice President, Human Resources, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260.

Director of Human Resources, USPS OIG, 1735 N Lynn Street, Suite 103, Arlington, VA 22209.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 410, 1001, 1005, and 1206.

PURPOSE(S) OF THE SYSTEM:

1. To perform routine personnel functions.
2. To maintain a source of readily available information on employees for administrative purposes.

3. To administer the grievance and appeal procedure for non-bargaining unit employees.

4. To match a vacant position to the most qualified candidate in bids for preferred assignment.

5. To provide public relations information on USPS management personnel.

6. To provide federal benefit information to retired employees.

7. To facilitate communication between the Postal Service and individual employees, including current and former employees, retirees and new hires.

8. To share relevant information and topics about the Postal Service with individual employees, including current and former employees, retirees and new hires.

9. To gather voluntary feedback from individual employees, including current and former employees, retirees and new hires.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USPS employees, retirees, new hires, their family members, and former spouses who apply and qualify for federal employee benefits under public law.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *Current and former employee's information, including retirees and new hires, and family member information:* Name(s), Social Security Number(s), Employee Identification Number, date(s) of birth, place(s) of birth, marital status, postal assignment information, work contact information, home address(es) and phone number(s), SMS text message number, personal email address, finance number(s), duty location, and pay location.

2. *Official Personnel Folder (OPF) or eOPF (electronic version):* Records related to appointment support, prior federal civilian employment, postal employment, personnel actions, anniversary dates, retirement, benefits, and compensation.

3. *Automated employee information:* Records generated, approved, and stored by electronic means such as Notification of Personnel Actions, health benefit elections, tax withholding changes, and address changes.

4. *Reference copies of all discipline or adverse actions:* Letters of warning; notices of removal, suspension and/or reduction in grade or pay; letters of decisions; and documents relating to these actions. These are used only to refute inaccurate statements by witnesses before a judicial or administrative body. They may not be

maintained in the employee's OPF or eOPF but must be maintained in a separate file by Labor Relations.

5. Nonbargaining unit employee discipline, grievance, and appeals records.

6. *Job bidding records*: Records related to the employee's bid for a preferred assignment.

7. *Biographical summaries*: Records and photographs used for public relations purposes.

8. *Level 2 supervisors' notes*: Records of discussions, letters of warning, and any other relevant official records being maintained at the supervisor's discretion for the purpose of enabling effective management of personnel. (A level 2 supervisor directly supervises bargaining unit employees.)

9. *Email Addresses*: personal email address(es) for retired employees are retained in a separate database and file from other current and former employee information.

RECORD SOURCE CATEGORIES:

Employees; employees' supervisors; USPS customers; law enforcement agencies; individuals who are personal references; former employers, including other federal agencies; and other systems of records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Standard routine uses 1. through 9. apply. In addition:

a. Job bidding records may be disclosed on official bulletin boards in Postal Service facilities and to supervisory and other managerial organizations recognized by USPS.

b. Records pertaining to financial institutions and to nonfederal insurance carriers and benefits providers elected by an employee may be disclosed for the purposes of salary payment or allotments, eligibility determination, claims, and payment of benefits.

c. Records may be disclosed to the National Labor Relations Board (NLRB) in response to its request for investigative purposes, to the extent that the requested information is relevant and necessary.

d. Disclosure of the employee name and past or present grade, duty station, dates of employment, job title, and salary information may be made to a credit bureau or other commercial firm from which a current or former postal employee is seeking credit.

e. Disclosure of a current or former postal employee's name and past or present grade, duty station, dates of employment, job title, salary information, date and reason for

separation may be made to a prospective employer upon request. With respect to former employees, the reason for separation must be limited to one of the following terms: Retired, resigned, or separated.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Automated database, computer storage media, digital files, and paper files. Duplicates of records in the OPF or eOPF and automated employee data may be maintained for localized employee administration or supervision. Records may be filed at offices other than where the OPF or eOPF is located or may be duplicated at a site closer to where the employee works.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

By name, Social Security Number, Employee Identification Number, or duty or pay location.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

1. Permanent OPF or eOPF records are permanently retained. Temporary OPF or eOPF records are generally retained 2 years and are purged upon the employee's separation from USPS.

2. Except as otherwise provided by a collective bargaining agreement, original or copies of discipline or adverse actions are maintained up to 2 years; or, if an additional or more recent disciplinary action has been taken, for a longer period. After 2 years, or lesser time specified in the decision, the employee may request the disciplinary record be purged from the OPF or eOPF provided no subsequent discipline was issued. Records that support a PS Form 50, Notification of Personnel Action, e.g., the separation of an employee for cause or the resignation of an employee pending charges, are considered permanent records and may not be purged at the request of an employee.

3. Reference copies of discipline or adverse actions. These records are kept for historical purposes and are not to be used for decisions about the employee. The retention of these records may not exceed 10 years beyond the employee's separation date. The records are maintained longer if the employee is rehired during the 10-year period. They may not be maintained in the employee's OPF or eOPF but must be maintained in a separate file by Labor Relations.

4. Grievance and appeal records of nonbargaining unit employees are retained 7 years.

5. Job bidding records are retained 2 years.

6. Biographical summaries are retained for the duration of employment.

7. Records to provide federal benefit information to retired employees are retained for 10 years.

Records may be purged at the request of the retired employee. Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable USPS media sanitization practice.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Access to these areas is limited to authorized personnel, who must be identified with a badge.

Non-bargaining unit employee discipline, grievance, and appeals records maintained outside the OPF (hard or soft copy) are kept in locked filing cabinets or secured record storage rooms; and related automated records are protected with password security.

Computers are protected by mechanical locks, card key systems, or other physical access control methods. The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedures below and USPS Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.5.

CONTESTING RECORD PROCEDURES:

See *Notification Procedures* and *Record Access Procedures*.

NOTIFICATION PROCEDURES:

Individuals wanting to know if information about them is maintained in this system must address inquiries to the facility head where currently or last employed. Headquarters employees must submit inquiries to Corporate Personnel Management, 475 L'Enfant Plaza SW, Washington, DC 20260. Inquiries must include full name, Social Security Number or Employee Identification Number, name and address of facility where last employed, and the dates of USPS employment.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Records in this system that have been compiled in reasonable anticipation of a civil action or proceeding are exempt from individual access as permitted by 5 U.S.C. 552a(d)(5). The USPS has also claimed exemption from certain provisions of the Act for several of its other systems of records at 39 CFR 266.9. To the extent that copies of exempted records from those other systems are incorporated into this system, the exemptions applicable to the original primary system continue to apply to the incorporated records.

HISTORY:

August 18, 2021, 86 FR 46281;
February 25, 2019, 84 FR 6022; January
26, 2018, 83 FR 3777; July 19, 2013, 78
FR 43247; February 22, 2013, 78 FR
12368; June 17, 2011, 76 FR 35483;
April 29, 2005, 70 FR 22516.

* * * * *

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2024–15623 Filed 7–15–24; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: Date of notice: July 16, 2024.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on July 9, 2024, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 40 to Competitive Product List*. Documents are available at

www.prc.gov, Docket Nos. MC2024–417 and CP2024–424.

Christopher Doyle,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2024–15539 Filed 7–15–24; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100490; File No. SR–NYSEAMER–2024–43]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the NYSE American Options Fee Schedule

July 10, 2024.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (“Act”) ² and Rule 19b–4 thereunder,³ notice is hereby given that, on July 1, 2024, NYSE American LLC (“NYSE American” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE American Options Fee Schedule (“Fee Schedule”) regarding the American Customer Engagement (“ACE”) Program. The Exchange proposes to implement the fee change effective July 1, 2024. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify Section I.E. of the Fee Schedule regarding the ACE Program. Specifically, the Exchange proposes to clarify the operation of the Program as relates to Customer volume executed via the BOLD Mechanism (“BOLD volume”) and to make other minor technical changes as described herein.⁴ This proposal would not alter how the ACE Program operates (or the credits applied on eligible BOLD volume) and is instead designed to clarify a potential ambiguity in the Fee Schedule.

The ACE Programs, as described in Section I.E., offers Order Flow Providers (OFP) ⁵ per contract credits based on, and applied to, certain Electronic Customer volume executed on the Exchange.⁶ The ACE Program has five tiers and offers increasing per contract credits to an OFP that meets or exceeds increasing volume thresholds. Regarding BOLD volume, Section I.E. provides that “[t]he per contract credits in the table below apply to Electronic options transactions, including those executed via the BOLD Mechanism” and that such volume “will be included in an OFP’s Electronic volume calculation for purposes of the ACE Program.”[sic]⁷

Section I.M. of the Fee Schedule describes the fees and credits applied to BOLD volume.⁸ Specifically, the Exchange offers per contract credits on each “BOLD Initiating Order” executed on behalf of Customers that are the “[b]etter of (\$0.12) or, if eligible for a higher credit via the ACE Program, per Section I.E., (\$0.13).”⁹ Thus, although not specified in Section I.E., an OFP’s potential per contract credit on eligible BOLD volume is capped at (\$0.13)

⁴ See Rule 994NY (describing the operation of the Broadcast Order Liquidity Delivery (“BOLD”) Mechanism).

⁵ An OFP is an Order Flow provider means “any ATP Holder that submits, as agent, orders to the Exchange.” See Rule 900.2NY.

⁶ See Fee Schedule, Section I.E. (American Customer Engagement (“ACE”) Program).

⁷ *Id.*

⁸ See Fee Schedule, Section I.M. (BOLD Mechanism Fees & Credits).

⁹ See *id.* A “BOLD Initiating Order” is “an order submitted to be executed via the BOLD Mechanism.” See Fee Schedule, KEY TERMS and DEFINITIONS.

regardless of what ACE Program tier an OFP achieves.

To address this potential ambiguity, the Exchange proposes to amend Section I.E. as relates to BOLD volume. First, the Exchange proposes to reorganize current rule text to make clear that, like volume executed via the Customer Best Execution (“CUBE”) Auction, Customer volume “executed via the BOLD Mechanism” will be “included in an OFP’s Electronic volume calculation for purposes of the ACE Program tiers.”¹⁰ Second, the Exchange proposes to modify the first sentence of Section I.E., regarding the application of ACE Program credits, to remove reference to BOLD volume.¹¹ Instead, the Exchange proposes to add a cross-reference to Section I.M., which specifies the per contract credits available for eligible BOLD volume.¹² Finally, the Exchange proposes a technical change to clarify that ACE Program credits are not “payable” or “paid” to OFPs but are instead “available” to OFPs and are “applied” to an OFPs fees, if earned.¹³

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁴ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹⁵ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes the proposed change to specify the per contract credit available on eligible BOLD volume is reasonable, equitable and not unfairly discriminatory because the change would add clarity, transparency, and internal consistency, to the Fee Schedule. Likewise, the proposed

technical change would add clarity and transparency to the Fee Schedule. Taken together, the proposed changes would benefit investors because such changes should improve the accuracy and comprehensibility of the Fee Schedule.

B. Self-Regulatory Organization’s Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. This proposal is not a competitive change. Instead, the changes proposed herein would add clarity, transparency, and internal consistency to the Fee Schedule thereby improving its accuracy and comprehensibility to the benefit of investors.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)¹⁶ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁷ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹⁸ of the Act 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-NYSEAMER-2024-43 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-NYSEAMER-2024-43. 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-NYSEAMER-2024-43 and should be submitted on or before August 6, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-15504 Filed 7-15-24; 8:45 am]

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¹⁰ See proposed Fee Schedule, Section I.E. (American Customer Engagement (“ACE”) Program). The Exchange proposes to make clear that, for purposes of determining whether an OFP qualifies for any of the “ACE Program tiers”, the Exchange includes Customer volume resulting from CUBE Auctions and executions via the BOLD Mechanism. See *id.* (emphasis added).

¹¹ See *id.* (“The per contract credits in the table below apply to Electronic options transactions.”).

¹² See *id.* The Exchange also proposes minor technical changes to specify that credits applicable to certain CUBE Auction volume are “as set forth in Section I.G.” (emphasis added).

¹³ See *id.* (specifying, for example, that the ACE Program credits are “available” to OFPs; and “applied solely to Customer volume”; and “applied” based on an OFP’s eligible Customer volume).

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(4) and (5).

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(2).

¹⁸ 15 U.S.C. 78s(b)(2)(B).

¹⁹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–446, OMB Control No. 3235–0503]

Submission for OMB Review; Comment Request; Extension: Form N–6

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the “Commission”) has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

The title for the collection of information is “Form N–6 (17 CFR 239.17c and 274.11d) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) registration statement of separate accounts organized as unit investment trusts that offer variable life insurance policies.” Form N–6 is the form used by insurance company separate accounts organized as unit investment trusts that offer variable life insurance contracts to register as investment companies under the Investment Company Act of 1940 and/or to register their securities under the Securities Act of 1933. The primary purpose of the registration process is to provide disclosure of financial and other information to investors and potential investors for the purpose of evaluating an investment in a security. Form N–6 also requires separate accounts organized as unit investment trusts that offer variable life insurance policies to provide investors with a prospectus and a statement of additional information (“SAI”) covering essential information about the separate account when it makes an initial or additional offering of its securities.

The Commission estimates that approximately 448 registration statements (20 initial registration statements plus 428 post-effective amendments) are filed on Form N–6 annually. The estimated hour burden per portfolio for preparing and filing an initial registration statement on Form N–6 is 772.25 hours. The estimated annual hour burden for preparing and filing initial registration statements is 15,445 hours (20 initial registration statements annually times 772.25 hours per registration statement). The

Commission estimates that the hour burden for preparing and filing a post-effective amendment on Form N–6 is 154.25 hours. The total annual hour burden for preparing and filing post-effective amendments is 66,019 hours (428 post-effective amendments annually times 154.25 hours per amendment). The frequency of response is annual. The total annual hour burden for Form N–6, therefore, is estimated to be 81,464 hours (15,445 hours for initial registration statements plus 66,019 hours for post-effective amendments).

The Commission estimates that the cost burden for preparing an initial Form N–6 filing is \$40,000 per filing and the current cost burden for preparing a post-effective amendment to a previously effective registration statement is \$20,000 per filing. Thus, the total cost burden allocated to Form N–6 would be \$9,360,000 (20 initial filings times \$40,000 and 428 post-effective amendment filings times \$20,000).

The information collection requirements imposed by Form N–6 are mandatory. Responses to the collection of information will not be kept confidential. Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: www.reginfo.gov. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by August 15, 2024 to (i) MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov and (ii) Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or by sending an email to: PRA_Mailbox@sec.gov.

Dated: July 10, 2024.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024–15486 Filed 7–15–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100493; File No. SR–GEMX–2024–17]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 6

July 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 July 1, 2024, Nasdaq GEMX, LLC (“GEMX” or “Exchange”) 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

The Exchange proposes to amend its Rules at Options 7, Section 6, C, Ports and Other Services.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/gemx/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 7, Section 6, C, Ports and Other Services. Specifically, the Exchange

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

proposes to amend the monthly caps for SQF Ports³ and SQF Purge Ports.⁴

Today, GEMX assesses \$1,250 per port, per month for an SQF Port as well as an SQF Purge Port.⁵ Also, today, SQF Ports and SQF Purge Ports are subject to a monthly cap of \$17,500, which cap is applicable to Market Makers.

At this time, the Exchange proposes to increase the monthly maximum SQF Port and SQF Purge Port Fee Cap of \$17,500 for Market Makers based on the size of the Market Maker on GEMX. The Exchange is determining the size of the Market Maker based on the amount of transactional volume executed on GEMX in a given month. The Exchange proposes to take each Market's Maker's electronic monthly transactional volume via SQF on GEMX and divide that number by the sum of all Market Maker electronic monthly transactional volume via SQF on GEMX ("Transactional Volume"). All SQF interest would be considered. Each Market Maker would then be classified on GEMX, for the purpose of the SQF Port Fee and SQF Purge Port Cap, as a "small," "medium," or "large" Market Maker based on their Transactional Volume on GEMX to determine the applicable cap

³ "Specialized Quote Feed" or "SQF" is an interface that allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying instruments); (2) System event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. Immediate-or-Cancel Orders entered into SQF are not subject to the Order Price Protection, Market Order Spread Protection, and Size Limitation Protection in Options 3, Section 15(a)(1)(A), (1)(B), and (2)(B) respectively. See Supplementary Material .03(c) to Options 3, Section 7.

⁴ SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the Market Maker. Dedicated SQF Purge Ports enable Market Makers to seamlessly manage their ability to remove their quotes in a swift manner. The SQF Purge Port is designed to assist Market Makers in the management of, and risk control over, their quotes. Market Makers may utilize a purge port to reduce uncertainty and to manage risk by purging all quotes in their assigned options series. Of note, Market Makers may only enter interest into SQF in their assigned options series. Additionally, the SQF Purge Port may be utilized by a Market Maker in the event that the Member has a system issue and determines to purge its quotes from the order book.

⁵ The Exchange proposes to add a comma between "per port" and "per month" in the Options 7, Section 6, C, SQF Port and SQF Purge Port Fee rule text. The Exchange also proposes to remove an extraneous period in Options 7, Section 6, C, in the second paragraph.

in a given month. Market Makers that qualify as "small" would be subject to an increased SQF Port and SQF Purge Port monthly cap of \$22,500. Market Makers that qualify as "medium" would be subject to an increased monthly cap of \$25,000 for SQF Port and SQF Purge Port Fees. Finally, Market Makers that qualify as "large" would be subject to an increased monthly cap of \$27,500 for SQF Port and SQF Purge Port Fees.

As is the case today, the Exchange would not assess a Market Maker an SQF Port and SQF Purge Port Fee beyond the monthly cap once the Market Maker has exceeded the monthly cap for the respective month. Despite increasing the maximum SQF Port and SQF Purge Port Fee Cap for Market Makers that qualify as "small," "medium" and "large," the Exchange will continue to offer all Market Makers the opportunity to cap their SQF Port and SQF Purge Port Fees to limit their costs as they would not be assessed an SQF Port or SQF Purge Port Fee beyond the applicable cap each month.

A GEMX Market Maker requires only one SQF Port to submit quotes in its assigned options series into GEMX. An SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the Market Maker. A GEMX Market Maker may submit all quotes through one SQF Port and utilize one SQF Purge Port to view its purge requests. While a Market Maker may elect to obtain multiple SQF Ports and SQF Purge Ports to organize its business,⁶ only one SQF Port and SQF Purge Port is necessary for a Market Maker to fulfill its regulatory quoting obligations.⁷

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁹ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair

⁶ For example, a Market Maker may desire to utilize multiple SQF Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that Member.

⁷ GEMX Market Makers have various regulatory requirements as provided for in Options 2, Section 4. Additionally, GEMX Market Makers have certain quoting requirements with respect to their assigned options series as provided in Options 2, Section 5. SQF Ports are the only quoting protocol available on GEMX and only Market Makers may utilize SQF Ports. The same is true for SQF Purge Ports.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4) and (5).

discrimination between customers, issuers, brokers, or dealers.

The proposed pricing change to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as "small," from \$17,500 to \$22,500, to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as "medium" from \$27,500 to \$25,000 per month, and to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as "large" from \$42,000 to \$50,000 per month, is reasonable because despite the increase in the maximum SQF Port Fee and SQF Purge Port Fee Cap, the Exchange will continue to offer all Market Makers the opportunity to cap their SQF Port Fees each month to limit their cost as they would not be assessed an SQF Port or SQF Purge Port Fee Cap Fees beyond the cap.

A GEMX Market Maker requires only one SQF Port to submit quotes in its assigned options series into GEMX. A GEMX Market Maker may submit all quotes through one SQF Port and utilize one SQF Purge Port to view its purge requests. While a Market Maker may elect to obtain multiple SQF Ports and SQF Purge Ports to organize its business,¹⁰ only one SQF Port and SQF Purge Port is necessary for a Market Maker to fulfill its regulatory quoting obligations.¹¹ Members may choose a greater number of SQF Ports or SQF Purge Ports, beyond one port, depending on that Member's particular business model. Additionally, the Exchange believes that the caps are reasonable for two reasons.

First, SQF Ports are a secure method for Market Makers to submit quotes into the Exchange's match engine and for the Exchange to send messages related to those quotes to Market Makers. GEMX must manage the security and message traffic, among other things, for each port. Utilizing the various caps based on the "size" of the Market Maker as determined by Transactional Volume, provides every Market Maker the ability to manage cost. Additionally, the Exchange would have the ability to manage the quantity of SQF Ports and SQF Purge Ports issued by the

¹⁰ For example, a Market Maker may desire to utilize multiple SQF Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that Member.

¹¹ GEMX Market Makers have various regulatory requirements as provided for in Options 2, Section 4. Additionally, GEMX Market Makers have certain quoting requirements with respect to their assigned options series as provided in Options 2, Section 5. SQF Ports are the only quoting protocol available on GEMX and only Market Makers may utilize SQF Ports.

Exchange. The various SQF Port and SQF Purge Port Fee Caps were determined based on the level of Transactional Volume on GEMX in 2024 for Market Makers. The Exchange assessed each level of Market Maker an increased fee based on size, as reflected by Transactional Volume, to reflect the various sizes of Market Makers present on the Exchange at this time. By capping the SQF Ports and SQF Purge Ports at different levels based on “size,” the Exchange is considering the message traffic and message rates generated by the various “sizes” of Market Makers and the Exchange’s ability to process messages from all SQF Ports and SQF Purge Ports. The SQF Port and SQF Purge Port Fee Cap would allow the Exchange to scale its needs with respect to processing messages in an efficient manner. The Exchange notes that Cboe Exchange, Inc. (“Cboe”) limits usage on each port and assesses fees for incremental usage.¹²

Second, the Exchange notes that multiple ports are not necessary, however, to the extent that some Market Makers elect to obtain multiple SQF Ports and SQF Purge Ports, the Exchange is offering to cap their total port cost. GEMX believes the existence of a cap based on the “size” of the Market Maker will level the playing field. The Exchange believes that this approach enables various types of Market Makers to effectively limit costs based on their executed Transactional Volume on the Exchange. Further, the existence of an SQF Port and SQF Purge Port Fee Cap allows for efficiencies and permits Market Makers to increase their number of ports beyond the cap. The cap levels the playing field by allowing various types of Market Makers that want to obtain a larger number of ports to do so with the certainty of a fee cap. Without the SQF Port and SQF Purge Port Fee Cap, Market Makers may pay more to obtain multiple SQF Port and SQF Purge Ports on the Exchange. Other markets tier port fees. BOX Exchange LLC (“BOX”) assesses \$1,000 per month for all SAIL Ports for Market Making and \$500 per month per port up to 5 ports for order entry and \$150 per month for each additional port.¹³ Miami International Securities Exchange, LLC’s (“MIAX”) MIAX Express Interface

(“MEI”) Fee levels are based on a tiered fee structure based on the Market Maker’s total monthly executed volume during the relevant month.¹⁴

The proposed pricing change to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as “small,” from \$17,500 to \$22,500, to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as “medium” from \$27,500 to \$25,000 per month, and to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as “large” from \$42,000 to \$50,000 per month, is equitable and not unfairly discriminatory because the Exchange is offering different sizes of Market Makers, based on Transactional Volume executed on the Exchange, the ability to cap their costs at different levels and potentially obtain some SQF Ports and SQF Purge Ports at no cost. The proposal recognizes that some Market Makers may be deemed “small” and may not be able to achieve the same cap as other Market Makers. To this end, the Exchange proposes to increase SQF Port and SQF Purge Port Fee Cap from \$17,500 to \$22,500 per month for Market Makers that qualify as “small.” To the extent that a Market Maker qualifies in a given month as a “medium” Market Maker the Exchange proposes to increase the cap from \$17,500 to \$25,000 per month. This fee presumes to place a Market Maker that qualifies as “medium” on equal footing with a Market Maker that qualifies as a “small” Market Maker in terms of the cap by setting different fee caps for each group. The proposal presumes that based on Transactional Volume, these Market Makers that qualify as “medium” have a greater ability to obtain a greater amount of SQF Ports and SQF Purge Ports as compared to Market Makers that qualify as “small.” Finally, to the extent that a Market Maker qualifies in a given month as a “large” Market Maker the Exchange proposes to increase the cap from \$17,500 to \$27,500 per month. This fee presumes to place a Market Maker that qualifies as “large” on equal footing with a Market Maker that qualifies as a “small” Market Maker, and a Market Maker that qualifies as “medium” in terms of the cap by setting different fee

caps for each group. The proposal presumes that based on Transactional Volume these Market Makers that qualify as “large” have the ability to obtain the largest amount of SQF Ports and SQF Purge Ports. The Exchange would uniformly apply the appropriate Market Maker cap to each Market Maker group based on the same volume calculation. Also, Market Makers who exceed their applicable cap would uniformly not be assessed any fee for SQF Ports and SQF Purge Ports beyond the applicable maximum amount.

Market Makers are the only market participants that are assessed SQF Port and SQF Purge Port fees because they are the only market participants that are permitted to quote on the Exchange. SQF Ports and SQF Purge Ports are only utilized in the Market Maker’s assigned options series. Unlike other market participants, Market Makers are subject to market making and quoting obligations.¹⁵ These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to GEMX on a continuous basis. In addition, the Exchange notes that Lead Market Makers are required to submit quotes in the Opening Process to open an options series.¹⁶ Market Makers are subject to a number of fees, unlike other market participants. Market Makers pay separate Membership Fees,¹⁷ and CMM Trading Right Fees,¹⁸ in addition to other fees paid by other market participants. Providing Market Makers a means to cap their cost related to quoting at a rate that reflects their “size” and enabling all Market Makers to acquire SQF Ports and SQF Purge Ports at no cost beyond the applicable cap enables these market participants to provide the necessary liquidity to GEMX at lower costs. Therefore, because Market Makers fulfill a unique role on the Exchange, are the only market participant required to submit quotes as part of their obligations to operate on the Exchange, and, in light of that role, they are eligible for certain incentives. The proposed SQF Port and SQF Purge Fee cap is designed to continue to incent Market Makers to quote on GEMX, thereby promoting liquidity, quote competition, and trading opportunities.

In 2022, NYSE Arca, Inc. (“NYSE Arca”) proposed to restructure fees relating to OTPs for Market Makers.¹⁹ In

¹² Each Cboe Binary Order Entry (“BOE”) or FIX Logical Port incur the logical port fee indicated when used to enter up to 70,000 orders per trading day per logical port as measured on average in a single month. For each incremental usage of up to 70,000 per day per logical port will incur an additional logical port fee of \$800 per month. BOE or FIX Logical Ports provide users the ability to enter order/quotes. See Cboe’s Fees Schedule.

¹³ See BOX’s Fee Schedule.

¹⁴ MEI is a connection to MIAX systems that enables Market Makers to submit simple and complex electronic quotes to MIAX. MIAX caps its MEI Ports. For these Monthly MIAX MEI Fees levels, if the Market Maker’s total monthly executed volume during the relevant month is less than 0.060% of the total monthly executed volume reported by OCC in the market maker account type for MIAX-listed option classes for that month, then the fee will be \$14,500 instead of the fee otherwise applicable to such level. See MIAX’s Fee Schedule.

¹⁵ See Options 2, Sections 4 and 5.

¹⁶ See Options 3, Section 8.

¹⁷ See Options 7, Section 6, A.

¹⁸ See Options 7, Section 6, B.

¹⁹ See Securities Exchange Act Release No. 95412 (June 23, 2022), 87 FR 38786 (June 29, 2022) (SR–

that rule change,²⁰ NYSE Arca argued that,

Market Makers serve a unique and important function on the Exchange (and other options exchanges) given the quote-driven nature of options markets. Because options exchanges rely on actively quoting Market Makers to facilitate a robust marketplace that attracts order flow, options exchanges must attract and retain Market Makers, including by setting competitive Market Maker permit fees. Stated otherwise, changes to Market Maker permit fees can have a direct effect on the ability of an exchange to compete for order flow. The Exchange also believes that the number of options exchanges on which Market Makers can effect option transactions also ensures competition in the marketplace and constrains the ability of exchanges to charge supracompetitive fees for access to its market by Market Makers.

Further, NYSE ARCA noted that,²¹

The Exchange further believes that its ability to set Market Maker permit fees is constrained by competitive forces based on the fact that Market Makers can, and have, chosen to terminate their status as a Market Maker if they deem Market Maker permit fees to be unreasonable or excessive. Specifically, the Exchange notes that a BOX participant modified its access to BOX in connection with the implementation of a proposed change to BOX's Market Maker permit fees. The Exchange has also observed that another options exchange group experienced decreases in market share following its proposed modifications of its access fees (including Market Maker trading permit fees), suggesting that market participants (including Market Makers) are sensitive to changes in exchanges' access fees and may respond by shifting their order flow elsewhere if they deem the fees to be unreasonable or excessive.

There is no requirement, regulatory or otherwise, that any Market Maker connect to and access any (or all of) the available options exchanges. The Exchange also is not aware of any reason why a Market Maker could not cease being a permit holder in response to unreasonable price increases. The Exchange does not assess any termination fee for a Market Maker to drop its OTP, nor is the Exchange aware of any other costs that would be incurred by a Market Maker to do so.

The Exchange likewise believes that its ability to cap SQF Port and SQF Purge Port fees is constrained by competitive forces and that its proposed modifications to the SQF Port and SQF Purge Fee cap is reasonably designed in consideration of the competitive environment in which the Exchange

operates, by balancing the value of the enhanced benefits available to Market Makers, based on their transactional volume and presumed "size." At the same time, the Exchange believes the proposed fees will incent Market Makers to support increased liquidity, quote competition, and trading opportunities on the Exchange, for the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The proposal does not impose an undue burden on intermarket competition. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intramarket Competition

The proposed pricing change to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as "small," from \$17,500 to \$22,500, to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as "medium" from \$27,500 to \$25,000 per month and to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as "large" from \$42,000 to \$50,000 per month does not impose an undue burden on competition because the Exchange is offering different sizes of Market Makers, based on Transactional Volume executed on the Exchange, the ability to cap their costs at different levels and potentially obtain some SQF Ports and SQF Purge Ports at no cost. The proposal recognizes that some Market Makers may be deemed "small" and may not be able to achieve the same cap as other Market Makers. To this end, the Exchange proposes to increase SQF Port and SQF Purge Port Fee Cap from \$17,500 to \$22,500 per month for Market Makers that qualify as "small." To the extent that a Market Maker qualifies in a given month as a

"medium" Market Maker the Exchange proposes to increase the cap from \$17,500 to \$25,000 per month. This fee presumes to place a Market Maker that qualifies as "medium" on equal footing with a Market Maker that qualifies as a "small" Market Maker in terms of the cap by setting different fee caps for each group. The proposal presumes that based on Transactional Volume these Market Makers that qualify as "medium" have a greater ability to obtain a greater amount of SQF Ports and SQF Purge Ports as compared to Market Makers that qualify as "small." Finally, to the extent that a Market Maker qualifies in a given month as a "large" Market Maker the Exchange proposes to increase the cap from \$17,500 to \$27,500 per month. This fee presumes to place a Market Maker that qualifies as "large" on equal footing with a Market Maker that qualifies as a "small" Market Maker, and a Market Maker that qualifies as "medium" in terms of the cap by setting different fee caps for each group. The proposal presumes that based on Transactional Volume these Market Makers that qualify as "large" have the ability to obtain the largest amount of SQF Ports and SQF Purge Ports. The Exchange would uniformly apply the appropriate Market Maker cap to each Market Maker group based on the same volume calculation. Also, Market Makers who exceed their applicable cap would uniformly not be assessed any fee for SQF Ports and SQF Purge Ports beyond the applicable maximum amount.

Market Makers are the only market participants that are assessed SQF Port and SQF Purge Port fees because they are the only market participants that are permitted to quote on the Exchange. SQF Ports and SQF Purge Ports are only utilized in the Market Maker's assigned options series. Unlike other market participants, Market Makers are subject to market making and quoting obligations.²² These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to GEMX on a continuous basis. In addition, the Exchange notes that Lead Market Makers are required to submit quotes in the Opening Process to open an options series.²³ Market Makers are subject to a number of fees, unlike other market participants. Market Makers pay separate Membership Fees,²⁴ and CMM Trading Right Fees,²⁵ in addition to

NYSEArca-2022-36). NYSE Arca proposed to increase both the monthly fee per Market Maker OTP and the number of issues covered by each additional OTP because, among other reasons, the number of issues traded on the Exchange has increased significantly in recent years.

²⁰ *Id.* at 38788.

²¹ *Id.* at 38790.

²² See Options 2, Sections 4 and 5.

²³ See Options 3, Section 8.

²⁴ See Options 7, Section 6, A.

²⁵ See Options 7, Section 6, B.

other fees paid by other market participants. Providing Market Makers a means to cap their cost related to quoting at a rate that reflects their “size” and enabling all Market Makers to acquire SQF Ports and SQF Purge Ports at no cost beyond the applicable cap enables these market participants to provide the necessary liquidity to GEMX at lower costs. Therefore, because Market Makers fulfill a unique role on the Exchange, are the only market participant required to submit quotes as part of their obligations to operate on the Exchange, and, in light of that role, they are eligible for certain incentives. The proposed SQF Port and SQF Purge Fee cap is designed to continue to incent Market Makers to quote on GEMX, thereby promoting liquidity, quote competition, and trading opportunities.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²⁶ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-GEMX-2024-17 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-GEMX-2024-17. 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-GEMX-2024-17 and should be submitted on or before August 6, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024-15507 Filed 7-15-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100483; File No. SR-MRX-2024-19]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Launch Proximity-On-Demand, a Managed Colocation Solution

July 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 June 28, 2024, Nasdaq MRX, LLC (“MRX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to launch Proximity-On-Demand, a managed colocation solution.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/mrx/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to launch Proximity-On-Demand (“POD”), a managed colocation solution. POD will

²⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

offer colocation customers a convenient variant of colocation where applications are deployed on managed infrastructure in the form of virtual or dedicated servers in the co-location space.

Current Co-Location Offering

The Exchange currently offers colocation services, which include a suite of data center space, power, telecommunication, and other ancillary products and services that allow customers to place their trading and communications equipment in close physical proximity to the quoting and execution facilities of the Exchange. The use of colocation services is entirely voluntary and colocation services are available to all market participants who desire them.

Colocation customers are not provided any separate or superior means of direct access to the Exchange quoting and trading facilities. Nor does the Exchange offer any separate or superior means of access to the Exchange quoting and trading facilities as among colocation customers themselves within the data center (or any future expansions to the data center).³

In addition, all orders sent to the Exchange market enter the marketplace through the same central system quote and order gateway regardless of whether the sender is co-located in the Exchange data center or not. In short, the Exchange has created no special market technology or programming that is available only to co-located customers and the Exchange has organized its systems to minimize, to the greatest extent possible, any advantage for one customer versus another.

Proximity-On-Demand

POD will be an alternative to the traditional offering of space and power for the physical colocation of customers' equipment. The Exchange will continue to offer its traditional colocation services.

With POD, customers will not need to order cabinets and power to install a server or network hardware in the Exchange's data center to be able to set up their systems and access the market directly. Instead, POD will provide customers with a variant of colocation where applications are deployed on a shared computing infrastructure⁴ co-

located in the data center,⁵ providing customers with a convenient avenue to do business on the Exchange. With the Exchange's traditional colocation offering, the Exchange provides space and power and customers provide the hardware. With POD, the Exchange will provide the hardware. This allows the Exchange's customers to connect more quickly and with lower cost.

Customers will be able to select a dedicated server or a virtual machine. A dedicated server is single-tenant environment, meaning that only one customer has access to the server hardware. A virtual machine is a computing environment where each customer has exclusive access to their virtualized server, including its operating system and applications. While customers will control their virtual machines independently, the physical hardware resources, such as the CPU, memory, and storage, are shared among multiple virtual machines on the same physical server. Hypervisor technology keeps the separate customer operating systems securely segmented from each other, allowing a single server to support multiple virtual machines. This allows quicker deployment times and provides customers with the flexibility to dynamically adjust the amount of compute resources needed without requiring hardware changes. The Exchange anticipates that customers will choose a dedicated server where better performance is required but may prefer a virtual server for short-lived requirements or less performance-sensitive workloads.

The servers (dedicated and virtual) for POD will be located in a cabinet in the colocation space at the data center. Each customer will have their own logical network that is fully isolated and not shared with other customers. Those customers selecting a dedicated server would also have the option to add an analytics service.⁶ The analytics service will provide the ability to monitor network traffic to and from the POD infrastructure, allowing customers access to data about bandwidth usage, latency, and information related to Precision Time Protocol (PTP) timestamped messages.

Access to POD will be available via virtual private network (VPN) or Secure Shell (SSH), similar to how customers

including hardware, that can be used by multiple customers.

⁵ POD will be housed within the same data center as the existing traditional colocation offering and Exchange systems, located in Carteret, New Jersey.

⁶ The analytics service is not available for virtual machines because the compute resourcing for operating analytics is incompatible with virtual machines.

would access their fully owned co-located hardware. Customers will be able to choose from several existing options for physical connectivity, including 1G Ultra, 10G, 10G Ultra, and 40G. POD will provide access to the market through the same Extranet network as is used currently by existing colocation customers. To be clear, POD will not afford its users any special advantages relative to users of its traditional colocation services.

Exchanges offer colocation services to facilitate the trading activities of those market participants who believe that colocation enhances the efficiency of their trading. The Exchange believes that the launch of POD will benefit an underserved market segment, including a niche of smaller customers who do not currently co-locate in any form at the data center but wish to do so. These smaller trading firms that do not directly connect and interface with the Exchange may struggle with the complexity, upfront investment, ongoing expense, and knowledge gaps required to code, connect, host and manage their own infrastructure, and trade directly with the Exchange.

The Exchange notes that similar services are currently offered by, and customers may obtain such service from, managed service providers that operate at the Carteret data center. For example, Pico and Options-IT currently offer managed service colocation at the Carteret data center.⁷ In addition to managed service providers currently offering POD-like services at the data center, additional providers offer similar services in other locations and will likely be in the Carteret data center in the future as well.⁸ ICE offers a comparable service, "Compute on Demand,"⁹ in select locations, including at NY4 (located in Secaucus,

⁷ See <https://www.pico.net/infrastructure/colocation-hosting/>; <https://www.options-it.com/products/trading-infrastructure/exchange-colos/>.

⁸ See, e.g., <https://deploy.equinix.com/product/bare-metal/>; <https://tnsi.com/resource/fin/tns-dedicated-server-comprehensive-cloud-server-management-press-release/>.

⁹ See <https://www.ice.com/fixed-income-data-services/access-and-delivery/connectivity-and-feeds/hosting-managed-services#demand>. Compute on Demand provides customers with a managed solution and is a delivery model in which computing resources are made available to customers on an on-demand basis. ICE offers Compute on Demand in collaboration with Beeks. The Exchange also intends to launch POD in partnership with Beeks. Beeks will provide the hardware that will allow the Exchange to offer POD. In addition, the Johannesburg Stock Exchange currently offers an advanced managed infrastructure as a service solution, similar to POD, in collaboration with Beeks. See <https://beeks.group.com/news/johannesburg-stock-exchange-jse-choose-beeks-and-ipc-to-power-private-cloud-deployments-for-their-customers/>.

³ Although the proposal and launch of POD are not dependent on the expansion of the data center, the Exchange notes that is in the process of expanding its data center in Carteret, New Jersey. Client connections to the matching engine will be equal across the board, within and among the current data center and the expansion.

⁴ Shared computing infrastructure means that the Exchange would provide the infrastructure,

New Jersey).¹⁰ Customers of ICE's Compute on Demand could (and presumably do) connect to national securities exchanges.

POD will provide customers with increased options for colocation. POD will be entirely optional and available to all market participants who desire to subscribe to POD. It is a business decision of each firm whether to subscribe to POD. Rather than choosing POD, customers may choose to (1) directly co-locate at the data center by ordering cabinet space and power, and placing their equipment at the data center; (2) co-locate through a third party; or (3) not co-locate at all.

Implementation

The Exchange intends to submit a fee filing in the future to establish fees for POD, including fees for a dedicated server, a dedicated server with analytics, and a virtual machine. Implementation of the proposal described herein to offer POD would coincide with the subsequent fee filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹² in particular, in that it is designed to promote just and equitable principles of trade, 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 because POD would provide customers with increased optionality to access the Exchange. The Exchange operates in a highly competitive market in which exchanges offer colocation services to facilitate the trading activities of those customers who believe that colocation enhances the efficiency of their trading. POD is a voluntary variant of colocation where customers can directly access the market without needing to procure physical hardware independently, instead they can use a shared computing infrastructure co-located in the data center.

The Exchange believes that the launch of POD will benefit an underserved market segment, including smaller customers who do not currently co-locate in any form at the data center but wish to do so. These smaller trading firms that do not directly connect and interface with the Exchange may struggle with the complexity, upfront

investment, ongoing expense, and knowledge gaps required to code, connect, host and manage their own infrastructure, and trade directly with the Exchange. As such, the Exchange believes that the proposal would further the objective of removing impediments to and perfecting the mechanism of a free and open market and a national market system.

The proposal would benefit the public interest by providing customers more colocation options to choose from, thereby enhancing their ability to tailor their colocation operations to the requirements of their business operations. As noted above, POD will be entirely optional and available to all market participants who desire to subscribe to POD. Rather than choosing to co-locate via POD, customers may choose to (1) directly co-locate at the data center by ordering cabinet space and power, and placing their equipment at the data center; (2) co-locate through a third party; or (3) not co-locate at all. Services comparable to POD are currently offered by, and customers may obtain such service from, any managed service providers that operate at the Carteret data center.

Again, POD will offer its users no special advantages relative to users of the Exchange's traditional colocation services. Though POD will allow customers to use Exchange-provided hardware to access the Exchange, POD does not otherwise fundamentally differ from current connectivity to the Exchange. The Exchange is not proposing to change the nature of the services provided today. Rather, POD will differ as to who provides the hardware.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Nothing in the proposal imposes any burden on the ability of other exchanges to compete. The Exchange operates in a highly competitive market in which exchanges and other vendors offer colocation services to facilitate the trading and other market activities of those market participants who believe that colocation enhances the efficiency of their operations.

Nothing in the Proposal burdens intra-market competition because POD will be available to any customer and customers that wish to co-locate via POD can do so on a non-discriminatory basis. Use of any colocation service is completely voluntary, and each market

participant is able to determine whether to use colocation services, including POD, based on the requirements of its business operations. POD will offer its users no special advantages relative to users of the Exchange's traditional colocation services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹³ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MRX-2024-19 on the subject line.

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁰ Cboe affiliated exchanges utilize the Equinix NY4 data center in Secaucus, NJ.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

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–MRX–2024–19. 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–MRX–2024–19 and should be submitted on or before August 6, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–15497 Filed 7–15–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100486; File No. SR–NSCC–2024–004]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change To Decommission the DTCC Limit Monitoring Risk Management Tool

July 10, 2024.

I. Introduction

On May 16, 2024, The National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR–NSCC–2024–004, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b–4 thereunder (the “Proposed Rule Change”).² The Proposed Rule Change was published for comment in the **Federal Register** on June 4, 2024.³ The Commission has received no comments on the Proposed Rule Change. For the reasons discussed below, the Commission is approving the Proposed Rule Change.

II. Background

DTCC Limit Monitoring is a risk management tool currently made available to all NSCC Members. Limit Monitoring is a voluntary tool that is intended to supplement, and not replace, a Member's internal risk management systems, procedures, or use of other available industry tools.⁴ Limit Monitoring enables Members to monitor trading activity on an intraday basis for their organizations and/or correspondent firms using post-trade data by allowing Members to establish pre-set limits to monitor trading activity and to receive notifications when these pre-set limits are being approached and reached.⁵ NSCC does not require Members to take any particular action based on the output of Limit Monitoring, and any response by Members to a Limit Monitoring alert is performed away from NSCC.⁶

NSCC states that DTCC Limit Monitoring was created as part of a broader industry-wide effort to develop tools and strategies to mitigate and

address trading risks associated with complex, interconnected, and automated market technology.⁷ NSCC further states that, since the implementation of Limit Monitoring in 2014, U.S. equity exchanges have implemented certain optional risk management tools including, but not limited to, credit limits, single order limits, and kill switch functionality, which provide additional risk management tools for Members to supplement their internal controls.⁸ NSCC also states that broker-dealers have also continued to enhance their own internal risk management systems.⁹

III. Description of the Proposed Rule Change

The Proposed Rule Change would decommission the Limit Monitoring tool. NSCC states that the technology platform to maintain the data infrastructure for Limit Monitoring will soon need to be replaced, which would require the investment of significant resources to continue to offer Limit Monitoring.¹⁰ NSCC conducted outreach to evaluate its Members' use of Limit Monitoring. The outreach indicated that a majority of Members either do not use Limit Monitoring or do not rely on it extensively to manage their risks.¹¹ Members that do not use or make only limited use of Limit Monitoring primarily rely on other industry or in-house tools to monitor and evaluate risks.¹² NSCC conducted follow up outreach with those Members that do currently use Limit Monitoring, identifying no Members that raised significant concerns or objections to the decommissioning of Limit Monitoring.¹³ Therefore, NSCC has determined that it would no longer offer the Limit Monitoring tool, given the significant investment needed to continue to offer Limit Monitoring, the evolution in industry-wide risk control tools and processes since the implementation of Limit Monitoring in 2014, and the limited usage of Limit Monitoring by Members.¹⁴

To implement the Proposed Rule Change, NSCC would remove Rule 54 and Procedure XVII from their Rules.¹⁵ NSCC would also remove associated

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 100237 (May 29, 2024), 89 FR 48019 (Jun. 4, 2024) (File No. SR–NSCC–2024–004) (“Notice of Filing”).

⁴ See *id.* at 48019.

⁵ See NSCC Rules and Procedures, Rule 54, available at <https://www.dtcc.com/legal/rules-and-procedures.aspx>.

⁶ See Notice of Filing, *supra* note 3, at 48019.

⁷ See *id.*

⁸ See *id.*

⁹ See *id.*

¹⁰ See *id.*

¹¹ See *id.*

¹² See *id.*

¹³ See *id.*

¹⁴ See *id.*

¹⁵ See *supra* note 5.

¹⁵ 17 CFR 200.30–3(a)(12).

defined terms from Rule 1.¹⁶ Finally, NSCC would remove Section 2(i) of Rule 58 concerning the limitations on NSCC's liability for the completeness or accuracy of LM Trade Date Data, LM Member-provided Data, LM Transaction Data, or other information or data which it receives from Members or third parties and which is utilized in DTCC Limit Monitoring, or for any errors, omissions or delays which may occur in the transmission of such data or information.

IV. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act¹⁷ directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. After carefully considering the Proposed Rule Change, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to NSCC. In particular, the Commission finds that the Proposed Rule Change is consistent with Section 17A(b)(3)(F)¹⁸ of the Act.

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency, such as NSCC, be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions and, in general, to protect investors and the public interest.¹⁹ The Commission believes that the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act for the reasons stated below.

As described in Part II above, Limit Monitoring is a voluntary tool intended to supplement a Member's internal risk management processes and use of other available tools. Although the tool was created in response to an industry-wide need due to trading risks associated with new market technologies in 2014, there now is a broader range of options available to Members to help manage these risks. Limit Monitoring is not a widely used risk management tool, and those who do use it did not raise significant concerns about its elimination. Given that NSCC would need to invest significant resources to continue to offer Limit Monitoring to its

Members, decommissioning the Limit Monitoring tool should allow NSCC to determine where to allocate the resources that would have been used on updating the Limit Monitoring technology to better react to the changing needs of market participants who rely on NSCC's central role in the securities market. This ability to allocate resources should, in turn, help NSCC to continue to promote the prompt and accurate clearance and settlement of securities transactions by NSCC, consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act.²⁰

Accordingly, and for the reasons stated above, the proposed changes are consistent with Section 17A(b)(3)(F).

V. Conclusion

Based on the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act²¹ and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act²² that proposed rule changes SR-NSCC-2024-004 be, and hereby are, approved.²³

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-15500 Filed 7-15-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100487; File No. SR-CBOE-2023-063]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change To Amend the Exchange's Rules Relating to Position and Exercise Limits

July 10, 2024.

On November 29, 2023, Cboe Exchange, Inc. (the "Exchange" or "Cboe") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

"Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its rules relating to position and exercise limits. The proposed rule change was published for comment in the **Federal Register** on December 14, 2023.³ The Commission has received three comment letters regarding the proposed rule change.⁴ On January 23, 2024, pursuant to Section 19(b)(2) of the Act,⁵ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.⁶

On March 12, 2024, the Commission issued an order instituting proceedings pursuant to Section 19(b)(2)(B) of the Act⁷ to determine whether to approve or disapprove the proposed rule change.⁸ On June 6, 2024, pursuant to Section 19(b)(2) of the Act,⁹ the Commission designated a longer period of time within which to determine whether to approve or disapprove the proposed rule change.¹⁰ On July 3, 2024, the Exchange withdrew the proposed rule change (Cboe-2023-063).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-15501 Filed 7-15-24; 8:45 am]

BILLING CODE 8011-01-P

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 99119 (Dec. 8, 2023), 88 FR 86701.

⁴ See letters from: Ellen Greene, Managing Director, Equity and Options Market Structure, Securities Industry and Financial Management Association ("SIFMA"), dated January 26, 2024; and Jiří Król, Deputy CEO, Global Head of Government Affairs, Alternative Investment Management Association ("AIMA"), dated January 14, 2024; and letter from Jennifer W. Han, Executive Vice President, Chief Counsel and Head of Global Regulatory Affairs, Managed Funds Association ("MFA"), dated January 4, 2024. Comment letters on the proposed rule change are available at <https://www.sec.gov/comments/sr-cboe-2023-063/sr-cboe-2023063.htm>.

⁵ 15 U.S.C. 78s(b)(2).

⁶ See Securities Exchange Act Release No. 99417 (Jan. 23, 2024), 89 FR 5588 (Jan. 29, 2024). The Commission designated March 13, 2024, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

⁷ 15 U.S.C. 78s(b)(2)(B).

⁸ See Securities Exchange Act Release No. 99721 (Mar. 12, 2024), 89 FR 19622 (Mar. 19, 2024).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ See Securities Exchange Act Release No. 34-100292 (Jun. 6, 2024), 89 FR 49945 (Jun. 12, 2024).

¹¹ 17 CFR 200.30-3(a)(12).

¹⁶ "LM Member-provided Data," "LM Trade Date Data," "LM Transaction Data," "RP Member-provided Data," "RP Trade Date Data," and "RP Transaction Data."

¹⁷ 15 U.S.C. 78s(b)(2)(C).

¹⁸ 15 U.S.C. 78q-1(b)(3)(F).

¹⁹ *Id.*

²⁰ 15 U.S.C. 78q-1(b)(3)(F).

²¹ 15 U.S.C. 78q-1.

²² 15 U.S.C. 78s(b)(2).

²³ In approving the Proposed Rule Change, the Commission considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²⁴ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100492; File No. SR–MRX–2024–21]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 6

July 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 July 1, 2024, Nasdaq MRX, LLC (“MRX” or “Exchange”) 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

The Exchange proposes to amend its Rules at Options 7, Section 6, Ports and Other Services.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/mrx/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 7, Section 6, Ports and Other Services. Specifically, the Exchange

proposes to amend the monthly caps for SQF Ports³ and SQF Purge Ports.⁴

Today, MRX assesses \$1,250 per port, per month for an SQF Port as well as an SQF Purge Port. Also, today, SQF Ports and SQF Purge Ports are subject to a monthly cap of \$17,500, which cap is applicable to Market Makers.

At this time, the Exchange proposes to increase the monthly maximum SQF Port and SQF Purge Port Fee Cap of \$17,500 for Market Makers based on the size of the Market Maker on MRX. The Exchange is determining the size of the Market Maker based on the amount of transactional volume executed on MRX in a given month. The Exchange proposes to take each Market’s Maker’s electronic monthly add liquidity transactional volume on MRX and dividing that number by the sum of all Market Maker electronic monthly add liquidity volume on MRX (“Transactional Volume”). Each Market Maker would then be classified on MRX, for the purpose of the SQF Port Fee and SQF Purge Port Fee Cap, as a “small,” “medium,” or “large” Market Maker based on their Transactional Volume on MRX to determine the applicable cap in a given month. Market Makers that qualify as “small” would be subject to an increased SQF Port and SQF Purge Port monthly cap of \$22,500. Market Makers that qualify as

³ “Specialized Quote Feed” or “SQF” is an interface that allows Market Makers to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses to the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying instruments); (2) System event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. Immediate-or-Cancel Orders entered into SQF are not subject to the Order Price Protection, Market Order Spread Protection, and Size Limitation Protection in Options 3, Section 15(a)(1)(A), (1)(B), and (2)(B) respectively. See Supplementary Material .03(c) to Options 3, Section 7.

⁴ SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the Market Maker. Dedicated SQF Purge Ports enable Market Makers to seamlessly manage their ability to remove their quotes in a swift manner. The SQF Purge Port is designed to assist Market Makers in the management of, and risk control over, their quotes. Market Makers may utilize a purge port to reduce uncertainty and to manage risk by purging all quotes in their assigned options series. Of note, Market Makers may only enter interest into SQF in their assigned options series. Additionally, the SQF Purge Port may be utilized by a Market Maker in the event that the Member has a system issue and determines to purge its quotes from the order book.

“medium” would be subject to an increased monthly cap of \$25,000 for SQF Port and SQF Purge Port Fees. Finally, Market Makers that qualify as “large” would be subject to an increased monthly cap of \$27,500 for SQF Port and SQF Purge Port Fees.

As is the case today, the Exchange would not assess a Market Maker an SQF Port and SQF Purge Port Fee beyond the monthly cap once the Market Maker has exceeded the monthly cap for the respective month. Despite increasing the maximum SQF Port and SQF Purge Port Fee Cap for Market Makers that qualify as “small,” “medium” and “large,” the Exchange will continue to offer all Market Makers the opportunity to cap their SQF Port and SQF Purge Port Fees to limit their costs as they would not be assessed an SQF Port or SQF Purge Port Fee beyond the applicable cap each month.

A MRX Market Maker requires only one SQF Port to submit quotes in its assigned options series into MRX. An SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the Market Maker. A MRX Market Maker may submit all quotes through one SQF Port and utilize one SQF Purge Port to view its purge requests. While a Market Maker may elect to obtain multiple SQF Ports and SQF Purge Ports to organize its business,⁵ only one SQF Port and SQF Purge Port is necessary for a Market Maker to fulfill its regulatory quoting obligations.⁶

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁸ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed pricing change to increase the SQF Port Fee and SQF

⁵ For example, a Market Maker may desire to utilize multiple SQF Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that Member.

⁶ MRX Market Makers have various regulatory requirements as provided for in Options 2, Section 4. Additionally, MRX Market Makers have certain quoting requirements with respect to their assigned options series as provided in Options 2, Section 5. SQF Ports are the only quoting protocol available on MRX and only Market Makers may utilize SQF Ports. The same is true for SQF Purge Ports.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) and (5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

Purge Port Fee Cap for Market Makers that qualify as “small,” from \$17,500 to \$22,500, to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as “medium” from \$27,500 to \$25,000 per month, and to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as “large” from \$42,000 to \$50,000 per month, is reasonable because despite the increase in the maximum SQF Port Fee and SQF Purge Port Fee Cap, the Exchange will continue to offer all Market Makers the opportunity to cap their SQF Port Fees each month to limit their cost as they would not be assessed an SQF Port or SQF Purge Port Fee Cap Fees beyond the cap.

A MRX Market Maker requires only one SQF Port to submit quotes in its assigned options series into MRX. A MRX Market Maker may submit all quotes through one SQF Port and utilize one SQF Purge Port to view its purge requests. While a Market Maker may elect to obtain multiple SQF Ports and SQF Purge Ports to organize its business,⁹ only one SQF Port and SQF Purge Port is necessary for a Market Maker to fulfill its regulatory quoting obligations.¹⁰ Members may choose a greater number of SQF Ports or SQF Purge Ports, beyond one port, depending on that Member’s particular business model. Additionally, the Exchange believes that the caps are reasonable for two reasons.

First, SQF Ports are a secure method for Market Makers to submit quotes into the Exchange’s match engine and for the Exchange to send messages related to those quotes to Market Makers. MRX must manage the security and message traffic, among other things, for each port. Utilizing the various caps based on the “size” of the Market Maker as determined by Transactional Volume, provides every Market Maker the ability to manage cost. Additionally, the Exchange would have the ability to manage the quantity of SQF Ports and SQF Purge Ports issued by the Exchange. The various SQF Port and SQF Purge Port Fee Caps were determined based on the level of Transactional Volume on MRX in 2024

for Market Makers. The Exchange assessed each level of Market Maker an increased fee based on size, as reflected by Transactional Volume, to reflect the various sizes of Market Makers present on the Exchange at this time. By capping the SQF Ports and SQF Purge Ports at different levels based on “size,” the Exchange is considering the message traffic and message rates generated by the various “sizes” of Market Makers and the Exchange’s ability to process messages from all SQF Ports and SQF Purge Ports. The SQF Port and SQF Purge Port Fee Cap would allow the Exchange to scale its needs with respect to processing messages in an efficient manner. The Exchange notes that Cboe Exchange, Inc. (“Cboe”) limits usage on each port and assesses fees for incremental usage.¹¹

Second, the Exchange notes that multiple ports are not necessary, however, to the extent that some Market Makers elect to obtain multiple SQF Ports and SQF Purge Ports, the Exchange is offering to cap their total port cost. MRX believes the existence of a cap based on the “size” of the Market Maker will level the playing field. The Exchange believes that this approach enables various types of Market Makers to effectively limit costs based on their executed Transactional Volume on the Exchange. Further, the existence of an SQF Port and SQF Purge Port Fee Cap allows for efficiencies and permits Market Makers to increase their number of ports beyond the cap. The cap levels the playing field by allowing various types of Market Makers that want to obtain a larger number of ports to do so with the certainty of a fee cap. Without the SQF Port and SQF Purge Port Fee Cap, Market Makers may pay more to obtain multiple SQF Port and SQF Purge Ports on the Exchange. Other markets tier port fees. BOX Exchange LLC (“BOX”) assesses \$1,000 per month for all SAIL Ports for Market Making and \$500 per month per port up to 5 ports for order entry and \$150 per month for each additional port.¹² Miami International Securities Exchange, LLC’s (“MIAX”) MIAX Express Interface (“MEI”) Fee levels are based on a tiered fee structure based on the Market

Maker’s total monthly executed volume during the relevant month.¹³

The proposed pricing change to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as “small,” from \$17,500 to \$22,500, to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as “medium” from \$27,500 to \$25,000 per month, and to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as “large” from \$42,000 to \$50,000 per month, is equitable and not unfairly discriminatory because the Exchange is offering different sizes of Market Makers, based on Transactional Volume executed on the Exchange, the ability to cap their costs at different levels and potentially obtain some SQF Ports and SQF Purge Ports at no cost. The proposal recognizes that some Market Makers may be deemed “small” and may not be able to achieve the same cap as other Market Makers. To this end, the Exchange proposes to increase SQF Port and SQF Purge Port Fee Cap from \$17,500 to \$22,500 per month for Market Makers that qualify as “small.” To the extent that a Market Maker qualifies in a given month as a “medium” Market Maker the Exchange proposes to increase the cap from \$17,500 to \$25,000 per month. This fee presumes to place a Market Maker that qualifies as “medium” on equal footing with a Market Maker that qualifies as a “small” Market Maker in terms of the cap, by setting different fee caps for each group. The proposal presumes, that based on Transactional Volume, these Market Makers that qualify as “medium” have a greater ability to obtain a greater amount of SQF Ports and SQF Purge Ports as compared to Market Makers that qualify as “small.” Finally, to the extent that a Market Maker qualifies in a given month as a “large” Market Maker the Exchange proposes to increase the cap from \$17,500 to \$27,500 per month. This fee presumes to place a Market Maker that qualifies as “large” on equal footing with a Market Maker that qualifies as a “small” Market Maker and a Market Maker that qualifies as “medium” in terms of the cap by setting different fee caps for each group. The proposal presumes that based that based on

⁹ For example, a Market Maker may desire to utilize multiple SQF Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that Member.

¹⁰ MRX Market Makers have various regulatory requirements as provided for in Options 2, Section 4. Additionally, MRX Market Makers have certain quoting requirements with respect to their assigned options series as provided in Options 2, Section 5. SQF Ports are the only quoting protocol available on MRX and only Market Makers may utilize SQF Ports.

¹¹ Each Cboe Binary Order Entry (“BOE”) or FIX Logical Port incur the logical port fee indicated when used to enter up to 70,000 orders per trading day per logical port as measured on average in a single month. For each incremental usage of up to 70,000 per day per logical port will incur an additional logical port fee of \$800 per month. BOE or FIX Logical Ports provide users the ability to enter order/quotes. See Cboe’s Fees Schedule.

¹² See BOX’s Fee Schedule.

¹³ MEI is a connection to MIAX systems that enables Market Makers to submit simple and complex electronic quotes to MIAX. MIAX caps its MEI Ports. For these Monthly MIAX MEI Fees levels, if the Market Maker’s total monthly executed volume during the relevant month is less than 0.060% of the total monthly executed volume reported by OCC in the market maker account type for MIAX-listed option classes for that month, then the fee will be \$14,500 instead of the fee otherwise applicable to such level. See MIAX’s Fee Schedule.

Transactional Volume these Market Makers that qualify as “large” have the ability to obtain the largest amount of SQF Ports and SQF Purge Ports. The Exchange would uniformly apply the appropriate Market Maker cap to each Market Maker group based on the same volume calculation. Also, Market Makers who exceed their applicable cap would uniformly not be assessed any fee for SQF Ports and SQF Purge Ports beyond the applicable maximum amount.

Market Makers are the only market participants that are assessed SQF Port and SQF Purge Port fees because they are the only market participants that are permitted to quote on the Exchange. SQF Ports and SQF Purge Ports are only utilized in the Market Maker’s assigned options series. Unlike other market participants, Market Makers are subject to market making and quoting obligations.¹⁴ These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to MRX on a continuous basis. In addition, the Exchange notes that Lead Market Makers are required to submit quotes in the Opening Process to open an options series.¹⁵ Market Makers are subject to a number of fees, unlike other market participants. Market Makers pay separate Membership Fees,¹⁶ and CMM Trading Right Fees,¹⁷ in addition to other fees paid by other market participants. Providing Market Makers a means to cap their cost related to quoting at a rate that reflects their “size” and enabling all Market Makers to acquire SQF Ports and SQF Purge Ports at no cost beyond the applicable cap enables these market participants to provide the necessary liquidity to MRX at lower costs. Therefore, because Market Makers fulfill a unique role on the Exchange, are the only market participant required to submit quotes as part of their obligations to operate on the Exchange, and, in light of that role, they are eligible for certain incentives. The proposed SQF Port and SQF Purge Fee cap is designed to continue to incent Market Makers to quote on MRX, thereby promoting liquidity, quote competition, and trading opportunities.

In 2022, NYSE Arca, Inc. (“NYSE Arca”) proposed to restructure fees relating to OTPs for Market Makers.¹⁸ In

that rule change,¹⁹ NYSE Arca argued that,

Market Makers serve a unique and important function on the Exchange (and other options exchanges) given the quote-driven nature of options markets. Because options exchanges rely on actively quoting Market Makers to facilitate a robust marketplace that attracts order flow, options exchanges must attract and retain Market Makers, including by setting competitive Market Maker permit fees. Stated otherwise, changes to Market Maker permit fees can have a direct effect on the ability of an exchange to compete for order flow. The Exchange also believes that the number of options exchanges on which Market Makers can effect option transactions also ensures competition in the marketplace and constrains the ability of exchanges to charge supracompetitive fees for access to its market by Market Makers.

Further, NYSE ARCA noted that,²⁰

The Exchange further believes that its ability to set Market Maker permit fees is constrained by competitive forces based on the fact that Market Makers can, and have, chosen to terminate their status as a Market Maker if they deem Market Maker permit fees to be unreasonable or excessive. Specifically, the Exchange notes that a BOX participant modified its access to BOX in connection with the implementation of a proposed change to BOX’s Market Maker permit fees. The Exchange has also observed that another options exchange group experienced decreases in market share following its proposed modifications of its access fees (including Market Maker trading permit fees), suggesting that market participants (including Market Makers) are sensitive to changes in exchanges’ access fees and may respond by shifting their order flow elsewhere if they deem the fees to be unreasonable or excessive.

There is no requirement, regulatory or otherwise, that any Market Maker connect to and access any (or all of) the available options exchanges. The Exchange also is not aware of any reason why a Market Maker could not cease being a permit holder in response to unreasonable price increases. The Exchange does not assess any termination fee for a Market Maker to drop its OTP, nor is the Exchange aware of any other costs that would be incurred by a Market Maker to do so.

The Exchange likewise believes that its ability to cap SQF Port and SQF Purge Port fees is constrained by competitive forces and that its proposed modifications to the SQF Port and SQF Purge Fee cap is reasonably designed in consideration of the competitive environment in which the Exchange operates, by balancing the value of the enhanced benefits available to Market

Makers, based on their transactional volume and presumed “size.” At the same time, the Exchange believes the proposed fees will incent Market Makers to support increased liquidity, quote competition, and trading opportunities on the Exchange, for the benefit of all market participants.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The proposal does not impose an undue burden on intermarket competition. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intramarket Competition

The proposed pricing change to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as “small,” from \$17,500 to \$22,500, to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as “medium” from \$27,500 to \$25,000 per month and to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as “large” from \$42,000 to \$50,000 per month does not impose an undue burden on competition because the Exchange is offering different sizes of Market Makers, based on Transactional Volume executed on the Exchange, the ability to cap their costs at different levels and potentially obtain some SQF Ports and SQF Purge Ports at no cost. The proposal recognizes that some Market Makers may be deemed “small” and may not be able to achieve the same cap as other Market Makers. To this end, the Exchange proposes to increase SQF Port and SQF Purge Port Fee Cap from \$17,500 to \$22,500 per month for Market Makers that qualify as “small.” To the extent that a Market Maker qualifies in a given month as a “medium” Market Maker the Exchange proposes to increase the cap from

¹⁴ See Options 2, Sections 4 and 5.

¹⁵ See Options 3, Section 8.

¹⁶ See Options 7, Section 5, E.

¹⁷ See Options 7, Section 5, F.

¹⁸ See Securities Exchange Act Release No. 95412 (June 23, 2022), 87 FR 38786 (June 29, 2022) (SR–NYSEArca–2022–36). NYSE Arca proposed to increase both the monthly fee per Market Maker OTP and the number of issues covered by each

additional OTP because, among other reasons, the number of issues traded on the Exchange has increased significantly in recent years.

¹⁹ *Id.* at 38788.

²⁰ *Id.* at 38790.

\$17,500 to \$25,000 per month. This fee presumes to place a Market Maker that qualifies as “medium” on equal footing with a Market Maker that qualifies as a “small” Market Maker in terms of the cap, by setting different fee caps for each group. The proposal presumes, that based on Transactional Volume, these Market Makers that qualify as “medium” have a greater ability to obtain a greater amount of SQF Ports and SQF Purge Ports as compared to Market Makers that qualify as “small.” Finally, to the extent that a Market Maker qualifies in a given month as a “large” Market Maker the Exchange proposes to increase the cap from \$17,500 to \$27,500 per month. This fee presumes to place a Market Maker that qualifies as “large” on equal footing with a Market Maker that qualifies as a “small” Market Maker and a Market Maker that qualifies as “medium” in terms of the cap by setting different fee caps for each group. The proposal presumes that based that based on Transactional Volume these Market Makers that qualify as “large” have the ability to obtain the largest amount of SQF Ports and SQF Purge Ports. The Exchange would uniformly apply the appropriate Market Maker cap to each Market Maker group based on the same volume calculation. Also, Market Makers who exceed their applicable cap would uniformly not be assessed any fee for SQF Ports and SQF Purge Ports beyond the applicable maximum amount.

Market Makers are the only market participants that are assessed SQF Port and SQF Purge Port fees because they are the only market participants that are permitted to quote on the Exchange. SQF Ports and SQF Purge Ports are only utilized in the Market Maker’s assigned options series. Unlike other market participants, Market Makers are subject to market making and quoting obligations.²¹ These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to MRX on a continuous basis. In addition, the Exchange notes that Lead Market Makers are required to submit quotes in the Opening Process to open an options series.²² Market Makers are subject to a number of fees, unlike other market participants. Market Makers pay separate Membership Fees,²³ and CMM Trading Right Fees,²⁴ in addition to other fees paid by other market participants. Providing Market Makers a

means to cap their cost related to quoting at a rate that reflects their “size” and enabling all Market Makers to acquire SQF Ports and SQF Purge Ports at no cost beyond the applicable cap enables these market participants to provide the necessary liquidity to MRX at lower costs. Therefore, because Market Makers fulfill a unique role on the Exchange, are the only market participant required to submit quotes as part of their obligations to operate on the Exchange, and, in light of that role, they are eligible for certain incentives. The proposed SQF Port and SQF Purge Fee cap is designed to continue to incent Market Makers to quote on MRX, thereby promoting liquidity, quote competition, and trading opportunities.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²⁵ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MRX-2024-21 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-MRX-2024-21. 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-MRX-2024-21 and should be submitted on or before August 6, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-15506 Filed 7-15-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100484; File No. SR-ISE-2024-24]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Launch Proximity-On-Demand, a Managed Colocation Solution

July 10, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

²¹ See Options 2, Sections 4 and 5.

²² See Options 3, Section 8.

²³ See Options 7, Section 5, E.

²⁴ See Options 7, Section 5, F.

²⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁶ 17 CFR 200.30-3(a)(12).

(“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on June 28, 2024, Nasdaq ISE, LLC (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to launch Proximity-On-Demand, a managed colocation solution.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/ise/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to launch Proximity-On-Demand (“POD”), a managed colocation solution. POD will offer colocation customers a convenient variant of colocation where applications are deployed on managed infrastructure in the form of virtual or dedicated servers in the co-location space.

Current Co-Location Offering

The Exchange currently offers colocation services, which include a suite of data center space, power, telecommunication, and other ancillary products and services that allow customers to place their trading and communications equipment in close physical proximity to the quoting and

execution facilities of the Exchange. The use of colocation services is entirely voluntary and colocation services are available to all market participants who desire them.

Colocation customers are not provided any separate or superior means of direct access to the Exchange quoting and trading facilities. Nor does the Exchange offer any separate or superior means of access to the Exchange quoting and trading facilities as among colocation customers themselves within the data center (or any future expansions to the data center).³

In addition, all orders sent to the Exchange market enter the marketplace through the same central system quote and order gateway regardless of whether the sender is co-located in the Exchange data center or not. In short, the Exchange has created no special market technology or programming that is available only to co-located customers and the Exchange has organized its systems to minimize, to the greatest extent possible, any advantage for one customer versus another.

Proximity-On-Demand

POD will be an alternative to the traditional offering of space and power for the physical colocation of customers’ equipment. The Exchange will continue to offer its traditional colocation services.

With POD, customers will not need to order cabinets and power to install a server or network hardware in the Exchange’s data center to be able to set up their systems and access the market directly. Instead, POD will provide customers with a variant of colocation where applications are deployed on a shared computing infrastructure⁴ co-located in the data center,⁵ providing customers with a convenient avenue to do business on the Exchange. With the Exchange’s traditional colocation offering, the Exchange provides space and power and customers provide the hardware. With POD, the Exchange will provide the hardware. This allows the

Exchange’s customers to connect more quickly and with lower cost.

Customers will be able to select a dedicated server or a virtual machine. A dedicated server is single-tenant environment, meaning that only one customer has access to the server hardware. A virtual machine is a computing environment where each customer has exclusive access to their virtualized server, including its operating system and applications. While customers will control their virtual machines independently, the physical hardware resources, such as the CPU, memory, and storage, are shared among multiple virtual machines on the same physical server. Hypervisor technology keeps the separate customer operating systems securely segmented from each other, allowing a single server to support multiple virtual machines. This allows quicker deployment times and provides customers with the flexibility to dynamically adjust the amount of compute resources needed without requiring hardware changes. The Exchange anticipates that customers will choose a dedicated server where better performance is required but may prefer a virtual server for short-lived requirements or less performance-sensitive workloads.

The servers (dedicated and virtual) for POD will be located in a cabinet in the colocation space at the data center. Each customer will have their own logical network that is fully isolated and not shared with other customers. Those customers selecting a dedicated server would also have the option to add an analytics service.⁶ The analytics service will provide the ability to monitor network traffic to and from the POD infrastructure, allowing customers access to data about bandwidth usage, latency, and information related to Precision Time Protocol (PTP) timestamped messages.

Access to POD will be available via virtual private network (VPN) or Secure Shell (SSH), similar to how customers would access their fully owned co-located hardware. Customers will be able to choose from several existing options for physical connectivity, including 1G Ultra, 10G, 10G Ultra, and 40G. POD will provide access to the market through the same Extranet network as is used currently by existing colocation customers. To be clear, POD will not afford its users any special advantages relative to users of its traditional colocation services.

⁶ The analytics service is not available for virtual machines because the compute resourcing for operating analytics is incompatible with virtual machines.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ Although the proposal and launch of POD are not dependent on the expansion of the data center, the Exchange notes that is in the process of expanding its data center in Carteret, New Jersey. Client connections to the matching engine will be equal across the board, within and among the current data center and the expansion.

⁴ Shared computing infrastructure means that the Exchange would provide the infrastructure, including hardware, that can be used by multiple customers.

⁵ POD will be housed within the same data center as the existing traditional colocation offering and Exchange systems, located in Carteret, New Jersey.

Exchanges offer colocation services to facilitate the trading activities of those market participants who believe that colocation enhances the efficiency of their trading. The Exchange believes that the launch of POD will benefit an underserved market segment, including a niche of smaller customers who do not currently co-locate in any form at the data center but wish to do so. These smaller trading firms that do not directly connect and interface with the Exchange may struggle with the complexity, upfront investment, ongoing expense, and knowledge gaps required to code, connect, host and manage their own infrastructure, and trade directly with the Exchange.

The Exchange notes that similar services are currently offered by, and customers may obtain such service from, managed service providers that operate at the Carteret data center. For example, Pico and Options-IT currently offer managed service colocation at the Carteret data center.⁷ In addition to managed service providers currently offering POD-like services at the data center, additional providers offer similar services in other locations and will likely be in the Carteret data center in the future as well.⁸ ICE offers a comparable service, “Compute on Demand,”⁹ in select locations, including at NY4 (located in Secaucus, New Jersey).¹⁰ Customers of ICE’s Compute on Demand could (and presumably do) connect to national securities exchanges.

POD will provide customers with increased options for colocation. POD will be entirely optional and available to all market participants who desire to subscribe to POD. It is a business decision of each firm whether to

subscribe to POD. Rather than choosing POD, customers may choose to (1) directly co-locate at the data center by ordering cabinet space and power, and placing their equipment at the data center; (2) co-locate through a third party; or (3) not co-locate at all.

Implementation

The Exchange intends to submit a fee filing in the future to establish fees for POD, including fees for a dedicated server, a dedicated server with analytics, and a virtual machine. Implementation of the proposal described herein to offer POD would coincide with the subsequent fee filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹² in particular, in that it is designed to promote just and equitable principles of trade, 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 because POD would provide customers with increased optionality to access the Exchange. The Exchange operates in a highly competitive market in which exchanges offer colocation services to facilitate the trading activities of those customers who believe that colocation enhances the efficiency of their trading. POD is a voluntary variant of colocation where customers can directly access the market without needing to procure physical hardware independently, instead they can use a shared computing infrastructure co-located in the data center.

The Exchange believes that the launch of POD will benefit an underserved market segment, including smaller customers who do not currently co-locate in any form at the data center but wish to do so. These smaller trading firms that do not directly connect and interface with the Exchange may struggle with the complexity, upfront investment, ongoing expense, and knowledge gaps required to code, connect, host and manage their own infrastructure, and trade directly with the Exchange. As such, the Exchange believes that the proposal would further the objective of removing impediments to and perfecting the mechanism of a free and open market and a national market system.

The proposal would benefit the public interest by providing customers more colocation options to choose from, thereby enhancing their ability to tailor their colocation operations to the requirements of their business operations. As noted above, POD will be entirely optional and available to all market participants who desire to subscribe to POD. Rather than choosing to co-locate via POD, customers may choose to (1) directly co-locate at the data center by ordering cabinet space and power, and placing their equipment at the data center; (2) co-locate through a third party; or (3) not co-locate at all. Services comparable to POD are currently offered by, and customers may obtain such service from, any managed service providers that operate at the Carteret data center.

Again, POD will offer its users no special advantages relative to users of the Exchange’s traditional colocation services. Though POD will allow customers to use Exchange-provided hardware to access the Exchange, POD does not otherwise fundamentally differ from current connectivity to the Exchange. The Exchange is not proposing to change the nature of the services provided today. Rather, POD will differ as to who provides the hardware.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Nothing in the proposal imposes any burden on the ability of other exchanges to compete. The Exchange operates in a highly competitive market in which exchanges and other vendors offer colocation services to facilitate the trading and other market activities of those market participants who believe that colocation enhances the efficiency of their operations.

Nothing in the Proposal burdens intra-market competition because POD will be available to any customer and customers that wish to co-locate via POD can do so on a non-discriminatory basis. Use of any colocation service is completely voluntary, and each market participant is able to determine whether to use colocation services, including POD, based on the requirements of its business operations. POD will offer its users no special advantages relative to users of the Exchange’s traditional colocation services.

⁷ See <https://www.pico.net/infrastructure/colocation-hosting/>; <https://www.options-it.com/products/trading-infrastructure/exchange-colos/>.

⁸ See, e.g., <https://deploy.equinix.com/product/bare-metal/>; <https://tnsi.com/resource/fin/tns-dedicated-server-comprehensive-cloud-server-management-press-release/>.

⁹ See <https://www.ice.com/fixed-income-data-services/access-and-delivery/connectivity-and-feeds/hosting-managed-services#demand>. Compute on Demand provides customers with a managed solution and is a delivery model in which computing resources are made available to customers on an on-demand basis. ICE offers Compute on Demand in collaboration with Beeks. The Exchange also intends to launch POD in partnership with Beeks. Beeks will provide the hardware that will allow the Exchange to offer POD. In addition, the Johannesburg Stock Exchange currently offers an advanced managed infrastructure as a service solution, similar to POD, in collaboration with Beeks. See <https://beeksgroup.com/news/johannesburg-stock-exchange-jse-choose-beeks-and-ipc-to-power-private-cloud-deployments-for-their-customers/>.

¹⁰ Choe affiliated exchanges utilize the Equinix NY4 data center in Secaucus, NJ.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹³ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-ISE-2024-24 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-ISE-2024-24. 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-ISE-2024-24 and should be submitted on or before August 6, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-15498 Filed 7-15-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100489; File No. SR-Phlx-2024-29]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 9

July 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 July 1, 2024, Nasdaq PHLX LLC ("Phlx" or "Exchange") 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

The Exchange proposes to amend Options 7, Section 9.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/phlx/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 7, Section 9, B, Port Fees, to increase the SQF Port³ Fee cap for

³ "Specialized Quote Feed" or "SQF" is an interface that allows Lead Market Makers, Streaming Quote Traders ("SQTs") and Remote Streaming Quote Traders ("RSQTs") to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses into and from the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying and complex instruments); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge requests from the Lead Market Maker, SQT or RSQT. Lead Market Makers, SQTs and RSQTs may only enter interest into SQF in their assigned options series. Immediate-or-Cancel Orders entered into SQF are not subject to the Order Price Protection, the Market Order Spread Protection, or Size Limitation in Options 3, Section 15(a)(1), (a)(2) and (b)(2), respectively. See Options 3, Section 7(a)(i)(B).

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

certain Market Makers.⁴ Today, Phlx assesses \$1,250 per port, per month up to a maximum of \$42,000 per month for an SQF Port that receives inbound quotes at any time within that month.⁵ Today, Market Makers are not assessed an active SQF Port Fee for additional ports acquired for ten business days for the purpose of transitioning technology.⁶ The Exchange proposes to add the words “active port” in parenthesis at the end of the description of SQF Port Fee to tie the definition of an active port to the description for the port.⁷

At this time, the Exchange proposes to increase the monthly maximum SQF Port Fee Cap of \$42,000 per month for certain Market Makers based on the size of the Market Maker on Phlx. The Exchange is determining the size of the Market Maker based on the amount of transactional volume executed on Phlx in a given month. The Exchange proposes to take each Market’s Maker’s electronic monthly transactional volume via SQF on Phlx and divide that number by the sum of all Market Maker electronic monthly transactional volume via SQF on Phlx (“Transactional Volume”). All SQF interest would be considered. Each Market Maker would then be classified on Phlx, for the purpose of the SQF Port Fee Cap, as a “small,” “medium,” or “large” Market Maker based on their Transactional Volume on Phlx to determine the applicable cap in a given month. Market Makers that qualify as “small” would continue to be subject to the current \$42,000 per month cap on SQF Port Fees. Market Makers that qualify as “medium” would be subject to an increased monthly cap of \$46,000 for SQF Port Fees. Finally, Market Makers that qualify as “large” would be subject to an increased monthly cap of \$50,000 for SQF Port Fees.

As is the case today, the Exchange would not assess a Market Maker an

SQF Port Fee beyond the monthly cap once the Market Maker has exceeded the monthly cap for the respective month. Despite increasing the maximum SQF Port Fees for Market Makers that qualify as “medium” and “large,” the Exchange will continue to offer all Market Makers the opportunity to cap their SQF Port Fees to limit their costs as they would not be assessed an SQF Port Fee beyond the applicable cap each month.

A Phlx Market Maker requires only one SQF Port to submit quotes in its assigned options series into Phlx. A Phlx Market Maker may submit all quotes through one SQF Port. While a Phlx Market Maker may elect to obtain multiple SQF Ports to organize its business,⁸ only one SQF Port is necessary for a Phlx Market Maker to fulfill its regulatory quoting obligations.⁹

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹¹ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed pricing change to increase the SQF Fee Cap for Market Makers that qualify as “medium” from \$42,000 to \$46,000 per month for SQF Port Fees, and for Market Makers that qualify as “large” from \$42,000 to \$50,000 per month for SQF Port Fees, is reasonable because despite the increase in the maximum SQF Port Fee, the Exchange will continue to offer all Market Makers the opportunity to cap their SQF Port Fees each month to limit their costs as they would not be assessed an SQF Port Fee beyond the cap. The Exchange would not increase the current SQF Port Fee Cap for a Market Maker that qualifies as “small.”

A Phlx Market Maker requires only one SQF Port to submit quotes in its

assigned options series into Phlx. A Phlx Market Maker may submit all quotes through one SQF Port. While a Phlx Market Maker may elect to obtain multiple SQF Ports to organize its business,¹² only one SQF Port is necessary for a Phlx Market Maker to fulfill its regulatory quoting obligations.¹³ Member organizations may choose a greater number of SQF Ports beyond one port, depending on that member organization’s particular business model. Additionally, the Exchange believes that the caps are reasonable for two reasons.

First, SQF Ports are a secure method for Market Makers to submit quotes into the Exchange’s match engine and for the Exchange to send messages related to those quotes to Market Makers. Phlx must manage the security and message traffic, among other things, for each port. Utilizing the various caps based on the “size” of the Market Maker as determined by Transactional Volume, provides every Market Maker the ability to manage cost. Additionally, the Exchange would have the ability to manage the quantity of SQF Ports issued on Phlx. The various SQF Port Fee Caps were determined based on the level of Transactional Volume on Phlx in 2024 for Market Makers. The Exchange assessed each level of Market Maker an increased cap of \$4,000 based on size, as reflected by Transactional Volume, to reflect the various sizes of Market Makers present on Phlx at this time. By capping the SQF Ports at different levels based on “size,” the Exchange is considering the message traffic and message rates generated by the various “sizes” of Market Makers and the Exchange’s ability to process messages from all SQF Ports. The SQF Port Fee Caps would allow the Exchange to scale its needs with respect to processing messages in an efficient manner. The Exchange notes that Cboe Exchange, Inc. (“Cboe”) limits usage on each port and assesses fees for incremental usage.¹⁴

¹² For example, a Phlx Market Maker may desire to utilize multiple SQF Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that member organization.

¹³ Phlx Market Makers have various regulatory requirements as provided for in Options 2, Section 4. Additionally, Phlx Market Makers have certain quoting requirements with respect to their assigned options series as provided in Options 2, Section 5. SQF Ports are the only quoting protocol available on Phlx and only Market Makers may utilize SQF Ports.

¹⁴ Each Cboe Binary Order Entry (“BOE”) or FIX Logical Port incur the logical port fee indicated when used to enter up to 70,000 orders per trading day per logical port as measured on average in a single month. For each incremental usage of up to 70,000 per day per logical port will incur an additional logical port fee of \$800 per month. BOE

⁴ The term “Market Maker” is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. See Options 7, Section 1(c). The term “Floor Market Maker” is a Market Maker who is neither an SQT or an RSQT. A Floor Market Maker may provide a quote in open outcry. See Options 8, Section 2(a)(4).

⁵ An active port shall mean that the port was utilized to submit a quote to the System during a given month. See Options 7, Section 9, B.

⁶ The member organization is required to provide the Exchange with written notification of the transition and all additional ports, provided at no cost, will be removed at the end of the ten business days. See Options 7, Section 9, B.

⁷ The Exchange also proposes a technical amendment to add a comma between “per port” and “per month” for the SQF Port Fee in Options 7, Section 9, B.

⁸ For example, a Phlx Market Maker may desire to utilize multiple SQF Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that member organization.

⁹ Phlx Market Makers have various regulatory requirements as provided for in Options 2, Section 4. Additionally, Phlx Market Makers have certain quoting requirements with respect to their assigned options series as provided in Options 2, Section 5. SQF Ports are the only quoting protocol available on Phlx and only Market Makers may utilize SQF Ports.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4) and (5).

Second, the Exchange notes that multiple SQF Ports are not necessary, however, to the extent that some Market Makers elect to obtain multiple SQF Ports, the Exchange is offering to cap their total port cost. Phlx believes that the existence of a cap based on “size” of the Market Maker will level the playing field. The Exchange believes that this approach enables various types of Market Makers to effectively limit costs based on their executed Transactional Volume on Phlx. Further, the existence of an SQF Port Fee Cap allows for efficiencies and permits Market Makers to increase their number of ports beyond the cap. The cap levels the playing field by allowing various types of Market Makers that want to obtain a larger number of ports to do so with the certainty of a fee cap. Without the SQF Fee Cap, Phlx Market Makers may pay more to obtain multiple SQF Ports on Phlx. Other market tier port fees. BOX Exchange LLC (“BOX”) assesses \$1,000 per month for all SAIL Ports for Market Making and \$500 per month per port up to 5 ports for order entry and \$150 per month for each additional port.¹⁵ Miami International Securities Exchange, LLC’s (“MIAX”) MIAX Express Interface (“MEI”) Fee levels are based on a tiered fee structure based on the Market Maker’s total monthly executed volume during the relevant month.¹⁶

The proposed pricing change to increase the SQF Fee Cap for Market Makers that qualify as “medium” from \$42,000 to \$46,000 per month for SQF Port Fees, and for Market Makers that qualify as “large” from \$42,000 to \$50,000 per month for SQF Port Fees, is equitable and not unfairly discriminatory because the Exchange is offering different sizes of Market Makers, based on Transactional Volume executed on Phlx, the ability to cap their costs at different levels and potentially obtain some SQF Ports at no cost. The proposal recognizes that some Market Makers may be deemed “small” and may not be able to achieve the same cap as other Market Makers. To this end, the Exchange proposes not to increase SQF Port Fees for Market Makers that qualify

as “small” in a given month. To the extent that a Market Maker qualifies in a given month as a “medium” Market Maker the Exchange proposes to increase the cap from \$42,000 to \$46,000 per month. This fee presumes to place a Market Maker that qualifies as “medium” on equal footing with a Market Maker that qualifies as a “small” Market Maker in terms of the cap, by setting different fee caps for each group. The proposal presumes that based on Transactional Volume, these Market Makers that qualify as “medium” have a greater ability to obtain a greater amount of SQF Ports as compared to Market Makers that qualify as “small.” Finally, to the extent that a Market Maker qualifies in a given month as a “large” Market Maker the Exchange proposes to increase the cap from \$42,000 to \$50,000 per month. This fee presumes to place a Market Maker that qualifies as “large” on equal footing with a Market Maker that qualifies as a “small” Market Maker and a Market Maker that qualifies as “medium” in terms of the cap, by setting different fee caps for each group. The proposal presumes that based on Transactional Volume these Market Makers that qualify as “large” have the ability to obtain the largest amount of SQF Ports. The Exchange would uniformly apply the appropriate Market Maker cap to each Market Maker group based on the same volume calculation. Also, Market Makers who exceed their applicable cap would uniformly not be assessed any fee for SQF Ports beyond the applicable maximum amount.

Market Makers are the only market participants that are assessed SQF Port Fees because they are the only market participants that are permitted to quote on the Exchange. SQF Ports are only utilized in the Market Maker’s assigned options series. Unlike other market participants, Market Makers are subject to market making and quoting obligations.¹⁷ These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to Phlx on a continuous basis. In addition, the Exchange notes that Lead Market Makers are required to submit quotes in the Opening Process to open an options series.¹⁸ Market Makers are subject to a number of fees, unlike other market participants. Market Makers pay separate permit fees,¹⁹ and Streaming Quote Trader Fees,²⁰ in addition to other fees paid by other market

participants. Providing all Market Makers a means to cap their cost related to quoting at a rate that reflects their “size” and enabling all Market Makers to acquire SQF Ports at no cost beyond the applicable cap enables these market participants to provide the necessary liquidity to Phlx at lower costs. Therefore, because Market Makers fulfill a unique role on the Exchange, are the only market participant required to submit quotes as part of their obligations to operate on the Exchange, and, in light of that role, they are eligible for certain incentives. The proposed SQF Port Fee Cap is designed to continue to incent all Market Makers to quote on Phlx, thereby promoting liquidity, quote competition, and trading opportunities.

In 2022, NYSE Arca, Inc. (“NYSE Arca”) proposed to restructure fees relating to OTPs for Market Makers.²¹ In that rule change,²² NYSE Arca argued that,

Market Makers serve a unique and important function on the Exchange (and other options exchanges) given the quote-driven nature of options markets. Because options exchanges rely on actively quoting Market Makers to facilitate a robust marketplace that attracts order flow, options exchanges must attract and retain Market Makers, including by setting competitive Market Maker permit fees. Stated otherwise, changes to Market Maker permit fees can have a direct effect on the ability of an exchange to compete for order flow. The Exchange also believes that the number of options exchanges on which Market Makers can effect option transactions also ensures competition in the marketplace and constrains the ability of exchanges to charge supracompetitive fees for access to its market by Market Makers.

Further, NYSE ARCA noted that,²³

The Exchange further believes that its ability to set Market Maker permit fees is constrained by competitive forces based on the fact that Market Makers can, and have, chosen to terminate their status as a Market Maker if they deem Market Maker permit fees to be unreasonable or excessive. Specifically, the Exchange notes that a BOX participant modified its access to BOX in connection with the implementation of a proposed change to BOX’s Market Maker permit fees. The Exchange has also observed that another options exchange group experienced decreases in market share following its proposed modifications of its access fees (including Market Maker trading permit fees),

or FIX Logical Ports provide users the ability to enter order/quotes. See Cboe’s Fees Schedule.

¹⁵ See BOX’s Fee Schedule.

¹⁶ MEI is a connection to MIAX systems that enables Market Makers to submit simple and complex electronic quotes to MIAX. MIAX caps its MEI Ports. For these Monthly MIAX MEI Fees levels, if the Market Maker’s total monthly executed volume during the relevant month is less than 0.060% of the total monthly executed volume reported by OCC in the market maker account type for MIAX-listed option classes for that month, then the fee will be \$14,500 instead of the fee otherwise applicable to such level. See MIAX’s Fee Schedule.

¹⁷ See Options 2, Sections 4 and 5.

¹⁸ See Options 3, Section 8.

¹⁹ See Options 7, Section 8, A.

²⁰ See Options 7, Section 8, B.

²¹ See Securities Exchange Act Release No. 95412 (June 23, 2022), 87 FR 38786 (June 29, 2022) (SR–NYSEArca–2022–36). NYSE Arca proposed to increase both the monthly fee per Market Maker OTP and the number of issues covered by each additional OTP because, among other reasons, the number of issues traded on the Exchange has increased significantly in recent years.

²² *Id.* at 38788.

²³ *Id.* at 38790.

suggesting that market participants (including Market Makers) are sensitive to changes in exchanges' access fees and may respond by shifting their order flow elsewhere if they deem the fees to be unreasonable or excessive.

There is no requirement, regulatory or otherwise, that any Market Maker connect to and access any (or all of) the available options exchanges. The Exchange also is not aware of any reason why a Market Maker could not cease being a permit holder in response to unreasonable price increases. The Exchange does not assess any termination fee for a Market Maker to drop its OTP, nor is the Exchange aware of any other costs that would be incurred by a Market Maker to do so.

The Exchange likewise believes that its ability to cap SQF Ports Fees is constrained by competitive forces and that its proposed modifications to the SQF Port Fee cap is reasonably designed in consideration of the competitive environment in which the Exchange operates, by balancing the value of the enhanced benefits available to all Market Makers, based on their transactional volume and presumed "size." At the same time, the Exchange believes the proposed fees will incent Market Makers to support increased liquidity, quote competition, and trading opportunities on the Exchange, for the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The proposal does not impose an undue burden on intermarket competition. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intramarket Competition

The proposed pricing change to increase the SQF Fee Cap for Market Makers that qualify as "medium" from \$42,000 to \$46,000 per month for SQF Port Fees, and for Market Makers that

qualify as "large" from \$42,000 to \$50,000 per month for SQF Port Fees does not impose an undue burden on competition because the Exchange is offering different sizes of Market Makers, based on Transactional Volume executed on Phlx, the ability to cap their costs at different levels and potentially obtain some SQF Ports at no cost. The proposal recognizes that some Market Makers may be deemed "small" and may not be able to achieve the same cap as other Market Makers. To the extent that a Market Maker qualifies in a given month as a "medium" Market Maker the Exchange proposes to increase the cap from \$42,000 to \$46,000 per month. This fee presumes to place a Market Maker that qualifies as "medium" on equal footing with a Market Maker that qualifies as a "small" Market Maker in terms of the cap, by setting different fee caps for each group. The proposal presumes that based on Transactional Volume these Market Makers that qualify as "medium" have a greater ability to obtain a greater amount of SQF Ports as compared to Market Makers that qualify as "small." Finally, to the extent that a Market Maker qualifies in a given month as a "large" Market Maker the Exchange proposes to increase the cap from \$42,000 to \$50,000 per month. This fee presumes to place a Market Maker that qualifies as "large" on equal footing with a Market Maker that qualifies as a "small" Market Maker and a Market Maker that qualifies as "medium" in terms of the cap, by setting different fee caps for each group. The proposal presumes that based on Transactional Volume these Market Makers that qualify as "large" have the ability to obtain the largest amount of SQF Ports. The Exchange would uniformly apply the appropriate Market Maker cap to each Market Maker group based on the same volume calculation. Also, Market Makers who exceed their applicable cap would uniformly not be assessed any fee for SQF Ports beyond the applicable maximum amount.

Market Makers are the only market participants that are assessed SQF Port Fees because they are the only market participants that are permitted to quote on the Exchange. SQF Ports are only utilized in the Market Maker's assigned options series. Unlike other market participants, Market Makers are subject to market making and quoting obligations.²⁴ These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to Phlx on a continuous basis. In addition, the Exchange notes that Lead Market

Makers are required to submit quotes in the Opening Process to open an options series.²⁵ Market Makers are subject to a number of fees, unlike other market participants. Market Makers pay separate permit fees,²⁶ and Streaming Quote Trader Fees,²⁷ in addition to other fees paid by other market participants. Providing all Market Makers a means to cap their cost related to quoting at a rate that reflects their "size" and enabling all Market Makers to acquire SQF Ports at no cost beyond the applicable cap, enables these market participants to provide the necessary liquidity to Phlx at lower costs. Therefore, because Market Makers fulfill a unique role on the Exchange, are the only market participant required to submit quotes as part of their obligations to operate on the Exchange, and, in light of that role, they are eligible for certain incentives. The proposed SQF Port Fee Cap is designed to continue to incent all Market Makers to quote on Phlx, thereby promoting liquidity, quote competition, and trading opportunities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²⁸

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

²⁵ See Options 3, Section 8.

²⁶ See Options 7, Section 8, A.

²⁷ See Options 7, Section 8, B.

²⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

²⁴ See Options 2, Sections 4 and 5.

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-Phlx-2024-29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-Phlx-2024-29. 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-Phlx-2024-29 and should be submitted on or before August 6, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-15503 Filed 7-15-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100485; File No. SR-GEMX-2024-16]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Launch Proximity-On-Demand, a Managed Colocation Solution

July 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 June 28, 2024, Nasdaq GEMX, LLC ("GEMX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to launch Proximity-On-Demand, a managed colocation solution.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/gemx/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to launch Proximity-On-Demand ("POD"), a managed colocation solution. POD will

offer colocation customers a convenient variant of colocation where applications are deployed on managed infrastructure in the form of virtual or dedicated servers in the co-location space.

Current Co-Location Offering

The Exchange currently offers colocation services, which include a suite of data center space, power, telecommunication, and other ancillary products and services that allow customers to place their trading and communications equipment in close physical proximity to the quoting and execution facilities of the Exchange. The use of colocation services is entirely voluntary and colocation services are available to all market participants who desire them.

Colocation customers are not provided any separate or superior means of direct access to the Exchange quoting and trading facilities. Nor does the Exchange offer any separate or superior means of access to the Exchange quoting and trading facilities as among colocation customers themselves within the data center (or any future expansions to the data center).³

In addition, all orders sent to the Exchange market enter the marketplace through the same central system quote and order gateway regardless of whether the sender is co-located in the Exchange data center or not. In short, the Exchange has created no special market technology or programming that is available only to co-located customers and the Exchange has organized its systems to minimize, to the greatest extent possible, any advantage for one customer versus another.

Proximity-On-Demand

POD will be an alternative to the traditional offering of space and power for the physical colocation of customers' equipment. The Exchange will continue to offer its traditional colocation services.

With POD, customers will not need to order cabinets and power to install a server or network hardware in the Exchange's data center to be able to set up their systems and access the market directly. Instead, POD will provide customers with a variant of colocation where applications are deployed on a

³ Although the proposal and launch of POD are not dependent on the expansion of the data center, the Exchange notes that is in the process of expanding its data center in Carteret, New Jersey. Client connections to the matching engine will be equal across the board, within and among the current data center and the expansion.

²⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

shared computing infrastructure⁴ co-located in the data center,⁵ providing customers with a convenient avenue to do business on the Exchange. With the Exchange's traditional colocation offering, the Exchange provides space and power and customers provide the hardware. With POD, the Exchange will provide the hardware. This allows the Exchange's customers to connect more quickly and with lower cost.

Customers will be able to select a dedicated server or a virtual machine. A dedicated server is single-tenant environment, meaning that only one customer has access to the server hardware. A virtual machine is a computing environment where each customer has exclusive access to their virtualized server, including its operating system and applications. While customers will control their virtual machines independently, the physical hardware resources, such as the CPU, memory, and storage, are shared among multiple virtual machines on the same physical server. Hypervisor technology keeps the separate customer operating systems securely segmented from each other, allowing a single server to support multiple virtual machines. This allows quicker deployment times and provides customers with the flexibility to dynamically adjust the amount of compute resources needed without requiring hardware changes. The Exchange anticipates that customers will choose a dedicated server where better performance is required but may prefer a virtual server for short-lived requirements or less performance-sensitive workloads.

The servers (dedicated and virtual) for POD will be located in a cabinet in the colocation space at the data center. Each customer will have their own logical network that is fully isolated and not shared with other customers. Those customers selecting a dedicated server would also have the option to add an analytics service.⁶ The analytics service will provide the ability to monitor network traffic to and from the POD infrastructure, allowing customers access to data about bandwidth usage, latency, and information related to Precision Time Protocol (PTP) timestamped messages.

⁴ Shared computing infrastructure means that the Exchange would provide the infrastructure, including hardware, that can be used by multiple customers.

⁵ POD will be housed within the same data center as the existing traditional colocation offering and Exchange systems, located in Carteret, New Jersey.

⁶ The analytics service is not available for virtual machines because the compute resourcing for operating analytics is incompatible with virtual machines.

Access to POD will be available via virtual private network (VPN) or Secure Shell (SSH), similar to how customers would access their fully owned co-located hardware. Customers will be able to choose from several existing options for physical connectivity, including 1G Ultra, 10G, 10G Ultra, and 40G. POD will provide access to the market through the same Extranet network as is used currently by existing colocation customers. To be clear, POD will not afford its users any special advantages relative to users of its traditional colocation services.

Exchanges offer colocation services to facilitate the trading activities of those market participants who believe that colocation enhances the efficiency of their trading. The Exchange believes that the launch of POD will benefit an underserved market segment, including a niche of smaller customers who do not currently co-locate in any form at the data center but wish to do so. These smaller trading firms that do not directly connect and interface with the Exchange may struggle with the complexity, upfront investment, ongoing expense, and knowledge gaps required to code, connect, host and manage their own infrastructure, and trade directly with the Exchange.

The Exchange notes that similar services are currently offered by, and customers may obtain such service from, managed service providers that operate at the Carteret data center. For example, Pico and Options-IT currently offer managed service colocation at the Carteret data center.⁷ In addition to managed service providers currently offering POD-like services at the data center, additional providers offer similar services in other locations and will likely be in the Carteret data center in the future as well.⁸ ICE offers a comparable service, "Compute on Demand,"⁹ in select locations,

⁷ See <https://www.pico.net/infrastructure/colocation-hosting/>; <https://www.options-it.com/products/trading-infrastructure/exchange-colos/>.

⁸ See, e.g., <https://deploy.equinix.com/product/bare-metal/>; <https://tnsi.com/resource/fin/tns-dedicated-server-comprehensive-cloud-server-management-press-release/>.

⁹ See <https://www.ice.com/fixed-income-data-services/access-and-delivery/connectivity-and-feeds/hosting-managed-services#demand>. Compute on Demand provides customers with a managed solution and is a delivery model in which computing resources are made available to customers on an on-demand basis. ICE offers Compute on Demand in collaboration with Beeks. The Exchange also intends to launch POD in partnership with Beeks. Beeks will provide the hardware that will allow the Exchange to offer POD. In addition, the Johannesburg Stock Exchange currently offers an advanced managed infrastructure as a service solution, similar to POD, in collaboration with Beeks. See <https://beeksgroup.com/news/johannesburg-stock-exchange-jse-choose-beeks-and-ipc-to-power-private-cloud-deployments-for-their-customers/>.

including at NY4 (located in Secaucus, New Jersey).¹⁰ Customers of ICE's Compute on Demand could (and presumably do) connect to national securities exchanges.

POD will provide customers with increased options for colocation. POD will be entirely optional and available to all market participants who desire to subscribe to POD. It is a business decision of each firm whether to subscribe to POD. Rather than choosing POD, customers may choose to (1) directly co-locate at the data center by ordering cabinet space and power, and placing their equipment at the data center; (2) co-locate through a third party; or (3) not co-locate at all.

Implementation

The Exchange intends to submit a fee filing in the future to establish fees for POD, including fees for a dedicated server, a dedicated server with analytics, and a virtual machine. Implementation of the proposal described herein to offer POD would coincide with the subsequent fee filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹² in particular, in that it is designed to promote just and equitable principles of trade, 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 because POD would provide customers with increased optionality to access the Exchange. The Exchange operates in a highly competitive market in which exchanges offer colocation services to facilitate the trading activities of those customers who believe that colocation enhances the efficiency of their trading. POD is a voluntary variant of colocation where customers can directly access the market without needing to procure physical hardware independently, instead they can use a shared computing infrastructure co-located in the data center.

The Exchange believes that the launch of POD will benefit an underserved market segment, including smaller customers who do not currently co-locate in any form at the data center but wish to do so. These smaller trading firms that do not directly connect and

[exchange-jse-choose-beeks-and-ipc-to-power-private-cloud-deployments-for-their-customers/](https://beeksgroup.com/news/johannesburg-stock-exchange-jse-choose-beeks-and-ipc-to-power-private-cloud-deployments-for-their-customers/).

¹⁰ Choe affiliated exchanges utilize the Equinix NY4 data center in Secaucus, NJ.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

interface with the Exchange may struggle with the complexity, upfront investment, ongoing expense, and knowledge gaps required to code, connect, host and manage their own infrastructure, and trade directly with the Exchange. As such, the Exchange believes that the proposal would further the objective of removing impediments to and perfecting the mechanism of a free and open market and a national market system.

The proposal would benefit the public interest by providing customers more colocation options to choose from, thereby enhancing their ability to tailor their colocation operations to the requirements of their business operations. As noted above, POD will be entirely optional and available to all market participants who desire to subscribe to POD. Rather than choosing to co-locate via POD, customers may choose to (1) directly co-locate at the data center by ordering cabinet space and power, and placing their equipment at the data center; (2) co-locate through a third party; or (3) not co-locate at all. Services comparable to POD are currently offered by, and customers may obtain such service from, any managed service providers that operate at the Carteret data center.

Again, POD will offer its users no special advantages relative to users of the Exchange's traditional colocation services. Though POD will allow customers to use Exchange-provided hardware to access the Exchange, POD does not otherwise fundamentally differ from current connectivity to the Exchange. The Exchange is not proposing to change the nature of the services provided today. Rather, POD will differ as to who provides the hardware.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Nothing in the proposal imposes any burden on the ability of other exchanges to compete. The Exchange operates in a highly competitive market in which exchanges and other vendors offer colocation services to facilitate the trading and other market activities of those market participants who believe that colocation enhances the efficiency of their operations.

Nothing in the Proposal burdens intra-market competition because POD will be available to any customer and

customers that wish to co-locate via POD can do so on a non-discriminatory basis. Use of any colocation service is completely voluntary, and each market participant is able to determine whether to use colocation services, including POD, based on the requirements of its business operations. POD will offer its users no special advantages relative to users of the Exchange's traditional colocation services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹³ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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-GEMX-2024-16 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-GEMX-2024-16. 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-GEMX-2024-16 and should be submitted on or before August 6, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-15499 Filed 7-15-24; 8:45 am]

BILLING CODE 8011-01-P

¹⁵ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100491; File No. SR–PEARL–2024–28]

Self-Regulatory Organizations; MIAx PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAx Pearl Equities Fee Schedule

July 10, 2024.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b–4 thereunder,² notice is hereby given that on June 28, 2024, MIAx PEARL, LLC (“MIAx Pearl” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the fee schedule (the “Fee Schedule”) applicable to MIAx Pearl Equities, an equities trading facility of the Exchange.

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-equities/pearl-equities/rule-filings>, at MIAx Pearl’s principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to establish an alternative volume calculation method for Equity Members³ to achieve the additive Step-Up Rebate described in the NBBO Setter Plus Program (referred to in this filing as the “NBBO Program”).⁴

Background of the NBBO Program and Additive Rebates

The NBBO Program was implemented beginning September 1, 2023 and subsequently amended several times.⁵ In general, the NBBO Program provides enhanced rebates⁶ for Equity Members that add displayed liquidity (“Added Displayed Volume”) in securities priced at or above \$1.00 per share in all Tapes based on increasing volume thresholds and increasing market quality levels (described below). Pursuant to the NBBO Setter Plus Table in Section 1(c) of the Fee Schedule, the NBBO Program provides six volume tiers enhanced by three market quality levels to provide increasing rebates in this segment. The six volume tiers are achievable by greater volume from the best of four alternative volume calculation methods. The three market quality levels are achievable by greater NBBO participation in a minimum number of specific securities (described below).

MIAx Pearl Equities first determines the applicable NBBO Program tier based on four different volume calculation methods. The four volume-based methods to determine the Equity Member’s tier for purposes of the NBBO Program are calculated in parallel in each month, and each Equity Member receives the highest tier achieved from any of the four methods each month. The first three volume calculation methods are based on an Equity Member’s respective ADAV, NBBO Set Volume, or ADV,⁷ each as a percent of

industry TCV⁸ as the denominator, inclusive of executions of orders in securities priced below \$1.00 per share across all Tapes. The fourth volume calculation method is based on an Equity Member’s ADAV as a percentage of industry TCV as the denominator, exclusive of executions of orders in securities priced below \$1.00 per share across all Tapes.⁹ The Exchange does not propose to amend the four volume calculation methods or tier threshold percentages pursuant to this proposal.

After the volume calculation is performed to determine highest tier achieved by the Equity Member, the applicable rebate is calculated based on two different measurements based on the Equity Member’s participation at the NBBO on the Exchange in certain securities (referenced below). The Exchange provides one column of base rebates (referred to in the NBBO Setter Plus Table as “Level A”) and two columns of enhanced rebates (referred to in the NBBO Setter Plus Table as “Level B” and “Level C”) ¹⁰, depending on the Equity Member’s Percent Time at NBBO ¹¹ on MIAx Pearl Equities in a

as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. “NBBO Set Volume” means the ADAV in all securities of an Equity Member that sets the NBB or NBO on MIAx Pearl Equities. See the Definitions section of the Fee Schedule. The Exchange excludes from its calculation of ADAV, ADV, and TCV: (1) any trading day that the Exchange’s system experiences a disruption that lasts for more than 60 minutes during regular trading hours; (2) any day with a scheduled early market close; (3) the “Russell Reconstitution Day” (typically the last Friday in June); (4) any day that the MSCI Equities Indexes are rebalanced (*i.e.*, on a quarterly basis); and (5) any day that the S&P 400, S&P 500, and S&P 600 Indexes are rebalanced (*i.e.*, on a quarterly basis). See *id.*

⁸ “TCV” means total consolidated volume calculated as the volume in shares reported by all exchanges and reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. See *id.*

⁹ See *supra* note 5 (recent filings amending the NBBO Program, which provide a description of the different volume calculation methods and tier threshold percentages); see also Fee Schedule, Section 1(c).

¹⁰ For the purpose of determining qualification for the rebates described in all Levels of the Market Quality Tier columns in the NBBO Setter Plus Table, the Exchange will exclude from its calculation: (1) any trading day that the Exchange’s system experiences a disruption that lasts for more than 60 minutes during regular trading hours; (2) any day with a scheduled early market close; (3) the “Russell Reconstitution Day” (typically the last Friday in June); (4) any day that the MSCI Equities Indexes are rebalanced (*i.e.*, on a quarterly basis); and (5) any day that the S&P 400, S&P 500, and S&P 600 Indexes are rebalanced (*i.e.*, on a quarterly basis). See the General Notes section of the Fee Schedule.

¹¹ “Percent Time at NBBO” means the aggregate of the percentage of time during regular trading hours where a Member has a displayed order of at least one round lot at the national best bid (“NBB”) or national best offer (“NBO”). See the Definitions section of the Fee Schedule.

³ The term “Equity Member” is a Member authorized by the Exchange to transact business on MIAx Pearl Equities. See Exchange Rule 1901.

⁴ See Fee Schedule, Section 1(c), note #4.

⁵ See, *e.g.*, Securities Exchange Act Release Nos. 98472 (September 21, 2023), 88 FR 66533 (September 27, 2023) (SR–PEARL–2023–45); 99318 (January 11, 2024), 89 FR 3488 (January 18, 2024) (SR–PEARL–2023–73); 99695 (March 8, 2024), 89 FR 18694 (March 14, 2024) (SR–PEARL–2024–11); and 100338 (June 14, 2024), 89 FR 52141 (June 21, 2024) (SR–PEARL–2024–26).

⁶ Rebates are indicated by parentheses in the Fee Schedule. See the General Notes section of the Fee Schedule.

⁷ “ADAV” means average daily added volume calculated as the number of shares added per day and “ADV” means average daily volume calculated

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

certain amount of specified securities (“Market Quality Securities” or “MQ Securities”).¹² The NBBO Setter Plus Table specifies the percentage of time that the Equity Member must be at the NBB or NBO on MIAX Pearl Equities in at least 200 symbols out of the full list of 1,000 MQ Securities (which symbols may vary from time to time based on market conditions). The list of MQ Securities is generally based on the top multi-listed 1,000 symbols by ADV across all U.S. securities exchanges. The list of MQ Securities is updated monthly by the Exchange and published on the Exchange’s website.¹³ The Exchange does not propose to amend the rebates described in Level A, Level B, or Level C pursuant to this proposal.¹⁴

The NBBO Program provides the following additional incentives: (1) an NBBO Setter Additive Rebate¹⁵ applied to executions of orders in securities priced at or above \$1.00 per share that set the NBB or NBO upon entry; (2) an NBBO First Joiner Additive Rebate¹⁶ applied to executions of orders in securities priced at or above \$1.00 per share that bring MIAX Pearl Equities to the established NBB or NBO; and (3) an additive Step-Up Rebate¹⁷ (described further below) for Equity Members that satisfy the (i) minimum displayed ADAV as a percentage of TCV of 0.35% and (ii) an increase in the percentage of displayed ADAV as a percentage of TCV of at least 0.05% as compared to the Equity Member’s February 2024 displayed ADAV percentage.

¹² “Market Quality Securities” or “MQ Securities” shall mean a list of securities designated as such, that are used for the purposes of qualifying for the rebates described in Level B and Level C of the Market Quality Tier columns in the NBBO Setter Plus Program. The universe of these securities will be determined by the Exchange and published on the Exchange’s website. *See id.*

¹³ *See e.g.* MIAX Pearl Equities Exchange—Market Quality Securities (MQ Securities) List, effective June 1 through June 30, 2024, available at <https://www.miaxglobal.com/markets/us-equities/pearl-equities/fees> (last visited June 26, 2024).

¹⁴ *See supra* note 5 for a complete description of the Level A, Level B, and Level C rebates; *see also* Fee Schedule, Section 1(c).

¹⁵ The Exchange does not propose to amend the NBBO Setter Additive Rebate, which is an additive rebate of (\$0.0004) per share for executions of orders in securities priced at or above \$1.00 per share that set the NBB or NBO on MIAX Pearl Equities with a minimum size of a round lot. *See* Fee Schedule, Section 1(c).

¹⁶ The Exchange does not propose to amend the NBBO First Joiner Additive Rebate, which is an additive rebate of (\$0.0002) per share for executions of orders in securities priced at or above \$1.00 per share that bring MIAX Pearl Equities to the established NBB or NBO with a minimum size of a round lot. *See* Fee Schedule, Section 1(c).

¹⁷ *See supra* note 4.

Proposal To Amend the NBBO Setter Plus Table To Establish an Alternative Volume Calculation Method for Equity Members To Achieve the Step-Up Rebate

The Exchange proposes to amend the Step-Up Rebate in footnote #4 of the NBBO Setter Plus Table in Section 1(c) of the Fee Schedule to establish an alternative volume calculation method for Equity Members to achieve the additive Step-Up Rebate. Currently, the Exchange offers a Step-Up Rebate of (\$0.0001) per share for executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume (other than Retail Orders)¹⁸ for Equity Members that satisfy the following requirements in the relevant month: (1) minimum displayed ADAV of 0.35% of TCV; and (2) increase in the percentage of displayed ADAV of at least 0.05% of TCV as compared to the Equity Member’s February 2024¹⁹ displayed ADAV percentage.²⁰ The Step-Up Rebate is set to expire no later than August 31, 2024 (referred to herein as the “sunset period”),²¹ which is stated in the Fee Schedule.²²

The Exchange proposes to amend the Step-Up Rebate described in footnote #4 of the NBBO Setter Plus Table to establish an alternative volume calculation method for Equity Members to achieve the Step-Up Rebate, which will be in addition to the current volume calculation method for the Step-Up Rebate. The proposed alternative volume calculation method will provide the same requirements as the current

¹⁸ The Exchange excludes Retail Orders from participating in the Step-Up Rebate because executions of orders in securities priced at or above \$1.00 per share for Added Displayed Volume in Retail Orders already receive an enhanced rebate of (\$0.0037) per share. *See* Fee Schedule, Section 1(b), Liquidity Indicator Code “AR”.

¹⁹ The Exchange uses a baseline ADAV of 0.00% of TCV for firms that become Equity Members of the Exchange after February 2024 for the purpose of the Step-Up Rebate calculation. *See* Securities Exchange Act Release No. 99982 (April 17, 2024), 89 FR 30408 (April 23, 2024) (SR-PEARL–2024–18).

²⁰ The Exchange notes that the proposed Step-Up Rebate will not apply to executions of orders in securities priced below \$1.00 per share or executions of orders that constitute added non-displayed liquidity. *See id.*

²¹ The Exchange notes that at the end of the sunset period, the Step-Up Rebate will no longer apply unless the Exchange files a rule filing pursuant to Rule 19b–4 of the Exchange Act with the U.S. Securities and Exchange Commission (“Commission”) to amend the criteria terms or update the baseline month to a more recent month. *See id.*

²² The Exchange will issue an alert to market participants should the Exchange determine that the Step-Up Rebate will expire earlier than August 31, 2024 or if the Exchange determines to amend the criteria or rate applicable to the Step-Up Rebate prior to the end of the sunset period. *See id.*

Step-Up Rebate volume calculation requirements, except when calculating both the numerator (ADAV) and the denominator (TCV), executions of orders in securities priced below \$1.00 per share (“sub-dollar volume”) across all Tapes will be excluded. Accordingly, with the addition of the alternative volume calculation method to the footnote describing the Step-Up Rebate, footnote #4 of the NBBO Setter Plus Table will provide as follows:

An Equity Member may qualify for a Step-Up Rebate of (\$0.0001) per share by satisfying the following requirements in the relevant month: (1) minimum Displayed ADAV as a percentage of TCV of 0.35%; and (2) increase in the percentage of Displayed ADAV as a percentage of TCV of at least 0.05% as compared to the Equity Member’s February 2024 Displayed ADAV percentage. Alternatively, an Equity Member may qualify for a Step-Up Rebate of (\$0.0001) per share by satisfying the following requirements in the relevant month: (1) minimum Displayed ADAV as a percentage of TCV of 0.35% (excluding sub-dollar volume); and (2) increase in the percentage of Displayed ADAV as percentage of TCV of at least 0.05% as compared to the Equity Member’s February 2024 Displayed ADAV percentage (excluding sub-dollar volume). The Step-Up Rebate will expire no later than August 31, 2024.²³

The Step-Up Rebate, as proposed to be amended, will still expire no later than August 31, 2024,²⁴ which will continue to be stated in the Fee Schedule. The Exchange will issue an alert to market participants should the Exchange determine that the Step-Up Rebate will expire earlier than August 31, 2024 or if the Exchange determines to amend the criteria or rate applicable to the Step-Up Rebate prior to the end of the sunset period.

The purpose of establishing the proposed alternative volume calculation method for Equity Members to achieve the Step-Up Rebate, which excludes sub-dollar volume, is for business and competitive reasons. Generally, the ratio of consolidated volumes in securities priced at or above \$1.00 per share relative to consolidated volumes inclusive of securities priced below \$1.00 per share is usually stable from month to month, such that TCV has

²³ The Exchange proposes to use a baseline ADAV of 0.00% of TCV for firms that become Equity Members of the Exchange after February 2024 for the purpose of the alternative volume calculation method for the Step-Up Rebate calculation, just as the Exchange does now for the current Step-Up Rebate calculation. *See id.*

²⁴ The Exchange notes that at the end of the sunset period, the Step-Up Rebate will no longer apply unless the Exchange files a rule filing pursuant to Rule 19b–4 of the Exchange Act with the Commission to amend the criteria terms or update the baseline month to a more recent month.

been a reasonable baseline for determining tiered and additive incentives for Equity Members that execute order in securities priced at or above \$1.00 per share on the Exchange. However, there have been recent months where volumes in securities priced below \$1.00 per share have been elevated, thereby impacting the ratio mentioned above.

Anomalous rises in sub-dollar volume may have a material adverse impact on Equity Members' qualifications for the pricing tiers and enhanced rebates in the NBBO Program, including the additive Step-Up Rebate, because such qualifications depend upon Equity Members achieving threshold percentages of volumes as a percentage of TCv, and an extraordinary rise in sub-dollar volume may significantly elevate TCv. As a result, Equity Members may find it more difficult to qualify for or to continue to qualify for their existing incentives during months where there are such rises in sub-dollar volumes, even if their volume of executions of orders in securities priced at or above \$1.00 per share have not diminished relative to prior months. The Exchange believes that it would be unfair for its Equity Members that execute significant volumes in securities priced at or above \$1.00 per share on the Exchange to fail to achieve or to lose their existing incentives for such volumes due to anomalous behavior that is extraneous to them. Therefore, the Exchange proposes to amend the NBBO Program to establish the proposed alternative volume calculation method for the Step-Up Rebate to provide an alternative option when extraordinary spikes in sub-dollar volumes may adversely affect an Equity Member's qualification for such incentive for their executions of orders in securities priced at or above \$1.00 per share.

The NBBO Program currently provides a similar volume calculation that excludes sub-dollar volume (*i.e.*, volume calculation Method 4), which calculates Equity Members' volume for purposes of pricing tiers and incentives by excluding sub-dollar volumes from the calculation, which may result in the most advantageous volume calculation for such pricing tiers and incentives.²⁵ In addition, at least one competing equities exchange calculates their members' volume for purposes of pricing tiers and incentives by excluding sub-dollar volumes from one calculation and utilizing the most advantageous volume calculation for

such pricing tiers and incentives.²⁶ Accordingly, this proposal is not new or novel.

Implementation

The proposed fee change is effective beginning July 1, 2024.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act²⁷ in general, and furthers the objectives of Section 6(b)(4) of the Act²⁸ in particular, in that it is an equitable allocation of reasonable fees and other charges among its Equity Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5)²⁹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and 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, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange operates in a highly fragmented and competitive market in which market participants can readily direct their 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 sixteen registered equities exchanges,

and there are a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. For the month of May 2024, based on publicly available information, no single registered equities exchange had more than approximately 14–15% of the total market share of executed volume of equities trading.³⁰ Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. For the month of May 2024, the Exchange represented 1.68% of the total market share of executed volume of equities trading.³¹ The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, 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.”³²

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to continue to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would continue to enhance liquidity and market quality to the benefit of all Equity Members and market participants.

The Exchange believes its proposal to amend the NBBO Setter Plus Table to establish an alternative volume calculation method for Equity Members to achieve the Step-Up Rebate is reasonable and equitable because, in its

²⁶ See the Nasdaq Stock Market LLC (“Nasdaq”) Rules, Equity 7: Pricing Schedule, Section 114. Market Quality Incentive Programs, Section (h)(5) (“For purposes of calculating a member's qualifications for Tiers 1 and 2 of the QMM Program credits . . . the Exchange will calculate a member's volume and total Consolidated Volume twice. First, the Exchange will calculate a member's volume and total Consolidated Volume inclusive of volume that consists of executions in securities priced less than \$1. Second, the Exchange will calculate a member's volume and total Consolidated Volume exclusive of volume that consists of executions in securities priced less than \$1, while also applying distinct qualifying volume thresholds to each Tier The Exchange will then assess which of these two calculations would qualify the member for the most advantageous credits for the month and then it will apply those credits to the member.”). See also Securities Exchange Act Release No. 99535 (February 14, 2024), 89 FR 13125 (February 21, 2024) (SR–NASDAQ–2024–005).

²⁷ 15 U.S.C. 78f(b).

²⁸ 15 U.S.C. 78f(b)(4).

²⁹ 15 U.S.C. 78f(b)(5).

³⁰ See the “Market Share” section of the Exchange's website, available at <https://www.miaxglobal.com/>.

³¹ *Id.*

³² See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37499 (June 29, 2005).

²⁵ See *supra* note 9.

absence, Equity Members may experience material adverse impacts on their ability to qualify for the additive Step-Up Rebate during a month with an anomalous rise in sub-dollar volumes. The Exchange believes it is reasonable and equitable to not inadvertently penalize Equity Members that execute significant volumes on the Exchange due to anomalous and extraneous trading activities in sub-dollar securities. The proposed alternative volume calculation method would provide a means for Equity Members that add displayed liquidity an alternative method by determining whether calculating ADAV as a percentage of TCV to include or exclude sub-dollar volume would result in Equity Members qualifying for the additive Step-Up Rebate. The Exchange would then be able to apply the most advantageous volume calculation that would result in the Step-Up Rebate being achieved for each Equity Member. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because the Exchange does not intend for the proposal to advantage any particular Equity Member.

The Exchange believes that the proposal to establish the alternative volume calculation method for the Step-Up Rebate provides a reasonable means to continue to encourage Equity Members to not only increase their order flow to the Exchange but also to contribute to price discovery and market quality on the Exchange by submitting aggressively priced displayed liquidity in securities priced at or above \$1.00 per share. The Exchange believes that the NBBO Program, as modified with this proposal, continues to be equitable and not unfairly discriminatory because it is open to all Equity Members on an equal basis and provides enhanced rebates that are reasonably related to the value of the Exchange's market quality associated with greater order flow by Equity Members that set the NBBO, and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes the proposal is equitable and not unfairly discriminatory because it is designed to incentivize the entry of aggressively priced displayed liquidity that will create tighter spreads, thereby promoting price discovery and market quality on the Exchange to the benefit of all Equity Members and public investors.

The Exchange's NBBO Program currently provides for volume calculation Method 4, which calculates Equity Members' volume for purposes of pricing tiers and incentives by

excluding sub-dollar volumes from the calculation, which may result in the most advantageous volume calculation for such pricing tiers and incentives.³³ The Exchange notes that at least one other competing equities exchange calculates their members' volume for purposes of pricing tiers and incentives by excluding sub-dollar volumes from one calculation and utilizing the most advantageous volume calculation for such pricing tiers and incentives.³⁴

The Exchange believes it is reasonable to continue to use February 2024 as the baseline month for the proposed alternative volume calculation method for the Step-Up Rebate (with a sunset period of August 31, 2024) because it will provide a consistent baseline month for volume calculation purposes for both methods of determining the Step-Up Rebate. The Exchange believes it is equitable and not unfairly discriminatory to use February 2024 as the baseline month for the proposed alternative volume calculation method for the Step-Up Rebate because the Exchange will use a baseline of 0.00% ADAV for those market participants that became Equity Members of the Exchange post-February 2024, providing a consistent and equitable approach for those Equity Members to achieve the Step-Up Rebate.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Equity Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed rebates described herein are appropriate to address such forces.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange believes that the proposed change to establish an alternative volume calculation method for the Step-Up Rebate will not impose

any burden on intramarket competition because it will incentivize Equity Members to submit additional orders that add liquidity to the Exchange, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. In turn, the Exchange believes that this will continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Equity Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. As described above, the opportunity to qualify for the Step-Up Rebate, as amended, would be available to all Equity Members that meet the associated requirements, and the Exchange believes the proposed changes provide such incentives is reasonably related to the enhanced market quality that they are designed to promote.

The Exchange intends for its proposal to establish an alternative volume calculation method for the Step-Up Rebate to provide an alternative option for Equity Members to achieve such additive rebate due to anomalous spikes in sub-dollar volumes and is not intended to provide a competitive advantage to any particular Equity Member. The proposed alternative volume calculation method will be eligible to all Equity Members equally in that the Exchange will calculate both volume calculation methods for the Step-Up Rebate in parallel each month and apply the most advantageous calculation to each Equity Member's volume to qualify for the additive Step-Up Rebate. For the foregoing reasons, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The Exchange believes its proposal will benefit competition as the Exchange operates in a highly competitive market. Equity Members have numerous alternative venues they may participate on and direct their order flow to, including fifteen other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than approximately 14–15% of the total market share of executed volume of equities trading.

³³ See *supra* note 9.

³⁴ See *supra* note 26.

Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow in response to new or different pricing structures being introduced to the market.

As described above, the proposed change is a competitive proposal through which the Exchange seeks to encourage certain order flow to the Exchange and to promote market quality through an alternative pricing incentive that is similar in structure and purpose to a pricing program available at the Exchange, as well as at least one competing equities exchange.³⁵ Accordingly, the Exchange believes the proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar incentives to market participants that enhance market quality.

Additionally, 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.”³⁶ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the DC circuit stated: “[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 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 possess a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”³⁷ Accordingly, the Exchange

does not believe its proposed pricing changes impose 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,³⁸ and Rule 19b-4(f)(2)³⁹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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-PEARL-2024-28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-PEARL-2024-28. 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-PEARL-2024-28 and should be submitted on or before August 6, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁰

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-15505 Filed 7-15-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100488; File No. SR-NASDAQ-2024-036]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 3

DATES:

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 July 1, 2024, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) 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

⁴⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³⁵ See *supra* notes 9 and 26.

³⁶ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

³⁷ See *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-NYSE-2006-21)).

³⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

³⁹ 17 CFR 240.19b-4(f)(2).

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend The Nasdaq Options Market LLC's ("NOM") Rules at Options 7, Section 3, Nasdaq Options Market—Ports and Other Services.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 7, Section 3, Nasdaq Options Market—Ports and Other Services. Specifically, the Exchange proposes to amend Options 7, Section 3(i) to increase the per port, per month SQF

Port³ and SQF Purge⁴ Port Fees for all ports over 20 ports (21 and above).⁵

Today, NOM assesses SQF Ports and SQF Purge Ports a per port, per month fee based on a tiered fee schedule. Specifically, NOM assesses an SQF Port and an SQF Purge Port fee of \$1,500 per port, per month for the first 5 ports (1–5), a \$1,000 per port, per month fee for the next 15 ports (6–20), and a \$750 per port, per month fee for all ports over 20 ports (21 and above).

At this time, the Exchange proposes to increase the per port, per month fee for SQF Ports and SQF Ports above 20 ports (21 and above) for Market Makers based on the size of the Market Maker on NOM. The Exchange is determining the size of the Market Maker based on the amount of transactional volume executed on NOM in a given month. The Exchange proposes to take each Market's Maker's electronic monthly transactional volume via SQF on NOM and divide that number by the sum of all Market Maker electronic monthly transactional volume via SQF on NOM ("Transactional Volume"). All SQF interest would be considered. Each Market Maker would then be classified on NOM, for the purpose of the SQF Port Fee and SQF Purge Port Fee, as a "small," "medium," or "large" Market Maker based on their Transactional Volume on NOM to determine the applicable fee in a given month for all SQF Ports and SQF Purge Ports over 20 ports. Market Makers that qualify as "medium" would be subject to an increased monthly fee of \$625 per port for all SQF Ports and SQF Purge Ports over 20 ports. Market Makers that qualify as "large" would be subject to an increased monthly fee of \$750 per port for all SQF Ports and SQF Purge Ports

³ "Specialized Quote Feed" or "SQF" is an interface that allows Market Makers to connect, send, and receive messages related to quotes and Immediate-or-Cancel Orders into and from the Exchange. Features include the following: (1) options symbol directory messages (e.g., underlying instruments); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; and (8) opening imbalance messages. The SQF Purge Interface only receives and notifies of purge requests from the Market Maker. Market Makers may only enter interest into SQF in their assigned options series. Immediate-or-Cancel Orders entered into SQF are not subject to the Order Price Protection, Market Order Spread Protection, or Size Limitation in Options 3, Section 15(a)(1) and (a)(2), and (b)(2), respectively. See Options 3, Section 7(e)(1)(B).

⁴ SQF Purge is a specific port for the SQF interface that only receives and notifies of purge requests from the NOM Market Maker.

⁵ The Exchange also proposes a technical amendment to remove an extraneous period in Options 7, Section 3 in the second paragraph.

over 20 ports. Market Makers that qualify as "small" would continue to pay a monthly fee of \$500 per port for all SQF Port and SQF Purge Port Fees for all ports over 20 ports.

The Exchange believes that these increased SQF Port and SQF Purge Port Fees for all ports over 20 ports for Market Maker that qualify as "medium" and "large," will offer a level playing field related to pricing when acquiring a larger amount of ports.

A NOM Market Maker requires only one SQF Port to submit quotes in its assigned options series into NOM. A NOM Market Maker may submit all quotes through one SQF Port and utilize one SQF Purge Port to view its purge requests. While a NOM Market Maker may elect to obtain multiple SQF Ports and SQF Purge Ports to organize its business,⁶ only one SQF Port and SQF Purge Port is necessary for a NOM Market Maker to fulfill its regulatory quoting obligations.⁷

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁹ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that increasing the fee for SQF Ports and SQF Purge Ports over 20 ports (21 and above) for Market Makers that qualify as "medium" from \$500 to \$625 per month, and to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as "large" from \$500 to \$750 per month, is reasonable because these increased SQF Port and SQF Purge Port Fees for all ports over 20 ports for Market Maker that qualify

⁶ For example, a NOM Market Maker may desire to utilize multiple SQF Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that NOM Participant. The Exchange notes that 78% of NOM Market Makers pay the \$1,000 per port, per month fee for 6–20 ports and 39% pay the proposed \$750 per port, per month fee for over 20 ports.

⁷ NOM Market Makers have various regulatory requirements as provided for in Options 2, Section 4. Additionally, NOM Market Makers have certain quoting requirements with respect to their assigned options series as provided in Options 2, Section 5. The Exchange notes that SQF Ports are the only quoting protocol available on NOM and only NOM Market Makers may utilize SQF Ports. The same is true for SQF Purge Ports.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4) and (5).

as “medium” and “large” will offer a level playing field related to pricing when acquiring a larger amount of ports. A NOM Market Maker requires only one SQF Port to submit quotes in its assigned options series into NOM. A NOM Market Maker may submit all quotes through one SQF Port and utilize one SQF Purge Port to view its purge requests. While a Market Maker may elect to obtain multiple SQF Ports and SQF Purge Ports to organize its business,¹⁰ only one SQF Port and SQF Purge Port is necessary for a Market Maker to fulfill its regulatory quoting obligations.¹¹ Members may choose a greater number of SQF Ports or SQF Purge Ports, beyond one port, depending on that Member’s particular business model. Additionally, the Exchange believes that the caps are reasonable for two reasons.

First, SQF Ports are a secure method for Market Makers to submit quotes into the Exchange’s match engine and for the Exchange to send messages related to those quotes to Market Makers. NOM must manage the security and message traffic, among other things, for each port. Utilizing a methodology based on the “size” of the Market Maker as determined by Transactional Volume, provides every Market Maker the ability to manage cost. Additionally, the Exchange would have the ability to manage the quantity of SQF Ports and SQF Purge Ports issued by the Exchange. The various SQF Port and SQF Purge Port Fees were determined based on the level of Transactional Volume on NOM in 2024 for Market Makers. The Exchange assessed each level of Market Maker an increased fee based on size, as reflected by Transactional Volume, to reflect the various sizes of Market Makers present on the Exchange at this time. By establishing different SQF Ports and SQF Purge Port Fees at different levels based on “size,” the Exchange is considering the message traffic and message rates generated by the various “sizes” of Market Makers and the Exchange’s ability to process messages from all SQF Ports and SQF Purge Ports. The SQF Port and SQF Purge Port Fees would allow the Exchange to scale its

needs with respect to processing messages in an efficient manner. The Exchange notes that Cboe Exchange, Inc. (“Cboe”) limits usage on each port and assesses fees for incremental usage.¹²

Second, the Exchange notes that multiple ports are not necessary, however, to the extent that some Market Makers elect to obtain multiple SQF Ports and SQF Purge Ports, the Exchange is offering different prices for over 20 ports. NOM believes that this methodology of utilizing Transactional Volume on NOM for purposes of considering the “size” of the Market Maker to create certain SQF Port and SQF Purge Port Fees will level the playing field. The Exchange believes that this approach enables various types of Market Makers to effectively limit costs based on their executed Transactional Volume on the Exchange. Further, this methodology allows for efficiencies and permits Market Makers to increase their number of ports at varying fee levels. The various SQF Ports and SQF Purge Port Fees for over 20 ports levels the playing field by allowing various types of Market Makers that want to obtain a larger number of ports to do so with different cost structures to account for their relative size. Other markets tier port fees. BOX Exchange LLC (“BOX”) assesses \$1,000 per month for all SAIL Ports for Market Making and \$500 per month per port up to 5 ports for order entry and \$150 per month for each additional port.¹³ Miami International Securities Exchange, LLC’s (“MIAX”) MIAX Express Interface (“MEI”) Fee levels are based on a tiered fee structure based on the Market Maker’s total monthly executed volume during the relevant month.¹⁴

The Exchange believes that increasing the fee for SQF Ports and SQF Purge Ports over 20 ports (21 and above) for Market Makers that qualify as “medium” from \$500 to \$625 per month, and to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market

Makers that qualify as “large” from \$500 to \$750 per month, is equitable and not unfairly discriminatory because the Exchange is offering different sizes of Market Makers, based on Transactional Volume executed on the Exchange, the ability pay different fees for some SQF Ports and SQF Purge Ports above 20 ports. The proposal recognizes that some Market Makers may be deemed “small” and may not be able to achieve the same cap as other Market Makers. To this end, the Exchange proposes not to increase SQF Port and SQF Purge Port Fees for over 20 ports for Market Makers that qualify as “small.” To the extent that a Market Maker qualifies in a given month as a “medium” Market Maker the Exchange proposes to increase SQF Port and SQF Purge Port Fees from \$500 to \$625 per month. This fee presumes to place a Market Maker that qualifies as “medium” on equal footing with a Market Maker that qualifies as a “small” Market Maker in terms of the fee, by setting different fees for each group. The proposal presumes that based on Transactional Volume, these Market Makers that qualify as “medium” have a greater ability to obtain a greater amount of SQF Ports and SQF Purge Ports as compared to Market Makers that qualify as “small.” Finally, to the extent that a Market Maker qualifies in a given month as a “large” Market Maker the Exchange proposes to increase SQF Port and SQF Purge Port Fees from \$500 to \$750 per month. This fee presumes to place a Market Maker that qualifies as “large” on equal footing with a Market Maker that qualifies as a “small” Market Maker, and a Market Maker that qualifies as “medium” in terms of the fee, by setting different fees for each group. The proposal presumes that based on Transactional Volume these Market Makers that qualify as “large” have the ability to obtain the largest amount of SQF Ports and SQF Purge Ports. The Exchange would uniformly apply the appropriate SQF Port and SQF Purge Port Fee to each Market Maker group based on the same volume calculation. Also, Market Makers would uniformly be assessed fees for SQF Ports and SQF Purge Ports based on the proposed methodology.

NOM Market Makers are the only market participants that are assessed SQF Port and SQF Purge Port fees because they are the only market participants that are permitted to quote on the Exchange. SQF Ports and SQF Purge Ports are only utilized in the Market Maker’s assigned options series. Unlike other market participants, NOM Market Makers are subject to market

¹⁰ For example, a Market Maker may desire to utilize multiple SQF Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that Member.

¹¹ GEMX Market Makers have various regulatory requirements as provided for in Options 2, Section 4. Additionally, GEMX Market Makers have certain quoting requirements with respect to their assigned options series as provided in Options 2, Section 5. SQF Ports are the only quoting protocol available on GEMX and only Market Makers may utilize SQF Ports.

¹² Each Cboe Binary Order Entry (“BOE”) or FIX Logical Port incur the logical port fee indicated when used to enter up to 70,000 orders per trading day per logical port as measured on average in a single month. For each incremental usage of up to 70,000 per day per logical port will incur an additional logical port fee of \$800 per month. BOE or FIX Logical Ports provide users the ability to enter order/quotes. See Cboe’s Fees Schedule.

¹³ See BOX’s Fee Schedule.

¹⁴ MEI is a connection to MIAX systems that enables Market Makers to submit simple and complex electronic quotes to MIAX. MIAX caps its MEI Ports. For these Monthly MIAX MEI Fees levels, if the Market Maker’s total monthly executed volume during the relevant month is less than 0.060% of the total monthly executed volume reported by OCC in the market maker account type for MIAX-listed option classes for that month, then the fee will be \$14,500 instead of the fee otherwise applicable to such level. See MIAX’s Fee Schedule.

making and quoting obligations.¹⁵ These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to NOM on a continuous basis. Providing NOM Market Makers a means to manage their cost by applying different fees for SQF Ports and SQF Purge Ports beyond 20 ports enables these market participants to provide the necessary liquidity to NOM at lower costs relative to their size. Therefore, because NOM Market Makers fulfill a unique role on the Exchange, are the only market participant required to submit quotes as part of their obligations to operate on the Exchange, and, in light of that role, they are eligible for certain incentives. The proposed SQF Port and SQF Purge Fee cap is designed to continue to incentivize NOM Market Makers to quote on NOM, thereby promoting liquidity, quote competition, and trading opportunities.

In 2022, NYSE Arca, Inc. ("NYSE Arca") proposed to restructure fees relating to OTPs for Market Makers.¹⁶ In that rule change,¹⁷ NYSE Arca argued that,

Market Makers serve a unique and important function on the Exchange (and other options exchanges) given the quote-driven nature of options markets. Because options exchanges rely on actively quoting Market Makers to facilitate a robust marketplace that attracts order flow, options exchanges must attract and retain Market Makers, including by setting competitive Market Maker permit fees. Stated otherwise, changes to Market Maker permit fees can have a direct effect on the ability of an exchange to compete for order flow. The Exchange also believes that the number of options exchanges on which Market Makers can effect option transactions also ensures competition in the marketplace and constrains the ability of exchanges to charge supracompetitive fees for access to its market by Market Makers.

Further, NYSE ARCA noted that,¹⁸

The Exchange further believes that its ability to set Market Maker permit fees is constrained by competitive forces based on the fact that Market Makers can, and have, chosen to terminate their status as a Market Maker if they deem Market Maker permit fees to be unreasonable or excessive. Specifically, the Exchange notes that a BOX participant modified its access to BOX in connection with the implementation of a proposed

change to BOX's Market Maker permit fees. The Exchange has also observed that another options exchange group experienced decreases in market share following its proposed modifications of its access fees (including Market Maker trading permit fees), suggesting that market participants (including Market Makers) are sensitive to changes in exchanges' access fees and may respond by shifting their order flow elsewhere if they deem the fees to be unreasonable or excessive.

There is no requirement, regulatory or otherwise, that any Market Maker connect to and access any (or all of) the available options exchanges. The Exchange also is not aware of any reason why a Market Maker could not cease being a permit holder in response to unreasonable price increases. The Exchange does not assess any termination fee for a Market Maker to drop its OTP, nor is the Exchange aware of any other costs that would be incurred by a Market Maker to do so.

The Exchange likewise believes that its lower SQF Ports and SQF Purge Port monthly fees beyond 20 ports is constrained by competitive forces and that its proposed modifications to the SQF Port and SQF Purge Fees is reasonably designed in consideration of the competitive environment in which the Exchange operates, by balancing the value of the enhanced benefits available to Market Makers due to the current level of activity on the Exchange with a fee structure that will continue to incentivize Market Makers to support increased liquidity, quote competition, and trading opportunities on the Exchange, for the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The proposal does not impose an undue burden on intermarket competition. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intramarket Competition

The Exchange believes that increasing the fee for SQF Ports and SQF Purge Ports over 20 ports (21 and above) for Market Makers that qualify as "medium" from \$500 to \$625 per month, and to increase the SQF Port Fee and SQF Purge Port Fee Cap for Market Makers that qualify as "large" from \$500 to \$750 per month, does not impose an undue burden on competition because the Exchange is offering different sizes of Market Makers, based on Transactional Volume executed on the Exchange, the ability to pay different fees for some SQF Ports and SQF Purge Ports above 20 ports. The proposal recognizes that some Market Makers may be deemed "small" and may not be able to achieve the same cap as other Market Makers. To this end, the Exchange proposes not to increase SQF Port and SQF Purge Port Fees for over 20 ports for Market Makers that qualify as "small." To the extent that a Market Maker qualifies in a given month as a "medium" Market Maker the Exchange proposes to increase SQF Port and SQF Purge Port Fees from \$500 to \$625 per month. This fee presumes to place a Market Maker that qualifies as "medium" on equal footing with a Market Maker that qualifies as a "small" Market Maker in terms of the fee, by setting different fees for each group. The proposal presumes that based on Transactional Volume, these Market Makers that qualify as "medium" have a greater ability to obtain a greater amount of SQF Ports and SQF Purge Ports as compared to Market Makers that qualify as "small." Finally, to the extent that a Market Maker qualifies in a given month as a "large" Market Maker the Exchange proposes to increase SQF Port and SQF Purge Port Fees from \$500 to \$750 per month. This fee presumes to place a Market Maker that qualifies as "large" on equal footing with a Market Maker that qualifies as a "small" Market Maker, and a Market Maker that qualifies as "medium" in terms of the fee, by setting different fees for each group. The proposal presumes that based on Transactional Volume these Market Makers that qualify as "large" have the ability to obtain the largest amount of SQF Ports and SQF Purge Ports. The Exchange would uniformly apply the appropriate SQF Port and SQF Purge Port Fee to each Market Maker group based on the same volume calculation. Also, Market Makers would uniformly be assessed fees for SQF Ports and SQF Purge Ports based on the proposed methodology.

NOM Market Makers are the only market participants that are assessed

¹⁵ See Options 2, Sections 4 and 5.

¹⁶ See Securities Exchange Act Release No. 95412 (June 23, 2022), 87 FR 38786 (June 29, 2022) (SR-NYSEArca-2022-36). NYSE Arca proposed to increase both the monthly fee per Market Maker OTP and the number of issues covered by each additional OTP because, among other reasons, the number of issues traded on the Exchange has increased significantly in recent years.

¹⁷ *Id.* at 38788.

¹⁸ *Id.* at 38790.

SQF Port and SQF Purge Port fees because they are the only market participants that are permitted to quote on the Exchange. SQF Ports and SQF Purge Ports are only utilized in the Market Maker's assigned options series. Unlike other market participants, NOM Market Makers are subject to market making and quoting obligations.¹⁹ These liquidity providers are critical market participants in that they are the only market participants that provide liquidity to NOM on a continuous basis. Providing NOM Market Makers a means to manage their cost by applying different fees for SQF Ports and SQF Purge Ports beyond 20 ports enables these market participants to provide the necessary liquidity to NOM at lower costs relative to their size. Therefore, because NOM Market Makers fulfill a unique role on the Exchange, are the only market participant required to submit quotes as part of their obligations to operate on the Exchange, and, in light of that role, they are eligible for certain incentives. The proposed SQF Port and SQF Purge Fee cap is designed to continue to incent NOM Market Makers to quote on NOM, thereby promoting liquidity, quote competition, and trading opportunities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²⁰

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NASDAQ-2024-036 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-NASDAQ-2024-036. 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-NASDAQ-2024-036 and should be submitted on or before August 6, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024-15502 Filed 7-15-24; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20320 and #20321; TEXAS Disaster Number TX-20010]

Presidential Declaration Amendment of a Major Disaster for the State of Texas

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 10.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA-4781-DR), dated 05/17/2024.

Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

Incident Period: 04/26/2024 through 06/05/2024.

DATES: Issued on 07/08/2024.

Physical Loan Application Deadline Date: 08/15/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 02/18/2025.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT:

Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Texas, dated 05/17/2024, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Anderson, Nacogdoches, Panola, Rusk, Sabine. *Contiguous Counties (Economic Injury Loans Only):*

Texas: Harrison, Shelby
Louisiana: Caddo, De Soto

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024-15549 Filed 7-15-24; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20360 and #20361; IOWA Disaster Number IA-20003]

Presidential Declaration Amendment of a Major Disaster for the State of Iowa

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

¹⁹ See Options 2, Sections 4 and 5.

²⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

²¹ 17 CFR 200.30-3(a)(12).

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Iowa (FEMA–4784–DR), dated 05/24/2024.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 05/20/2024 through 05/31/2024.

DATES: Issued on 07/03/2024.

Physical Loan Application Deadline Date: 08/23/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 02/24/2025.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT:

Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Iowa, dated 05/24/2024, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 08/23/2024.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–15547 Filed 7–15–24; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20318 and #20319; IOWA Disaster Number IA–20002]

Presidential Declaration Amendment of a Major Disaster for the State of Iowa

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Iowa (FEMA–4779–DR), dated 05/14/2024.

Incident: Severe Storms and Tornadoes.

Incident Period: 04/26/2024 through 04/27/2024.

DATES: Issued on 07/03/2024.

Physical Loan Application Deadline Date: 08/23/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 02/14/2025.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT:

Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Iowa, dated 05/14/2024, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 08/23/2024.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–15548 Filed 7–15–24; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice:12455]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Ancient Thrace and the Classical World: Treasures from Bulgaria, Romania, and Greece” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Ancient Thrace and the Classical World: Treasures from Bulgaria, Romania, and Greece” at the J. Paul Getty Museum at the Getty Villa, Pacific Palisades, California, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat.

985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024–15545 Filed 7–15–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12457]

Notice of Department of State Sanctions Actions Pursuant to the Executive Order Regarding Blocking Property With Respect to Specified Persons Undermining the Peace and Stability in the West Bank

The Department of State is publishing the names of one or more persons that have been placed on the Department of Treasury's List of Specially Designated Nationals and Blocked Persons (SDN List) administered by the Office of Foreign Asset Control (OFAC) based on the Department of State's determination, in consultation with other departments, as appropriate, that one or 07specified persons undermining the peace and stability in the West Bank were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT:

Aaron P. Forsberg, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of State, Washington, DC 20520, tel.: (202) 647–7677, email: ForsbergAP@state.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning sanctions programs are available on OFAC's website, <https://ofac.treasury.gov/sanctions-programs-and-country-information/west-bank-related-sanctions>.

Notice of Department of State Actions

On June 6, 2024, the Department of State, in consultation with other

departments, as appropriate, determined that the property and interests in property subject to U.S. jurisdiction of

the following persons are blocked under the relevant sanctions authority listed below.

Entities

1. LIONS DEN (Arabic: عرين الأسود) (a.k.a. "Den of Lions") (a.k.a. "Arīn al-Usud") (a.k.a. "Areen Al-Usud"), Nablus, West Bank [WEST-BANK-EO14115].
- Designated pursuant to section 1(a)(i)(A) of Executive Order 14115 of February 1, 2024, “Imposing Certain Sanctions On Persons Undermining Peace, Security, And Stability In The West Bank,” (E.O. 14115) for being responsible for or complicit in, or having directly or indirectly engaged or attempted to engage in, actions—including directing, enacting, implementing, enforcing, or failing to enforce policies—that threaten the peace, security, or stability of the West Bank, and pursuant to section 1(a)(i)(B)(1) for being responsible for or complicit in, or for having directly or indirectly engaged or attempted to engage in planning, ordering, otherwise directing, or participating in an act of violence or threat of violence targeting civilians, affecting the West Bank.

Amy E. Holman,
Principal Deputy Assistant Secretary, Bureau
of Economic and Business Affairs,
Department of State.
[FR Doc. 2024–15541 Filed 7–15–24; 8:45 am]
BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice: 12458]

Notice of Department of State
Sanctions Actions Pursuant to the
Executive Order Regarding Blocking
Property With Respect to Specified
Persons Undermining the Peace and
Stability in the West Bank

The Department of State is publishing the names of one or more persons that have been placed on the Department of Treasury’s List of Specially Designated Nationals and Blocked Persons (SDN

List) administered by the Office of Foreign Asset Control (OFAC) based on the Department of State’s determination, in consultation with other departments, as appropriate, that one or more applicable legal criteria of the Executive order regarding blocking property with respect to specified persons undermining the peace and stability in the West Bank were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: Aaron P. Forsberg, Director, Office of Economic Sanctions Policy and Implementation, Bureau of Economic and Business Affairs, Department of

State, Washington, DC 20520, tel.: (202) 647–7677, email: *ForsbergAP@state.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning sanctions programs are available on OFAC’s website, <https://ofac.treasury.gov/sanctions-programs-and-country-information/west-bank-related-sanctions>.

Notice of Department of State Actions

On June 14, 2024, the Department of State, in consultation with other departments, as appropriate, determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Entities

1. TZAV 9 (Hebrew: 9 צו) (a.k.a. "ORDER 9"), Israel; Organization Established

Date Jan 2024; Target Type Charity or Nonprofit Organization [WEST-BANK-

EO14115].

Designated pursuant to section 1(a)(i)(A) of Executive Order (E.O.) 14115 for being responsible for or complicit in, or having directly or indirectly engaged or attempted to engage in, actions—including directing, enacting, implementing, enforcing, or failing to enforce policies—that threaten the peace, security, or stability of the West Bank.

Amy E. Holman,

Principal Deputy Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2024–15542 Filed 7–15–24; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice: 12459]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “The Legacy of Vesuvius: Bourbon Discoveries on the Bay of Naples” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “The Legacy of Vesuvius: Bourbon Discoveries on the Bay of Naples” at the Meadows Museum, SMU, Dallas, Texas, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street

NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024–15543 Filed 7–15–24; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice:12451]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Venice and the Ottoman Empire” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Venice and the Ottoman Empire” at the North Carolina Museum of Art, Raleigh, North Carolina; the Telfair Museums, Savannah, Georgia;

the Frist Art Museum, Nashville, Tennessee; and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024–15546 Filed 7–15–24; 8:45 am]

BILLING CODE 4710–05–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists Approvals by Rule for projects by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: June 1–30, 2024.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: joyler@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22 (e) and (f) for the time period specified above.

Water Source Approval—Issued Under 18 CFR 806.22(e)

1. Cargill Cocoa & Chocolate, Inc.—Hazleton Plant; ABR–202406002; Hazle Township, Luzerne County, Pa.; Consumptive Use of Up to 0.0800 mgd; Approval Date: June 14, 2024.

2. Hershey Creamery Co.—Middletown Manufacturing, ABR–202406003; Lower Swatara Township, Dauphin County, Pa.; Consumptive Use of Up to 0.0500 mgd; Approval Date: June 14, 2024.

Water Source Approval—Issued Under 18 CFR 806.22(f)

1. RENEWAL—Chesapeake Appalachia, L.L.C.; Pad ID: Chancellor ; ABR–20090532.R3; Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 5, 2024.

2. RENEWAL—Chesapeake Appalachia, L.L.C.; Pad ID: Corbett Unit Pad; ABR–201905006.R1; Overton Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 5, 2024.

3. RENEWAL—Chesapeake Appalachia, L.L.C.; Pad ID: James Barrett; ABR–20090530.R3; Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 5, 2024.

4. RENEWAL—Chesapeake Appalachia, L.L.C.; Pad ID: John Barrett; ABR–20090529.R3; Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 5, 2024.

5. RENEWAL—Chesapeake Appalachia, L.L.C.; Pad ID: Judd; ABR–20090534.R3; Monroe Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 5, 2024.

6. RENEWAL—Chesapeake Appalachia, L.L.C.; Pad ID: May; ABR–20090528.R3; Granville Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 5, 2024.

7. RENEWAL—Chesapeake Appalachia, L.L.C.; Pad ID: Clapper ; ABR–20090533.R3; Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 6, 2024.

8. Coterra Energy Inc.; Pad ID: DefargesJ P1; ABR–202406001; Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: June 13, 2024.

9. RENEWAL—SWN Production Company, LLC; Pad ID: RU–55 CONKLIN; ABR–201204018.R2; New Milford Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: June 13, 2024.

10. RENEWAL—Seneca Resources Company, LLC; Pad ID: Shughart 490; ABR–201403004.R2; Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: June 21, 2024.

11. RENEWAL—Seneca Resources Company, LLC; Pad ID: Shughart 534; ABR–201403003.R2; Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: June 21, 2024.

12. RENEWAL—SWN Production Company, LLC; Pad ID: O'Brien Pad; ABR–201205012.R2; Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: June 21, 2024.

13. RENEWAL—Repsol Oil & Gas USA, LLC; Pad ID: ALEXANDER (01 124); ABR–201905003.R1; Armenia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: June 24, 2024.

14. RENEWAL—Coterra Energy Inc.; Pad ID: GrasavageE P1; ABR–201403014.R2; Jessup Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: June 25, 2024.

15. RENEWAL—Coterra Energy Inc.; Pad ID: HawkJ P1; ABR–201403013.R2; Auburn and Springville Townships,

Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: June 25, 2024.

16. RENEWAL—Repsol Oil & Gas USA, LLC; Pad ID: HARRIS (01 004) M; ABR–20090508.R3; Armenia Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: June 25, 2024.

17. RENEWAL—Repsol Oil & Gas USA, LLC; Pad ID: PHINNEY (01 006) J; ABR–20090510.R3; Troy Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: June 25, 2024.

18. RENEWAL—Seneca Resources Company, LLC; Pad ID: Tice 653; ABR–201403002.R2; Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: June 25, 2024.

19. RENEWAL—Chesapeake Appalachia, L.L.C.; Pad ID: Harris #1H; ABR–20090556.R3; Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 28, 2024.

20. RENEWAL—Chesapeake Appalachia, L.L.C.; Pad ID: Iceman; ABR–201205016.R2; Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: June 28, 2024.

21. RENEWAL—SWN Production Company, LLC; Pad ID: Lepley Pad—TI-04; ABR–201405006.R2; Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: June 28, 2024.

22. RENEWAL—SWN Production Company, LLC; Pad ID: Powers Pad Site; ABR–20090511.R3; Forest Lake Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: June 28, 2024.

Authority: Public Law 91–575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806 and 808.

Dated: July 11, 2024.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2024–15610 Filed 7–15–24; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

General Permit Notice

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists General Permits approved by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: June 1–30, 2024.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax (717) 238–2436; email: joyler@srbc.gov. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists General Permits for projects, described below, pursuant to 18 CFR 806.17(c)(4), for the time period specified above.

1. Lear Corporation Pine Grove—Penn Dye and Finishing Plant, General Permit Approval of Coverage No. GP–01–20240606, Pine Grove Borough, Schuylkill County, Pa.; groundwater remediation system withdrawal approved up to 0.297 mgd (30-day average); Approval Date: June 13, 2024.

Authority: Public Law 91–575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806 and 808.

Dated: July 11, 2024.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2024–15609 Filed 7–15–24; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

National Hazardous Materials Route Registry

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice; revisions to the listing of designated and restricted routes for hazardous materials.

SUMMARY: This notice provides revisions to the National Hazardous Materials Route Registry (NHMRR) reported to FMCSA from April 1, 2023, through March 31, 2024. The NHMRR is a listing, as reported by States and Tribal governments, of all designated and restricted roads and preferred highway routes for transportation of highway route controlled quantities of Class 7 radioactive materials (HRCQ/RAM) and non-radioactive hazardous materials (NRHM).

DATES: *Applicable date:* July 16, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Williams, Hazardous Materials Division, Office of Enforcement and Compliance, FMCSA, 1200 New Jersey

Ave. SE, Washington, DC 20590, (202) 366–4163, melissa.williams@dot.gov. Office hours are from 9 a.m. to 5 p.m., ET, Monday through Friday, except for Federal holidays.

SUPPLEMENTARY INFORMATION:

Legal Basis and Background

Paragraphs (a)(2) and (b) of section 5112 of title 49 United States Code (U.S.C.) permit States and Tribal governments to designate and limit highway routes over which hazardous materials (HM) may be transported, provided the State or Tribal government complies with standards prescribed by the Secretary of Transportation (the Secretary) and meets publication requirements in section 5112(c). To establish standards under paragraph (b), the Secretary must consult with the States, and, under section 5112(c), coordinate with the States to “update and publish periodically” a list of currently effective HM highway routing designations and restrictions. The requirements that States and Tribal governments must follow to establish, maintain, or enforce routing designations for the transport of placardable quantities of NRHM are set forth in 49 CFR part 397, subpart C. Subpart D of part 397 sets out the requirements for designating preferred routes for HRCQ/RAM shipments as an alternative, or in addition, to Interstate System highways. For HRCQ/RAM shipments, § 397.101 defines a *preferred route* as an interstate highway for which no alternative route is designated by the State; a route specifically designated by the State; or both (see § 397.65 for the definitions of *NRHM* and *routing designations*).

Under a delegation from the Secretary,¹ FMCSA has authority to implement 49 U.S.C. 5112.

Currently, § 397.73 establishes public information and reporting requirements for NRHM. States or Tribal governments are required to furnish information regarding any new or changed routes to FMCSA within 60 days after establishment. Under 49 CFR 397.103, a State routing designation for HRCQ/RAM routes (preferred routes) as an alternative, or in addition, to an Interstate System highway, is effective when the authorized routing agency provides FMCSA with written notification, FMCSA acknowledges receipt in writing, and the route is published in FMCSA’s NHMRR. The Office of Management and Budget has approved these collections of information under control number

¹ 49 CFR 1.87(d)(2).

2126–0014, Transportation of Hazardous Materials, Highway Routing.

In this notice, FMCSA is merely performing the ministerial function of updating and publishing the NHMRR based on input from its State and Tribal partners under 49 U.S.C. 5112(c)(1). Accordingly, this notice serves only to provide the most recent revisions to the NHMRR; it does not establish any new public information and reporting requirements.

Updates to the NHMRR

FMCSA published the full NHMRR in a **Federal Register** notice on April 29, 2015 (80 FR 23859). Since publication of the 2015 notice, FMCSA has published six updates to the NHMRR in **Federal Register** notices on August 8, 2016 (81 FR 52518), August 9, 2018 (83 FR 39500), September 24, 2019 (84 FR 50098), June 3, 2020 (84 FR 34284), June 17, 2021 (86 FR 32306), and May 11, 2022 (87 FR 28859).

This notice provides revisions to the NHMRR, reported to FMCSA from April 1, 2023 through March 31, 2024. The revisions to the NHMRR listings in this notice supersede and replace corresponding NHMRR listings published in the April 29, 2015 notice and corresponding revisions to the NHMRR listings published in the August 8, 2016, August 9, 2018, September 24, 2019, June 3, 2020, June 17, 2021, and May 11, 2022 notices. Continue to refer to the April 29, 2015 notice for additional background on the NHMRR and the August 8, 2016 notice for the procedures for State and Tribal government routing agencies to update their Route Registry listings and contact information.

The full current NHMRR for each State is posted on FMCSA’s website at: <https://www.fmcsa.dot.gov/regulations/hazardous-materials/national-hazardous-materials-route-registry>.

Revisions to the NHMRR in This Notice

In accordance with the requirements of §§ 397.73 and 397.103, the NHMRR is being revised as follows:

TABLE 2—WASHINGTON—RESTRICTED NRHM ROUTES

A new Route Order Designator “D” added and assigned an “O” restriction.

Route Order Key

Each listing in the NHMRR includes codes to identify each route designation and each route restriction reported by the State. Designation codes identify the routes along which a driver may or must transport specified HM. Among the

designation codes is one for preferred routes, which apply to the transportation of a highway route controlled quantity of Class 7 (radioactive) material. Restriction codes identify the routes along which a driver may not transport specified HM shipments. Table 1 presents information on each restriction and designation code. Table 2 presents information on the revisions to the route registry.

TABLE 1—RESTRICTION/DESIGNATION KEY

Restrictions	Designations
0—ALL Hazardous Materials.	A—ALL NRHM Hazardous Materials.
1—Class 1—Explosives	B—Class 1—Explosives.
2—Class 2—Gas	I—Poisonous Inhalation Hazard (PIH).
3—Class 3—Flammable	P—“Preferred Route”
4—Class 4—Flammable Solid/Combustible.	Class 7—Radioactive.
5—Class 5—Organic.	
6—Class 6—Poison.	

TABLE 1—RESTRICTION/DESIGNATION KEY—Continued

Restrictions	Designations
7—Class 7—Radioactive.	
8—Class 8—Corrosives.	
9—Class 9—Dangerous (Other).	
i—Poisonous Inhalation Hazard (PIH).	

Revisions to the National Hazardous Materials Route Registry (March 31, 2023)

TABLE 2—WASHINGTON—RESTRICTED NRHM ROUTES

Designation date	Route order route description	City	County	Restriction FMCSA (0–9 and i) QA comment
9/21/2023	Add South 188th St. between 28th Ave. S and 16th Ave. S	Seattle	King	0

End of Revisions to the National Hazardous Materials Route Registry

Sue Lawless,
Acting Deputy Administrator.
[FR Doc. 2024–15614 Filed 7–15–24; 8:45 am]
BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2019–0064]

Petition for Amendment of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letters dated February 28, 2024, and May 13, 2024, BNSF Railway (BNSF) petitioned the Federal Railroad Administration (FRA) for an amendment of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232 (Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices). The relevant Docket Number is FRA–2019–0064.

Specifically, BNSF requests to add a location to its existing waiver from § 232.205(b)(2), *Single car air brake tests*, which permits BNSF to change the repair track designation (per § 232.303, *General requirements*) so that the track on which in-train wheel replacements are performed is not designated a shop or repair track. Accordingly, a single car air brake test (SCABT) is not required on each car undergoing an in-train wheelset replacement, but BNSF proposes to perform a SCABT on any

car with an FRA-condemnable wheel defect as defined in § 232.303(b)(5). The relief currently applies to specific yard tracks for wheelset replacement at several BNSF facilities, and with this request, BNSF seeks to add the Missoula, Montana, location to the program.

In support of its request, BNSF states that this program “reduces the number of wheels in revenue service with elevated KIP impact readings contributing to the safety and longevity of [the] rail infrastructure.” Further, BNSF states that the program “enhances safety by improving the reliability of the rolling stock and simultaneously reducing potential causes of surface rail defects that can elevate the risks of derailments” from higher KIP wheels.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at www.regulations.gov. Follow the online instructions for submitting comments.

Communications received by September 16, 2024 will be considered

by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of the Department of Transportation’s (DOT) dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,
Associate Administrator for Railroad Safety,
Chief Safety Officer.
[FR Doc. 2024–15488 Filed 7–15–24; 8:45 am]
BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

U.S. Merchant Marine Academy Board of Visitors; Public Meeting

AGENCY: Maritime Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Department of Transportation, Maritime Administration announces a meeting of

the U.S. Merchant Marine Academy (USMMA) Board of Visitors (Board). During the meeting, the USMMA leadership will provide an update on programs and priorities, including governance, sexual assault and sexual harassment, academics, admissions, culture, and facilities and infrastructure.

DATES: The USMMA BOV meeting will take place on July 26, 2024, from 9:00 a.m. to 11:30 a.m. EST. Request to attend the meeting must be received by July 19, 2024, and permission will be based on space available. Requests will be taken as they are received until available spaces are full. Written statements to be considered during the meeting must be received via email to ExternalAffairs@usmma.edu no later than July 23, 2024. Requests for accommodations for a disability must be received via email to ExternalAffairs@usmma.edu no later than July 23, 2024.

ADDRESSES: The meeting will be held in person at the United States Merchant Marine Academy located at 300 Steamboat Road, Kings Point, NY 11024, in the Crabtree Room of the Schuyler Otis Bland Memorial Library.

The USMMA Board of Visitors' web page can be found at <https://www.usmma.edu/about/leadership/board-visitors>. General information about the Board is available at <https://www.usmma.edu/about/leadership/board-visitors>.

FOR FURTHER INFORMATION CONTACT: The Board's Designated Federal Officer and Point of Contact, Michael O'Hagan, 516-726-6048 or ExternalAffairs@usmma.edu.

SUPPLEMENTARY INFORMATION:

Background

The Board is a Federal Advisory Committee originally established as a Congressional Board by section 51312 of title 46, United States Code "to provide independent advice and recommendations on matters relating to the United States Merchant Marine Academy." The Board was originally chartered under the Federal Advisory Committee Act (FACA) on October 24, 2017.

Agenda

The meeting agenda for the July meeting is as follows:

1. Welcome remarks and Board maintenance items.
2. Update on the USMMA priority programs and initiatives (including educational programs, athletic programs, institutional culture, sexual assault and sexual harassment prevention and response, program status, admissions trends, Academy

facilities and infrastructure progress, internal processes and governance status, state of the regiment of midshipmen and campus culture)

3. Update on the state of the Regiment of Midshipmen and Campus Culture; and

4. Public comment period (not to exceed 10 minutes).

Public Participation

This meeting is open to the public and will be held at the Academy. The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Any member of the public is permitted to file a written statement with the Board. Written statements should be sent to the Designated Federal Officer listed in the **FOR FURTHER INFORMATION CONTACT** section no later than July 19, 2024.

Only written statements will be considered by the Board; no member of the public will be allowed to present questions or speak during the meeting unless requested to do so by a member of the Board.

(Authority: 46 U.S.C. 51312; 5 U.S.C. 552b; 5 U.S.C. Ch.10; 41 CFR parts 102-3.140 through 102-3.165)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024-15575 Filed 7-15-24; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2024-0081]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: HIBIKI (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from

interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 15, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2024-0081 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Search MARAD-2024-0081 and follow the instructions for submitting comments.

- **Mail or Hand Delivery:** Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0081, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: patricia.hagerty@dot.gov.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel HIBIKI is:

Intended Commercial Use of Vessel: Requester intends to offer passenger cruises.

Geographic Region Including Base of Operations: Puerto Rico. Base of Operations: Fajardo, Puerto Rico.

Vessel Length and Type: 53' Motor.

The complete application is available for review identified in the DOT docket as MARAD 2024–0081 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD–2024–0081 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such

confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–15556 Filed 7–15–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[DOT–NHTSA–2023–0035]

National Emergency Medical Services Advisory Council Notice of Public Meeting

AGENCY: National Highway Traffic Safety Administration, U.S. Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the National Emergency Medical Services Advisory Council (NEMSAC).

DATES: This meeting will be held in-person and simultaneously transmitted via virtual interface. It will be held on August 7–8, 2024, from 12:00 p.m. to 5:00 p.m. ET.

Pre-registration is required to attend this meeting. Once registered, a link permitting access to the meeting will be distributed to registrants by email. If you wish to speak during the meeting, you must submit a written copy of your remarks to DOT by July 31, 2024.

ADDRESSES: General information about the Council is available on the NEMSAC

internet website at www.ems.gov. The registration portal and meeting agenda will be available on the NEMSAC internet website at www.ems.gov at least one week in advance of the meeting.

FOR FURTHER INFORMATION CONTACT:

Clary Mole, EMS Specialist, National Highway Traffic Safety Administration, U.S. Department of Transportation is available by phone at (202) 868–3275 or by email at Clary.Mole@dot.gov. Any committee-related requests should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

NEMSAC is authorized under section 31108 of the Moving Ahead for Progress in the 21st Century (MAP–21) Act of 2012, codified at 42 U.S.C. 300d-4 as a Federal Advisory Committee. The purpose of NEMSAC is to serve as a nationally recognized council of emergency medical services (EMS) representatives to provide advice and consult with:

a. The Federal Interagency Committee on Emergency Medical Services (FICEMS) on matters relating to EMS issues; and

b. The Secretary of Transportation on matters relating to EMS issues affecting DOT.

The NEMSAC provides an important national forum for the non-Federal deliberation of national EMS issues and serves as a platform for advice on DOT's national EMS activities. NEMSAC also provides advice and recommendations to the FICEMS.

II. Agenda

At the meeting, the agenda will cover the following topics:

- Informational sessions
- Updates on NHTSA Initiatives
- Subcommittee Reports on Advisory Statuses
- Strategic Planning

III. Public Participation

This meeting 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 July 31, 2024.

A period of time will be allotted for comments from members of the public joining the meeting. Members of the public may present questions and comments to the Council using the live chat feature available during the meeting. Members of the public may also submit materials, questions, and comments in advance to the individual

listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Members of the public wishing to reserve time to speak directly to the Council 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 NEMSAC; 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 July 31, 2024.

All advance submissions will be reviewed by the Council Chairperson and Designated Federal Officer. If approved, advance submissions shall be circulated to NEMSAC representatives for review prior to the meeting. All advance submissions will become part of the official record of the meeting.

Authority: 42 U.S.C. 300d–4(b); 49 CFR part 1.95(i)(4).

Issued in Washington, DC.

Nanda Narayanan Srinivasan,

Associate Administrator, Research and Program Development.

[FR Doc. 2024–15513 Filed 7–15–24; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[DOT–NHTSA–2024–0032]

Federal Interagency Committee on Emergency Medical Services Notice of Public Meeting

AGENCY: National Highway Traffic Safety Administration, U.S. Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: This notice announces the Federal Interagency Committee on Emergency Medical Services (FICEMS) Post-crash Care Summit.

DATES: This meeting will be held in-person and simultaneously transmitted via virtual interface. It will be held on August 6, 2024, from 9 a.m. to 5 p.m. ET.

Pre-registration is required to attend this meeting. Once registered, a link permitting access to the meeting will be distributed to registrants by email.

ADDRESSES: General information about FICEMS is available on the website www.ems.gov. The registration portal and meeting agenda will be available at least one week in advance of the meeting.

FOR FURTHER INFORMATION CONTACT:

Clary Mole, EMS Specialist, National Highway Traffic Safety Administration, U.S. Department of Transportation is available by phone at (202) 868–3275 or by email at Clary.Mole@dot.gov. Any committee-related requests should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

FICEMS is authorized under section 10202 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005, codified at 42 U.S.C. 300d–4. The purpose of FICEMS is to ensure coordination among Federal agencies supporting local, regional, State, Tribal, and territorial EMS and 911 systems. The FICEMS provides an important forum for federal agencies and staff to work collaboratively to advance EMS delivery across the United States.

II. Agenda

At the meeting, the agenda will cover the following topics:

- Post-crash Care delivery challenges
- FICEMS Statement of Recommendations for Comprehensive EMS to Improve Post-crash Care
- National EMS Advisory Council (NEMSAC)'s Recommendations Letter to NHTSA about the Post-crash Care and the National Roadway Safety Strategy
- Best Practices for Post-crash Care and Opportunities for Improvement
- Other Focused Topic areas (Prehospital Blood Transfusion, Extrication Training, and Existing Guidelines for Field Trauma Triage and Clinical Care)

III. Public Participation

This meeting 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 July 30, 2024.

A period of time will be allotted for comments from members of the public joining the meeting. Members of the public may present questions and comments using the live chat feature available during the meeting. Members of the public may also submit materials, questions, and comments in advance to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Members of the public wishing to reserve time to speak 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 speak; 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 July 30, 2024. All advance submissions will be reviewed. If approved, advance submissions shall be circulated to the Post-crash Care panelists for review prior to the meeting. All advance submissions will become part of the official record.

Authority: 42 U.S.C. 300d–4(b); 49 CFR part 1.95(i)(4).

Issued in Washington, DC.

Nanda Narayanan Srinivasan,

Associate Administrator, Research and Program Development.

[FR Doc. 2024–15517 Filed 7–15–24; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Great Lakes St. Lawrence Seaway Development Corporation

AGENCY: Great Lakes St. Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces the public meeting of the Great Lakes St. Lawrence Seaway Development Corporation Advisory Board.

DATES: The public meeting will be held on:

- Wednesday, August 7, 2024, from 1 p.m.–3 p.m. CDT
 - Requests to attend the meeting must be received by July 31, 2024.
 - Requests for accommodations to a disability must be received by July 31, 2024.
 - If you wish to speak during the meeting, you must submit a written copy of your remarks to GLS by July 31, 2024.
 - Requests to submit written materials to be reviewed during the meeting must be received no later than July 31, 2024.

ADDRESSES: The meeting will be held in-person at the following location: Sheraton Grand Chicago Riverwalk, 301 E North Water Street, Chicago, IL 60611. A virtual option will be made available for individuals wishing to attend remotely. Details on how to participate will be forwarded to those who RSVP.

FOR FURTHER INFORMATION CONTACT:

Kevin O'Malley, Strategic Advisor for Financial and Resource Management, Great Lakes St. Lawrence Seaway Development Corporation, 1200 New

Jersey Avenue SE, Suite W62–300,
Washington, DC 20590; (202) 366–0091.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of meetings of the GLS Advisory Board. The agenda for each meeting is the same and will be as follows:

1. Opening Remarks
2. Consideration of Minutes of Past Meeting
3. Quarterly Report
4. Old and New Business
5. Closing Discussion
6. Adjournment

Public Participation

Attendance at the meeting is open to the interested public. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact the person listed under the heading, **FOR FURTHER INFORMATION CONTACT**. There will be three (3) minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for each commenter may be limited. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name, address, and organizational affiliation of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the GLS will conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks for inclusion in the meeting records and for circulation to GLS Advisory Board members. All prepared remarks submitted will be accepted and considered as part of the meeting's record. Any member of the public may submit a written statement after the meeting deadline, and it will be presented to the committee.

The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Any member of the public may present a written statement to the Advisory Board at any time.

Dated: July 11, 2024.

Carrie Lavigne,
Chief Counsel.

[FR Doc. 2024–15589 Filed 7–15–24; 8:45 am]

BILLING CODE 4910–61–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Community Reinvestment Act Regulation

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled, “Community Reinvestment Act Regulation.”

DATES: Comments must be received by September 16, 2024.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email:* prainfo@occ.treas.gov.
- *Mail:* Chief Counsel's Office,

Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0357, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

- *Fax:* (571) 293–4835.

Instructions: You must include “OCC” as the agency name and “1557–0357” in your comment. In general, the OCC will publish comments on www.reginfo.gov without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public

disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to www.reginfo.gov. Hover over the “Information Collection Review” tab and click on “Information Collection Review” from the drop-down menu. From the “Currently under Review” drop-down menu, select “Department of Treasury” and then click “submit.” This information collection can be located by searching OMB control number “1557–0357” or “Community Reinvestment Act Regulation.” Upon finding the appropriate information collection, click on the related “ICR Reference Number.” On the next screen, select “View Supporting Statement and Other Documents” and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating www.reginfo.gov, please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT:

Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 generally requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC

is publishing notice of the renewal of this collection.

The OMB provided a six-month approval for this information collection on an emergency basis on April 17, 2024. The OCC is now seeking to extend OMB approval of the collection for the standard three years.

Title: Community Reinvestment Act Regulation.

OMB Control No.: 1557–0357.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: The CRA requires the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (agencies) to assess the record of regulated financial institutions (institutions) in helping to meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with safe and sound operations.¹ The CRA further requires the agencies to take this record into account in evaluating applications for mergers, branches, and certain other corporate activities.² The CRA statute requires the agencies to issue regulations to carry out its purposes.³

The agencies use the data collected under the CRA regulations to fulfill their statutory obligations, including the assessment of each institution's record of helping to meet the credit needs of local communities. The agencies use the data to support their conclusions regarding an institution's record of performance, in assigning a CRA rating, and in preparing the public evaluations that the statute requires. Additionally, the agencies use these CRA assessments in evaluating an institution's applications for mergers, branches, and other corporate activities. The public uses the data to assess the institution's CRA performance and to participate meaningfully in the application process.

Section-by-Section Analysis

- 12 CFR 25.25(b)—Requests for designation as a wholesale or limited purpose bank or savings association must be made in writing with the OCC at least three months prior to the proposed effective date of the designation.
- 12 CFR 25.27—Strategic plans must be submitted at least three months prior to proposed effective dates. Plans must include measurable goals and address all the applicable performance

categories. Plans must include a description of informal efforts to solicit public suggestions, any written public comments received, and if revised pursuant to public comment, a copy of the initial plan. Amendments may be submitted in the case of a change in material circumstances.

- 12 CFR 25.42(a), 12 CFR 25.42(b)(1)—Large banks and savings associations⁴ must collect and maintain certain small business/small farm loan data in a machine-readable form and report it annually.

- 12 CFR 25.42(b)(2)—Large banks and savings associations must report annually in machine readable form the aggregate number and aggregate amount of community development loans originated or purchased.

- 12 CFR 25.42(b)(3)—Large banks and savings associations, if subject to reporting under 12 CFR 1003 (Home Mortgage Disclosure (Regulation C)), must report the location of each home mortgage loan application, origination, or purchase outside the metropolitan statistical area(s) in which the bank or savings association has a home/branch office.

- 12 CFR 25.42(c)(1), 12 CFR 25.42(c)(2)—All banks and savings associations may collect and maintain in machine readable form certain data for consumer loans originated or purchased by a bank or savings association for consideration under the lending test. Other information may be included concerning their lending performance, including additional loan distribution data.

- 12 CFR 25.42(d)—Banks and savings associations that elect to have the OCC consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, must collect, maintain, and report the data that the bank or savings association would have collected, maintained, and reported pursuant to 12 CFR 25.42(a)–(c), respectively, had the loans been originated or purchased by the bank or savings association. For home mortgage loans, the bank or savings association must also be prepared to identify the home mortgage loans reported under HMDA by the affiliate.

- 12 CFR 25.42(e)—Banks and savings associations that elect to have the OCC consider community development loans by a consortium or a third party, for purposes of the lending or community development tests or an

approved strategic plan, must report for those loans the data that the bank or savings association would have reported under 12 CFR 25.42(b)(2), respectively, had the loans been originated or purchased by the bank or savings association.

- 12 CFR 25.42(f)—Small banks and savings associations that qualify for evaluation under the small bank and savings association performance standards but elect evaluation under the lending, investment, and service tests must collect, maintain, and report the data required for other banks or savings associations under 12 CFR 25.42(a) and 25.42(b).

- 12 CFR 25.42(g)—Banks and savings associations, except those that were small banks or savings associations during the prior calendar year, must collect and report to the OCC by March 1 each year a list for each assessment area showing the geographies within the area.

- 12 CFR 25.43(a)—All banks and savings associations must maintain a public file that contains with certain specified details: all written comments and responses; a copy of the public section of the bank's or savings association's most recent CRA performance evaluation; a list of the bank's or savings association's branches; a list of the branches opened or closed; a list of services offered; and a map of each assessment area delineated by the bank or savings association.

- 12 CFR 25.43(b)—Large banks and savings associations must include in their public files certain information pertaining to the institution and its affiliates, if applicable, for each of the prior two calendar years. If the bank or savings association has elected to have one or more categories of its consumer loans considered under the lending test, for each of these categories, they must include the number and amount of loans: to low-, moderate-, middle-, and upper-income individuals; located in low-, moderate-, middle-, and upper-income census tracts; and located inside the bank's assessment area(s) and outside the bank's or savings association's assessment area(s); and their CRA Disclosure Statement. A bank or savings association required to report home mortgage loan data pursuant to 12 CFR part 1003 must include a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) website. A bank or savings association that elected to have the OCC consider the mortgage lending of an affiliate must include the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement

¹ 12 U.S.C. 2903(a)(1).

² See 12 U.S.C. 2903(a)(2).

³ 12 U.S.C. 2905.

⁴ Although the CRA regulations do not define "large banks and savings associations," this term is used by the agencies to describe banks and savings associations that exceed the small bank or savings association asset size threshold in 12 CFR 25.12(u).

may be obtained at the Bureau’s website. A small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year must include: its loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and the information required for other banks or savings associations by 12 CFR 24.43(b)(1), if it has elected to be evaluated under the lending, investment, and service tests. A bank or savings association that has been approved to be assessed under a strategic plan must include in its public file a copy of that plan. A bank or savings association that received a less than satisfactory rating during its most recent examination must include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The bank must update the description quarterly.

- 12 CFR 25.43(c)–(e)—A bank or savings association must make available to the public for inspection upon request and at no cost the information required in this section at the main office or branch as specified. Upon request, a bank or savings association must provide copies, either on paper or in another form acceptable to the person making the request, of the information in its public file. A bank or savings association must ensure that this information is current as of April 1 of each year.

Estimated Burden:
Estimated Frequency of Response: On occasion.

Estimated Number of Respondents: 2,096.

Estimated Total Annual Burden: 141,638 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC’s estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Patrick T. Tierney,
Assistant Director, Office of the Comptroller of the Currency.
[FR Doc. 2024–15492 Filed 7–15–24; 8:45 am]
BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control
Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.
ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) is publishing the name of one person that has been placed on OFAC’s Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC’s determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of this person are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action takes effect on the date listed in **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley T. Smith, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Compliance, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC’s website. (<https://www.treasury.gov/ofac>).

Notice of OFAC Actions

A. On July 11, 2024, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person is blocked under the relevant sanctions authority listed below.

Entity

1. TREN DE ARAGUA (Latin: EL TREN DE ARAGUA) (a.k.a. “ARAGUA TRAIN”), Venezuela; Colombia; Chile; Peru; Ecuador;

Brazil; Bolivia; Panama; United States; Target Type Criminal Organization [TCO].

Designated pursuant to section 1(a)(ii)(A) of Executive Order 13581 of July 24, 2011, “Blocking Property of Transnational Criminal Organizations,” 76 FR 44757 (July 27, 2011), as amended by Executive Order 13863 of March 15, 2019, “Taking Additional Steps to Address the National Emergency With Respect to Significant Transnational Criminal Organizations,” 84 FR 10255 (March 19, 2019) (E.O. 13581, as amended), for being a foreign person that constitutes a significant transnational criminal organization.

Dated: July 11, 2024.
Bradley T. Smith,
Director, Office of Foreign Assets Control, U.S. Department of the Treasury.
[FR Doc. 2024–15633 Filed 7–15–24; 8:45 am]
BILLING CODE 4810–AL–P

UNITED STATES INSTITUTE OF PEACE

Notice Regarding Board of Directors Meetings

AGENCY: United States Institute of Peace (USIP) and Endowment of the United States Institute of Peace.

ACTION: Announcement of meeting.

SUMMARY: USIP announces the next meeting of the Board of Directors.
DATES: Friday, July 19, 2024 (9:00 a.m.). The next meeting of the Board of Directors will be held October 25, 2024.
ADDRESSES: 2301 Constitution Avenue NW, Washington, DC 20037.
FOR FURTHER INFORMATION CONTACT: Corinne Graff, 202–429–7895, cgraff@usip.org.

SUPPLEMENTARY INFORMATION: Open Session—Portions may be closed pursuant to subsection (c) of section 552b of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.
Authority: 22 U.S.C. 4605(h)(3).

Dated: July 9, 2024.
Rebecca Fernandes,
Director of Accounting.
[FR Doc. 2024–15534 Filed 7–15–24; 8:45 am]
BILLING CODE 2810–03–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0386]

Agency Information Collection Activity: Interest Rate Reduction Refinancing Loan Worksheet

AGENCY: Veterans Benefits Administration (VBA), 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 extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before September 16, 2024.

ADDRESSES: Comments must be submitted through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Program-Specific information: Nancy J. Kessinger, 202–632–8924, Nancy.Kessinger@va.gov.

VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov.

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.

Title: Agency Information Collection Activity: Interest Rate Reduction Refinancing Loan Worksheet VA Form 26–8923.

OMB Control Number: 2900–0386 <https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–8923 is used to determine Veterans eligible for an exception to pay a funding fee in connection with a VA-guaranteed loan. Lenders are required to complete the form on all interest rate reduction

refinancing loans and submit the form to the Veteran no later than the third business day after receiving the Veteran's application.

Affected Public: Individuals and Lenders.

Estimated Annual Burden: 86,647 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One Time.

Estimated Number of Respondents: 173,293.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–15550 Filed 7–15–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0262]

Agency Information Collection**Activity: Designation of Certifying Official(s)**

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900–0262.”

FOR FURTHER INFORMATION CONTACT:

VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Designation of Certifying Official(s), VA Form 22–8794.

OMB Control Number: 2900–0262 <https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Revision of a currently approved collection.

Abstract: The law requires educational institutions and job training establishments to designate an official that will be responsible for certifying approved training for Veterans and other eligible persons. Each educational institution must have a VA certifying official on staff. The certifying official must submit to VA each student's enrollment information and any changes to such enrollment information. The “Designation of Certifying Official(s)” (VA Form 22–8794) provides VA with the names and signatures of those persons authorized to certify and submit to VA any new hours or changes in the enrollment of their VA students. The VA uses VA Form 22–8794 to maintain a record of the VA Certifying Official(s) responsible for certifying approved training for Veterans and other eligible beneficiaries.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 41494, May 13, 2024.

Affected Public: Individuals and Households.

Estimated Annual Burden: 1,029 hours.

Estimated Average Burden Time per Respondent: 10 minutes.

Frequency of Response: Once on occasion.

Estimated Number of Respondents: 6,177.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–15617 Filed 7–15–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0399]

Agency Information Collection Activity Under OMB Review: Student Beneficiary Report—REPS (Restored Entitlement Program for Survivors)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link www.reginfo.gov/public/do/PRAMain, select “Currently under Review—Open for Public Comments”, then search the list for the information collection by Title or “OMB Control No. 2900–0399.”

FOR FURTHER INFORMATION CONTACT: VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov.

SUPPLEMENTARY INFORMATION:

Title: Student Beneficiary Report—REPS (Restored Entitlement Program for Survivors).

OMB Control Number: 2900–0399
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Extension of a previously approved collection.

Abstract: VA Form 21P–8938–1 is primarily used to verify that a surviving child who is receiving REPS benefits based on school-child status is in fact enrolled full-time in an approved school and is otherwise eligible for continued benefits. VA Form 21P–8938–1 is generated by VA’s central computer system each March and sent to all student beneficiaries. If the completed form is not received by the end of May, the beneficiary is sent a system-generated due process letter with another VA Form 21P–8938–1. No changes have been made to this form. The respondent burden has remained the same.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 40539, May 10, 2024.

Affected Public: Individuals or Households.

Estimated Annual Burden: 300 hours.
Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,200.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–15621 Filed 7–15–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0681]

Agency Information Collection Activity: Pre and Post Independent Living Assessment

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 reinstatement of a previously approved collection, and allow 60 days for public comment in response to the notice. DATES: Comments must be received on or before September 16, 2024.

ADDRESSES: Comments must be submitted through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Program-Specific information: Nancy Kessinger, 202–632–8924, nancy.kessinger@va.gov.

VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov.

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.

Title: VA Form 28–0791, Pre and Post Independent Living Assessment.

OMB Control Number: 2900–0681.
<https://www.reginfo.gov/public/do/PRASearch>. (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Reinstatement with change of a previously approved collection.

Abstract: VA Form 28–0791, Pre and Post Independent Living Assessment (IL) is used by the Vocational Rehabilitation Counselor (VRC) during the initial and post IL evaluations. During this face-to-face meeting, the VRC identifies impairments and or barriers the Veteran may be experiencing with Activities of Daily Living (ADLs). The VRC then uses this information to identify the needs for services. The VRC compares the information obtained from the preliminary and post plan assessments to determine if there are improvements in the Veteran’s activities of daily living. Without the information gathered on this form, VR&E is not able to identify IL needs and provide needed services. There are no other invitations or other communications sent to the respondent associated with the information collection. Failure to collect this information would have a detrimental impact upon the determination of appropriate rehabilitation goals for Veterans participating in the IL program. This would negatively impact the Veteran’s participation in his or her rehabilitation program.

Affected Public: Individuals and households.

Estimated Annual Burden: 906 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Two times.

Estimated Number of Respondents: 906 per year.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–15514 Filed 7–15–24; 8:45 am]

BILLING CODE 8320–01–P



FEDERAL REGISTER

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Part II

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Seating Systems; Proposed Rule

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 571****[Docket No. NHTSA–2024–0001]****RIN 2127–AM53****Federal Motor Vehicle Safety Standards; Seating Systems**

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Through this document, NHTSA fulfills the statutory mandate in section 24204 of the Infrastructure Investment and Jobs Act (IIJA), which directed the Secretary of Transportation to issue an advanced notice of proposed rulemaking to update Federal Motor Vehicle Safety Standard No. 207, “Seating systems.” NHTSA also partially grants rulemaking petitions submitted by Kenneth J. Saczalski of Environmental Research and Safety Technologists (ERST) and by Alan Cantor of ARCCA, Inc. (ARCCA), which sought changes to the Federal Motor Vehicle Safety Standards (FMVSS) petitioners stated would improve the safety of children during rear-end crashes. NHTSA denies a petition from the Center for Auto Safety (CAS), which sought to require additional warnings instructing adults regarding which rear seating position to place children.

DATES: Comments must be received no later than September 16, 2024. The Saczalski and Cantor petitions are granted in part and the CAS petition is denied as of July 16, 2024. See **ADDRESSES** and Section VIII. Public Participation for more information about submitting written comments and reviewing comments submitted by other interested parties.

ADDRESSES: You may submit written comments, identified by docket number or RIN, by any of the following methods:

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

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays. To be sure

someone is there to help you, please call 202–366–9826 before coming.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the “Privacy Act” discussion in Section IX. Regulatory Analyses and Notices.

Confidential Business Information: If you claim that any of the information or documents provided to the agency constitute confidential business information within the meaning of 5 U.S.C. 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. 1905, you must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with part 512, by email or secure file transfer to the Office of the Chief Counsel, Litigation and Enforcement Division. Do not send a hardcopy of a request for confidential treatment to NHTSA’s headquarters.

Your request must include a request letter that contains supporting information, pursuant to § 512.8. Your request must also include a certificate, pursuant to § 512.4(b) and part 512, appendix A.

You are required to submit one unredacted “confidential version” of the information for which you are seeking confidential treatment. Pursuant to § 512.6, the words “ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION” or “CONFIDENTIAL BUSINESS INFORMATION CONTAINED WITHIN BRACKETS” (as applicable) must appear at the top of each page containing information claimed to be confidential. In the latter situation, where not all information on the page is claimed to be confidential, identify each item of information for which confidentiality is requested within brackets: “[.]”

You are also required to submit to the Office of the Chief Counsel one redacted “public version” of the information for which you are seeking confidential treatment. Pursuant to § 512.5(a)(2), the redacted “public version” should include redactions of any information for which you are seeking confidential treatment (*i.e.*, the only information that should be unredacted is information for which you are not seeking confidential treatment).

For questions about a request for confidential treatment, please contact Dan Rabinovitz in the Office of the Chief

Counsel at Daniel.Rabinovitz@dot.gov or (202) 366–8534.

FOR FURTHER INFORMATION CONTACT: Mr. Tyler Brosten, Office of Crashworthiness Standards (Telephone: 202–366–1740; Email: tyler.brosten@dot.gov, Facsimile: 202–493–2739), or Mr. Eli Wachtel, Office of Chief Counsel (Telephone: 202–366–2992; Email: eli.wachtel@dot.gov). You may mail these officials at: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. Introduction
- II. Occupant and Seat Back Dynamics and Field Data on Rear Impact Crashes
 - A. FARS and CRSS Data Analysis
 - B. CISS Data Analysis
 - C. Field Data Analyses From Relevant Literature
- III. Statutory and Regulatory Background
 - A. The Safety Act and the Infrastructure, Investment and Jobs Act
 - B. Regulatory History of FMVSS No. 207 and FMVSS No. 202, and Associated Research/Analyses
 1. 1963—SAE Recommended Practice for Seats
 2. 1967—Publication of FMVSS No. 207, Seating Systems
 3. 1968—Publication of FMVSS No. 202, “Head Restraints”
 4. 1969—Report on Seat Safety Studies at ITTE
 5. 1974—Notice of Proposed Rulemaking (NPRM) To Revise FMVSS No. 207
 6. 1978—NHTSA Publishes a Request for Comment on Rulemaking Priorities
 7. 1989—NHTSA Receives Petitions for Rulemaking on Revisions to FMVSS No. 207
 8. 1992—2000 NHTSA Publishes a Request for Comment on Possible Revisions to FMVSS No. 207, Grants Two Petitions and Conducts Research
 9. 2004—NHTSA Issues Final Rule Upgrading FMVSS No. 202, Head Restraints
 10. 2004—NHTSA Terminates Rulemaking on FMVSS No. 207, Seating Systems
 11. Further Regulatory Changes Since 2004
- IV. Review of Additional Literature
 - A. Occupant Dynamics
 - B. Rear Impact Protection Technology
 - C. Non-Contact Injuries
 1. Neck Injuries
 2. Thorax Injuries in High-Speed Rear Impacts
 - D. Summary
- V. Petitions for Rulemaking at Issue in This Document
 - A. Statutory and Regulatory Background
 - B. Petition of Kenneth J. Saczalski
 1. FMVSS No. 207, Seating Systems
 2. Use of FMVSS No. 301, “Fuel System Integrity,” To Test Seats
 3. FMVSS No. 213, Child Restraint Seats
 - C. Petition of Alan Cantor
 1. Use of FMVSS No. 301, “Fuel System Integrity,” To Upgrade FMVSS No. 207
 2. Rearward Rotation Limit and Structural Symmetry Requirement

3. Additional Dynamic Testing and NCAP Implementation
4. FMVSS No. 209, Seat Belt Assemblies
- D. NHTSA's Analysis of Saczalski and Cantor Petitions
 1. Analysis of Data and Research Provided by Cantor and Saczalski Regarding Safety Need
 2. Rear Structure Intrusion
 3. Cost and Practicability
- E. Assessment of the Specific Recommendations by Cantor and Saczalski
 1. Matters on Which NHTSA Is Granting the Petitions
 2. Matters on Which NHTSA Is Denying the Petitions
- F. Conclusion of NHTSA Assessment of Cantor and Saczalski Petitions
- G. Center for Auto Safety (CAS) Petition
- H. Analysis of CAS Petition
- VI. Unified Approach to Rear Impact Protection
 - A. Introduction
 - B. FMVSS No. 207
 - C. Analysis of Approaches To Updating Standards for Occupant Protection in Rear Impact
 1. Seat Back Strength and Other Mechanical Properties
 2. Test Parameters
 3. Quasi-Static Testing
 4. Dynamic Testing
 - D. Crash Avoidance Technology
- VII. NHTSA's Forthcoming Research
 - A. Field Data Analysis and Market Research
 - B. Test Procedure Assessment
 1. High-Speed Test
 2. Exploratory Testing
 3. Low-Speed Test
 - C. Parametric Modeling
 - D. ATD and Injury Risk Function Development
 - E. Cost Analysis
 - F. Summary
- VIII. Public Participation
 - A. How can I inform NHTSA's thinking on this rulemaking?
 - B. How do I prepare and submit comments?
 - C. How can I be sure that my comments were received?
 - D. How do I submit confidential business information?
 - E. Will the agency consider late comments?
 - F. How can I read the comments submitted by other people?
- IX. Regulatory Analyses and Notices
 - A. Executive Order (E.O.) 12866, E.O. 13563, and E.O. 14094 and DOT Regulatory Policies and Procedures
 - B. Paperwork Reduction Act
 - C. Privacy Act
 - D. Plain Language
 - E. Regulation Identifier Number (RIN)
- X. Conclusion

I. Introduction

As part of its safety mission, NHTSA issues Federal Motor Vehicle Safety Standards (FMVSSs)¹ and other regulations for new motor vehicles and motor vehicle equipment to save lives,

prevent injuries, and reduce economic costs due to road traffic crashes. All FMVSSs must meet the requirements of the National Traffic and Motor Vehicle Safety Act of 1966 (the "Safety Act").² That is, they must "be practicable, meet the need for motor vehicle safety, and be stated in objective terms."³ On November 14, 2021, the Infrastructure, Investment and Jobs Act (IIJA; Pub. L. 117–58⁴) was passed. Section 24204 of IIJA, "Motor Vehicle Seat Back Safety Standards," directs the Secretary of Transportation to issue an advance notice of proposed rulemaking (ANPRM) within two years to update 49 CFR 571.207. The publication of this ANPRM fulfills this statutory mandate.

FMVSS No. 207 establishes requirements for seats, seat attachment assemblies, and their installation in passenger cars, multipurpose passenger vehicles, trucks designed to carry at least one person, and buses.⁵ The standard, among other things, sets minimum requirements for the strength of the seat back and its associated restraining devices and adjusters.⁶ While in its rearmost position, a seat back must withstand a rearward moment (torque) of 373 Newton-meters (Nm) (3,300 Inch-pounds (in-lb)), applied by a horizontal force measured vertically from the seating reference point.⁷ The standard also contains a test procedure. The test specifies an application of a rearward force on the uppermost cross member of the seat back structure, that results in a moment applied to the attachment (often the

recliner mechanism) of the seat back and the remainder of the seat structure.

Although FMVSS No. 207 sets the minimum seat back strength requirement, since 1968 the *de facto* minimum requirement for seat back strength has effectively been set by FMVSS No. 202 (now 202a), "Head restraints."⁸ This standard requires head restraints and establishes requirements for them to reduce the severity of neck injuries in rear impact crashes. Currently, FMVSS No. 202a requires a fully extended head restraint to withstand an 890 Newtons (N) (200 pound force (lb-f)) rearward load for 5 seconds applied 65 millimeters (mm) (2.5 inches (in)) below its top when adjusted to its highest position, which must be at least 800 mm.⁹ This creates an effective torque requirement on the seat back of 654 Nm (5,790 in-lb), where $654 = 890 \times (0.8 - 0.065)$, significantly higher than the 373 Nm (3,300 in-lb) required by FMVSS No. 207.

In addition to the requirement in IIJA, this ANPRM addresses three petitions for rulemaking NHTSA received requesting various amendments to the FMVSS related to the deformation of seat backs in rear impacts.¹⁰ Two of the petitioners, Kenneth J. Saczalski of ERST, and Alan Cantor of ARCCA requested that the agency increase the strength requirements for seat backs in the front row. They argue that seats that comply with the current standard may yield excessively during a crash, which can lead to spinal cord and brain injuries due to contact between the seated occupant's head and vehicle structures in the rear seat compartment. In addition, they state that under the current standard, in certain higher speed rear end crashes, a seat could yield to the point that the seat becomes fully reclined (hereinafter described as "seat back failure"). This may cause a belted occupant in the front seat to slide underneath the seat belt, leading to ejection into the rear seat space or outside the vehicle. (The petitioners refer to this phenomenon as "ramping.") Ramping poses injury risk to occupants seated directly behind the occupied front seat. In addition, the petitioners have asked NHTSA to revise other FMVSSs in ways that they stated would mitigate the injurious effects of excessively yielding seat backs. This ANPRM seeks to further develop the

² 49 U.S.C. 30101.

³ 49 U.S.C. 30111(a). The Secretary must also (1) "consider relevant available motor vehicle safety information; (2) consult with the agency established under the Act of August 20, 1958 (Pub. L. 85–684, 72 Stat. 635), and other appropriate State or interstate authorities (including legislative committees); (3) consider whether a proposed standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or motor vehicle equipment for which it is prescribed; and (4) consider the extent to which the standard will carry out" the purpose of the Safety Act. 49 U.S.C. 30111(b). The purpose of the Safety Act is to "reduce traffic accidents and deaths and injuries resulting from traffic accidents." 49 U.S.C. 30101.

⁴ Public Law 117–58.

⁵ 49 CFR 571.207 S1 and S2.

⁶ FMVSS No. 207 also contains provisions dictating the strength of seat attachments to the vehicle in both the front and rear directions. For the purposes of this ANPRM, "strength" with respect to seat backs refers to the maximum rearward moment or force a seat back is able to withstand. "Stiffness" refers to the resistance of the seat back to any (or a specified) amount of deformation and deflection. Stated another way, "stiffness" can be thought of as the increase in resistive force or moment per unit deformation or rotation. Rigidity is the characteristic of a structure, such as a seat back, exhibiting relatively limited deformation when exposed to a force. Rigid and yielding seat back structures are opposites.

⁷ 49 CFR 571.207 S4.

⁸ The head restraint and seat back are interconnected parts of the seating system.

⁹ 49 CFR 571.202(a) S4.2.7.

¹⁰ These petitions, dated October 28, 2014 (Environmental Research and Safety Technologists, Inc.), and September 28, 2015 (ARCCA), are available in the rulemaking docket at <https://www.regulations.gov/>.

¹ The FMVSS are codified in 49 CFR part 571.

record on occupant protection in rear impacts to inform a potential future rulemaking. As explained in section V., this document grants these petitions in part.

The third petitioner, CAS, requested the addition of warning language to child restraint system labels and owner's manuals to warn parents against placing a child behind an occupied front seat.¹¹ As explained in section V.H., this document denies this petition.

IJA requires that NHTSA issue an ANPRM to update FMVSS No. 207. Congress stated, however, that an update must be consistent with the considerations described in 49 U.S.C. 30111(b) of the Safety Act and issued pursuant to the Safety Act. Therefore, it must be practicable, meet the need for safety, and be stated in objective terms as provided in 49 U.S.C. 30111(a). This ANPRM discusses issues that have historically contributed to the complexities of regulatory action on seating systems.

As outlined in the regulatory and research review below, a major challenge in NHTSA's efforts to set standards for rear impact protection relates to the determination of whether a seat should yield, thereby reducing forces acting on the seat occupant, or be stiffer, and thus prevent rare occurrences like ramping or interaction with other occupants. Finding the appropriate balance inherent in rear impact protection is a theme and central debate in much of the research and analysis conducted on this issue.

Complicating this question is the dramatic difference in frequency between relatively common and generally minor cervical spine injuries (such as whiplash) caused by forces acting on a seat occupant that can occur even in low-speed rear impacts and severe injuries, which are rare. Studies suggest that no more than 1% of rear impacts cause any type of serious or higher severity injury,¹² which are mostly associated with impacts with vehicle structures, not other occupants.^{13 14} In contrast, cervical

spine injuries, such as whiplash, are highly common injuries in rear impacts and occur at many different speeds, including at low speed, with some estimates of over 100,000 injuries annually in the United States. Additionally, despite decades of industry and agency research into whiplash, the understanding of the biological mechanisms that cause these injuries remain limited. This has restricted NHTSA's ability to develop objective updated performance standards for seat backs, such as updated strength requirements or a comprehensive dynamic test for rear impact protection. In particular, factors like test speed and what metrics of seat back and head restraint performance to test (*i.e.*, strength only vs. anthropomorphic test dummy injury metrics) remain unclear. These and other related issues present a challenge to updating FMVSS No. 207 in a manner that is objective, practicable, and meets the need for safety.

This ANPRM is part of NHTSA's ongoing effort to meet this challenge. Here, we detail a unified approach to occupant protection in rear impacts. Although IJA mentions only FMVSS No. 207, NHTSA is considering integrating FMVSS Nos. 207 and 202a because of the clear connection between head rests and seat backs. An integrated approach would enable NHTSA to comprehensively evaluate the performance of the seating system for rear impact protection and better balance considerations relevant to both high speed (severe injuries) and low-speed (whiplash injury prevention) impacts. As part of this approach, NHTSA is considering a quasi-static test or a dynamic test requirement with at least two (low and high) impact severity ranges. This ANPRM discusses many considerations associated with each approach and seeks comment on them, including choice of anthropomorphic test device (ATD), performance criteria (such as ATD metrics), test severities, and crash pulse delivery methods.

This ANPRM has four main areas of focus. In section II, NHTSA details the safety problem in rear impact occupant protection. In section III, NHTSA describes the regulatory and research history of seat backs, and in section IV, NHTSA summarizes a literature review in this area to provide context for the ANPRM.¹⁵ In section V, NHTSA discusses the Cantor, Saczalski, and

impacts: frequency and sources." *IRC-21-10, IRCOBI Conference*. 2021.

¹⁵ The research in the public domain on the area of seat back strength is extensive, and this document does not attempt to fully synthesize it.

CAS petitions. Finally, in section VI, NHTSA describes the unified approach with regard to FMVSS No. 207 and FMVSS No. 202a, and in section VII, NHTSA describes its research efforts in this area and the knowledge gaps that may need to be filled prior to implementing this unified approach. Throughout the document, we seek comment on a variety of topics to inform a determination about what upgrade, if any, to FMVSS No. 207 (and FMVSS No. 202a) can meet the requirements of the Safety Act with the aim of improving occupant protection in rear impact collisions.

II. Occupant and Seat Back Dynamics and Field Data on Rear Impact Crashes

Controlled interaction of the occupant with the seat back is the primary countermeasure to injury in motor vehicle rear collisions. In these crashes, the seat back supports the occupant during sudden forward acceleration, when a range of injury risks may be generated. Because it is necessary to provide a broad range of injury protections, the rear impact protection issue has been framed as both a balance and competition between high and low-severity protection measures. To introduce the issue, this section begins with a brief discussion of rear impact seat back dynamics and follows with a survey of field data regarding rear impacts.

In front row seats, the seat back frame is typically connected to the lower seat structure, or pan, by a mechanical joint. When a seat back is subjected to an inertial load from the occupant during a rear collision, the seat back frame rotates and bends rearward around this joint. When asymmetric loading on the seat back occurs, this dynamic can result in twisting of the seat back around its longitudinal axis. The force acting on the seat back is proportional to the occupant's mass and forward acceleration. As the seat back rotates rearward, the force applied to the seat back becomes less perpendicular to the seat back plane as the applied force is further defined by transverse forces made up of seat back-occupant friction and pocketing,¹⁶ seat belt restraints, and other factors that maintain occupant seat retention.¹⁷ These actions have long been understood to absorb energy, reduce forces acting on the seat occupant, and disperse acceleration of

¹⁶ Pocketing refers to displacement of the occupant's torso into the relatively pliable interior of a seat back.

¹⁷ Seat retention refers to the occupant restraint system's ability to keep the occupant coupled to the seat.

¹¹ This petition, dated March 9, 2016, is also available in the rulemaking docket at <https://www.regulations.gov/>.

¹² The severity of injury is ranked in accordance with the Abbreviated Injury Scale (AIS). An AIS level 3 injury is a serious injury, level 4 a severe injury, and levels 5 and 6 are critical and fatal injuries, respectively. www.aqam.org.

¹³ Prasad, Priya, et al. "Relationships between passenger car seat back strength and occupant injury severity in rear end collisions: Field and laboratory studies." *SAE transactions* (1997): 3935-3967.

¹⁴ Parenteau, Chantal S., and David C. Viano. "Serious head, neck and spine injuries in rear

the occupant over time.^{18 19} When the force applied to the seat back exceeds the material's elastic limit, it begins to deform in a way that permanently bends the seat (plastic deformation). For some rear impacts, this deformation may exceed the seat structure's ability to substantially oppose the applied force, resulting in seat back failure due to significant material bending or fracture, at which point the seat back is said to fail. At the point of seat back failure or significant seat back deformation, seat occupants in rearward seat rows may be exposed to injury risk due to contact with the front seat back or front occupants. Paradoxically, the restraining force applied by the front seat on its occupant can lead to injury,

just as a seat belt can injure an occupant in a frontal crash. The following subsection examines field data to further lay out the current understanding of the risks to vehicle occupants in rear impacts. Later sections will provide additional discussion on the literature regarding rear impact injuries and protection. The literature outlines a continued debate around how best to protect occupants, the uncertain understanding of how certain injuries occur in rear impacts, and varied approaches and developments in technology for rear impact protection.

A. FARS and CRSS Data Analysis

In general, rear collisions result in fewer fatalities and serious injuries

when compared to other impact directions. Table II.1 shows overall crash statistics for the sum of light vehicles (passenger cars and light trucks) in year 2020 organized by impact directions and injury severities. NHTSA compiled this data set in the 2020 Traffic Safety Facts from FARS (Fatality Analysis Reporting System) and CRSS (Crash Report Sampling System).²⁰ We note that the data include all vehicle rows. The data show that rear impacted light vehicles accounted for 24.1% of crashed light vehicles and 21.8% of vehicles with injured occupants, but only 7.2% of vehicles with fatalities in 2020.

TABLE II.1—PASSENGER CARS AND LIGHT TRUCKS INVOLVED IN CRASHES, BY INITIAL POINT OF IMPACT, CRASH SEVERITY, AND CRASH TYPE FOR YEAR 2020

Crash type by initial point of impact	Crash severity							
	Fatal		Injury		Property damage only		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Single-Vehicle Crashes:								
Front	10,883	67.9	358,800	77.1	791,913	73.1	1,161,597	74.2
Left Side	890	5.6	21,960	4.7	54,317	5.0	77,167	4.9
Right Side	886	5.5	33,795	7.3	85,283	7.9	119,965	7.7
Rear	222	1.4	16,334	3.5	84,915	7.8	101,473	6.5
Noncollision	1,714	10.7	27,237	5.9	40,898	3.8	69,849	4.5
Other/Unknown	1,430	8.9	7,157	1.5	25,991	2.4	34,580	2.2
Total	16,025	100.0	465,285	100.0	1,083,319	100.0	1,564,629	100.0
Multiple-Vehicle Crashes:								
Front	15,987	62.9	1,183,348	54.3	2,354,919	49.3	3,554,254	50.9
Left Side	3,221	12.7	224,185	10.3	522,635	10.9	750,041	10.7
Right Side	2,649	10.4	206,256	9.5	486,970	10.2	695,875	10.0
Rear	2,772	10.9	561,310	25.8	1,395,634	29.2	1,959,717	28.1
Noncollision	76	0.3	702	0.0	2,474	0.1	3,253	0.0
Other/Unknown	704	2.8	2,787	0.1	17,515	0.4	21,007	0.3
Total	25,409	100.0	2,178,589	100.0	4,780,149	100.0	6,984,146	100.0
All Crashes:								
Front	26,870	64.9	1,542,149	58.3	3,146,832	53.7	4,715,850	55.2
Left Side	4,111	9.9	246,145	9.3	576,953	9.8	827,209	9.7
Right Side	3,535	8.5	240,051	9.1	572,254	9.8	815,839	9.5
Rear	2,994	7.2	577,646	21.8	1,480,551	25.3	2,061,189	24.1
Noncollision	1,790	4.3	27,939	1.1	43,372	0.7	73,101	0.9
Other/Unknown	2,134	5.2	9,945	0.4	43,507	0.7	55,586	0.7
Total	41,434	100.0	2,643,874	100.0	5,863,467	100.0	8,548,775	100.0

Of the over 2 million rear impacted light vehicles in 2020, only 0.15% (2994/2,061,189) involved fatalities, as compared with 0.57% (26,870/4,715,850) of the 4.7 million front impacted light vehicles and 0.47% (7646/1,643,048) of the 1.6 million side impacted light vehicles involved fatalities; a fatal rear collision is

typically associated with a high ΔV ²¹ collision.²² However, the injury rate in light vehicles that underwent a rear collision in 2020 is comparable to other crash directions, as 30% of rear impacted light vehicles involved injury, while 33% of frontal and 30% of side impacted light vehicles involved injury.

The count of occupant injury and fatality for different collision directions is classified by vehicle type for year 2020 in table II.2 Traffic Safety Facts from FARS and CRSS. Restricting the discussion to light vehicles (passenger cars and light trucks), 6.1% of passenger car occupants and 4.6% of light truck occupants killed were due to rear

¹⁸ Anderson JO. Dynamics of Occupants in Automotive Accidents Involving Rear Impacts. Warren, MI: Research Laboratories General Motors Corporation; 1961. Report No. R-34-1295.

¹⁹ Severy DM, Mathewson J, Bechtol O. Controlled automobile rear-end collisions and

investigation of related engineering and medical phenomena. Can Serv Med J. 1955;11:727-759.

²⁰ National Center for Statistics and Analysis. (2022, October). Traffic Safety Facts 2020: A compilation of motor vehicle crash data (Report No. DOT HS 813 375). National Highway Traffic Safety Administration.

²¹ ΔV is defined as the maximum change in velocity of the struck vehicle after impact.

²² Wang, J.-S. (2022, May). MAIS(05/08) injury probability curves as functions of ΔV (Report No. DOT HS 813 219). National Highway Traffic Safety Administration.

impacts. The combined light vehicle total was 5.4%. In contrast to the light vehicle fatality rate, the percentage of

fatalities in rear impacted large trucks was only 2.9%. This would be consistent with the expectation that rear

impact ΔV for large trucks would be on average smaller than for light vehicles.²³

TABLE II.2—VEHICLE OCCUPANTS KILLED AND INJURED, BY INITIAL POINT OF IMPACT AND VEHICLE TYPE FOR YEAR 2020

Injury severity/initial point of impact	Vehicle type							
	Passenger cars	Light trucks	Large trucks	Buses	Other/ unknown	Subtotal	Motorcycles	Total
Occupants Killed:								
Front	7,724	5,997	523	6	273	14,523	3,444	17,967
Left Side	1,849	1,129	35	1	53	3,067	300	3,367
Right Side	1,633	840	50	0	52	2,575	259	2,834
Rear	822	474	24	1	70	1,391	242	1,633
Other	160	106	16	2	12	296	32	328
Noncollision	581	1,309	146	2	280	2,318	858	3,176
Unknown	703	497	37	4	125	1,366	444	1,810
Total	13,472	10,352	831	16	865	25,536	5,579	31,115
Occupants Injured:								
Front	696,221	440,711	21,175	1,958	3,023	1,163,087	41,952	1,205,039
Left Side	121,449	74,875	4,058	2,623	596	203,600	6,623	210,222
Right Side	109,313	77,510	4,429	920	447	192,620	5,863	198,483
Rear	273,123	194,857	9,136	1,096	698	478,909	4,765	483,675
Other	5,600	3,584	1,228	0	38	10,451	289	10,740
Noncollision	15,248	21,698	4,895	1	2,012	43,854	23,010	66,864
Unknown	381	274	13	23	34	725	26	751
Total	1,221,335	813,509	44,934	6,620	6,849	2,093,246	82,528	2,175,774

Further, according to the 2020 Traffic Safety Facts, 22.3% of passenger vehicle injuries occurred in rear impacts (light trucks = 24.0%, heavy trucks = 20.3%). For each vehicle type, the proportion of fatalities for rear impacts is significantly lower than the corresponding proportion of injuries for rear impacts, compared to other initial impact directions. The rear impact proportion of fatalities in light trucks and heavy trucks is lower than in passenger cars, but the rear impact proportion of injuries in light trucks is slightly greater than in passenger cars and heavy trucks. The disparity in rear collision proportion of injuries for different vehicle types is discussed in the literature review below.

B. CISS Data Analysis

NHTSA also examined the Crash Investigation Sampling System (CISS) data files for the years 2017–2020 to determine the number of rear impacts compared to other crash modes and

determine the injury risk (number of injured occupants divided by the number of exposed occupants) of vehicle occupants in rear impacts. These data are limited because CISS currently reports only police reported, tow-away crashes, and, as will be explained later, most rear impacts are not tow-aways. The data were divided into different crash types: rollover, frontal, side, rear, other, and unknown. In addition, for rear impacts, the data were segmented by the change in velocity of the impacted vehicle (ΔV). All data presented here are weighted to represent national estimates. The maximum abbreviated injury scale²⁴ (MAIS) for each injured occupant is presented so that an occupant with multiple injuries is counted only once in the analysis. An occupant was counted as having a whiplash injury (MAIS 1 neck injury) even if they had other AIS 1 injuries. Crashes with fire have been excluded from the sample. If an occupant had a whiplash injury but

also had a MAIS 2+ injury, they were not added to the whiplash injury count. As was the case for the FARS and CRSS data above, we have not restricted the data by seating row.

The total annualized number of involved individuals was estimated to be 4.5 million, including crash types categorized as “unknown” and “other.” Rear impact crashes accounted for only 373,237 or 8.3% of all tow-away crash involving individuals in the CISS database (Figure II.1). Only rollover crashes yield fewer occupants involved in tow-away crashes. Looking at the proportion of occupants with serious and higher severity injuries (MAIS 3–6) by crash type, we see that MAIS 3–6 are underrepresented in rear impacts (4.3% = 3,814/88,437) and overrepresented in rollover (19.7% = 17,415/88,437). By contrast whiplash injury is overrepresented in rear impacts (15.8% = 31,206/197,060) as compared to the number of towed rear impacts.

²³ ΔV is inversely proportional to the struck vehicle weight. Large trucks (including single-unit trucks and truck tractors) have a gross vehicle weight rating (GVWR) greater than 10,000 pounds. Passenger cars and light trucks (including pickups,

vans, and utility vehicles) have a GVWR not greater than 10,000 pounds.

²⁴ The severity of injury is reported in CISS 2017–2020 using the 2015 Abbreviated Injury Scale,

where AIS 1 are minor injuries, and the 2–6 categories are moderate, serious, severe, critical, and fatal injuries, respectively.

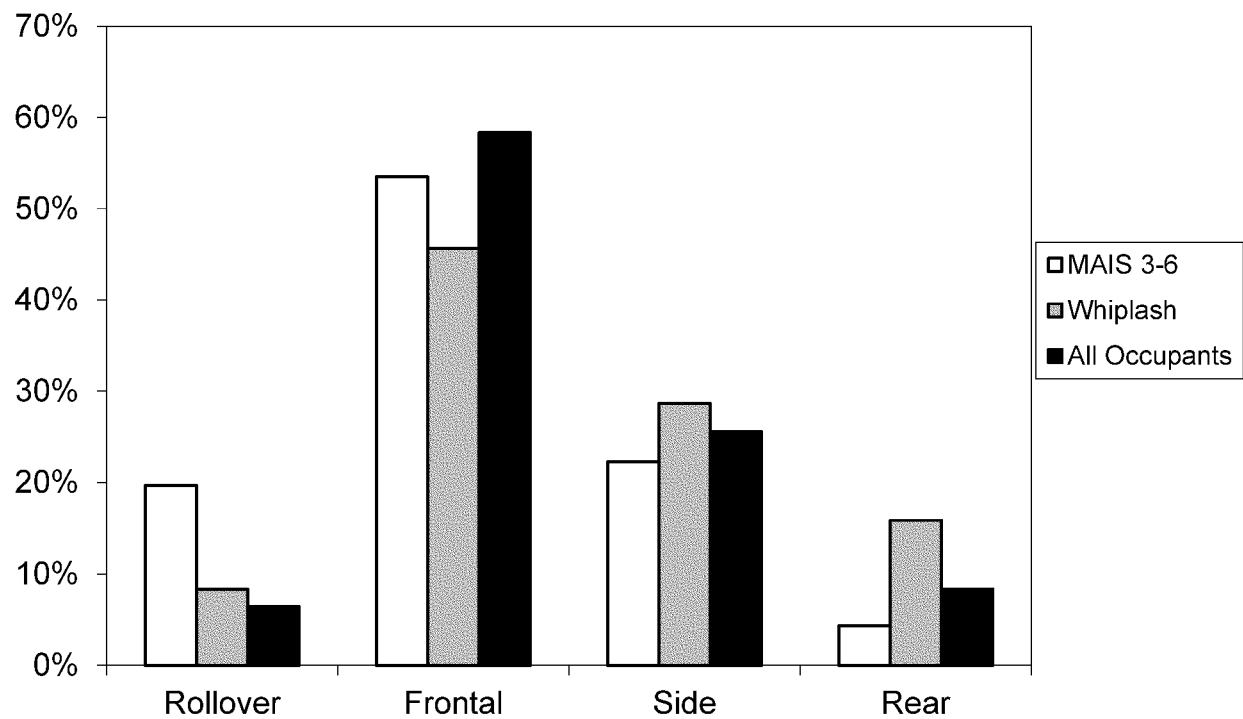


Figure II.1: Proportion of Injured and All Occupants (including uninjured) by Impact Type (2017 – 2020 CISS)

Figure II.2 and Figure II.3 show the risk of MAIS 3–6 and whiplash injury²⁵ for each towed crash mode. The risk of MAIS 3–6 injury in rear impacts is 1.0% (= 3,814/373,237), which is about 60%

of the next highest risk (1.7% for side). The whiplash injury risk in rear impacts is approximately 8.4% (= 31,206/ 373,237), which is about 1.5 times the next highest risk (5.7% for rollover).

These whiplash injury rates do not consider non-towed crashes, where the majority of whiplash injuries are known to occur.²⁶

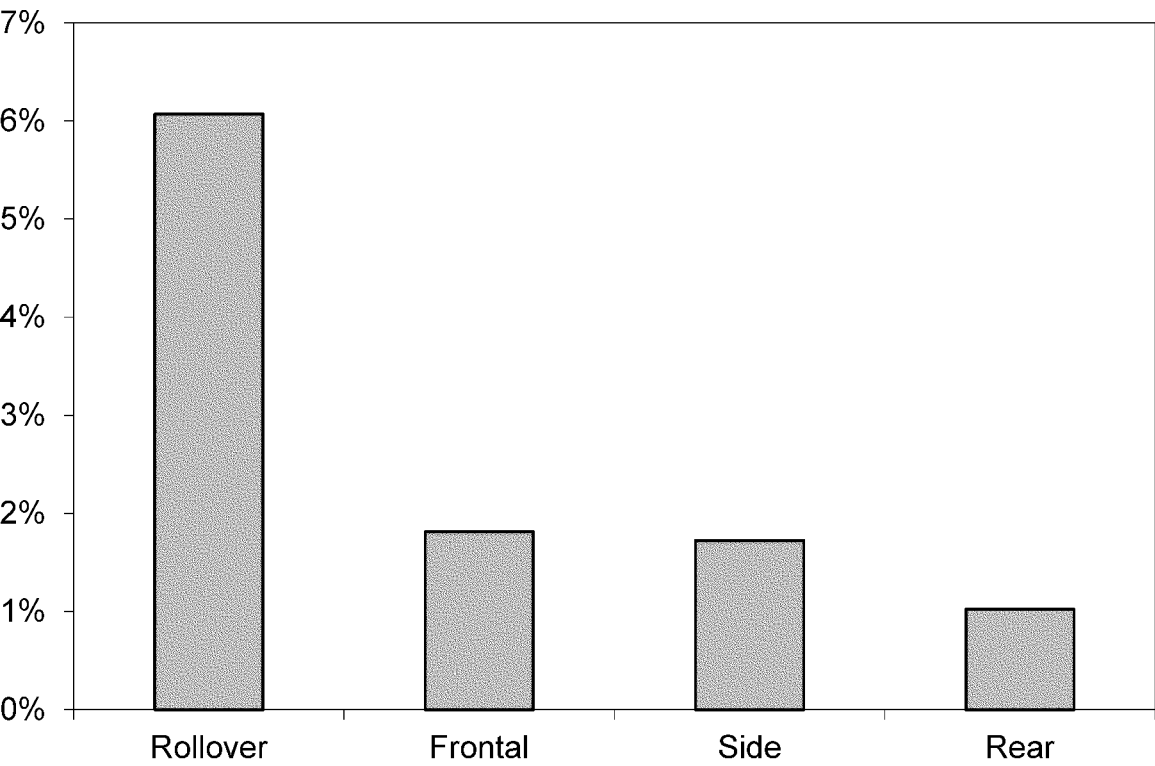


Figure II.2: Risk of MAIS 3 – 6 Injury by Impact Type (2017 – 2020 CISS)

²⁵ Risk of MAIS 3–6 injuries in a crash mode is equal to the number of occupants with MAIS 3–6 injuries in that crash mode divided the total

number of occupants (injured and uninjured) in that crash mode. Similar computation is done to determine risk of whiplash injuries.

²⁶ Final Regulatory Impact Analysis for FMVSS No. 202 Head Restraints for Passenger Vehicles, Docket NHTSA–2004–19807.

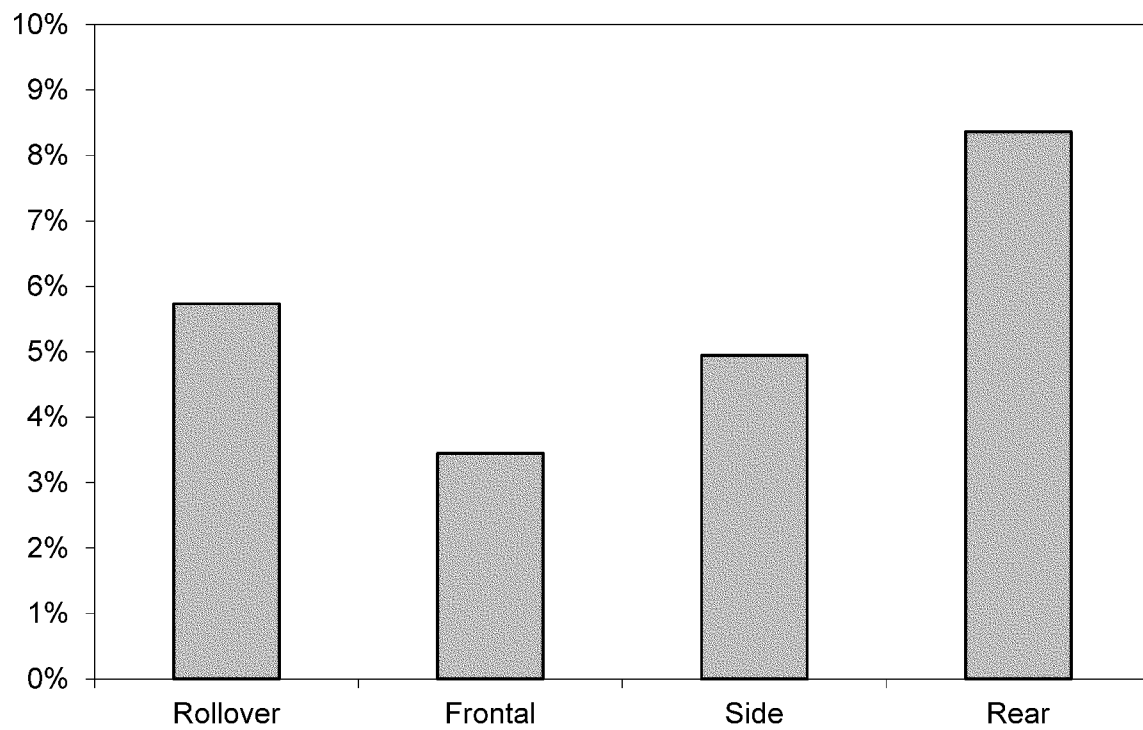


Figure II.3: Risk of Whiplash Injury by Impact Type (2017 – 2020 CISS)

Figure II.4 shows the distribution of towed rear impacts by the change in velocity of the rear impacted vehicle. Most of the crashes are in the 11–20 kilometers per hour (km/h) (6.8–12.4 miles per hour (mph)) ΔV range. Table II.3 provides tabulated annual occupant injuries in rear collisions according to injury severity and ΔV. For occupants in a known ΔV rear impact crash, the majority of injuries are estimated to be no injury (MAIS 0) in all ΔV ranges. The most probable known ΔV range for injury of any type is the 11–20 km/h (6.8–12.4 mph) category, which is consistent with this being the most common impact speed range. More than three-quarters of MAIS 3+ rear impact injuries occur above 31 km/h (19.3 mph). Figure II.5 gives the risk of MAIS 2 and MAIS 3+ injuries as a function of impact ΔV in towed rear crashes. The highest risk for MAIS 2 injuries is 8.4% (= 891/10,630) for 51+ km/h (31.7+ mph) ΔV crashes. The highest risk for MAIS 3+ is 7.0% (= 1,572/22,425) for the 31–40 km/h (19.3–24.9 mph) ΔV range. Figure II.6 shows that for whiplash, the highest risk is 11.7% (= 2,624/22,425) for injury in towed crashes occurring in the 26–35 km/h (16.2–21.8 mph) range. The risk at 51+ km/h is similar at 11.1% (= 1,183/10,630) and at other speeds is between 2.8% and 9.7%.

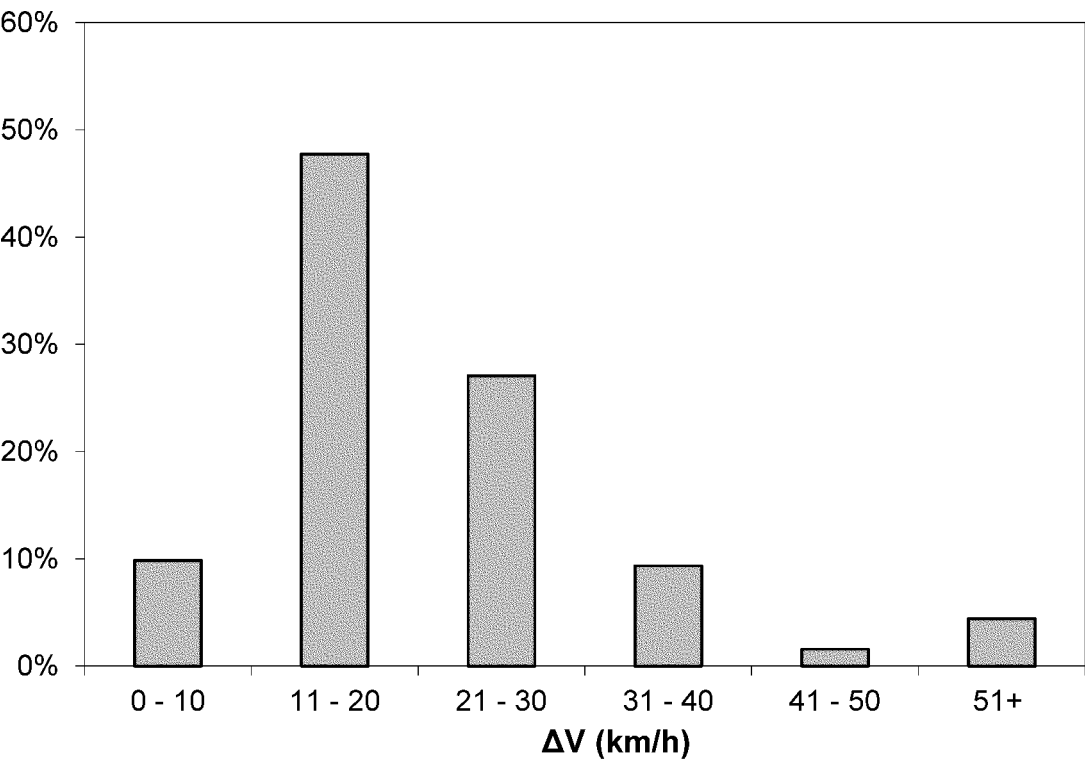


Figure II.4: Distribution of Towed Rear Impacts by ΔV (2017 - 2020 CISS)

TABLE II.4—ANNUAL REAR IMPACT INJURY BY ΔV
[2017–2020 CISS]

ΔV (km/h)	MAIS 0	Whiplash	MAIS 1 no whiplash	MAIS 2	MAIS 3–6	Total
Unknown	101,022	12,637	13,950	4,495	789	132,893
0–10	22,057	675	913	59	0	23,704
11–20	88,352	7,680	15,469	2,793	474	114,769
21–30	46,618	6,302	10,429	1,455	249	65,052
31–40	13,085	2,624	4,157	988	1,572	22,425
41–50	1,811	107	1,661	94	92	3,764
51+	5,173	1,183	2,746	891	638	10,630
Total Known ΔV	177,095	18,569	35,375	6,279	3,025	240,345
Total	278,117	31,206	49,325	10,775	3,813	373,237

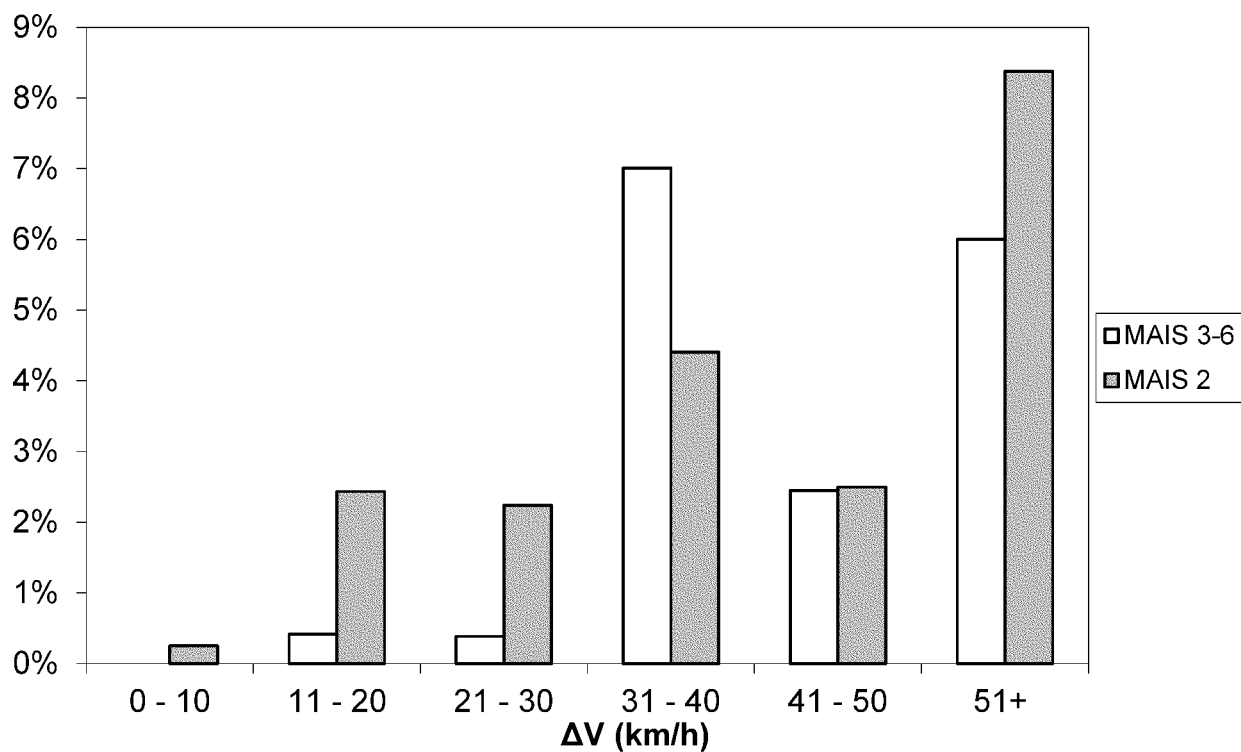


Figure II.5: Risk of MAIS 2 and 3 - 6 injuries by Rear Impact ΔV (2017 - 2021 CISS)

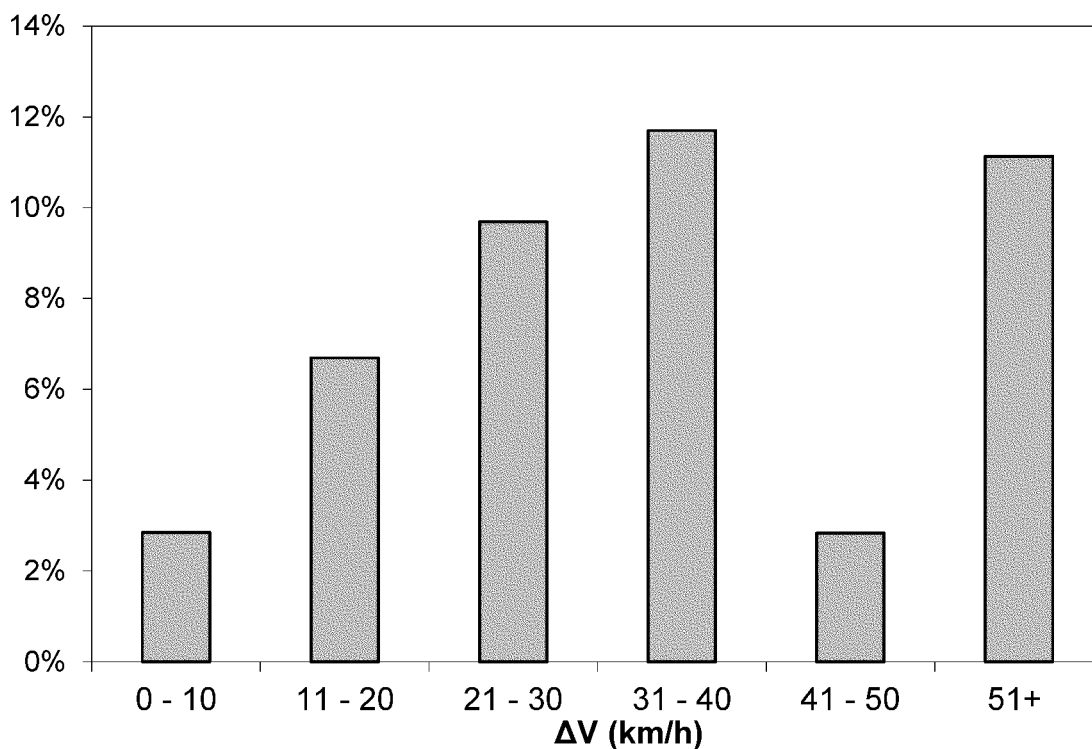


Figure II.6: Whiplash Injury Risk by Rear Impact ΔV (2017 - 2020 CISS)

Figure II.6 provides the whiplash injury rates for towed crashes. CISS does not collect injury data for non-

towed crashes. In 2004, using State data, the Final Regulatory Impact Analysis for the upgrade of FMVSS No. 202 found

four times as many whiplash injuries in all crashes compared to those in tow-away crashes. NHTSA plans to update

this analysis to accurately represent the current whiplash injury risk. Older field data, however, are still useful to provide a sense of the very large proportion of whiplash injuries that occur at low speed.

With historical data, we can attempt to generate estimates that include non-towed whiplash. Between 1982 and 1986, non-towed crash data were collected. Table II.5 shows the distribution of an approximation of whiplash injuries occurring in towed and non-towed impacts for the 1982–86 National Automotive Sampling System (NASS) data. The greatest ratio of non-towed to towed whiplashes was 20 times for the 0–10 km/h (0–6.2 mph) ΔV range. The next highest ratio was for the 11–20 km/h (6.8–12.4 mph) range at 8 times.²⁷ As expected, this ratio drops significantly at higher speeds because there are fewer non-towed crashes at these speeds. If we use the ratio of NASS data for non-towed to towed crashes as a multiplier for the CISS towed whiplash injury estimates in each speed range to attempt to account for the non-towed whiplash injuries in the newer data set, the result is column four in table II.5. If we distribute proportionally the cases of whiplash injuries where the impact speed was unknown to the known cases, the result is given in the fifth column. In this column we see that more than three-quarters (125,221/161,623) of all whiplash injuries occur at impact ΔV less than 20 km/h (12.4 mph). For only towaway rear impacts (not shown graphically) this ΔV limit captures 45% (8,355/18,570) of whiplash injuries. The whiplash injury distribution is shown graphically in Figure II.7. This estimate is provided to give a general sense of how considering whiplash injury only in tow-away crashes significantly underestimates overall whiplash injury distribution, particularly for lower speed crashes. This estimate comes with a large degree of uncertainty because it is based on historical NASS data.

TABLE II.5—ADJUSTMENTS TO WHIPLASH INJURIES TO ACCOUNT FOR NON-TOWED CRASHES

ΔV (km/h)	Ratio total to towed (82–86 NASS)	Towed whiplash injury (2017–2020 CISS)	Compensated whiplash injury	Unknown ΔV distributed
Unknown	5.1	12,637	64,553	.....
0–10	19.8	675	13,339	22,210
11–20	8.1	7,680	61,868	103,011
21–30	2.8	6,302	17,550	29,220
31–40	1.1	2,624	2,768	4,609
41–50	1.0	107	110	184
51+	1.0	1,183	1,183	1,972
Total Known ΔV .....	.....	18,570	96,819	.....
Total .....	.....	31,207	161,372	161,372

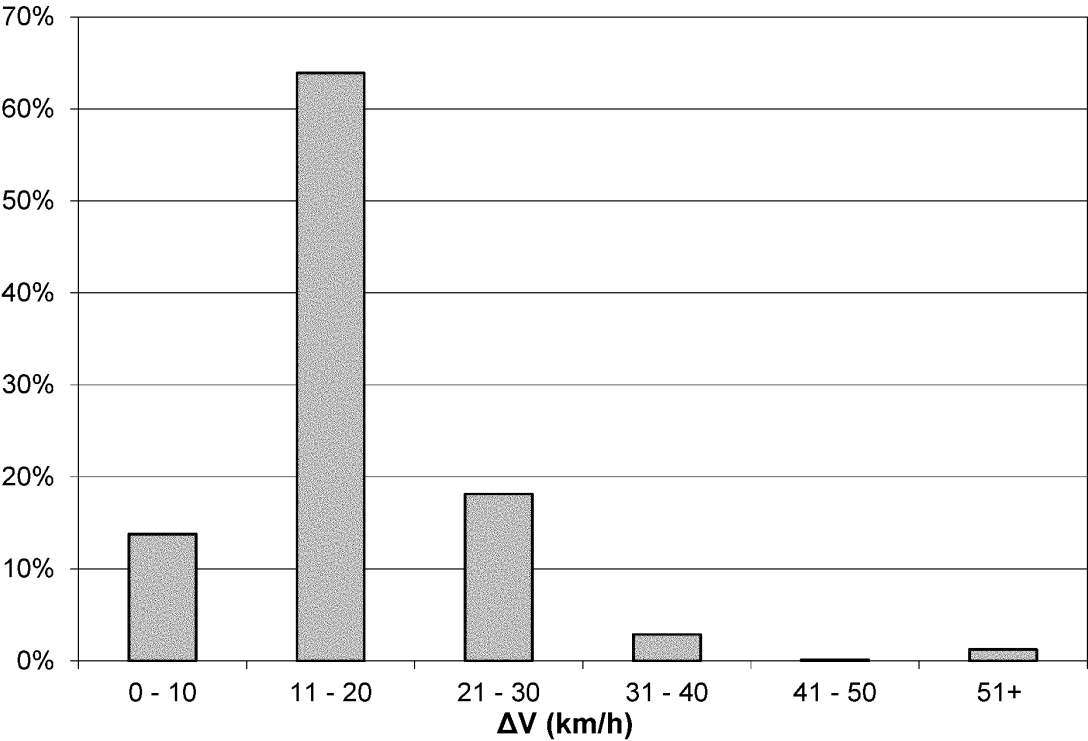


Figure II.7: Distribution of Whiplash Injury by Impact ΔV for Rear Impacts (2017 - 2020 CISS) with Compensation for Whiplash Injury in Non-Towed Vehicles

²⁷ We note that these ratios are approximations from a slightly different ΔV segmentation.

C. Field Data Analyses From Relevant Literature

In an earlier 1997 study of the National Automotive Sampling System—Crashworthiness Data System (NASS—CDS) across years 1980–1994, Prasad²⁸ found that rear impact collisions accounted for 11% of all possible struck vehicle scenarios. The distribution of crashes indicated that 50% of all rear impacts occur at ΔV s of 21 km/h (13 mph) or less, 86% occur at ΔV s less than 32 km/h (20 mph) and 94% occur at ΔV s of 40 km/h (25 mph) or less. Furthermore, when examining the distribution of injuries, it was found that less than 1% of rear end collisions resulted in severe injury of AIS 3 or more.

In another study, Parenteau²⁹ examined 1999 to 2015 NASS—CDS crash data to investigate the risk for MAIS 3+ outcomes including fatalities in crashes involving vehicles from model year (MY) 2000 and later. The risk for severe injury was lowest in rear crashes. The authors found head trauma to be the most likely severe injury for frontal passengers in rear collisions, followed by thorax and spinal injuries. The severe injuries were mostly the result of contact with the windshield, head restraint, and B-pillar. Many of these severe injuries develop from a seat retention issue (such as not wearing a seat belt) in which the occupant decouples from the seating system. It is unclear to what extent seat strength and retention issues overlap. The most severe injuries were attributed to forward intrusion of rear components.

Most rear collisions lead to a relatively low ΔV of the struck vehicle and this contributes to moderating injury of the vehicle occupants. The characteristics of the struck vehicle affect the injury severity and fatality risk of the occupants. As discussed in the next section, the majority of reported rear collision injuries are cervical injuries with or without clear pathology, while a small percentage of rear collisions are associated with high ΔV and severe injuries.

²⁸ Prasad, Priya, et al. “Relationships between passenger car seat back strength and occupant injury severity in rear end collisions: Field and laboratory studies.” *SAE transactions* (1997): 3935–3967.

²⁹ Parenteau, Chantal S., and David C. Viano. “Serious head, neck and spine injuries in rear impacts: frequency and sources.” *IRC-21–10, IRCOBI Conference*. 2021.

III. Statutory and Regulatory Background

A. The Safety Act and the Infrastructure, Investment and Jobs Act

Congress enacted the Safety Act for the purpose of “reduc[ing] traffic accidents and deaths and injuries resulting from traffic accidents.”³⁰ To accomplish this, the Safety Act authorizes the Secretary of Transportation to promulgate FMVSSs as well as to engage in other activities such as research and development. The Secretary has delegated the authority for implementing the Safety Act to NHTSA.³¹ The Safety Act requires that FMVSSs “be practicable, meet the need for motor vehicle safety, and be stated in objective terms.”³² To meet the Safety Act’s requirement that standards be “practicable,” NHTSA must consider several factors, including technological and economic feasibility.³³

In IIJA, Congress required NHTSA to issue this ANPRM to update FMVSS No. 207. The statute further states that if the Secretary determines a final rule complies with the Safety Act, a rule shall be issued with a compliance date not later than 2 motor vehicle model years after the model year the rule goes into effect.³⁴ Under this requirement, NHTSA is required to issue a final rule only if it meets the requirements of the Safety Act, namely that it is practicable, meets the need for safety, and is objective. In determining whether to proceed with the rulemaking, NHTSA

³⁰ 49 U.S.C. 30101.

³¹ 49 CFR 1.94.

³² 49 U.S.C. 30111(a). The Secretary must also (1) consider relevant available motor vehicle safety information; (2) consult with the agency established under the Act of August 20, 1958 (Pub. L. 85–684, 72 Stat. 635), and other appropriate State or interstate authorities (including legislative committees); (3) consider whether a proposed standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or motor vehicle equipment for which it is prescribed; and (4) consider the extent to which the standard will carry out the purpose of the Safety Act to reduce traffic accidents and deaths and injuries resulting from traffic accidents. 49 U.S.C. 30111(b).

³³ See, e.g., *Paccar, Inc. v. Nat’l Highway Traffic Safety Admin.*, 573 F.2d 632, 634 n.5 (“‘Practicable’ is defined to require consideration of all relevant factors, including technological ability to achieve the goal of a particular standard as well as consideration of economic factors.”) (citations and quotations omitted). Technological feasibility considerations counsel against standards for which “many technical problems have been identified and no consensus exists for their resolution . . .” while economic feasibility considerations focus on whether the cost on industry to comply with the standard would be prohibitive. *Simms v. Nat’l Highway Traffic Safety Admin.*, 45 F.3d 999, 1011 (6th Cir. 1995); See, e.g., *Nat’l Truck Equip. Ass’n v. Nat’l Highway Traffic Safety Admin.*, 919 F.2d 1148, 1153–54 (6th Cir. 1990).

³⁴ IIJA, section 24204 (2021).

must also consider all of the factors set forth in 49 U.S.C. 30111(b).

B. Regulatory History of FMVSS No. 207 and FMVSS No. 202, and Associated Research/Analyses

1. 1963—SAE Recommended Practice for Seats

The basis of the current FMVSS No. 207 standard is a recommended practice established by SAE International on November 1, 1963: SAE J879—Passenger Car Front Seat and Seat Adjuster. SAE J879 established uniform test procedures and minimum performance requirements for motor vehicle seats and seat adjusters.

J879 defined two test procedures. The first procedure, “Simulated Occupant Loading,” tested rearward seat back strength. It required a seat back to withstand a rearward moment of 480 Nm (4,250 in-lb) that was generated via a static load applied to the uppermost cross member of the seat back frame. However, this moment was calculated “about the rear attachments of the seat frame to the seat adjusters.” The July 1, 1968, revision to J879, J879B—Motor Vehicle Seating Systems, modified the moment to 373 Nm (3,300 in-lb) measured about the H-point, and the direction of the force was specified to be perpendicular to the seat back frame angle. The other procedure, “Simulated Inertial Loading,” established a 20 g minimum strength requirement for horizontal inertial seat loadings, applied in both the forward and rearward direction. This specification was designed to ensure that seat anchorages were strengthened to the point where the seats would remain attached to the vehicle body structure (typically the floor), preventing their inertia from releasing them and creating a ram-like action within the passenger compartment. During these tests, the seat back is braced to the seat base to isolate the seat attachment to the vehicle.

2. 1967—Publication of FMVSS No. 207, Seating Systems

In February 1967, FMVSS No. 207 was enacted, and it went into force beginning with MY 1969 passenger cars.³⁵ It was later extended to multipurpose vehicles, trucks, and buses in 1972.³⁶

FMVSS No. 207 mostly mirrored the 1963 version of SAE J879. However, the minimum rearward moment requirement was set at 373 Nm (3,300

³⁵ 32 FR 2415 (Feb. 3, 1967).

³⁶ 36 FR 22945 (Dec. 2, 1971).

in-lb) as measured about the H-point.³⁷ Additionally, provisions were added for seats that folded forward to allow access to rear seats and to assure that seats had a positive restraining device (latch) to prevent them from swinging forward during a frontal crash. This prevented adverse inertial forces by a flailing seat back to the back of an occupant as they pitched forward during a frontal collision. The additional requirement also helped protect unrestrained rear seat occupants during frontal crashes or

a hard breaking event who might otherwise get thrown over a pitched-forward seat back and could suffer injuries due to head impacts with the windshield or dash panel.

The new provision required the latch (and, hence, the seat back itself) to withstand a forward load of 20 times the weight of the seat back. The load was applied to the seat back at its center of gravity. There was a concurrent revision to SAE J879 in July 1968. SAE also changed the moment value and its

reference point in J879 to be consistent with FMVSS No. 207. However, the SAE requirement applied the force generating the moment in a direction perpendicular to the seat back instead of horizontally (see Figure III.1). The result of this change was that a slightly higher force must be applied in FMVSS No. 207 to achieve the same moment level.³⁸ Since then, the requirements of FMVSS No. 207 and SAE J879B have not changed.

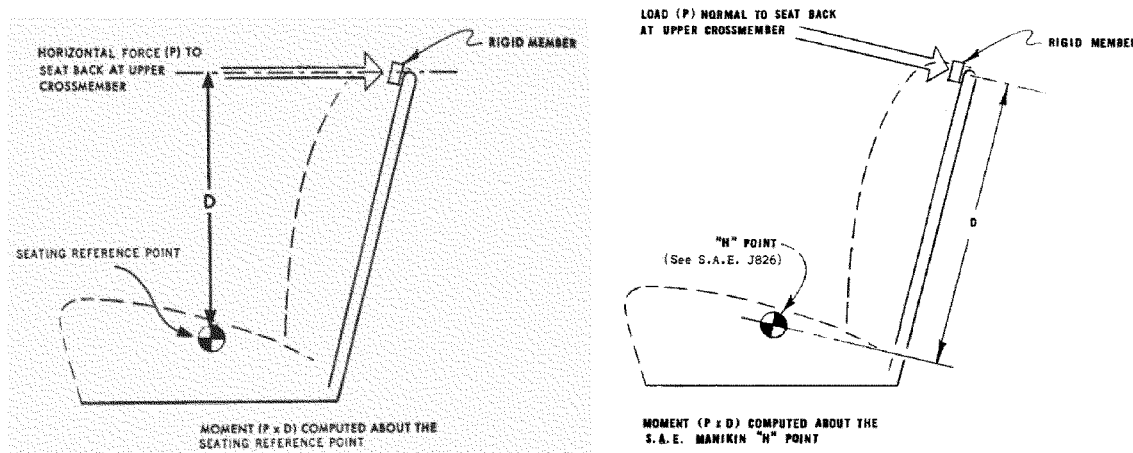


Figure III.1 – FMVSS No. 207 moment schematic (left). SAE J879 moment schematic (right).

3. 1968—Publication of FMVSS No. 202, “Head Restraints”

In 1968, NHTSA issued FMVSS No. 202, “Head restraints,” requiring head restraints on cars manufactured after January 1, 1969.³⁹ The standard specified that the head restraint must sustain an 890 N (200 lb-f) rearward load applied 65 mm (2.5 in) below the top of the head restraint, while deflecting less than four inches (102 mm) and without a seat back failure. The standard also specified that the top of the head restraint must be at least 700 mm (27.5 in) above the H-point as measured along the torso reference line of the J826 manikin.⁴⁰ This effectively placed a 565 Nm (5,000 in-lb) moment minimum strength requirement on the seat back while also placing a lower bound on seat back stiffness because this moment must be achieved within a specified amount of deflection. Thus, between FMVSS Nos. 202 and 207, all

requirements for seat back strength were set forth through static loads.

4. 1969—Report on Seat Safety Studies at ITTE

Following the issuance of FMVSS No. 207, Derwyn Severy, a principal investigator at the Institute of Transportation and Traffic Engineering (ITTE) at UCLA, published a paper⁴¹ at the 13th Stapp Car Crash Conference advocating safer seat designs (“Stapp paper”). The ITTE had been conducting field investigations and crash tests throughout the 1960s as they worked to develop design concepts for vehicle seats.

The 1969 Stapp paper provided the basis for several seat design recommendations. Included were recommendations to increase the seat back strength requirement to 11,300 Nm (100,000 in-lb) and limit the seat back rotation to 10 degrees in a quasi-static

test. According to Severy, this load level was consistent with collision-induced forces caused by the seat inertial forces augmented by a 50th percentile male occupant in a 30 g rear-end crash.

In 1976, Severy published a follow-on paper on seat design.⁴² In it, he offered his observations on safety improvements in production seats brought about by the 1968 standard: “that laboratory tests established that production seats from cars large and small, foreign and domestic, and from vehicles 30 years old to new, have seat back strengths remarkably alike and that substantially exceed the required FMVSS No. 207 criteria.” Severy additionally stated that production seats were incapable of effectively resisting motorist inertial forces for any but light impact exposures without experiencing excessive yield and/or component separation.

³⁷ The rulemaking that established FMVSS No. 207 did not discuss why it set a rearward moment with a different reference point and value than recommended by the 1963 version of SAE J879. See 32 FR 2415.

³⁸ The magnitude of the force increase is equal to the inverse of the cosine of the angle of the seat back from the vertical. So a seat back with a 25 deg

angle would have a 1.1 (1/cos(25)) times greater load applied in FMVSS No. 207 than in SAE J879.

³⁹ 33 FR 2945 (Feb. 12, 1968).

⁴⁰ SAE J826–1995: Devices for Use in Defining and Measuring Vehicle Seating Accommodation; 49 CFR 571.10; 73 FR 58896 (Oct. 8, 2008).

⁴¹ Severy, Derwyn M.; Brink, Harrison M.; Baird, Jack D.; Blaisdell, David M.; “Safer Seat Designs,”

Proceedings of the 13th Stapp Car Crash Conference Society of Automotive Engineers; Warrendale, PA December 2–4, 1969; Boston, MA.

⁴² Severy, D.M., Blaisdell, D.M., and Kerkoff, J. F.; “Automotive Seat Design and Collision Performance,” 1976 SAE Transactions, Sec. 4, Vol. 85.

5. 1974—Notice of Proposed Rulemaking (NPRM) To Revise FMVSS No. 207

In February 1974, Carl Nash of the Public Interest Research Group petitioned NHTSA to implement a dynamic requirement for seat backs. He asked NHTSA to add a rear impact test into FMVSS No. 208, “Occupant crash protection,” with acceptance criteria based on head rotation of a seated crash test dummy. Nash also called on NHTSA to consolidate FMVSS No. 202 with FMVSS No. 207 because of the close relationship between head restraints and seats in mitigating injuries in rear impacts.

In March 1974, NHTSA published an NPRM that included proposed seat back requirements that essentially mirrored Nash’s request.⁴³ However, instead of amending FMVSS No. 208, NHTSA proposed to add the dynamic barrier test to a new, revised version of FMVSS No. 207. The test was to be conducted using the same moving barrier apparatus as that of the FMVSS No. 301 rear impact test for fuel system integrity, which had been proposed a year earlier.⁴⁴ Although a seated dummy was specified, NHTSA did not propose any requirements based on dummy head rotation as requested by Nash. Instead, NHTSA proposed a maximum seat back rotation of 45 degrees. The proposal also integrated the requirements of FMVSS No. 202 into a single, consolidated standard.

To support a decision for a final rule, NHTSA contracted with the University of New Mexico to conduct rear impact tests. Sled tests were run on yielding vs. rigid seat backs using post-mortem human subjects (PMHS).⁴⁵ At the time, NHTSA was concurrently investigating whether to revise FMVSS No. 202 to better mitigate the effects of whiplash. In consideration of this, rigid and yielding seats were tested with and without a head restraint. Sled tests were run by simulating a crash in which a stationary vehicle is struck from the rear by another vehicle having the same mass and travelling at a speed of 51 km/h (32 mph). The investigators observed that with no head restraint, rigid seats produced higher whiplash effects than yielding seats in low-speed rear impacts. Also, ramping was exacerbated in rigid seats with no head restraint. Thus, the results were deemed to be inconclusive as to whether yielding

seats or rigid seats reduced the risk of injury. In addition to the work at the University of New Mexico, other basic research was being conducted on the more general topic of human injury tolerance to rearward forces and the biofidelity of the neck response of test dummies in rear impacts.⁴⁶ It is noteworthy that NHTSA commissions another study in 1974 on the safety of occupants of large school buses (school buses with gross vehicle weight rating (GVWR) greater than 4,536 kilogram (kg) (10,000 pounds (lb))) prior to issuance of FMVSS No. 222.⁴⁸ Following this study, NHTSA developed the concept of seating compartmentalization for school buses, which led to the following conclusion regarding the seating system: “The seats and restraining barriers must be strong enough to maintain their integrity in a crash yet flexible enough to be capable of deflecting in a manner which absorbs the energy of the occupant.”⁴⁹ At least in the context of larger school buses, NHTSA found there was a benefit to yielding seats that maintain structural integrity in order to maintain occupant compartmentalization when occupants were not protected by seat belts. Based on this conclusion, NHTSA developed a force-deflection requirement for the forward and rearward directions for large school bus seat backs.⁵⁰ The rearward requirement protects occupants in a rear collision, analogous to the rear impact issue discussed in this document.⁵¹

6. 1978—NHTSA Publishes a Request for Comment on Rulemaking Priorities

On March 16, 1978, NHTSA published a Request for Comments on the agency’s plan to prioritize ongoing rulemaking efforts.⁵² In establishing priorities for the plan, NHTSA stated that limited resources needed to be focused on rules with the largest safety benefits. It identified the 1974 proposal to require stiffer seats as one of several

open rulemakings with low priority and proposed to terminate it. In 1979, when the plan was issued, the 1974 proposal was terminated.⁵³ No public comments were received in response to the request for comments.

Over the next several years, NHTSA continued to investigate the safety of occupants in rear impacts. Beginning in 1979, NHTSA conducted over 30 full-scale rear-impact crash tests on vehicles with instrumented dummies seated in the front seats. The FMVSS No. 301 barrier was driven into the stationary vehicles at speeds ranging from 48–56 km/h (30 to 35 mph). These rear impact crash tests are catalogued online.⁵⁴

7. 1989—NHTSA Receives Petitions for Rulemaking on Revisions to FMVSS No. 207

In 1989, Kenneth J. Saczalski and Alan Cantor submitted their first petitions for rulemaking on this subject to NHTSA.⁵⁵ Saczalski sought an increase in the seat back moment requirement in FMVSS No. 207 from 373 Nm (3,300 in-lb) to 6,330 Nm (56,000 in-lb), a factor of 17 increase. The aim was to reduce the incidence of injuries due to ramping and ejection in rear-end crashes. On July 24, 1989, NHTSA notified Saczalski that his petition was granted.

Cantor’s 1989 petition asked NHTSA to amend FMVSS No. 207 to eliminate occupant ramping during a rear impact. Cantor did not provide a standardized test procedure to measure and assess ramping, nor did he describe a practicable countermeasure that could prevent ramping. Nonetheless, on February 28, 1990, NHTSA notified Cantor that his petition was granted.

After granting these petitions, NHTSA published another request for comments (1989 RFC) on the need for amending the seat back performance requirement in FMVSS No. 207 and opened a docket to receive comments on the petitions and pertinent issues.⁵⁷ In his comments submitted to this docket, Saczalski provided additional recommendations.⁵⁸ He asked NHTSA

⁴⁶ Ewing, Channing L., et al. “Effect of duration, rate of onset and peak sled acceleration on the dynamic response of the human head and neck.” *Proceedings: Stapp Car Crash Conference*. Vol. 20. Society of Automotive Engineers SAE, 1976.

⁴⁷ Muzzy, W. H. I., and Leonard Lustick. “Comparison of kinematic parameters between hybrid II head and neck system with human volunteers for minus-Gx acceleration profiles.” *Proceedings: Stapp Car Crash Conference*. Vol. 20. Society of Automotive Engineers SAE, 1976.

⁴⁸ 39 FR 27584 (July 30, 1974).

⁴⁹ 72 FR 65509 (Nov. 21, 2007).

⁵⁰ 49 CFR 571.222—Standard No. 222; School bus passenger seating and crash protection.

⁵¹ A rear impact into a large school bus is a much less severe impact environment for the occupants of the bus than that of occupants of a light vehicle experiencing an equivalent rear impact.

⁵² 43 FR 11100 (June 7, 1978).

⁵³ 44 FR 24591 (Apr. 26, 1979), “Five Year Plan for Motor Vehicle and Fuel Economy Rulemaking”.

⁵⁴ <https://www.nhtsa.gov/research-data/research-testing-databases#/vehicle/>.

⁵⁵ Docket 89–20–No.1–001 or Docket NHTSA–1996–1817–0002. Both petitions have significant overlap to the 2014 Saczalski and 2015 Cantor petitions discussed in this document.

⁵⁶ The previous NHTSA Seat Dockets, 89–20 Notices 1–3, are now available on the Docket Management System (DMS) at NHTSA–1998–1817, –4047 and –4064, respectively.

⁵⁷ 54 FR 40897 (Oct. 4, 1989). Originally NHTSA Docket 89–20–No. 1, and later transferred to Docket NHTSA–1996–1817.

⁵⁸ Docket NHTSA–1996–1817–0002.

⁴³ See, 39 FR 10268 (Mar. 19, 1974).

⁴⁴ See 38 FR 22417 (Aug. 20, 1973).

⁴⁵ Hu, Anthony S., Stewart P. Bean, and Roger M. Zimmerman. Response of belted dummy and cadaver to rear impact. No. 770929. SAE Technical Paper, 1977.

to also include a dynamic rear impact crash test using the FMVSS No. 301 barrier and a 95th percentile male dummy in the seat.

Most comments from the automotive industry on the 1989 Saczalski and Cantor petitions opposed any new seat back stiffness requirements. They argued that real-world crash data did not indicate that a safety-related problem existed. General Motors, for example, cited its own field data to conclude that any benefits associated with seat standard changes for rear impact protection were very limited.⁵⁹ Ford cited a study of real-world crashes to conclude that a safety need did not exist.⁶⁰ The authors of that analysis had also reviewed test data from prior studies (including those of Severy, et al). They concluded that rigid seat backs would probably exacerbate injuries because yielding seats absorb energy safely as they deform, thus reducing injurious forces borne by the occupant, including whiplash-causing forces. Occupant rebound from a rear impact and a subsequent hard thrust forward was also cited as a negative effect of rigid seats. Furthermore, a follow-up study by two of the same authors concluded that ramping is more likely to occur in a rigid seat regardless of whether a seat belt is used or a head restraint is in place.⁶¹ On the other hand, Mercedes-Benz supported an upgrade to FMVSS No. 207.⁶² It noted that seats in Mercedes vehicles were specifically designed to reduce the danger to front and rear occupants during rear impacts as a result of excessive rearward seat back deformation and the resultant interaction between occupants.

At the time, NHTSA commissioned a study on injury incidence to support a rulemaking decision.⁶³ This analyzed the problem using NASS real-world crash data. The study confirmed that seat back yield in severe rear crashes does occur.⁶⁴ Severe crashes were found to be infrequent, however, amounting to approximately 5% of all rear impacts.

The study also showed that impacts with components in the rear seat compartment and ejections are a relatively small portion of the injuries. Injuries due to occupant impacts to components in the rear seat compartment accounted for 2.8% (unrestrained occupant) and 0.1% (restrained occupant) of the most severe injury to front seated occupants in rear impacts, and only 3.2% of all harm to unrestrained occupants in rear impacts involved occupant ejection.

The study also concluded that current seat designs provided reasonable safety in rear-end crashes, and that seat belts are effective in reducing injuries. The report suggested that new head restraint designs offered the best possibility to mitigate the largest portion of injuries in rear-end crashes.

Additionally, Transport Canada submitted a report to the docket of 23 case studies of real-world rear impacts, all of which involved vehicles that experienced seat back failures, and 11 of which resulted in occupant ejections.⁶⁵ Of the cases involving a rear seat passenger, four of the five rear passengers sustained injuries attributed to seat back failure of the front seat.

NHTSA provided a summation of the comments and reports in a 1992 summary report.⁶⁶ This document was placed in the docket for the safety plan discussed below. The report concluded that improving seating system performance may be more complex than simply increasing the strength of the seat back, and that a proper balance in seat back strength and compatible interaction with head restraints and seat belts must be obtained to optimize injury mitigation.

8. 1992–2000 NHTSA Publishes a Request for Comment on Possible Revisions to FMVSS No. 207, Grants Two Petitions and Conducts Research

In November 1992, the agency published another Request for Comment on more recent research findings and a proposed plan to address seat back performance.⁶⁷ At that time, the agency had refrained from upgrading FMVSS No. 207 until significant results from research were obtained, though the rulemaking action resulting from the 1989 petition grants was still open. The first document the agency placed in the docket was a report summarizing agency findings up to that point. The 1992 report stated that four categories of

performance issues need to be addressed as part of potential future changes to FMVSS No. 207.⁶⁸ These four categories are:

(1) Seating system integrity: the ability of the seat and its anchorage to the vehicle to withstand crash forces without failure.

(2) Energy absorbing capability: the extent to which the seat and its attachment components absorb energy and the manner in which the seat and its attachment components release energy during rebound.

(3) Compatibility of a seat and its head restraint: The concern in this category is that any change in seat back energy absorbing capability could exacerbate head or neck injuries if the geometry and energy absorbing capability of the head restraint is not also changed.

(4) Seat belt restraint system: a seating system and its seat belt restraint system must complement each other to prevent injury.

Over the ensuing 10-year period, the agency conducted extensive physical testing of seat backs, performed computer modeling of seated occupants in rear impacts, and conducted dynamic testing of instrumented test dummies in vehicle seats. At the same time, NHTSA also assessed how new requirements for head restraints could mitigate whiplash injury in lower-speed rear-end crashes. The details of those efforts are outlined in several NHTSA reports provided in docket folder NHTSA–1998–4064 (document numbers 24–27, 31).

NHTSA also granted two more petitions related to seat back strength: King (March 1998)⁶⁹ and Hogan (December 1998).⁷⁰ King petitioned for a dynamic test using the FMVSS No. 301 rear impact test procedure. Hogan stated that conformance to the current regulation was being used in litigation as a defense for the performance of contemporary seat designs, and therefore asked NHTSA to “suspend” FMVSS No. 207 until such time that the standard could be improved.

In comments posted in dockets NHTSA–1996–1817⁷¹ and NHTSA–1998–4064,⁷² most in the automobile industry argued that seat back deformation was protective to the occupant by absorbing some crash energy. However, there was recognition that better seat back performance requirements could improve occupant safety in rear impacts greater than 40 km/h (25 mph). Greater control of

⁵⁹ Docket NHTSA–1996–1817–0010.

⁶⁰ Docket NHTSA–1996–1817–0004.

⁶¹ James, M.B., Strother, C.E., Warner, C.Y., Decker, R.L., & Perl, T.R. (1991). Occupant protection in rear-end collisions: I. Safety priorities and seat belt effectiveness. SAE transactions, 2019–2027.

⁶² Docket NHTSA–1996–1817–0015.

⁶³ “Current Issues of Occupant Protection in Car Rear Impacts,” February 1990, Data Link, Inc., NHTSA Docket 89–20–No. 1–21 or Docket Management System NHTSA–1996–1817–22.

⁶⁴ This study considered severe crashes as those with a vehicle change in velocity greater than 15 mph, CDC extent of damage (exterior vehicle damage) greater than 3, and at least one occupant with a maximum AIS of 3 or greater or with hospitalization or fatality.

⁶⁵ NHTSA Docket 89–20–No. 1–018 or Docket Management System NHTSA–1996–1817–019.

⁶⁶ NHTSA Docket 89–20–No. 3–001 or Docket Management System NHTSA–1998–4064–001.

⁶⁷ 57 FR 54958 (Nov. 23, 1992).

⁶⁸ “Summary of Safety Issues Related to FMVSS No. 207,” (1992), NHTSA–1998–4064–001.

⁶⁹ NHTSA–1998–4377–0001.

⁷⁰ NHTSA–1999–5482–0008.

⁷¹ These were originally posted to NHTSA Docket 89–20–No 1, and subsequently transferred to Docket NHTSA–1996–1817.

⁷² These were originally posted to NHTSA Docket 89–20–No 3, and subsequently transferred to Docket NHTSA–1998–4064.

occupant kinematics in severe rear crashes was thought to enhance occupant safety, even for belted occupants, by controlling rearward deflection of the seat back. Further comments presented by the Advocates for Highway and Auto Safety expressed concern about the harm caused by bodily impact with vehicle structures and noted the importance of negating excessive seat back rotation, ramping, and occupant rebound. One individual consultant described the consultant's opinion regarding the deficiency of FMVSS No. 207 and the impact that the standard may have had on automotive seat designs from that time. Another consulting firm expressed concern about the level of deformation that occurs due to the force applied to seat backs of that time in rear impacts and its effect on the effectiveness of the restraint systems in higher severity rear impacts.

The comments and research at the time affirmed that the issues of seat back, head restraint, and belt retention were inextricably linked to overall occupant safety. For example, in studies such as the 1997 Prasad,⁷³ 1977 University of New Mexico study, and 1976 Severy study, the disbenefits of a rigid seat were particularly evident in seats with baseline head restraints.⁷⁴ In the 1997 Prasad study for example, the authors found that stiffer seats led to higher neck and lumbar spine loads in rear impact tests. One complicating factor from this period is that most of the laboratory tests were performed with Hybrid II or Hybrid III 50th percentile male (HIII-50M) dummies, which are seated dummies designed based on human indices measured in frontal crashes. The torso and pelvis of these dummies do not articulate well in rear impacts, and such articulation is needed to faithfully exhibit ramping. While a larger size ATD would more fully exercise a seat back in a rear impact, the additional use of a smaller ATD with female-specific characteristics may have provided a more comprehensive assessment of occupant kinematics and injury risk for different seat designs in these earlier studies. Comments posted in the docket also emphasized the rear impact protection points NHTSA made in the 1992 study, in particular the need for energy absorption of the seat back, while also recognizing that performance

requirements may enhance rear impact protection.

9. 2004—NHTSA Issues Final Rule Upgrading FMVSS No. 202, Head Restraints

NHTSA's research on rear impact crashes and head restraints led the agency in January 2001, to address the problem of whiplash injuries by proposing to upgrade the head restraint standard, FMVSS No. 202.⁷⁵ At the time, the agency estimated that approximately 800,000 whiplash injuries occurred annually in all crash types, resulting in a total annual cost of \$5.2 billion. Whiplashes in rear impacts were estimated to be about 270,000 annually.

After considering public comments on the proposal, NHTSA published the final rule on December 14, 2004.⁷⁶ It was estimated to reduce the number of whiplash injuries by about 17,000 per year. The revised standard imposed an increased head restraint height requirement such that all outboard front seat head restraints must be capable of adjusting to at least 800 mm (31.5 in) and not have an adjustment position below 750 mm (29.5 in). It also imposed a minimum backset⁷⁷ measurement that required the head restraint to be closer to the back of a seated occupant's head. The updated standard maintained the requirement for the head restraint to withstand a 200 lb-f or 890 N rearward force applied 65 mm (2.5 in) below its top, when adjusted to its highest position, which must be at least 800 mm. Thus, this imposes an effective rearward strength requirement on seat backs of 654 Nm (5,790 in-lb), where $654 = 890 * (0.8 - 0.065)$. This is a factor of 1.75 greater than the rearward strength requirement of FMVSS No. 207.

10. 2004—NHTSA Terminates Rulemaking on FMVSS No. 207, Seating Systems

By the time NHTSA finalized the head restraint regulation in 2004, it was clear to the agency that additional research and data analyses were needed to allow a fully informed decision on any change to the seat back strength requirement in FMVSS No. 207. A year earlier, researchers at Johns Hopkins University Applied Physics Laboratory completed a study commissioned by NHTSA, which strongly suggested that seat back stiffness plays a role in

whiplash injury risk in low-speed rear impacts.⁷⁸ The main finding was that the risk of whiplash injury cannot be related to a single design factor, such as head restraint height. The study concluded that altering the seat back design could have an effect on the occurrence of whiplash. Additional analyses were needed to assure that a NHTSA-imposed seat back requirement would not create a greater risk of whiplash. Since it was not clear when such analyses would be complete, on November 16, 2004, NHTSA terminated the FMVSS No. 207 rulemaking proceeding that had been open since 1989.⁷⁹ NHTSA was unable to fully establish that a need for a stronger seat back existed, establish a definitive link between injury reductions and potential new regulatory seat back requirements, or show that new requirements under consideration would not exacerbate risk of neck injuries due to whiplash, roof contacts, or rebound. However, NHTSA did not make a finding that an FMVSS No. 207 amendment was not warranted. Instead, NHTSA stated that further study is needed to make a definitive determination of the relative merits of different potential rulemaking approaches and that research on seat back issues would continue.

11. Further Regulatory Changes Since 2004

There have been two prominent regulatory changes regarding occupant safety in rear-end crashes that have been fully implemented since NHTSA terminated the rulemaking on FMVSS No. 207: a revision to FMVSS No. 202, and a revision to FMVSS No. 301, the fuel system integrity standard. FMVSS No. 202 is the standard focused on neck injury protection in rear impacts. Regarding FMVSS No. 301, while the stated purpose of the standard is to reduce incidence of fire and fuel ingestion incidents, it utilizes a test procedure that represents a relatively severe rear impact in the field and has been recommended by petitioners as a viable basis for an upgrade to FMVSS No. 207. Additionally, some researchers have reported that vehicles compliant with the updated FMVSS No. 301 have shown significant reduction in fatality risk in rear impact.⁸⁰ Therefore, as part

⁷³ See below in Review of Additional Literature, Occupant Dynamics, for an in-depth discussion of the findings.

⁷⁴ The term "baseline" indicates head restraints manufactured prior to the 2004 update of the head restraint standard. These provided much less protection than those mandated by today's Federal standard. 69 FR 74848 (Dec. 14, 2004).

⁷⁵ 66 FR 968 (Jan. 4, 2001).

⁷⁶ 69 FR 74848 (Dec. 14, 2004).

⁷⁷ Backset is defined as minimum horizontal distance between the rear of a representation of the head of a seated 50th percentile male occupant and the head restraint, as measured by the head restraint measurement device. 49 CFR 571.202(a).

⁷⁸ Kleinberger M, Voo LM, Merkle A, Bevan M, Chang S: The Role of Seatback and Head Restraint Design Parameters on Rear Impact Occupant Dynamics. Proceedings of 18th International Technical Conference on the Enhanced Safety of Vehicles, Paper #18ESV-000229, Nagoya, Japan, May 19–22, 2003.

⁷⁹ 69 FR 67068 (Nov. 16, 2004).

⁸⁰ Viano, David C., and Chantal S. Parenteau. "Effectiveness of the revision to FMVSS 301: FARS Continued

of our analysis of the need for new seat back strength requirements, NHTSA considers the effects that these changes have had on seat performance and occupant injury risk in moderate-to-severe rear-end crashes.

(a) FMVSS No. 202a, “Head Restraints”

FMVSS No. 202a was issued in 2004 and applied an updated set of safety requirements for head restraints beginning with model year 2010.⁸¹ Although the new requirements were not specifically intended to strengthen seat backs, the head restraint upgrade resulted in an increase in the minimum acceptable seat back strength.

FMVSS No. 202a requires a fully extended head restraint to withstand an 890 N (200 lb-f) rearward load. Although this load was not changed in FMVSS No. 202a, the minimum height of the head restraint was raised from 700 mm to 800 mm. Thus, the effective torque requirement on the seat back increased from about 565 Nm (5,000 in-lb) to 654 Nm (5,790 in-lb).⁸²

FMVSS No. 202a also introduced a new optional dynamic test for head restraints. In the dynamic test, the entire vehicle is tested on a sled with a seated HIII-50M dummy and subjected to a 17.3 km/h (10.75 mph) rear impulse. The dummy’s rearward head rotation with respect to its torso must be limited to 12 degrees for the dummy in all outboard designated seating positions. Though inertial forces of the occupant acting on the seat back in FMVSS No. 202a testing are much lower compared to those associated with an FMVSS No. 301 test pulse, FMVSS No. 202a’s dynamic test may have potentially resulted in stronger seat back designs for those seats certified to this option because a stiffer seat back with an adequately positioned head restraint would capture the head motion before the limits are exceeded. Neither NHTSA nor, to our knowledge, the petitioners, however, have studied whether the upgrade to FMVSS No. 202a has resulted in injury reductions other than whiplash.

and NASS-CDS analysis of fatalities and severe injuries in rear impacts.” *Accident Analysis & Prevention* 89 (2016): 1–8.

⁸¹ 49 CFR 571.202a. See also 69 FR 74848 (Dec. 14, 2004). Many requirements became effective on September 1, 2009, while others, in particular those regarding rear head restraints, came into effect the following year. Please review S2 of the standard for further details.

⁸² Agency testing of pre-FMVSS No. 202a seats showed seat back strength well in excess of 654 Nm, so there was no need for manufacturers to increase seat back strength to meet the new head restraint requirements of FMVSS No. 202a, see Docket document no. NHTSA–1998–4064–0026.

(b) Upgrade to FMVSS No. 301, Fuel System Integrity

On November 13, 2000, NHTSA proposed a more stringent rear impact offset test using a lighter deformable barrier.⁸³ A final rule was published on December 1, 2003, and the new requirements for the fuel systems were phased in during MYs 2007–2009.⁸⁴ Although the fuel containment requirements remained the same as the previous version of FMVSS No. 301, the crash test was generally more rigorous for most passenger cars. Vehicles that passed the new rear impact requirements were found to provide protection against crashes in which the impact produced a 33 to 50 percent higher ΔV (which corresponds to 110 percent more energy being dissipated in the crash) compared to the previous test.⁸⁵

In a post-regulatory assessment, NHTSA compared the structure of pre- and post-standard vehicles. NHTSA observed substantial structure upgrades in the newer vehicles, which may mitigate intrusion of vehicle structures into the rear seat occupant compartment. For example, in the 2016 study, Viano and Parenteau found MY 2008 and onward FMVSS No. 301 compliant vehicles to have a 27.1–32.8% reduction in fatality risk in rear impacts compared to 1996–2001 MY vehicles. Two considerations limit the conclusions that can be drawn from this data. First, injury risk was estimated irrespective of post-crash fire. Thus, some of the injury risk reduction could be a reduction in the incidence of fire. Second, the authors noted that the changes in rear structures occurred while front seats were transitioning to higher retention designs, which may contribute to the reduction in fatality risk.

(c) NCAP

In 2007 NHTSA published a notice requesting comments on an agency report titled “The New Car Assessment Program (NCAP) Suggested Approaches for Future Program Enhancements.”⁸⁶ With regard to rear impact protection, NHTSA proposed that it could provide consumers with basic information on rear crashes such as safe driving behavior, proper adjustment of head restraints, real-world safety data by vehicle classes, and links to the

Insurance Institute of Highway Safety (IIHS) rear impact test results. The agency further proposed that a dynamic rear impact test, which addresses those injuries not covered by the agency’s current standards, could be investigated and incorporated into the ratings program. Several organizations and manufacturers recommended that NHTSA evaluate the effectiveness, cost, and safety benefits of a rear impact test before incorporating such a test into NCAP. Industry comments suggested that NHTSA should also evaluate the effectiveness of the FMVSS No. 202a update and that incorporating rear impact safety into NCAP would be better directed toward areas not fully addressed by the current regulation. Commentors suggested that NHTSA should study whiplash-type injuries and countermeasures and encourage public education on the proper adjustment of the head restraint. NHTSA concluded that a dynamic test would not be premature at that time since such an option existed in FMVSS No. 202a. However, NHTSA noted that the test dummy used by IIHS is not used for testing FMVSS compliance, and some of the injury criteria used for the assessment had not been correlated with real-world injury. Ultimately, the agency did not incorporate rear impact protection information into the NCAP program.

IV. Review of Additional Literature

NHTSA, industrial, academic, and non-profit researchers have conducted significant research into the rear impact protection of seat backs and head restraints, and research is ongoing. Researchers have investigated occupant dynamics in rear impacts, development of safer seats for the occupant in rear impacts, and occupant injury mechanisms in rear impacts.

A. Occupant Dynamics

Occupant dynamics and protection in rear collisions is a complex multivariable problem. The ideal safe seat for one occupant in a certain rear collision scenario may not be the ideal safe seat for another occupant or for a different scenario. For example, research suggests that females have a higher risk of whiplash injury compared to males and respond differently to a rear impact.^{87 88 89 90} Additionally, other

⁸³ 65 FR 67693 (Nov. 13, 2000).

⁸⁴ 68 FR 67068 (Dec. 1, 2003).

⁸⁵ Pai, Jia-Ern. “Evaluation of FMVSS NO. 301, ‘Fuel System Integrity,’ as upgraded in 2005 TO 2009.” National Center for Statistics and Analysis, National Highway Traffic Safety Administration. Washington, DC (2014).

⁸⁶ 72 FR 3473 (Jan. 25, 2007).

⁸⁷ Berglund A, Alfredsson L, Jensen I, et al. Occupant- and crash-related factors associated with the risk of whiplash injury. *Ann Epidemiol* 2003;13:66–72.

⁸⁸ Carlsson, Anna. Addressing female whiplash injury protection—a step towards 50th percentile female rear impact occupant models. Chalmers Tekniska Högskola (Sweden), 2012.

occupant characteristics, such as weight, can play a significant role in rear impact injury risk, as shown in the NASS-CDS case number 2011–49–57 noted by Viano and Parenteau.⁹¹ This case outlines a rear collision with an estimated ΔV between 35 and 39 km/h (21.7 and 24.2 mph). The 141 kg (311 lb) driver of the rear impacted 2008 model passenger vehicle suffered critical head and neck injuries after decoupling from the rotated driver seat back and colliding with the rear seat back. The 68 kg (150 lb) right front passenger of the same struck vehicle, however, had no documented injury.⁹² The injury severity suffered by the driver in this case is rare in rear impacts. Viano and Parenteau found passengers with injuries of MAIS 4 or greater severity, including fatalities, represented 0.08% of passengers with injury in rear collisions in MY 2008 and newer vehicles. A quantitative description of seat back response is complicated by the potential sensitivity of response to a range of initial conditions and external factors including head posture,⁹³ awareness,⁹⁴ seat belt use and seat geometry including initial seat back recline angle,⁹⁵ details of the crash pulse,⁹⁶ and specific occupant characteristics such as weight distribution. The initial posture and location of the occupant is also thought

to influence injury risk. Many occupants in rear collisions are believed to be out-of-position (e.g., seated off-center), and out-of-position occupants are thought to have a higher probability of injury in rear impacts than symmetrically or normal-positioned occupants.⁹⁸ 99 100

Some research suggests that limiting seat back rotation can have detrimental effects, particularly regarding neck injuries. In the 1997 Prasad study of real-world rear impacts, the authors concluded that a revision to severely limit seat back rotation would have detrimental effects. The study analyzed the 1980–94 NASS database to compare injury rates in pickup trucks with passenger vehicles in rear impacts. This allowed for comparison between yielding seat performance with the rotationally stiff seats of pickup trucks (stiffness is due to the small gap between seat and cab). A higher rate of occupant injury in rear collisions across all ΔV s was observed in pickup trucks. The authors inferred that rotationally rigid seats could have an increased rate of injury in rear impacts. The 1997 Prasad study further analyzed a series of sled tests to investigate the relationship between seat stiffness and anthropomorphic test device (ATD) kinematics for rear impact ΔV of 16, 24, and 40 km/h (9.9, 14.9, and 24.9 mph). After assessing the range of sampled speeds and ATD measurements, Prasad hypothesized that (all else being equal) stiffening of the baseline 1996 production seats can result in an overall increase in whiplash type injuries at low-to-moderate speeds and a greater potential for serious neck injury at higher speeds, in addition to other conclusions. This study, however, has limitations. Many of the pickups in the crash data analyzed may not have had head restraints because trucks were not required to have head restraints until MY 1993. Moreover, a rotationally rigid seat represents the extreme end of the debate around the seat strength set by FMVSS No. 207. While modern production seats are characterized by a seat strength many times the value set by FMVSS No. 207, these seats also display a degree of balance between high and low-speed rear impact

protection and the characteristic of rearward rotation of the seat back.

Other research suggests that optimizing seat back design, including stiffness, can reduce injury risks in rear impact. In a 1996 study, Svensson, et al.¹⁰¹ analyzed the influence of seat back properties on neck injury using the HIII ATD with a Rear Impact Dummy (RID)-neck in low-speed rear collision sled testing. The study found that it was possible to significantly reduce harmful head-neck motion of the ATD by optimizing the head-to-head restraint gap, seat back frame stiffness, and characteristics of the seat-back cushion.

A separate statistical analysis involving 20 years of the NASS database by Burnett¹⁰² found that front seat occupants are significantly more protected in rear collisions compared to other crash directions, even for the most severe rear impacts where major seat yielding and occupant decoupling from the seat can occur. The study also conducted quasi-static mechanical testing and rear impact sled tests of seven production seats to investigate the correlation between mechanical parameters and ATD kinematics. The study found no significant correlation between the seat strength and any of the recorded ATD metrics, while seat stiffness and an energy absorption parameter were nonlinearly correlated with ATD metrics.

B. Rear Impact Protection Technology

This section discusses some seat designs intended to improve rear impact protection that have been incorporated over the years.

In 1998, a set of design guidelines was published by Volvo Cars and Autoliv, Inc. for seats that emphasized the importance of controlling an occupants' absolute and relative head and torso kinematics throughout the rear impact process, to protect against neck and other injuries.¹⁰³ The Volvo Cars' Whiplash Protection System (WHIPS) was introduced in 1998 and is built around these guidelines. In a significant rear collision, the first generation WHIPS seat back rotation point moves rearward and later transitions to rearward rotation. During seat back rotation, a mechanical linkage

⁸⁹ Viano, David C. "Seat influences on female neck responses in rear crashes: a reason why women have higher whiplash rates." *Traffic injury prevention* 4.3 (2003): 228–239.

⁹⁰ Linder, Astrid, and Mats Y. Svensson. "Road safety: the average male as a norm in vehicle occupant crash safety assessment." *Interdisciplinary Science Reviews* 44.2 (2019): 140–153.

⁹¹ Viano, David C., and Chantal S. Parenteau. "Effectiveness of the revision to FMVSS 301: FARS and NASS-CDS analysis of fatalities and severe injuries in rear impacts." *Accident Analysis & Prevention* 89 (2016): 1–8.

⁹² Comparisons such as these should be made with care because the driver and passenger seat may not be structurally identical, with the driver seat sometimes having more and powered adjustments compared to the passenger seat.

⁹³ Lenard, James, Karthikeyan Ekambaram, and Andrew Morris. "Position and rotation of driver's head as risk factor for whiplash in rear impacts." *J Ergonomics* 53.2 (2015).

⁹⁴ Siegmund, Gunter P., et al. "Awareness affects the response of human subjects exposed to a single whiplash-like perturbation." *Spine* 28.7 (2003): 671–679.

⁹⁵ Kang, Yun-Seok, et al. "Effects of seatback recline and belt restraint type on PMHS responses and injuries in rear-facing frontal impacts." *SAE International journal of transportation safety* 10.2 (2022): 09–10.

⁹⁶ Hynes, Lorian M., and James P. Dickey. "The rate of change of acceleration: Implications to head kinematics during rear-end impacts." *Accident Analysis & Prevention* 40.3 (2008): 1063–1068.

⁹⁷ Siegmund, Gunter P., et al. "The effect of collision pulse properties on seven proposed whiplash injury criteria." *Accident Analysis & Prevention* 37.2 (2005): 275–285.

⁹⁸ Strother, Charles E., Michael B. James, and John Jay Gordon. "Response of out-of-position dummies in rear impact." *SAE transactions* (1994): 1501–1529.

⁹⁹ Benson, Brent R., et al. "Effect of seat stiffness in out-of-position occupant response in rear-end collisions." *SAE transactions* (1996): 1958–1971.

¹⁰⁰ Burnett, Roger A., Chantal S. Parenteau, and Samuel D. White. "The effect of seatback deformation on out-of-position front-seat occupants in severe rear impacts." *Traffic Injury Prevention* (2022): 1–5.

¹⁰¹ Svensson, Mats Y., et al. "The influence of seat-back and head-restraint properties on the head-neck motion during rear-impact." *Accident Analysis & Prevention* 28.2 (1996): 221–227.

¹⁰² Burnett, Roger, et al. "The influence of seatback characteristics on cervical injury risk in severe rear impacts." *Accident Analysis & Prevention* 36.4 (2004): 591–601.

¹⁰³ Lundell, Bjorn, et al. "The WHIPS seat—a car seat for improved protection against neck injuries in rear-end impacts." *Proc. 16th ESV Conference, Paper*. Vol. 98. 1998.

irreversibly absorbs rotational energy, so there is less energy directed into the occupant and rebound is reduced. The seat back will then continue to rotate and deflect rearward as a typical production seat. According to data reported by Volvo, the first generation WHIPS seat reduced soft tissue neck injury risk by 21% to 47% as compared to prior seats.¹⁰⁴

Another technology for whiplash injury protection is active head restraints that was introduced by Saab in the late 1990s.¹⁰⁵ These systems aim to reduce the head restraint contact time by actively shifting the head restraint forward in a rear impact through a mechanical linkage in the seat structure activated when the seat occupant moves rearward into the seat. Data acquired by the NCAP program for MY2023 show that 21 vehicle models representing 4 percent of vehicle sales are reported as having active head restraints or provide the option. At least one automotive supplier is working on an electromechanical system that moves the head restraint up to 40 mm forward when a rear sensor in the vehicle anticipates a rear impact.¹⁰⁶

In the early 1990s, General Motors (GM) Research and Development Center undertook an in-depth study of seat characteristics to improve occupant safety in rear impacts. In general, the GM seat design fostered movement of the pelvis rearward and into the lower portion of the seat back frame in a way that would preclude ramping and reduce the moment arm on the seat back. A key design component was to balance the stiffness of the seat resisting the rearward movement of the pelvis against the ability of the seat back frame to resist backward rotation. GM established their own quasi-static test for the purposes of assuring that a given seat met the design parameters. It was a destructive test that made use of a 50th percentile male dummy loaded rearward into the seat back through the lumbar joint. The dummy was free to move up, down, and sideways during rear loading. The test also allowed the seat back to rotate rearward and twist in a manner similar to what was observed in sled testing. Eventually, GM's seat

design targets were published by SAE International.¹⁰⁷ The targets were derived from various measurements taken during their quasi-static test. The targets contained many more parameters than FMVSS No. 207's single requirement to withstand a 373 Nm (3,300 in-lb) moment (see table 1 for a list of the parameters). Notably, the GM parameters included a criterion that limited the seat stiffness to no more than 25 kN/m, while attempting to assure that the seat had sufficient energy absorbing properties. GM stressed that simply raising the FMVSS No. 207 moment beyond 373 Nm would not achieve a desirable seat design. According to GM, increasing only the seat back's stiffness would reduce the beneficial effects of yielding.

A seat design feature that was rare 25 years ago, but appears to be much more common in modern seats is a dual recliner system.¹⁰⁸ A dual recliner system places gear mechanisms controlling the static recline angle on both sides of the seat. This improvement significantly strengthened production seats and reduced longitudinal axis twisting.¹¹⁰ The agency does not have an estimate of the current level of implementation of dual recliners and requests that commenters provide these data.

An IIHS study of contemporary production seats claims that a wide range of seating systems have achieved a balance between low-speed protection while maintaining structural integrity at higher speeds and occupant retention.¹¹¹ This study conducted rear impact sled testing on 26 modern production seats at a ΔV of 36.5 km/h (22.7 mph) using a 78 kg (172 lb) Hybrid III 50th percentile male dummy. The maximum dynamic seat back rotation ranged from 15° to 47° from the initial

angle and the dummy was retained by all seat backs. During testing, the vertical displacements of the dummies was between 41 mm to 144 mm. The authors concluded that a majority of tested production seats provided adequate occupant retention at a ΔV of 36.5 km/h (22.7 mph), but with a range of performance metrics. Moreover, all 26 seats tested by IIHS had "Good" ratings for low-speed rear impact protection as determined by a separate IIHS test using the BioRID dummy at a ΔV of 16 km/h (10 mph).

C. Non-Contact Injuries

This section outlines a segment of the literature concerning non-contact neck and thorax injuries resulting from rear collisions.

1. Neck Injuries

The term whiplash has been used since the 1920s to describe various symptoms or signs of cervical spine injury in motor vehicle accidents. The first case series studies on motor vehicle whiplash injury were published in the early 1950s.¹¹² Later in the 1960s, studies were conducted on the mechanisms of whiplash injury.¹¹³ These and related efforts developed the notion that the whiplash injury rate could be reduced by preventing hyperextension of the neck. The initial version of FMVSS No. 202 mandated head restraints as a countermeasure to this type of neck injury.¹¹⁴ After the mandate was introduced, a statistical analysis of crash data sets found modest improvements in the whiplash injury rates.¹¹⁵ A 1982 NHTSA report of rear impacts in passenger cars, for example, found that integral head restraints reduced whiplash injury risk by 17% while adjustable restraints reduced the risk by 10%.¹¹⁶ A Swedish study found

¹⁰⁷ Viano, David C. "Role of the seat in rear crash safety." Warrendale, PA: Society of Automotive Engineers, 2002. 514 (2002).

¹⁰⁸ About one third of the seats tested by the agency in 1998 were dual recliners. This was a convenience sample not intended to be representative of the fleet. Molino L (1998), Determination of Moment-Deflection Characteristics of Automobile Seat Backs, NHTSA, November 25, 1998. See Regulations.gov, Docket document no. NHTSA-1998-4064-0026.

¹⁰⁹ Viano, David C., et al. "Occupant responses in conventional and ABTS seats in high-speed rear sled tests." *Traffic injury prevention* 19.1 (2018): 54-59.

¹¹⁰ Herbst, B.R., Meyer, SE, Oliver, A.A., and Forrest, S.M. Rear impact test methodologies: quasistatic and dynamic. Proceedings of 21st International Technical Conference on the Enhanced Safety of Vehicles, 2009. Stuttgart, Germany.

¹¹¹ Edwards, Marcy A., et al. "Seat design characteristics affecting occupant safety in low-and high-severity rear-impact collisions." *IRCOBI Conference, Florence, Italy, IRC-19-11*. 2019.

¹¹² Gay, James R., and Kenneth H. Abbott. "Common whiplash injuries of the neck." *Journal of the American Medical Association* 152.18 (1953): 1698-1704.

¹¹³ MacNab, Ian. "Whiplash injuries of the neck." *Proceedings: American Association for Automotive Medicine Annual Conference*. Vol. 9. Association for the Advancement of Automotive Medicine, 1965.

¹¹⁴ NHTSA, FMVSS No. 202 Head Restraints for Passenger Vehicles Final Rule, Final Regulatory Impact Analysis, Nov. 2004, Docket no. NHTSA-2004-19807.

¹¹⁵ O'Neill, Brian, et al. "Automobile head restraints—frequency of neck injury claims in relation to the presence of head restraints. *American journal of public health* 62.3 (1972): 399-406. Nygren, Ake, Hans Gustafsson, and Claes Tingvall. *Effects of different types of headrests in rear-end collisions*. No. 856023. SAE Technical Paper, 1985.

¹¹⁶ Kahane, Charles J. An Evaluation of Head Restraints, NHTSA Publication No. DOT HS 806 108, Washington, DC, 1982, pp. 154-160 and 181-197.

¹⁰⁴ Jakobsson, Lotta, Irene Isaksson-Hellman, and Magdalena Lindman. "WHIPS (Volvo cars' Whiplash Protection System)—the development and real-world performance." *Traffic injury prevention* 9.6 (2008): 600-605.

¹⁰⁵ Wiklund, Kristina; Larsson, Håkan (1 February 1998). "Saab Active Head Restraint (SAHR)—Seat Design to Reduce the Risk of Neck Injuries in Rear Impacts." *Journal of Passenger Cars*.

¹⁰⁶ "Can a high-tech headrest reduce whiplash injuries," *Automotive News*, August 14, 2022, <https://www.autonews.com/suppliers/high-tech-headrest-designed-reduce-whiplash-injuries>.

a similar 20% decrease in neck injuries as a result of the head restraint.¹¹⁷ However, the persistence of frequent whiplash injury motivated later studies of cervical spine dynamics in rear collisions.

In 1995, the Quebec Task Force on Whiplash Associated Disorders categorized whiplash injuries into five grades, 0 to IV, in order of increasing severity. For convenience, we will continue to refer to whiplash associated disorders as whiplash injuries. The Quebec study determined that 90% of insurance claims fell within grades 0 and I where there was no clear pathology based on existing technology, but symptoms may include neck pain, headache, memory loss, jaw pain, hearing disturbance, and dizziness. Grades II and III include musculoskeletal and neurological signs; grade IV contains cervical fractures and dislocations. The most severe soft tissue whiplash type injury occurring in grade IV is typically characterized by disc herniation and is often accompanied by facet-joint hematoma, peripheral spinal nerve and spinal cord contusion or articular process fracture.¹¹⁸ The findings of a study on very low velocity rear collisions¹¹⁹ led the authors to conclude that a biomechanical “limit of harmlessness” for whiplash exists for rear collision ΔV between 10 to 15 km/h. The author goes on to explain that this is the speed range below which there were no anatomical signs of injury, but did not rule out “psychological injury.”

Basic research of rear collision neck kinematics indicate that neck and head dynamics occur through a complex process. The neck may experience compression, tension, shear, torsion, retraction, protraction, flexion, and extension to varying degrees and at different points in time. Studies on cervical spine kinematics in rear collisions by Svensson, et al.¹²⁰ and McConnell, et al.¹²¹ in 1993, Geigl, et

al.¹²² in 1994 and Panjabi, et al.¹²³ in 1998 noted that the neck displayed an unnatural S-shaped curve in the early stages of the kinematics due to retraction, and Panjabi hypothesized that neck injury may occur before head contact with the head restraint. In a study by Feng, et al.,¹²⁴ the authors described early rear impact neck dynamics through a series of kinematic spinal processes. The authors noted that rear impact forces are at first distributed across the occupant's torso through the seat back and then are transmitted to the neck and head. These initial forces impose torso straightening and likely movement of the occupant's torso up the seat back. The authors hypothesize that axial compression is generated in the spinal column, which travels up the neck to the head. As the head moves upwards axial tension is then proposed to develop in the neck through disproportionate movement of the head and neck due to a constrained torso. As these first actions evolve the head lag phenomenon (also described in an earlier 1976 study¹²⁵) or retraction develops through a delay between the forward motion of an occupant's torso and head. Retraction leads to shear in the cervical column and curvature of the neck is reduced. These theorized actions occur before the head contacts the head restraint.

2. Thorax Injuries in High-Speed Rear Impacts

A recent NHTSA research study was conducted with 14 PMHS tests in rear facing seats in frontal collisions at a ΔV of 56 km/h for different recline angles and seat types to investigate thorax injuries.¹²⁶ The structure supporting the seat back was rigidized to avoid unpredictable permanent deformations

of the seat during the event. The goal of the study was to examine non-standard seating configuration for vehicles with automated driving systems (ADS) with reclined rear-facing seats in a frontal collision. It may also, however, provide some insight into rear impact dynamics because the loading is rearward with respect to the seat back orientation. Additionally, the 56 km/h ΔV test is very severe for a rear impact. The CISS data reported in section II.B indicates this speed represents more than 95% of all towaway rear impacts. The authors found that rib fractures occurred in the PMHSs due to a complex combination of chest compression and expansion with upward shear loading. The majority of rib fractures occurred after peak chest compression when the abdominal contents shifted rearward and upward into the thorax due to the ramping motion of the PMHS, which created a combined loading (compression/tension and shear) to the thorax. Similar magnitudes of rib strains were observed regardless of seat types, while strain modes varied according to recline angle and seat type. Fewer injuries were seen with a more upright 25-degree seat back, compared to a more typical initial seat angle of 45-degree seat back.

D. Summary

While progress has been made in understanding rear impact injuries, the literature continues to point toward the need for a greater understanding before conclusions can be drawn about the exact mechanisms of injury and the risk factors involved, particularly in regards to whiplash.¹²⁷ Likewise, important safety improvements have been made in production seats over the last 50 years and a greater understanding of the relationship between seat back characteristics and injury has been achieved, but questions remain with respect to precisely quantifying protective characteristics. The continued uncertainty around how best to protect occupants as well as the varied approaches and developments in rear impact technology suggests that, as NHTSA considers amendments to FMVSS Nos. 207 and 202a, there is value in preserving industry flexibility in seat back and head restraint design and strength parameters to allow further

¹¹⁷ Nygren, Ake, Hans Gustafsson, and Claes Tingvall. Effects of different types of headrests in rear-end collisions. No. 856023. SAE Technical Paper, 1985.

¹¹⁸ Davis, Charles G. “Mechanisms of chronic pain from whiplash injury.” *Journal of forensic and legal medicine* 20.2 (2013): 74–85.

¹¹⁹ Castro, W.H., et al. Do whiplash injuries occur in low-speed rear impacts? *European spine journal: official publication of the European Spine Society, the European Spinal Deformity Society, and the European Section of the Cervical Spine Research Society* 6.6 (1997): 366–375.

¹²⁰ Svensson, Mats Y., et al. *Rear-end collisions—a study of the influence of backrest properties on head-neck motion using a new dummy neck*. No. 930343. SAE Technical Paper, 1993

¹²¹ McConnell, Whitman E., et al. Analysis of human test subject kinematic responses to low

velocity rear end impacts. No. 930889. SAE Technical Paper, 1993.

¹²² Geigl, B.C., et al. “The movement of head and cervical spine during rear end impact.” *Proceedings of the International Research Council on the Biomechanics of Injury conference*. Vol. 22. International Research Council on Biomechanics of Injury, 1994.

¹²³ Panjabi, Manohar M., et al. “Mechanism of whiplash injury.” *Clinical Biomechanics* 13.4–5 (1998): 239–249.

¹²⁴ Luan, Feng, et al., “Qualitative analysis of neck kinematics during low-speed rear-end impact.” *Clinical Biomechanics* 15.9 (2000): 649–657.

¹²⁵ Ewing CL., Thomas D., Lustick L., Muzzy W.H., et al. The Effect of Duration, Rate of Onset and Peak Sled Acceleration on the Dynamic Response of the Human Head and Neck. *Proceedings of the 20th Stapp Car Crash Conference*, Dearborn, MI, Society of Automotive Engineers, Inc., 1976.

¹²⁶ Kang YS, et al. “Thoracic responses and injuries to post-mortem human subjects (PMHS) in rear-facing seat configurations in high-speed frontal impacts.” *Twenty-Seventh Enhanced Safety of Vehicles Conference* (2023).

¹²⁷ Holm, Lena W., et al. “The burden and determinants of neck pain in whiplash-associated disorders after traffic collisions: results of the Bone and Joint Decade 2000–2010 Task Force on Neck Pain and Its Associated Disorders.” *Journal of manipulative and physiological therapeutics* 32.2 (2009): S61–S69.

research into and development of these systems.

V. Petitions for Rulemaking at Issue in This Document

A. Statutory and Regulatory Background

Under 5 U.S.C. 553(e), 49 U.S.C. 30162(a)(1) and 49 CFR part 552, interested persons can petition NHTSA to initiate a rulemaking proceeding. Upon receipt of a properly filed petition, the agency conducts a technical review of the petition, material submitted with the petition, and any additional information.¹²⁸ After conducting the technical review, NHTSA determines whether to grant or deny the petition.¹²⁹ The Safety Act states that all FMVSS requirements must be practicable, meet the need for motor vehicle safety, and be stated in objective terms.¹³⁰ Accordingly, NHTSA will initiate a rulemaking only if the agency believes that the proposed rule would meet these criteria. If a petition is granted, a rulemaking proceeding is promptly initiated in accordance with statute and NHTSA procedures. A grant of a petition and a commencement of a rulemaking proceeding do not, however, signify that the rule in question will be issued. That decision is made on the basis of all available information developed in the course of the rulemaking proceeding, in accordance with statutory criteria.¹³¹ If a petition under this section is denied, the reasons for the denial are published in the *Federal Register*.¹³²

B. Petition of Kenneth J. Saczalski

On October 28, 2014, Kenneth J. Saczalski of ERST petitioned NHTSA to amend FMVSS Nos. 207 (Seating systems), 213 (child restraint systems), and 301 (Fuel system integrity). Saczalski requested that NHTSA increase the static strength requirement for seat backs by a factor of six and implement a new dynamic requirement. The dynamic requirement would assess the seat back of a vehicle by performing a rear impact crash test with a 50th percentile male ATD positioned in the seat. The petition also suggested adding a rear impact requirement to FMVSS No. 213, "Child restraint systems," and implementing a new requirement for rear seats that would resist the forces of loose cargo that may be stowed behind the rear seats.

1. FMVSS No. 207, Seating Systems

Saczalski seeks an amendment to FMVSS No. 207, S4.2(d) to increase the rearward force that occupant seats must withstand from a 373 Nm (3,300 in-lb) moment measured about the H-point to a 2,260 Nm (20,000 in-lb) moment measured from the pivot intersection of the seat back structure and the seat cushion frame.¹³³ While this ostensibly represents an increase by a factor of six, because FMVSS No. 202a effectively requires seat backs to withstand a 654 Nm (5,790 in-lb) moment, this would only increase the performance requirement by a factor of 3.5 above current requirements, if measured about the H-point. The actual factors would be closer to a factor of 5.4 above the required FMVSS No. 207 moment and 3.1 above the FMVSS No. 202a requirement, depending on the relative position of the seat pivot with respect to the H-point.¹³⁴

Saczalski also made a more general request that FMVSS No. 207 seat strength testing be conducted "to ultimate strength levels" that establish a seat's capacity to withstand crash forces. According to Saczalski, testing must be repeated to examine strength variations relating to adjustable seat components, such as height adjusters. Saczalski does not, however, provide a specific set of performance requirements or tests that he asserts should be conducted. Saczalski also requested that NHTSA add a requirement that seats not experience a "sudden load collapse" (i.e., a failure of structural components that causes the occupant support loading to suddenly drop off) of 400 pounds force or greater within a short span of rearward deformation. According to Saczalski, this testing should be done using a "torso body-block" device that replicates the upper body weight of a 95th percentile male.

2. Use of FMVSS No. 301, "Fuel System Integrity," To Test Seats

Saczalski petitioned NHTSA to implement a new seat back requirement using the dynamic rear-end crash test

prescribed in the latest revision of the fuel system integrity test described in FMVSS No. 301. In this test, a stationary vehicle is struck in the rear by a 1,368 kg (3,015 lb) deformable barrier travelling at 80 km/h (50 mph). The barrier overlaps the rear end of the vehicle by 70%.

Saczalski asserted that a dynamic, full vehicle test is needed in addition to the static requirements discussed above. The main purpose of such a test would be to fully assess the safety of children in rear seats who may be exposed to collapsing front seat backs. Saczalski cites in his petition a 2008 study by Children's Hospital of Philadelphia (CHoP).¹³⁵ The study examined risk levels through an epidemiological study of real-world crashes, and found that in a rear-end crash, children seated directly behind a seat back that yielded exhibited about twice the risk of injury as children seated behind a seat back that did not yield. Saczalski has asked for a dynamic test to be run with Hybrid III 95th percentile male dummies (HIII-95M) in the front seats with 12-month-old dummies seated directly behind in forward-facing child restraints.¹³⁶ He recommends a pass/fail limit on front seat back rotation of no more than 25 degrees rearward from its initial seat back orientation. He also recommends that NHTSA impose pass/fail requirements based on dummy measurements within the head, neck, chest, and extremities. This would apply to the HIII-95M and the 12-month-old dummies. Saczalski recommends pass/fail requirements for both dummies equivalent to "their respective NHTSA injury reference levels for the head, neck, chest, and extremities."¹³⁷

Saczalski also suggested that the test be run with 20 kg (44 lb) simulated luggage cases in the trunk area, which he stated could push the rear seat forward. According to Saczalski, such a requirement will guard against injuries due to the intrusion of a rear seat occupied by a child into a yielding front seat back.

¹³³ "Rearward force" means the force against the rear side of an occupant seat, regardless of orientation. For a forward-facing seat, this would mean a force applied in the rearward longitudinal direction, whereas with a rear-facing seat, this would mean a force applied in the forward longitudinal direction.

¹³⁴ Selecting the seat pivot point as the location for the moment measurement reduces the force needed to produce a given moment. Assuming a vertical distance of 535 mm from the H-point to the location of force application and a vertical distance of 595 mm from the seat pivot to the force location results in a 10% reduction in force for the same moment measure about the pivot compared to the H-point.

¹³⁵ Jermakian JS, Arbogast KB, Durban DR, Kallan NJ (2008), Injury risk for children in rear impacts: role of the front seat occupant, 52nd AAAM Annual Conference, Annals of Advances in Automotive Medicine, October 2008.

¹³⁶ The 12-month-old dummy, known as the (CRABI) dummy, is already integrated into subpart P of part 572.

¹³⁷ Injury reference values recommended by NHTSA for the CRABI and HIII-95M, when used to assess air bags, are contained within: Eppinger R, Sun E, Kuppa S, Saul R (2000), Supplement: development of improved injury criteria for the assessment of advanced automotive restraint systems-II, National Highway Traffic Safety Administration, March 2000.

¹²⁸ 49 U.S.C. 30162(a)(1); 49 CFR 552.6.

¹²⁹ 49 CFR 552.8; see also 49 U.S.C. 30162(c).

¹³⁰ 49 U.S.C. 30111(a).

¹³¹ 49 CFR 552.9; see also 49 U.S.C. 30162(c).

¹³² 49 CFR 552.10.

3. FMVSS No. 213, Child Restraint Seats

Saczalski asked NHTSA to include a rear impact requirement for child restraint systems within FMVSS No. 213, which does not contain such requirements. He suggested using the same test and performance criteria as the European standard for child restraint systems, United Nations Economic Commission for Europe Regulation 44 (ECE R.44),¹³⁸ but run at a higher test speed of 40 km/h.¹³⁹ The ECE standard contains requirements for various sized child dummies subjected to a 30 km/h rear impact. Like FMVSS No. 213, the European standard also includes requirements for a frontal impact, but those are not discussed in Saczalski's petition.

C. Petition of Alan Cantor

In a letter dated September 28, 2015, Alan Cantor of ARCCA petitioned NHTSA to revise FMVSS No. 207 by implementing new requirements for seat back strength involving a crash test with an ATD. He also requested that NHTSA reinstate a provision to FMVSS No. 209, "Seat belt assemblies," that he states would prevent occupant injuries in rear impacts.

1. Use of FMVSS No. 301, "Fuel System Integrity," To Upgrade FMVSS No. 207

Cantor requested a dynamic test to assess seat back loading by occupants of different sizes. He envisioned the use of the current FMVSS No. 301 procedure with Hybrid III 50th Percentile male dummies (HIII-50M). Additionally, Cantor requested that a test be performed at oblique impact angles to assess the potential of excessive seat back twisting that Cantor stated could facilitate rearward ramping and an out-of-position orientation of the occupant in the seat during subsequent impacts. A full vehicle test was also envisioned, but alternatively Cantor suggested that a sled test could be run using an impulse equivalent to that produced by the dynamic procedure. Cantor did not request a change to the static requirements of FMVSS No. 207, nor did he call for the use of rear seated child dummies in the dynamic, full vehicle test. Under Cantor's rationale, the test with the HIII-50M dummies would serve as the basis for a new set of FMVSS requirements. The requirements would apply to front seats

as well as rear "bucket" seats, such as those within minivans, that he suggests may also have a propensity to collapse.

2. Rearward Rotation Limit and Structural Symmetry Requirement

Cantor recommended a pass/fail limit for rearward seat back rotation of no more than 15 degrees from its initial seat back orientation (measured in real-time during the test). For the oblique impacts, there would be a requirement that the differential rearward deflection of the seat back is no more than 10 degrees between the left and right sides. According to Cantor, this will assure structural symmetry of the seat to prevent excess twisting of the seat under load, which can lead to ramping or out-of-position orientation of an occupant if subsequent impacts occur.

3. Additional Dynamic Testing and NCAP Implementation

Cantor also requested another dynamic test to assess seat back loading to be performed with a Hybrid III 95th male dummy (HIII-95M) and to incorporate results into the NCAP star rating for the vehicle. This test would be performed in a manner similar to the current FMVSS No. 301 procedure, but at an impact speed of the barrier that is 8 km/h (5 mph) faster than the current FMVSS No. 301 speed. He argues that it would serve to inform consumers on whether a given vehicle seat back has the propensity to collapse. Cantor states it would also provide incentive to manufacturers to develop enhancements to rear impact crash protection.

Cantor recommended the same pass/fail limit for rearward seat back rotation for the NCAP tests as he recommended for the FMVSS No. 301 impacts. Cantor did not specify how the results would be factored into the NCAP rating.

4. FMVSS No. 209, Seat Belt Assemblies

Cantor requested that NHTSA restore S4.1(b), which NHTSA deleted in a final rule published in 1999.¹⁴⁰ This provision required the lap belt portion of the seat belt be designed to remain on the pelvis under all crash conditions. Cantor states that restoring S4.1(b) would assure that vehicles will be equipped with seat belt technologies that prevent ramping in rear impact crashes.

D. NHTSA's Analysis of Saczalski and Cantor Petitions

NHTSA is denying in part the Saczalski and Cantor petitions as they pertain to the following recommendations: Cantor's requested

amendments to NCAP and request to restore anti-ramping language to FMVSS No. 209, and Saczalski's requests to add a rear impact test to FMVSS No. 213 and a cargo test requirement to FMVSS No. 207. As part of this rulemaking effort to update FMVSS No. 207 and to facilitate informed comment, NHTSA is granting the petitions in part with regard to updating the strength requirement in FMVSS No. 207, the structural symmetry requirement requested by Cantor, and the possible development of new test procedures for seat back strength under FMVSS No. 207. NHTSA notes that, at this time, insufficient information has been provided to support the petitioners' suggested specific strength levels or test designs, but NHTSA seeks comment on this issue. The remainder of this section provides NHTSA's opinions on the recommendations in the petitions to provide context and information to support informed comment on an update to FMVSS No. 207. Later in this document, we discuss NHTSA's current thinking on an integrated and unified approach to rear impact protection and seeks comment on that approach.

1. Analysis of Data and Research Provided by Cantor and Saczalski Regarding Safety Need

In the past, NHTSA and petitioners on this topic have not been able to demonstrate that a safety need exists regarding the seat back strength requirement in FMVSS No. 207.¹⁴¹ In their petitions, Saczalski and Cantor both implied that factors related to child safety have given rise to a new safety need for stronger seat backs. NHTSA acknowledges that there is evidence that, in some crash scenarios, seat back deformation or rearward movement due to component failure can lead to injury, but NHTSA believes that the petitioners have not provided sufficient supporting data to demonstrate a worsening safety need related to seat back strength compared to NHTSA's past determination. NHTSA discusses the materials provided by petitioners below and seeks comment on this question.

In support of his petition, Saczalski references the CHoP study. NHTSA agrees with Saczalski that the 2008 CHoP study is useful for understanding the levels of risk to which children in rear seats are exposed, but the CHoP study did not determine that this risk was associated with front seat back strength. The information submitted by petitioners did not provide new or pertinent information to build upon the

¹³⁸ Uniform Provisions Concerning the Approval of Restraining Devices for Child Occupants of Power-Driven Vehicles, (Child Restraint Systems), ECE R.44, E/ECE/324/Rev (unece.org).

¹³⁹ UNECE Regulation No. 44, Uniform provisions concerning the approval of restraining devices for child occupants of power-driven vehicles ("Child Restraint System").

¹⁴⁰ 64 FR 27203 (May 19, 1999).

¹⁴¹ See discussion in section III.B.10 of this document and 69 FR 67068 (Nov. 16, 2004).

CHoP study or further demonstrate a safety need.

Saczalski provided NHTSA with his own publications, including one from the 2014 annual meeting of the International Federation of Automotive Engineering Societies (FISITA).¹⁴² This paper described 13 cases of infant fatalities in rear-end crashes in which the infant was seated behind an occupied front seat. However, as with the CHoP study, Saczalski's paper did not provide additional insight on whether the fatalities were associated with front seat back strength. Moreover, because most of the fatalities occurred in vehicles that were built prior to MY 2000, the cases he cites may not reflect the lower level of risk associated with new vehicles. Since then, improvements have been made to FMVSS Nos. 202a, 301, and other standards that may impact the conclusions reached in the CHoP study and Saczalski's paper. In addition, changes in manufacturer's design targets and the more frequent use

of dual recliners may have resulted in seat designs that are generally stronger.

Saczalski also provided the results of several sled tests with crash test dummies, which he argues demonstrate that the seat back of a front-seated adult can collapse on a child sitting in the rear in a 48 km/h rear-end impact. While these tests may illustrate the potential consequences of seat back deformation or failure, they simply reinforce a finding of which NHTSA is already aware: that it is possible for some seat backs to yield in a severe rear-end impact in a way that could potentially injure occupants.

Finally, according to Saczalski, fatality counts within the Fatal Accident Reporting System (FARS) from 2001–2011 show that fatalities in infants (0–12 months) have doubled since 1990–2000, from which he infers a worsening safety need.

NHTSA believes that the conclusion Saczalski draws from this data is inaccurate. NHTSA has queried FARS

for infant and adolescent fatalities where the child was known to be restrained in a rear seat, non-ejected, in a non-rollover, rear impact. Over the last 15 years captured in the study, the average fatality rate is 7.7 per year, ranging from 1 to 15 per year (See Figure V.1). There is a great deal of scatter and no clear fatality trend over time. If the data are expanded to all children up to an age of 5, the average fatality rate is 31.9 per year, ranging from 22 to 60 (See Figure V.2). Again, there is no clear trend in the data. The data for the 0–5-year-olds have less scatter than that for the 0–12-month-olds. This latest data is not supportive of a claim that there is a fatality risk that continues to increase. NHTSA notes that these data provide an estimate of all-cause mortality and therefore provide no insights into whether front row seat performance contributed to the child's death.

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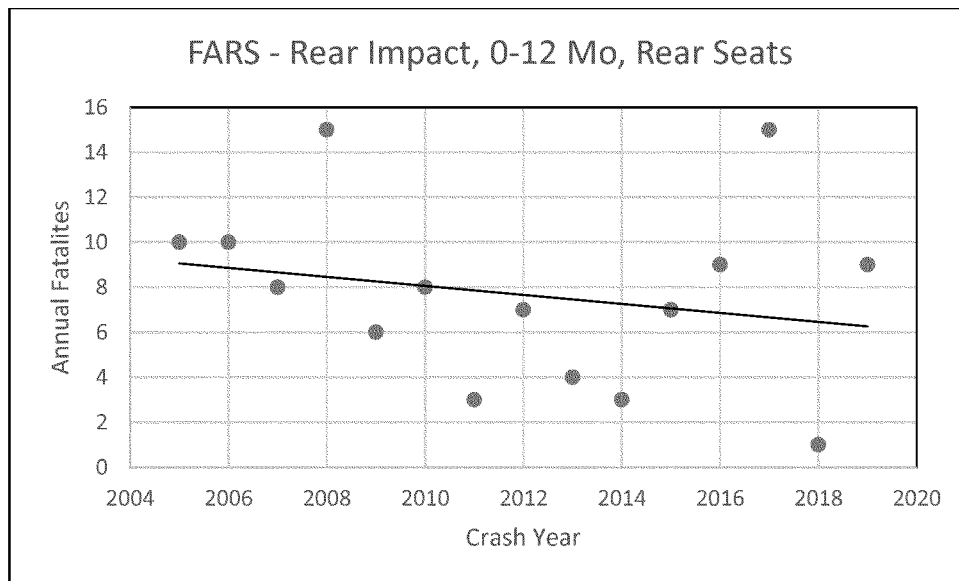


Figure V.1: NHTSA's finding of FARS reported infant annual fatalities in a rear seat, non-ejected, in a non-rollover, rear impact

¹⁴² Saczalski K, Pozzi M, Burton J, Saczalski T (2014), Experimental and field accident analysis

study of factors effecting child occupant injury risk

and safety in rear impacts, 2014 Annual FISITA Meeting, Paper No. F2014–AST–013, 2014.

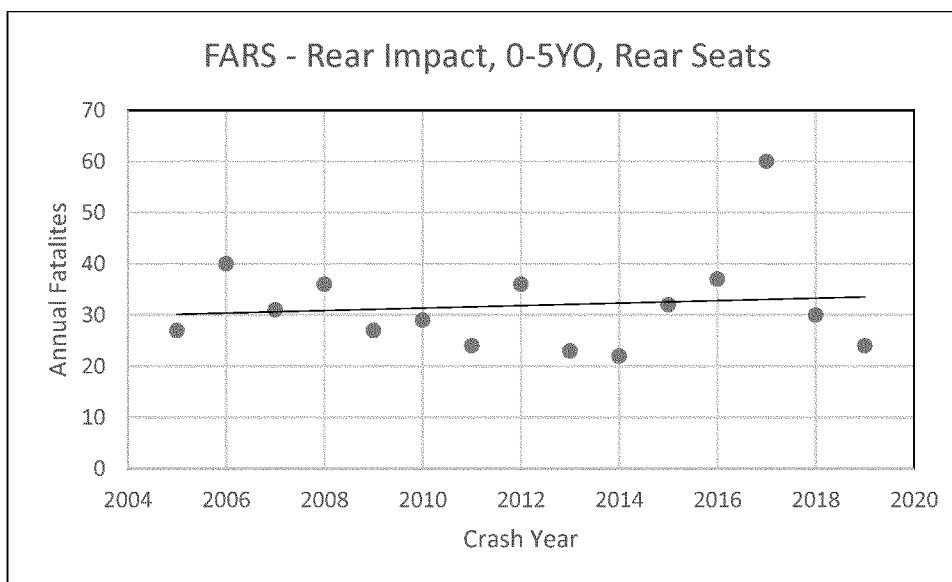


Figure V.2: NHTSA's finding of FARS reported adolescent annual fatalities in a rear seat, non-ejected, in a non-rollover, rear impact

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2. Rear Structure Intrusion

Saczalski states in his petition that there are phenomena other than front seat back failure and ramping that create risk to children in rear seats. He notes that rear-seated children in rear-end collisions are often injured by poorly designed rear structures that push children forward into the front seat back. He supports this claim using a 2008 study of NASS-CDS data, which looked at the risk to children seriously injured in rear impacts and indicated that injury caused by intrusion from the rear seating area is a larger problem than deforming front seat.¹⁴³ NHTSA appreciates the analysis done by Saczalski and agrees that there is evidence to support a finding that there is a safety risk to children in the rear seat in a rear impact crash. NHTSA also agrees that this risk involves more factors than just front seat back collapse, such as rear structure intrusion. NHTSA seeks comment on the significance of the intrusion issue in the overall context of rear impacts and whether a practicable solution to this issue exists. NHTSA notes that the 2006 revision to FMVSS No. 301, *Fuel system integrity*, which would not have been in place for the model years of the vehicles Saczalski studied, may have induced changes to rear vehicle structures that mitigated the intrusion problem.

¹⁴³ Viano D, Parenteau C (2008), Field Accident Data Analysis of 2nd Row Children and Individual Case Reviews, SAE Technical Paper 2008-01-1851.

NHTSA wishes to emphasize that Saczalski and Cantor do not appear to have considered whether increasing the requirement for seat strength would have any unintended negative safety impacts. This document discusses at length the literature, such as the 1997 Prasad study, which suggest a possible association between significantly stiffer seats and increased incidence of whiplash and other non-contact injuries. NHTSA seeks comment on these potential negative safety impacts, which the agency believes is critical to understanding the overall safety problem in occupant protection in rear impact and whether changes to FMVSS No. 207 will meet a need for safety.

3. Cost and Practicability

Cantor argues in his petition that upgrading seat back strength would not impose a major cost on manufacturers, claiming that many modern vehicles have stronger seats compared to those in 1989 even in absence of a change to FMVSS No. 207. To support this claim, he cites his own testing, in which he claims to have studied newer vehicles using the FMVSS No. 207 procedure and found that they "tested out" somewhere between 2.5 to 10 times the current compliance level (373 Nm). Based on his own testing, he concludes that it would not be cost prohibitive for original equipment manufacturers that use less strong seats to increase seat back strength, and he argues that an upgrade to the standard is needed to assure all seat backs have a minimum strength.

NHTSA does not believe that Cantor's examples of actual seat back strength in the modern vehicles provide new or better data over what was known to NHTSA in 2004, when NHTSA terminated a rulemaking to increase seat back strength. The variance seen in Cantor's test results is consistent with that seen in the Severy data from the 1960s. It was also seen in data in a 1998 report prepared by NHTSA.¹⁴⁴

NHTSA agrees that increasing seat back strength is technically feasible. Any rulemaking action to change the seat back strength requirement, however, must be practicable, meet the need for motor vehicle safety, and be stated in objective terms. As part of this analysis, a rulemaking action would assess whether this would be a cost-effective way to increase overall motor vehicle safety.

E. Assessment of the Specific Recommendations by Cantor and Saczalski

In this section, NHTSA presents its assessment of specific matters petitioned for by Cantor and Saczalski. The first section discusses the matters on which NHTSA is granting the petitions and initiating rulemaking and provides NHTSA's opinions on those specific petitioned-for issues to facilitate informed comment. The second section covers the issues on which NHTSA is

¹⁴⁴ Molino L (1998), Determination of Moment-Deflection Characteristics of Automobile Seat Backs, NHTSA, November 25, 1998. See *Regulations.gov*, Docket document no. NHTSA-1998-4064-0026.

denying in part and provides the reasons for denial as required in 49 CFR part 552.

1. Matters on Which NHTSA Is Granting the Petitions

(a) Amend FMVSS No. 207 To Increase Seat Back Moment Requirement and Alter Load Application Method

Saczalski asked NHTSA to raise the torque requirement about the seat back pivot to 2,260 Nm (20,000 in-lb). This would raise the current FMVSS No. 207 requirement of 373 Nm (3,300 in-lb) by a factor of about 5.4 and by a factor of

about 3.1 above the FMVSS No. 202a requirement of 654 Nm (5,788 in-lb). In addition, Saczalski recommended that the load be applied through a “body block” representing a 95th percentile male, rather than to the upper member of the seat frame. NHTSA is granting the petition on the torque requirement and static test design issues in part, is initiating rulemaking to consider whether to upgrade FMVSS No. 207 on these topics and seeks comment on the analysis below.

Saczalski did not explain why a torque limit of 2,260 Nm was preferable to other limits that NHTSA has

considered previously (See table V.1) and would not result in the potential safety harms discussed above. Furthermore, Saczalski does not provide a compelling reason why a body block test would be the most effective way to test rearward moment strength statically. NHTSA notes that Saczalski is also requesting a dynamic requirement, and he did not explain why amending the FMVSS to use a body block for the static test would be necessary if NHTSA were to accept his recommendation to incorporate a dynamic test with a more biofidelic dummy.

TABLE V.1—PAST RECOMMENDATIONS FOR REVISING THE QUASI-STATIC SEAT BACK TORQUE REQUIREMENT IN FMVSS No. 207

Test reference	Current standard	Recommendations				
	FMVSS No. 207 (since 1968)	Severy (1969)	NHTSA (1974 NPRM)	Saczalski (1989 petition)	Viano ¹ (2003)	Saczalski (2014 petition)
H-point moment, min	373 Nm (3,300 in-lb).	11,300 Nm (100,000 in-lb).	373 Nm (3,300 in-lb).	6327 Nm (56,000 in-lb).	1700 Nm (15,000 in-lb).	2260 Nm (20,000 in-lb).
Seat back requirement	“withstand” torque	.....	.....	“withstand” torque	specifics given below.	“withstand” torque.
Seat back rotation, max .....	.....	10 deg	40 deg.	.....	2000 N over 10° rot.	1780 N “sudden”.
Load drop limit, max .....	.....	.....	.....	.....	thru HIII–50M lower torso.	thru HIII–95M body block.
Load application	upper member of seat back frame.	upper member of seat back frame.	upper member of seat back frame.	upper member of seat back frame.	25 kN/m.	.....
Seat stiffness, max .....	.....	.....	.....	.....	2.0 deg/kN.	.....
Frame compliance, max .....	.....	.....	.....	.....	7.7 kN.	.....
Load limit, min .....	.....	.....	.....	.....	15 deg.	.....
Seat twist, max .....	.....	.....	.....	.....	50 mm.	.....
Dummy H-point upward displ., max (design target only).	.....	.....	.....	.....	.....	.....

¹ Viano's quasi-static test equipment and procedure represents more of an alternate test method than a simple revision to FMVSS No. 207. Details are described in Viano (2003), “Resolving the debate between rigid (stiff) and yielding seats: seat performance criteria for rear crash safety,” cited earlier.

Saczalski also suggested that NHTSA impose a requirement so that, when tested to failure, there is no sudden drop in load of 1,780 N (400 lb-f) or greater within a short span. NHTSA is also granting the petition on this issue in part. NHTSA is aware of others who have recommended similar changes in the past to assure a gradual deformation of seat back components. NHTSA notes that Saczalski did not suggest an objective and practicable test procedure. Depending on how a test is carried out, a sudden load drop in a quasi-static test may not necessarily indicate an unsafe design. Even a drop to zero is not necessarily problematic if a slight perturbation in backward movement brings the load back up. NHTSA seeks comment on this requirement. What safety benefits could be obtained from such a requirement? Is there a

practicable and objective test procedure that can be developed?

(b) Structural Symmetry

To assure structural symmetry of the seat, Cantor petitioned for a pass/fail limit for rearward seat back rotation of no more than 15 degrees from its initial seat back orientation (measured in real-time during the test) and 10 degrees of differential rearward deflection between the left and right sides for oblique impacts. NHTSA is granting in part on this issue and seeks comment. In particular, does the increased prevalence of dual recliners in the fleet remove any safety benefits that may be gained from a structural symmetry requirement? If not, what test procedures and anti-twisting standards should NHTSA consider and why? NHTSA notes that Cantor does not provide data or evidence supporting his

proposed pass/fail limit or deflection amounts proposed.

(c) Dynamic Rear Impact Test Design

Both Saczalski and Cantor petitioned NHTSA to add a new dynamic crash test to FMVSS No. 207, which would test seat back performance using a 1,368 kg (3,015 lb) deformable barrier that strikes the rear of the vehicle at 80 km/h.¹⁴⁵ NHTSA is granting the petitions in part on this issue and seeks comment on the analysis below. NHTSA has previously considered, in the 1974 NPRM, adding a new dynamic requirement of the type recommended by Saczalski and Cantor. Table V.2 shows the various dynamic rear impact tests that have been proposed and considered in the past.

¹⁴⁵ This barrier test would be similar to the barrier test that NHTSA included in its latest revision of the FMVSS No. 301; see 68 FR 67068 (Dec. 1, 2003).

TABLE V.2—PAST RECOMMENDATIONS FOR A DYNAMIC SEAT BACK STRENGTH REQUIREMENT

	Nash 1974	NPRM 1974	Saczalski 1989 ¹	Cantor 1999 ²	Viano 2002	Saczalski 2015 ⁴	Cantor 2015
Test type	FMVSS No. 301 (1974).	FMVSS No. 301 (1974).	FMVSS No. 301 (1974).	FMVSS No. 301 (1974).	Sled test	FMVSS No. 301 (2003).	FMVSS No. 301 (2003).
Impactor speed ³ ..	48 km/h	48 km/h	48 km/h	48 km/h	30–36 km/h ³	80 km/h	80 km/h.
Barrier specs	1814 kg rigid	1814 kg rigid	1814 kg rigid	1814 kg rigid .....	.....	1368 kg deformable.	1368 kg deformable.
Impact angle	+/- 30 deg	0 deg	0 deg	0 deg	0 deg	0 deg	+/- 30 deg.
Impact overlap	100%	100%	100%	100%	100%	70%	70%.
Dummy size	HII–50M	HII–50M	HIII–95M	50M2	HIII–50M	HIII–95M	HIII–50M.
Rear seat dummy .....	.....	.....	.....	.....	.....	CRABI–12M in FFCS.	.....
Seat back rotation, max.	No fail	40 deg	40 deg	15 deg	35 deg	25 deg	15 deg.
Seat back twist, max. ....	.....	.....	.....	.....	8 deg .....	.....	10 deg.
Head, HIC .....	.....	.....	.....	unspecified value	.....	CRABI 390 | HIII 700.	.....
Head/neck extension.	45 deg .....	.....	.....	.....	45 deg	n/a	10 deg.
Neck moment	45 deg .....	.....	.....	unspecified value	20 Nm	CRABI 17 Nm | HIII 179 Nm.	.....
Neck x-displacement. ....	.....	.....	.....	.....	60 mm	n/a .....	.....
Neck y-displacement. ....	.....	.....	.....	.....	30 mm	n/a .....	.....
Chest deflection ...	.....	.....	.....	.....	.....	CRABI 30 mm | HIII 70 mm.	.....
Femur load .....	.....	.....	.....	.....	.....	CRABI n/a | HIII 12.7 kN.	.....

¹ Contained within Saczalski's comments to NHTSA's 1989 Request for Comments. See *Regulations.gov*, Docket Document No. NHTSA–1996–1817–0024.

² Contained within Cantor's presentation to NHTSA on November 18, 1999. Cantor recommended the use of a dummy designed with an articulated pelvis. See *Regulations.gov*, Docket Document No. NHTSA–1998–4064–0030 for a copy of the presentation.

³ Except for the Viano (2003) recommendation, the impactor speed for each recommendation represents the speed of the moving barrier when it strikes the stationary test vehicle. The Delta-V experienced by the test vehicle is about half of the impactor speed, depending on the mass of the vehicle. For the Viano recommendation, the 30–36 km/h impulse for the sled test corresponds to the Delta-V range observed in FMVSS No. 301 rigid barrier tests run at 54.2 km/h (33.2 mph).

⁴ Saczalski's 2015 petition recommended use of "NHTSA injury reference values for the head, neck, chest, and extremities" for the HII–95 seated in the front and the CRABI seated in the rear. For convenience, we have entered IARVs for the CRABI "C" and the HIII–95M "H" in the table above that correspond to those that NHTSA recommended in Eppinger, 2000 (cited earlier)

(1) The Saczalski Petition

In his petition, Saczalski states that a dynamic test is needed, but he does not explain the reason that he recommends using a deformable barrier travelling at 80 km/h, a HIII–95M in the front seat, and a rear seated CRABI in a forward-facing child restraint.

NHTSA believes that his recommendations are intended to represent the crash Saczalski studied in his 2014 FISITA paper, a real-world crash that involved an infant fatality in the rear seat.¹⁴⁶ For the paper, Saczalski reconstructed the crash by staging a crash test on the same vehicle model (a 2004 Chrysler minivan) with a CRABI dummy in the child restraint and an HIII–95M in the front seat. A crash pulse generating a ΔV of 40 km/h was applied. The test resulted in seat back yielding and head-to-head contact between the two dummies. This produced a head injury criteria (HIC) of 3192 in the CRABI dummy, which is well above the reference value of HIC = 390.

¹⁴⁶ The crash Saczalski describes in a forward-facing child restraint, and a rearward ΔV of 40 km/h. (Note: ΔV is the change in velocity of a vehicle due to a crash or impulse. In this instance, the 80 km/h barrier impact with a stationary vehicle resulted in a ΔV of 40 km/h.)

Saczalski then re-ran the test but replaced the minivan's standard front seat with a stronger seat removed from a 2004 Chrysler convertible. This was a belt integrated seat design, where the torso belt anchorage was attached to the seat back. For such a seat design, the seat back attachment to the seat base must be much stronger than a typical design because it must be capable of sustaining the seat belt loading from frontal crashes. According to Saczalski, the replacement seat did not yield significantly in the crash, resulting in no head-to-head contact and a very low (HIC=36) HIC value of the CRABI dummy. In addition, Saczalski presented a process by which he was able to develop a predictive equation for determining HIC in the CRABI dummy as a function of the front seat occupant mass and the impulse of the crash (ΔV), which involved running slight variations of the above-described scenario multiple times using the same model of 2004 Chrysler minivan. Based on Saczalski's findings, to avoid occupant to occupant interaction in the particular crash he studied, the seat back of the front seat would need to be strong enough to not excessively yield in a crash that involves a ΔV of 40 km/h when the seat is occupied by a HIII–95M dummy.

Saczalski's analysis in his FISITA paper is informative, but insufficient to support a final rule implementing the test parameters utilized and suggested in his petition. First, it is based on tests of only a single vehicle model (a 2004 Chrysler minivan), two seat designs, and a single child restraint system (CRS) model. Additional data from a wider variety of vehicles, seats, and CRS models would be needed to determine whether Saczalski's findings in his FISITA paper are consistent across the U.S. fleet of passenger cars. Of particular concern is the fact that the belt integrated seat design used as an acceptably performing seat is relatively rare in the fleet (primarily used in convertibles) and designed for seat belt loading in the frontal direction.¹⁴⁷

Second, the tests use a front seat test dummy, the HIII–95M, which is not a regulated test tool and may not have the full scope of necessary traits for rear impact testing at high speed. In particular, the HIC response generated by the dummy may be of limited value for analyzing the situation in question because the rear part of the dummy's

¹⁴⁷ 2016–2016 estimates put convertible sales at approximately 1.9% in the U.S. Source: <https://www.iseecars.com/most-convertibles-by-state-2017-study>.

head, which contacts the child dummy, is not designed to provide an internal or external biofidelic impact.

Third, the predictive HIC equation on which Saczalski based his recommended test setup does not use adequate statistical methods. It is generated using only five data points, potentially making it insufficiently robust. Moreover, it bases the prediction through two of the more extreme data points, while ignoring the other three. As a result, the predictive function fits the two selected points perfectly, but very poorly fits the others. Finally, because standard regression techniques were not applied, there were no statistical computations of standard errors or other measures of fit, such as R-squared. Given these shortcomings, NHTSA does not believe it could base its selection of test parameters in a new dynamic seat back strength test on Saczalski's data. NHTSA seeks comment on this analysis and whether there is additional supporting data for Saczalski's proposed test design.

(2) The Cantor Petition

Cantor similarly does not provide support for the test parameters he chose in his recommendation for a dynamic rear-impact seat back strength test. He argues that because the impulse created by the 80 km/h barrier is appropriate for the FMVSS No. 301 fuel system integrity standard, it would also be appropriate for setting a minimum seat back requirement. This is a generalization that requires further justification. Because the minimum requirements for seat back strength and fuel system integrity do not address the same safety concerns, NHTSA believes this is insufficient basis, on its own, to implement this test parameters.

Finally, NHTSA would need to show that any dummy used in a new dynamic test is chosen appropriately. The petitioners suggested the use of a Hybrid III dummy (HIII-95M by Saczalski; HIII-50M by Cantor). As stated, in regard to Saczalski's 2014 FISITA paper, the Hybrid III dummies have significant biofidelity limitations when used for rear impact analysis. NHTSA seeks comment on whether there is evidence showing these limitations are acceptable and would lead to appropriate seat designs if these dummies are chosen for a new dynamic test in FMVSS No. 207.

2. Matters on Which NHTSA Is Denying the Petitions

(a) Incorporate a Cargo Stipulation Into FMVSS No. 207

Saczalski requested that NHTSA amend FMVSS No. 207 to include a

cargo stipulation in a dynamic vehicle test. Saczalski argued that deformation of the rear of the vehicle caused by crash forces could cause loose cargo stored in the rear (or trunk) to be pushed forward into the back of the second row of seats, causing those seats and their occupants to in turn be pushed forward into the back of the front row seats.

NHTSA previously denied a similar request from Cantor in 2004, and Saczalski did not provide additional field data or analysis to support adding specifications for cargo placement.¹⁴⁸ Without further analysis, NHTSA is not considering incorporating a cargo stipulation in FMVSS No. 207 at this time. This decision will allow NHTSA to focus its resources more fully on the aspects of the petitions related to rearward seat back strength.

(b) Amend FMVSS No. 209 To Require That Seat Belts Remain on Pelvis Under All Conditions

Cantor requested NHTSA restore language, previously deleted in 1999, in FMVSS No. 209 requiring that the pelvic restraint portion of both Type-1 and Type-2 seat belts remain on the pelvis under all conditions.¹⁴⁹ NHTSA is denying this request.

Cantor states that restoration of this paragraph will prevent ramping by assuring that manufacturers install a device that keeps the lap belt portion of the seat belt on the pelvis under all crash conditions. According to Cantor, technology that would prevent ramping is already available on the market, including the following: a sliding/cinching latch plate to prevent excess shoulder belt webbing from transitioning to the lap belt portion and causing the lap belt to go slack; an integrated seat in which both lap and shoulder belt anchors are mounted to the seat; and seat belt pretensioners sensitive to rear impacts and designed to work with an integrated seat with a belt configuration as described above.

The agency removed this stipulation from the standard in 1999 because it

¹⁴⁸ Cantor sought inclusion of an unrestrained cargo test for the safety of occupants in the rear seat. 71 FR 70477 (Dec. 5, 2006). 71 FR 70478. NHTSA denied that petition because the incidence of injuries caused by loose luggage was very low and did not warrant an amendment to a Federal safety standard, and Cantor did not provide any field data demonstrating a correlation between cargo intrusion and occupant safety.

¹⁴⁹ The paragraph in question, S4.1(b), read as follows: "4.1(b) Pelvic restraint. A seat belt assembly shall provide pelvic restraint whether or not upper torso restraint is provided, and the pelvic restraint shall be designed to remain on the pelvis under all conditions, including collision or roll-over of the motor vehicle. Pelvic restraint of a Type 2 seat belt assembly that can be used without upper torso restraint shall comply with requirement for Type 1 seat belt assembly in S4.1 to S4.4."

was deemed redundant and unnecessary.¹⁵⁰ FMVSS No. 208, other provisions in FMVSS No. 209, and FMVSS No. 210 contained more specific requirements that collectively have the effect of requiring pelvic restraint and thereby reducing the likelihood of occupants submarining¹⁵¹ during a crash. It was also deemed unenforceable because the regulation did not provide an objective means to determine that a lap belt complied with the requirement and was in fact "designed" to remain on the pelvis. In addition, NHTSA noted that the meaning of the words, "remain on the pelvis," was unclear. Because these conditions and reasons have not changed since that action was taken, NHTSA will not reinstate the requested language.

(c) Add a Rear Impact Test to FMVSS No. 213, Child Restraint Systems

Saczalski requested that NHTSA revise FMVSS No. 213 by including a rear impact requirement for child restraint systems like the one described in ECE Reg. No. 44. Saczalski's only change from Reg. No. 44 is performing the rear impact test at a 40 km/h velocity instead of 30 km/h. Saczalski stated that such a revision is necessary to prevent rear facing child restraint systems (CRSs) from folding rearward when they become trapped between a rear seat and a yielding front seat back during a rear impact crash.¹⁵²

NHTSA is denying this request for change. NHTSA considered adopting ECE Reg. No. 44's rear impact test into FMVSS No. 213 in the past.¹⁵³ In a 2002 ANPRM, NHTSA discussed agency tests evaluating ECE Reg. No. 44's rear impact test conducted at 30 km/h (18.6 miles per hour), with peak deceleration between 14 g and 21 g over a 70-millisecond time period. The tests were dynamic sled testing performed by NHTSA in research on FMVSS No. 202 and FMVSS No. 207, where NHTSA added a rear-facing child restraint with a 12-month-old test dummy to a 1999 Dodge Intrepid vehicle seat. One test, simulating a dynamic FMVSS No. 202

¹⁵⁰ 64 FR 27203 (May 19, 1999).

¹⁵¹ "Submarining" refers to the tendency for a restrained occupant to slide forward feet first under the lap belt during a vehicle crash, which could result in serious abdominal, pelvic, and spinal injuries.

¹⁵² This condition was highlighted in Saczalski's 2014 FISITA paper.

¹⁵³ NHTSA analyzed this issue in a rulemaking amending FMVSS No. 213 pursuant to the Transportation Recall Enhancement, Accountability and Document Act (TREAD Act), November 1, 2000, Public Law 106-414, 114 Stat. 1800. The agency requested comments on the merits of incorporating the rear impact test of ECE Reg. No. 44 into FMVSS No. 213 (ANPRM; 67 FR 21836, 21851 (May 1, 2002)).

condition, was conducted at approximately 17.5 km/h (11 mph). The other two tests were conducted at approximately 30.5 km/h (19 mph). In all of the tests the 12-month-old dummy in the rear-facing child restraint was able to easily meet the injury criteria of FMVSS No. 208, *i.e.* was below the threshold for injury. After examining these data, comments to the ANPRM, and data showing that fatalities for children in rear impact crashes constitute a much smaller percentage of the total than other crash modes, NHTSA decided to focus its resources on developing a side impact test and not a rear impact test.¹⁵⁴

NHTSA disagrees with Saczalski that there is a need to adopt a 40 km/h rearward impact test based on ECE Reg. No. 44. NHTSA does not believe adopting such a rear impact test is warranted for a number of reasons. First, rear impact fatalities among children restrained in CRSs are generally in very severe crashes that result in significant passenger compartment intrusion into the rear seating area. However, the ECE Reg. No. 44 sled test requested by the petitioner does not simulate such intrusion into the seating area. Second, the ECE test protocol does not evaluate the circumstance about which Saczalski is concerned. The rear impact test in ECE Reg. No. 44 does not have a simulated front seat and therefore does not replicate the crash scenario the petitioner seeks to evaluate. The standard seat assembly in FMVSS No. 213 also does not include a simulated front seat, and it is yet to be determined if a representative front seat could be designed and whether it could be made to collapse in a compliance test in a repeatable and reproducible manner.

Finally, the petitioner provides no information about a practicable countermeasure that CRSs can provide that would prevent injuries and fatalities if there is a front seat collapse and/or intrusion into the rear seating area. NHTSA undertakes rulemakings on FMVSS No. 213 weighing various principles and considerations, in addition to the considerations and requirements for FMVSS specified by the Safety Act, statutory mandates, Executive Order (E.O.) 12866,¹⁵⁵ and other requirements for agency

rulemaking. In making regulatory decisions on possible enhancements to FMVSS No. 213, NHTSA considers the consumer acceptance of cost increases to an already highly effective item of safety equipment and whether an amendment could potentially have an adverse effect on the sales of this product. The net effect on safety could be negative if CRSs are not used as much because of cost increases. NHTSA also weighs the effects of an amendment on the ease of correctly using child restraints. We consider whether an amendment may cause child restraints to become overly complex or frustrating for caregivers, resulting in increased misuse or nonuse of the restraints. The petitioner did not provide information that would enable NHTSA to assess these practicability issues.

Based on the forgoing, NHTSA is denying Saczalski's request to amend FMVSS No. 213.

(d) NCAP Implementation

Cantor requested that NHTSA implement a rear-impact crash test into the 5-star rating as part of his dual FMVSS/NCAP approach. NHTSA's regulations at 49 CFR 552.3 state that a petition for rulemaking may be filed respecting the issuance, amendment or revocation of a motor vehicle safety standard. NCAP is not a motor vehicle safety standard. Therefore, a petition for rulemaking is not the appropriate mechanism for requests to amend the NCAP program. NHTSA therefore denies Cantor's petition for rulemaking. After NHTSA's planned research is completed, however, we will be in a better position to consider how best to implement any necessary changes both in our standards and/or NCAP.

F. Conclusion of NHTSA Assessment of Cantor and Saczalski Petitions

In accordance with 49 CFR part 552 and after careful consideration, Cantor's request to restore pelvic restraint language to FMVSS No. 209, and Saczalski's request to add a rear impact test to FMVSS No. 213 and to add a cargo test and requirement to FMVSS No. 207 are denied based on the information presented above. This ANPRM provides the required notification of the denial. As part of our effort to facilitate further research and data development to support a potential rulemaking to updated FMVSS No. 207, NHTSA grants in part both petitions regarding updating the moment strength requirement in FMVSS No. 207 and the development of updated static and dynamic test procedures for seat back strength, and Cantor's petitioned-for request on structural symmetry. NHTSA

seeks comment on the issues discussed above.

G. Center for Auto Safety (CAS) Petition

On March 9, 2016, CAS petitioned NHTSA to amend FMVSS No. 208 and FMVSS No. 213 to require additional warnings instructing parents to place children in rear seating positions behind unoccupied front seats, if possible, or behind the lightest front seat occupant.

CAS requested that FMVSS No. 208, S4.5.1(f), be amended so that the vehicle owner's manuals be required to include the following language (or similar):

"If possible, Children Should Be Placed in Rear Seating Positions Behind Unoccupied Front Seats. In Rear-End Crashes, the Backs of Occupied Front Seats Are Prone to Collapse Under the Weight of Their Occupants. If This Occurs, the Seat Backs and Their Occupants Can Strike Children in Rear Seats and Cause Severe or Fatal Injuries."

CAS also requested that the label found at FMVSS No. 213, Figure 10, be amended to include the statement "Place behind an unoccupied front seat where possible."

H. Analysis of CAS Petition

CAS requested that NHTSA add warning statements in the owner's manual and on CRS labels to warn parents to "Place behind an unoccupied front seat where possible." Currently, the CRS label warns of the potential injury that could result from placing a CRS in front of an air bag but does not make any statement relating to where else in the vehicle the CRS should not be placed. Moreover, the CRS label instructs that "The back seat is the safest place for children 12 and under."¹⁵⁶

CAS does not provide analysis demonstrating a net benefit to placing the child in a specific rear seat. Long established data show that the rear seat is the safest place for children under the age of 13.¹⁵⁷ Published NHTSA data shows that rear seats are 25–75 percent more effective in reducing fatalities (compared to front seats) for children 0–12 years old.¹⁵⁸ However, the overall risk to CRS-seated children in each rear position depends on many factors other than front seat occupancy. These factors may include which side of the vehicle

¹⁵⁴ NHTSA withdrew the rulemaking in a final rule, 68 FR 37620, 37624 (June 24, 2003). *See also* Report to Congress, "Child Restraint Systems, Transportation Recall Enhancement, Accountability and Document Act," February 2004. [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/tread.pdf](https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/tread.pdf).

¹⁵⁵ E.O. 12866, "Regulatory Planning and Review," September 30, 1993, as amended by E.O. 14094.

¹⁵⁶ FMVSS No. 213, Figure 10.

¹⁵⁷ Braver, ER et al. Seating positions and children's risk of dying in motor vehicle crashes. *Inj Prev.* 1998;4:181–187. Durbin, DR et al. Effects of seating position and appropriate restraint use on the risk of injury to children in motor vehicle crashes. *Pediatrics.* 2005;115:e305–e309.

¹⁵⁸ Kuppa, S et al. Rear Seat Occupant Protection in Frontal Crashes. 2005 Enhanced Safety of Vehicles Conference, Paper No. 05-0212.

is struck in a side impact (and where the CRS is placed in relation to that impact) and the risks involved in more common frontal impacts. CAS fails to provide sufficient data or other information to conclude that the warning recommended in its petition would have any net benefit.

By contrast, there may be unintended safety harms that such a label could generate. The suggested label could dilute the message about the importance of placing children in the rear seat. It could be read by some consumers as inconsistent with the label required by Figure 10 of FMVSS No. 213 that the rear seat is the safest place for children aged 12 and under. Such inconsistency may confuse them and reduce the efficacy of the current CRS label. The label could lead some caregivers to install the child restraint system in a front seating position rather than a rear seating position to avoid rear proximity to an occupied front seat. This outcome could have severe consequences if the rear-facing CRS were positioned in front of a deploying air bag. Another unsafe outcome of such confusion could be some caregivers deciding not to use a CRS at all with their child when the CRS cannot be placed behind an unoccupied front seat. CAS did not provide any assessment of the risk of unintended consequences related to the petition for a label. The guidance recommended by CAS may result in the continual removal and reinstallation of a CRS by parents, depending on front seat occupancy, as they decide which seating position is safer. Such actions could lead to fatigue, with some caregivers eventually ignoring the instruction. Not only would that undermine the label's purpose, but NHTSA is also concerned that caregivers may start to ignore other instructions and warnings on the label, such as the warning on the label required by Figure 10 not to place the CRS on the front seat with an air bag. Such a warning is crucial to the safety of the child and must be always followed.

Finally, NHTSA rejects CAS's request to add language to FMVSS No. 208, S4.5.1(f) and therefore required in owner's manuals, stating "If possible, Children Should Be Placed in Rear Seating Positions Behind Unoccupied Front Seats. In Rear-End Crashes, the Backs of Occupied Front Seats Are Prone to Collapse Under the Weight of Their Occupants. If This Occurs, the Seat Backs and Their Occupants Can Strike Children in Rear Seats and Cause Severe or Fatal Injuries." We are denying this request for the same reasons discussed above, namely that

CAS has not provided supporting information demonstrating the benefit of the change and has not provided analysis of unintended consequences that the amendment may cause. We also emphasize that this language proposed for the owner's manual, by focusing even more on the risk of seat back collapse than the language proposed for the label, has added potential to cause confusion beyond the language petitioned for the label. Therefore, NHTSA will not incorporate the requested amendment.

For these reasons, NHTSA does not believe adopting CAS's recommendation to change the CRS label or amend FMVSS No. 208, S4.5.1(f) would be appropriate. The agency continues to promote the message that the rear seat is the safest place for children. In accordance with 49 CFR part 552 and after careful consideration, the CAS petition for a labeling requirement to be added to FMVSS No. 213 and to amend FMVSS No. 208 is denied based on the information presented above. This ANPRM provides the required notification of the denial.

VI. Unified Approach to Rear Impact Protection

A. Introduction

As NHTSA undertakes this process, our main considerations, as always, are safety and the obligations the agency has under the Vehicle Safety Act. IJA requires that we publish this ANPRM to update FMVSS No. 207. Throughout this rulemaking effort, we need to take into account the Safety Act's imperative that FMVSS be practicable, meet the need for motor vehicle safety, and be stated in objective terms. The long-term and ongoing challenge to meeting these goals has been to develop an update to FMVSS No. 207 and rear impact protection in general that effectively balances the tradeoffs to improve overall safety with a reasoned consideration of all factors involved. As far back as 1974, NHTSA understood that there would be advantages in taking a more unified approach to rear impact protection. The 1974 NPRM preamble stated that consolidation of Standards 202 and 207 logically reflects the relationship of the seat and its head restraint and would improve the possibilities of eventually testing the whole seating system with a dynamic test procedure.

In 1992, the agency again signaled that it continued to believe that a unified approach was likely the best approach to rear impact protection. In that report, the agency stated that there are four categories of performance issues

that need to be addressed as part of future changes to FMVSS No. 207. These four categories are: (1) Seating system integrity; (2) Seat energy absorbing capability; (3) Compatibility of a seat and its head restraint; and (4) Seat and seat belt working together. In the 2004 final rule to update FMVSS No. 202, NHTSA again reiterated the ultimate goal of adopting a method of comprehensively evaluating the seating system.

The four rear impact protection categories outlined in 1992 indicate the need to maintain a balance between energy absorbing and stiffness characteristics and the fact that the severity and type of occupant injuries varies with impact velocity in rear collisions. Low-to-moderate velocity crashes represent the majority of rear collisions, and these crashes are responsible for the majority of reported injuries, mainly whiplash. At higher impact velocities the injury risks for the occupant of a seat include bodily impact with vehicular structures, severe thorax, pelvis, and neck injuries, and other risks.¹⁵⁹ Additionally, at higher impact velocities deformation of the seat sufficient to allow interaction between front and rear occupant rows and associated injuries can occur. The debate around FMVSS Nos. 202a and 207 concerns how effective these standards are in mitigating these risks and the inevitable tradeoffs.

NHTSA seeks comment broadly on an update to the FMVSS regarding occupant protection in rear impacts. Even if it has been clear for many years that the ideal approach to rear impact safety would incorporate consideration of both moderate and severe rear impacts, is there a sound scientific basis for a reasonable update to the standards for rear impact protection and are the necessary technical tools available for a sound rulemaking proposal? Can we have a high degree of confidence that any such proposal will be generally beneficial? In the following section, we further analyze, discuss, and seek comment on potential paths forward for an update to rear impact protection required by the FMVSSs, with emphasis on a unified approach.

B. FMVSS No. 207

Generally, the discussion around FMVSS No. 207 has been a narrow focus on seat back strength. However, occupant protection in rear impact involves many other issues. Some, such as Prasad in 1997 and Burnett in 2004,

¹⁵⁹ We note that 2017–2020 CISS data indicates that at all rear impact crash speeds whiplash remains more frequent than any MAIS 2+ injury.

suggested that seat back strength has limited correlation with occupant dynamics prior to seat back failure. Such conclusions, however, were drawn from older designs whose seat strength is much lower than some have proposed for a FMVSS No. 207 upgrade.¹⁶⁰ Nonetheless, in its present form, the standard provides limited guarantees on how an occupant will respond to a rear collision prior to the seat back failing. In fact, the FMVSS No. 202a requirements likely have a greater influence on occupant protection because the majority of rear collisions yield minor or no injuries and occur at relatively low ΔV s. For example, table II.3 shows NHTSA's estimate that in rear collisions, 96% of injuries were MAIS 1–2 and, if ΔV was known, 76% of MAIS 1–2 injuries occurred at ΔV of 30 km/h or less. Therefore, the present scope of FMVSS No. 207 is limited in the sense that it focuses only on the first category of the four seat performance categories for rear impact protection, *i.e.*, seating system integrity.

Furthermore, a very high seat back strength requirement in FMVSS No. 207 would likely result in a seat back with very high stiffness due to the necessary structural reinforcements. Such seats may impose high occupant loading due to rapid acceleration in higher speed rear impacts.¹⁶¹ However, whether such loading is necessarily injurious, the speeds at which such loading may be injurious, and whether the trade-offs between stiffness and injury are inherent or can be compensated for in other design elements, are all matters to be considered. On the other hand, a seat back with very low strength may quickly reach a rotation limit, or fail, at lower rear impact speeds.

In striking this balance, manufacturers have, in general, settled on seat back strength that has increased on average over the decades to many times the value set by FMVSS No. 207.¹⁶² Viano, et al., for example, noted that MY 1990s dual recliner seats had an average peak moment strength of 1,970 Nm while MY 2000s era dual recliner seats had an average peak moment strength of 2,360

Nm.¹⁶³ As noted in the 2019 Edwards study,¹⁶⁴ it appears as if some manufacturers have strived to achieve balance in modern seating systems between low-speed whiplash protection and structural integrity at higher speeds.

Currently, FMVSS No. 207 addresses a segment of the overall rear impact protection issue. In addition, the regulated seat strength set by FMVSS No. 207 is considerably lower than the average seat strength of modern production seats. The following section outlines different approaches for updating the standard to enhance or broaden the scope of rear impact protection, thereby further addressing the rear impact protection points set by NHTSA.

C. Analysis of Approaches To Updating Standards for Occupant Protection in Rear Impact

1. Seat Back Strength and Other Mechanical Properties

A foundational consideration for updating standards related to rear impact protection is the strength of cantilevered seat backs in the rearward direction, regardless of how the seat back strength is tested or measured. The current strength level set by FMVSS No. 207 is far below the average design strength of production seats. As a result, manufacturers have great flexibility in seat back design. This flexibility allows manufacturers to readily adopt new technology such as active head restraints, and to allow their seat designs to quickly evolve as the understanding of rear impact protection changes. Any increase in the seat back strength requirement will reduce manufacturer flexibility. Furthermore, any new strength requirement should reduce injuries and adequately balance tradeoffs. As with any other regulatory change, due consideration must be given to overall cost effectiveness of proposed changes to the regulatory regime.

As a starting point, the required level of seat back strength should limit the interaction between the occupants of different rows of seats in a rear impact. It is not clear, however, what level of crash severity is sufficient to protect against and for what size of occupant. No seat strength requirement can protect all occupants in all possible rear impact severities, but the selected strength

should attempt to be protective of as many occupants as possible within the constraints of practicality and cost. Therefore, we seek comment on the correct minimum seat back strength requirement. We further seek comment on ways this parameter can be tested and measured. We also seek comment on the benefits or harm generated by the manufacturer flexibility allowed by a low minimum seat back strength requirement, and how NHTSA should understand those benefits or harms as well as the cost to manufacturers to comply with alternative elevated lower bound seat back strength options.

Another issue is energy absorption. The energy absorption or force-deflection characteristics of seat backs are currently not regulated by FMVSS No. 207. Controlled deformation of the seat back allows the occupant of a seat to ride-down a crash in a manner that may minimize injury. However, if the seat back absorbs the crash energy elastically rather than irreversibly,¹⁶⁵ there may potentially be injurious rebound of the occupant. Thus, remaining residual energy after occupant ride-down may be an important consideration. We note that FMVSS No. 222 incorporates a rearward energy absorption and force deflection requirement for school bus seat backs. We seek comment on whether a similar requirement should be incorporated into FMVSS No. 207 and what the performance level should be.

Older seat designs have typically used a single recliner mechanism to control seat back rotation. Because of the nature of such a design, rearward seat back load is not uniformly restricted, leading to one side of the seat back rotating more than the other; this lack of structural symmetry may lead to a subsequent twisting of the seat back. It has been theorized that such twisting reduces the ability of the seat back to prevent occupant ramping. Both of the current petitions discussed earlier in this ANPRM desired some limit to be placed on seat twist. We seek comment on whether a similar requirement is needed, what the performance level should be and how it should be measured.

We also seek comment on whether an updated FMVSS should regulate other seat characteristics that may be related

¹⁶⁰ See table VI.1, above.

¹⁶¹ The reader is referred to the increased risks as noted in the 1997 Prasad study and concerns drawn out from the 1989 Request for Comments. We note, however, that these conclusions are based on seats that are now decades old. A more recent examination of this can be found in 2023 Kang, for a very severe rear impact condition and a rigid seat structure.

¹⁶² Saunders, J., Molino, L.N., Kuppa, S., and McKoy, F.L. Performance of seating systems in a FMVSS No. 301 rear impact crash test. Proceedings of 18th International Technical Conference on the Enhanced Safety of Vehicles, 2003. Nagoya, Japan.

¹⁶³ Viano, David C., et al. "Occupant responses in conventional and ABTS seats in high-speed rear sled tests." *Traffic injury prevention* 19.1 (2018): 54–59.

¹⁶⁴ Edwards, Marcy A., et al. "Seat design characteristics affecting occupant safety in low-and high-severity rear-impact collisions." *IRCOBI Conference, Florence, Italy, IRC-19-11*. 2019.

¹⁶⁵ When the seat back deforms elastically it absorbs energy like a spring and will return to its original position and shape after the applied force is removed. When the applied force is sufficient to cause yielding in the seat back there is irreversible, also termed inelastic or plastic, deformation in the seat back which permanently absorbs some energy; in which case the seat back will not return to its original position and shape after the applied force is removed.

to occupant ramping, such as pocketing and the coefficient of friction of the upholstery. We also seek comment on any other seat characteristics that should be regulated for rear impact protection.

2. Test Parameters

This section discusses and requests comment on means of testing or measuring seat parameters. We first discuss the benefits and limitations of a quasi-static approach. Afterward, we discuss and seek comment on a dynamic testing regime that utilizes two testing speeds to cover the variety of rear impact occupant protection scenarios.

3. Quasi-Static Testing

One approach to update FMVSS No. 207 is to increase the required seat back moment while retaining the current test procedure of loading the upper frame member or some other part of the seat back. This is appealing in its simplicity but has some potential shortcomings. First, the required moment is specified to be applied through a horizontal force and a distance from the seating reference point. This works well as an initial condition and within the required moment value, which typically results in a relatively small amount of seat back rotation. Depending on the increase in moment value, however, significant seat back deformation could occur during testing. In this circumstance, maintaining a horizontal load throughout the test becomes a serious challenge.

In addition, it is not clear that loading the seat back at the upper crossmember is the best way to quasi-statically load the seat back. Over the years, several different methods of loading the seat back have been developed that may better achieve the goals of the test.¹⁶⁶ For example, NHTSA has tested seat backs to failure by modifying the FMVSS No. 207 procedure such that the loading arm rotates with the seat back and the initial direction of loading perpendicular to the seat back as specified by SAE J879.¹⁶⁷ Some methods involve the use of body-blocks or counter balanced ATDs, pushed or pulled into the seat back, which loads the seat back in a manner more closely related to how a human may load the seat back. Such methods can also

measure force-deflection in addition to strength.

However, existing quasi-static test procedures are also limited because they can tell us how the seat reacts when it is loaded, but they cannot tell us whether the seat's characteristics are potentially injurious to or protective of the occupant in certain rear impacts. Thus, the value of the quasi-static method may be limited if the relationship between mechanical seat properties and occupant response in a rear impact is not well understood. This may lead to a lack of optimization and the potential introduction of harmful seat behavior.

We seek comment on the use of quasi-static testing in an updated rear impact occupant protection regime. Could changes be made to quasi-static procedures or loading devices that would help discern the effect of the seat design on the seat's occupant? Is this important to fully understand how changes to seat strength or other seat design parameters will affect the occupant prior to determining what level of increase in minimum seat back strength is sufficient? Is this information necessary to develop objective measures, tests, and strength requirements for seat backs?

The above discussion is primarily related to determining seat back performance at higher severity levels. Any unified approach, however, must also consider the frequent lower speed rear impacts correlated to whiplash injury. Currently, FMVSS No. 202a requires the head restraint to have a minimum height and maximum backset or optionally limit the head to torso rotation of a Hybrid III dummy in a sled test. What changes can be made to the test method and standard for head restraints from a quasi-static requirement perspective that may improve the protection against whiplash in moderate severity rear impacts and/or create more synergistic total rear impact protection?

4. Dynamic Testing

Considering the limitations of quasi-static testing in an environment with significant uncertainty regarding injury dynamics, a dynamic assessment of seat behavior at multiple impact severities may be a more effective method for achieving a unified and synergistic approach to rear impact protection. As noted above, this approach has been a feature of past efforts to update standard FMVSS No. 207 and is also consistent with the four rear impact protection points. In this section, we discuss and seek comment on various dynamic testing approaches to achieve the goal of

improved rear impact protection. Topics of discussion include test speeds, seat performance measures, ATD selection, and ATD performance measures.

To fully assess the four rear impact protection points, NHTSA is considering a dynamic approach that contains both a low and high-speed test. Each of these regimes place distinct requirements on the seating system, and a dual speed regime can help ensure balance in rear impact protection. NHTSA believes a two-tiered approach will preserve seat design flexibility while improving protection for the occupant across a range of rear impact severities.

NHTSA is considering which ATDs are best suited to use in rear-impact dynamic testing, at both low and high-speed. A low-speed test would assess the seating system's ability to protect against injuries to the cervical spine. As mentioned previously, FMVSS No. 202a currently includes a low-speed sled test option using the HIII-50M test dummy. NHTSA is considering a similar test utilizing the BioRID 50th percentile male dummy and believes this dummy provides significant improvements over other ATD options. A high-speed test would assess the rear impact regime where significant rearward rotation of the seat back may occur, and occupant retention becomes a concern as well as contact with rear seat occupants. An ATD used for this type of test should have characteristics that replicate the interaction of the occupant with the seat back. NHTSA is also considering BioRID for use in the higher speed test but acknowledges that the two test severities require different ATD capabilities. NHTSA is aware of a female rear impact dummy finite element model, EvaRID FE, which is a scaled down version of the BioRID, with mass and geometrical dimension representing a 50th percentile female. The agency is also aware of the development of a prototype 50th percentile female rear impact dummy known as the BioRID-P50F,¹⁶⁸ and is also interested in, and seeks comment on, the potential for its use and to what extent its state of readiness is consistent with a potential rulemaking proposal. The agency seeks comment on which ATDs would be most appropriate to use in both low and high-speed rear impact testing of seats, and whether using two different sized ATDs (for example, BioRID and BioRID-P50F) in one or both of these test configurations would

¹⁶⁶ Burnett, R; Viano, D; Parenteau, C; (2022) "Quasi-Static Methods to Evaluate Seat Strength in Rear Impacts." Traffic Injury Prevention.

¹⁶⁷ Molino, L (1998): Determination of Moment-Deflection Characteristics of Automobile Seat Backs. NHTSA Technical Report, DOT Docket Management System NHTSA-1998-4064.

¹⁶⁸ The physical BioRID-P50F dummy is currently in prototype stage and not available for evaluation by the agency.

offer a more comprehensive assessment of seat performance.

(a) Low-Speed Test

An upgraded low-speed test would assess the energy absorption characteristics and compatibility of the seat and head restraint with respect to occupant protection in low severity rear impacts. The primary concern in low-speed rear impacts are cervical spine injuries associated with whiplash. Therefore, a low-speed test should promote best practices that mitigate whiplash beyond what is currently achieved by FMVSS No. 202a by ensuring compliance with a standard that establishes a minimum level of injury prevention. During the rulemaking establishing FMVSS No. 202a, the agency acknowledged commenters' criticism of the biofidelity sufficiency of the HIII-50M used in 202a, particularly its neck, in the rearward direction.¹⁶⁹ Thus, it is appropriate for the agency to explore the use of alternative ATDs such as BioRID, which may more accurately replicate spinal, torso and head motion. As discussed below, this comes with challenges in determining an acceptable and repeatable biomechanical measurement. Below, we discuss and seek comment on certain considerations relevant to a low-speed test: test pulse and injury criteria and test repeatability.

First, we consider the appropriate test pulse. The low-speed regime is typically associated with rear impact ΔV between 16 and 24 km/h. The dynamic sled test option in FMVSS No. 202 has a ΔV target of 17.3 ± 0.6 km/h. The Euro NCAP whiplash assessment uses low, medium and high severity sled acceleration corridors with target ΔV s of 16.10, 15.65 and 24.45 km/h. The IIHS dynamic whiplash rating uses a simulated rear impact conducted on a sled using a ΔV of 10 mph. In addition to the issues outlined below, NHTSA seeks comment on the test pulse for a low-speed rear impact test, such as ΔV and acceleration profile.

Next, we consider injury criteria and test repeatability. Current low-speed testing practices present challenges with well-defined injury criteria and repeatability of the tests. The understanding of whiplash injury mechanisms continues to evolve, and

contemporary ATD injury criteria are therefore derived from nonlinear statistical correlations with biomechanical data. Because of this evolving understanding, existing dynamic whiplash assessments use a range of ATD measures. For example, the 2009 EuroNCAP dynamic whiplash ratings system¹⁷⁰ calculates a rear impact seat performance rating using a combination of seven measures from rear impact sled testing using the BioRID ATD. These measures are:

- NIC (neck injury criteria),
- Nkm (shear force and bending moment),
- Head rebound velocity,
- Fx upper neck shear,
- Fz upper neck axial force,
- T1 acceleration up to head contact, and
- Head restraint contact time

Any assessment based on a threshold value of these parameters should accurately assess the injury risk. To be objective, the ATD metrics of a low-speed test should also be based on a fundamental understanding of the biomechanical injury mechanisms. For example, NIC is based on the principle of neck retraction prior to the head contacting the head restraint, described earlier in the Neck injuries subsection, leading to injurious pressure waves in the spinal canal.¹⁷¹ An injury threshold of $15 \text{ m}^2/\text{s}^2$ for the NIC was suggested¹⁷² after analyzing human volunteer results¹⁷³ to find a lower bound of injury tolerance. However, the predictive basis of ATD metrics for low-speed injury are usually based on a statistical nonlinear analysis of biomechanical data and shows varying degrees of success in predicting real world outcomes. In the 2019 Edwards study,¹⁷⁴ the authors compared low-speed BioRID measurements with insurance claim data. The standard

whiplash metrics, such as those listed above, did not have a significant correlation with the insurance claim data for all the seats analyzed. The longitudinal pelvis displacement of the BioRID dummy into the seats, an atypical metric in whiplash assessments, had the most significant correlation with insurance data. NHTSA has also studied intervertebral rotations in low-speed rear impacts using PMHS and ATD occupants.^{175 176 177} NHTSA found the intervertebral rotations of the PMHS subjects to be comparable with BioRID rotations¹⁷⁸ and the PMHS intervertebral rotations were found to correlate with PMHS subluxation injuries (an incomplete or partial dislocation of a joint or organ).¹⁷⁹ The use of ATD injury metrics in assessing low-speed rear impact injury risk is still developing, and further investigation is needed to develop metrics or ratings systems with a direct relationship to real world whiplash injury. NHTSA's forthcoming research discussed later will explore various ATD whiplash criteria.

Multiple studies have shown lack of reproducibility in low-speed impacts. In 2007, a study compared the measurements of a BioRID-IIg dummy in rear impact sled tests run across 18 identical production seats.¹⁸⁰ The authors were concerned that because the loads in a low-speed rear impact test are very low, there could be high variability in results due to small changes in the test setup. The study ran tests at 3

¹⁷⁵ Moorhouse K, Kang Y, Donnelly B, Herriott R, Bolte JH. (2012, Nov). Evaluation of The Internal and External Biofidelity of Current Rear Impact ATDs to Response Targets Developed from Moderate-speed Rear Impacts of PMHS. *STAPP Car Crash Journal*, 56, 12S–21.

¹⁷⁶ Kang Y, Moorhouse K, Donnelly B, Herriott R, Bolte JH. (2012, Nov). Biomechanical Responses of PMHS in Moderate-speed Rear Impacts and Development of Response Targets for Evaluating the Internal and External Biofidelity of ATDs. *STAPP Car Crash Journal*, 56, 12S–20.

¹⁷⁷ Kang Y, Moorhouse K, Herriott R, Bolte JH. (2013, May). Comparison of Cervical Vertebrae Rotations for PMHS and BioRID II in Rear Impacts. *Traffic Injury Prevention*, 14 (Supplement 1), S136–S147.

¹⁷⁸ Kang Y, Moorhouse K, Icke K, Stricklin J., Herriott R, Bolte JH. Rear Impact Head and Cervical Spine Kinematics of BioRID II and PMHS in Production Seats (2015, Sept). *International Research Council on Biomechanics of Injury (IRCOBI)*, IRC–15–38, 246–260.

¹⁷⁹ Kang Y, Moorhouse K, Icke K, Herriott R, Bolte JH. (2014, Sept). Head and Cervical Spine Responses of Post Mortem Human Subjects in Moderate Speed Rear Impacts. *International Research Council on Biomechanics of Injury (IRCOBI)*, Berlin, Germany. IRC–14–33, 268–285.

¹⁸⁰ Bortenschlager, Klaus, et al. "Review of existing injury criteria and their tolerance limits for whiplash injuries with respect to testing experience and rating systems." *Proceedings of the 20th International Technical Conference on Enhanced safety of vehicles*, Lyon, France. 2007.

¹⁶⁹ 69 FR 74873 (Dec. 14, 2004); The agency concluded at that time that the HIII-50M was sufficient to discern between acceptably safe head restraint systems and those that allow unacceptable levels of head-to-torso rotation. Nonetheless, the agency stated it was likely "to revisit the decisions made in [the] final rule about dynamic performance values and the test device as more advanced dummies are developed and the injury criteria achieve broader consensus."

¹⁷⁰ van Ratingen, Michiel, et al. "The Euro NCAP whiplash test." 21st international technical conference on the enhanced safety of vehicles. 2009.

¹⁷¹ Aldman, B.: An analytical approach to the impact biomechanics of head and neck injury." Proceedings of the 39th American Association for Automotive Medicine Conference; October 6–8, 1986, Montreal, QC. 1986.

¹⁷² Boström, Ola, et al. "A new neck injury criterion candidate-based on injury findings in the cervical spinal ganglia after experimental neck extension trauma." *Proceedings of The 1996 International Ircobi Conference On The Biomechanics Of Impact*, September 11–13, Dublin, Ireland. 1996.

¹⁷³ Eichberger, Arno, et al. "Comparison of different car seats regarding head-neck kinematics of volunteers during rear end impact." Proc. IRCOBI Conf. 1996.

¹⁷⁴ Edwards, Marcy A., et al. "Seat design characteristics affecting occupant safety in low-and high-severity rear-impact collisions." *IRCOBI Conference*, Florence, Italy, IRC–19–11. 2019.

different severities with 6 equivalent repetitions at each severity. The authors found that the ATD metrics displayed high variability across the equivalent tests. The dummy rebound velocity showed the least variability with 2.76%, 1.83% and 1.23% coefficient of variation in the low, medium, and high severity tests. The NIC had greater variability with a 9.18%, 10.5%, and 13.83% coefficient of variation. The neck shear Fx, however, had very high variability with a 21.04%, 27.86%, and 32.57% coefficient of variation across like tests. After computing the ranking score for each of the 6-test series, the authors found the scores to vary by 26% from lowest to highest. Because of variability in the measurements and ranking scores the authors called into question the discriminatory power of the scoring system and noted the lack of robustness in the scoring system. This study underlines the challenge in developing a low-speed rear impact testing approach with high reproducibility. Note that the values of a characteristic for a rating system or standard might be set in such a way as to account for the variability associated with the test.

The precise understanding of how whiplash injuries occur is evolving, but not complete. We seek comment on this approach. Are the ATD measurements described above sufficiently objective and correlated with whiplash injury? If so, can a low-speed test be conducted in a repeatable and reproducible manner that would ensure objective results and positive safety outcomes that are equitably distributed across all occupant types? Do practicable countermeasures for whiplash injuries exist to meet such a regulatory requirement? Would the requirement work synergistically with a high-speed dynamic requirement?

(b) High-Speed Test

A high-speed test would assess rear impact protection at a severity where significant rearward deflection of the seat back may occur, and occupant retention becomes a concern. This test would assess all four of the rear impact protection points. The high inertial forces placed on a seat back would test seating system integrity and energy absorption capabilities of the seat back through rearward rotation and deflection, as well as the ability of the seat belt restraint system to maintain retention and support an occupant in rebound. Finally, compatibility of the seat and head restraint would be assessed through appropriate ATD injury limits. The assessment would likely include neck (whiplash or higher-level injury), thorax, spine, and pelvis

results, but could include other body regions as well.

Occupant injuries in a high-speed rear impact are primarily severe head, neck, and thorax injuries and have clear pathology. Research conducted by NHTSA has shown that severe thorax injuries, *i.e.*, rib fracture, may also occur in a retained seat occupant through inertia and interaction with the seat back in very high-speed rear collisions and rigid seat supporting structures.¹⁸¹

Seat retention provides continual support to the occupant and is important to avoid severe contact injuries and injurious occupant kinematics. A lack of occupant retention may also lead to severe injuries to passengers other than the forward row occupants through occupant-to-occupant interaction. A high-speed test would assess seating protection against injury through data from an ATD and related seating retention metrics. The occupant retention metrics of concern may include the maximum dynamic seat back rotation angle and ATD displacement measures. NHTSA seeks comment on the appropriate occupant retention metrics and ATD injury criteria at high-speed. We request comment on how the availability of specific ATDs might limit or inform the selected measurements.

The forces applied to seat backs in rear impacts range over a continuum of severities. The applied inertial forces are proportional to the seat base acceleration induced by the crash pulse, the occupant's mass, and acceleration. The distribution of occupant mass along the seat back influences the torque generated at the seat back recliner mechanism, and the torque is proportional to the occupant's mass. A high-speed test would need to set a test severity within the range of potential real-world severities for which practicable countermeasures may be available. Extreme forces on the seat back due a rear impact are a relatively rare occurrence in the real-world, with the highest forces requiring both a relatively high ΔV and occupant mass. As noted in our analysis of 2017–2020 CISS data reported in Figure II.4, 94% of rear towaway collisions occur at ΔV of 40 km/h (24.9 mph) or less. Table II.2 indicated that the most probable ΔV range for MAIS 3+ injuries in rear impacts was the 31–40 km/h (19.3–24.9 mph) range. For some seat designs, a dynamic test in the ΔV range of 35 to 40 km/h (21.7 to 24.9 mph) that is

conducted with a 50th percentile male ATD would likely lead to significant rotation of the seat back and occupant movement along the seat back, as described in the 2019 Edwards study.¹⁸² The authors also noted that within the context of a 50th percentile male ATD and 37.5 km/h (23.3 mph) ΔV rear impact sled test, a degree of balance was achieved between low and high-speed rear impact protection in a range of production seats, as measured by the low-speed ratings system, seat back rotation, and occupant displacement in the high-speed test. Such a dynamic test conducted with a 95th percentile male ATD or at higher ΔV , however, would lead to greater forces on the seat back with a greater potential for plastic deformation of the seat structure, a more extreme test of retention, and potential interaction with rear seats. The high-speed test ΔV would ideally be high enough to be sufficiently representative of real-world crashes to generate practicable and, ideally, cost effective countermeasures for protection against higher level injuries. NHTSA seeks comment on the appropriate test severities for a possible high-speed test and the appropriate ATD to utilize.

Positioning of the ATD in the seat may be an important factor in a high-speed test. Studies such as the 1994 Strother and James cited above, have shown occupant posture to influence injury outcome in rear impacts. In addition, the sensitivity of an ATD itself to positioning may be a factor to explore. For example, how sensitive are results to atypical positions like leaning on the arm rest, creating an off-center midsagittal plane for the ATD? NHTSA seeks public comment on the appropriate positioning of the ATD in a high-speed rear impact test and whether and/or what type of out-of-position testing should be performed.

A well-designed high-speed rear impact test would account for all four of NHTSA's rear impact protection points in the context of high inertial forces leading to significant rearward deflection of the seat back. The performance measures of concern may include retention measures such as maximum dynamic seat back rotation angle, but also ATD injury metrics relating to thorax and neck injury. In addition to these concerns, NHTSA seeks comment regarding what objective rear impact protection metrics are of most concern in a high-speed rear impact test. Does existing ATD

¹⁸¹ Kang, Yun-Seok, et al. "Biomechanical responses and injury assessment of post mortem human subjects in various rear-facing seating configurations." *Stapp car crash journal* 64 (2020): 155–212.

¹⁸² Edwards, Marcy A., et al. "Seat design characteristics affecting occupant safety in low-and high-severity rear-impact collisions." *IRCOBI Conference, Florence, Italy, IRC-19-11*. 2019.

technology adequately replicate occupant kinematics at high-speeds? What ATD injury metrics would be most objective and relevant?

(c) Rear Impact Delivery Methods

Another factor to consider for a dynamic testing approach is how the crash pulse should be delivered to the seat base. There are two basic approaches to consider: a sled (with the seat mounted to either the vehicle floor plan or a rigid platform) or moving barrier to vehicle approach. This section explores the advantages and disadvantages of each approach.

In experimental study of rear impacts, the most common method for crash pulse delivery is a sled-based method. In this approach, a moveable sled is accelerated with a high degree of accuracy on a linear track. Mounted on the sled may be a rigid platform to which the vehicle seat is attached. With appropriate mounting hardware, many types of seats can be accommodated without significant modification to the setup. However, the mounting of the seat to a rigid platform may not transmit loading to the seat identically to how it would be transmitted if the seat were mounted to the vehicle floor pan. Thus, a more realistic approach would be to mount a floor pan to the sled and mount the seat to the floor pan. Such an approach can be expanded to mount all or portions of the vehicle body and interior to the sled, potentially allowing for multiple ATDs in multiple rows of seats. The agency uses a vehicle body mounted sled test approach currently for the optional dynamic testing in FMVSS No. 202a.

Sled-based methods are relatively low cost and deliver a highly repeatable pulse that can be readily applied to all seats. This removes a degree of uncertainty about test repeatability. However, a sled pulse only approximates a real-world crash pulse. A sled offers one-dimensional translational motion, while actual rear impact crash test may contain three-dimensional translational motion and rotation of the vehicle, albeit likely relatively small accelerations in the vertical and lateral direction. While a sled-based approach is advantageous from a cost and repeatability standpoint, it may discount case-specific design considerations. In addition, for higher speed impacts, if seats were designed around a universal rear impact sled pulse, some seats may in turn be over-designed and others under-designed relative to their actual need for rear impact protection. This is because the design of rear impact protection in seats could consider vehicle factors, *e.g.*,

vehicle weight and/or stiffness of the vehicle.

A vehicle approach would deliver a rear impact to a motor vehicle using a moving barrier, similar to tests conducted under FMVSS No. 301. In fact, while conducting FMVSS No. 301 tests outlined in the 2003 Saunders study, the agency has added instrumentation to seat backs and placed HIII–50M ATDs in the front seats to assess the performance of seat backs. As is the case with the vehicle body being mounted to a sled, this approach would test rear impact protection in the context of the entire vehicle. However, it differs in that the acceleration pulse delivered to the seat will be a function of the vehicle's structural deformation. In a real collision, the seat base acceleration depends on vehicular factors, *e.g.*, vehicle mass and structural characteristics, and therefore the moving barrier to vehicle approach would be closer to reality compared to a typical sled-based approach. A moving barrier to vehicle approach is more of a consideration for higher speed impacts, where the vehicle characteristics would have a greater influence on the crash pulse. A sled-based approach could tune the sled pulse to the actual vehicle crash pulse, if it were known, or use some adjustment to the pulse that considers vehicle-based factors. Nonetheless, a barrier impact approach would place a greater load on seats of lighter and stiffer vehicles because ΔV has positive correlation with these features if all else is equal.

The barrier impact approach places the seat in the full vehicle environment. However, a sled-based approach allows the possibility of the seat mounted on a platform in isolation. Whether a full vehicle or isolated seat is tested is less likely to influence testing outcomes in low-speed testing. However, high-speed testing will cause much more seat back deformation. In certain vehicle environments, such as convertibles, two-door cars, standard cab pickup trucks, and vehicles with rigid second row seating, there may be structures near the seat back which could restrict its rearward movement. Such restrictions could be advantageous with respect to meeting seat back rotation limits. How such restrictions would influence risk of injury, however, is not obvious.

In summary, a sled-based method using a rigid platform and a generic sled pulse is the most cost effective and simplest method for inertial loading of a seat. Sled testing using the vehicle floor and even more of the actual vehicle would likely increase cost and perhaps complexity. The use of generic

sled pulses, whether for lower or higher speed impact simulation may also potentially allow for greater repeatability, while sacrificing closeness to reality. Sled testing using a vehicle specific crash pulse would add some complexity and the need for knowledge of the crash pulse. A moving barrier to vehicle test would be the option but would deliver the best approximation to the real-world impact while simplifying crash pulse generation. It would have instrumentation measurement complexity similar to sled testing. Additionally, a moving barrier to vehicle test may also introduce more avenues for test-to-test variability, part of which can be attributed to vehicle build variability. NHTSA seeks comment on the different approaches for delivering a rear impact crash pulse.

(d) Characteristics and Performance Measures Needed for a Rear Dummy

As discussed above, fostering the synergistic performance of seats suggests dynamic testing should sample at least two different ΔV regimes: including a low-speed and high-speed test. A different ATD could be used for each test to adequately assess the range of occupant kinematics that occur as ΔV is varied. The primary ATD performance measures of concern for a low-speed test relate to whiplash injuries and as noted earlier, important characteristics include the ability to replicate torso straightening and neck kinematics. These factors are also important for biofidelity in a high-speed test along with thoracic compression, spine flexibility, and pelvic rotation.¹⁸³

The HIII–50M has long been widely used for rear impact protection research, even though this dummy was developed and validated for frontal crash testing. Nonetheless, the HIII–50M has provided an effective means of ballasting the seat and measurements of dummy kinematics and loading. Over time, significant progress has been made on the development of the BioRID ATD, which is designed specifically for rear impacts. BioRID performance has thus far been focused on low-speed testing to assess neck injury risk but has more recently been evaluated in higher speed rear impact conditions. Additionally, dynamic sled tests are used by ratings groups, academic researchers and industrial researchers to assess the performance of seating systems in a rear impact, and results are compared with adult volunteers in low-speed tests and

¹⁸³ Hagedorn, A., Stammen, J., Ramachandra, R., Rhule, H. et al., "Biofidelity Evaluation of THOR–50M in Rear-Facing Seating Configurations Using an Updated Biofidelity Ranking System," *SAE Int. J. Trans. Safety* 10(2):291–375, 2022.

PMHS at higher speeds to validate modern ATD measurements.^{184 185} These efforts have built a better technological basis for a dynamic test compared to the past.

The BioRID 50th percentile male dummy was developed by a Swedish team in the 1990s.¹⁸⁶ The development was in response to low-speed rear impact testing using human volunteers indicating that torso straightening, and angling of the lower spine were essential for accurate cervical spine dynamics,^{187 188} and the determination that existing ATDs of that era did not properly simulate the cervical vertebrae motions. Therefore, development focused on an ATD with more realistic spinal motion, particularly in the neck, and one that would simulate torso straightening.¹⁸⁹ The BioRID dummy has an articulated mechanical spine and is primarily intended to replicate spinal motion in low-speed rear impacts. BioRID vertebrae are connected by linear pin joints and a tension cable. This mechanical system shows comparatively high torsional, shear, compression, and tension inter-vertebral forces in rear impacts.¹⁹⁰ NHTSA has evaluated the BioRID and believes it is the best available 50th percentile male ATD for the low-speed rear impact test discussed in this ANPRM, but seeks comment on this topic. NHTSA also seeks comment on the potential use of appropriate female crash test dummies designed specifically for rear impact to

offer a more comprehensive assessment of seat performance.

For the higher speed rear impact test, NHTSA is examining the use of BioRID as well as the HIII-50M and Test device for Human Occupant Restraint 50th percentile male (THOR-50M) ATD.¹⁹¹ The BioRID has the advantages articulated above, but there may be limits to the speed of the crash environment that it can be used in and BioRID replicates only two-dimensional motion of the spine with injury assessment being limited to the cervical spine.

The HIII-50M and THOR-50M have limitations due to being designed for frontal impacts. Nevertheless, these dummies are typically used in studies of high-speed rear impact dynamics and have been used as seat occupants in rear impact tests. In the case of high-speed tests these ATDs enable the measurement of seat back rotation and retention by acting as ballasts that impose a biofidelic inertial load on the seat back. The 2019 Edwards study, for example, used the HIII-50M dummy for the high-speed test. The HIII-50M is limited because it has a rigid thoracic spine so its interaction with a seat back is significantly different than a real occupant whose bendable spine conforms with the seat cushion profile and structural cross members. The THOR-50M ATD, a refinement of the TAD-50M thorax, integrated a new multi-directional neck and instrumented pelvis, abdomen, and lower extremity concepts. Both the HIII-50M and THOR-50M allow for the measurement of chest injury risk. While a high-speed test that uses one of the male ATDs discussed above is necessary to assess seating system integrity, a comprehensive test of seat retention may also require a test using a female ATD. NHTSA seeks comment on the ATDs to use for high-speed rear impact tests.

NHTSA is exploring a low and high severity test as components of a unified approach to updating FMVSS No. 207 and the ATD requirements of these tests overlap with capabilities of the HIII-50M, THOR-50M, and BioRID dummies. NHTSA seeks comment on the benefits and costs, in particular the practicability and objectivity concerns, of using different ATDs for different rear impact test severities versus the use of

a single ATD for both low and high-speed testing.

D. Crash Avoidance Technology

Over the last several years, automatic emergency braking (AEB) and forward collision warning (FCW) have become more prevalent in the light vehicle fleet. An AEB system uses various sensor technologies and sub-systems that work together to detect when the vehicle is in a crash imminent situation, to automatically apply the vehicle brakes if the driver has not done so, or to apply more braking force to supplement the driver's braking. A FCW system uses sensors that detect objects in front of vehicles and provides an alert to the driver. FCW systems may detect impending collisions with any number of roadway obstacles, including vehicles. NHTSA has recently published a final rule requiring that all new light vehicles be equipped with AEB and FCW systems.¹⁹² NHTSA anticipates that over time, AEB and FCW prevalence in the fleet will increase and the technology will improve. Therefore, any future rulemaking action related to the upgrade of rear impact protection through modification of seat related standards will need to fully consider the effects of crash avoidance technology such as AEB and FCW. AEB and FCW are expected to reduce the incidence of high-speed rear impact collisions, either through avoiding a collision entirely or mitigating impact speeds into lower-speed collisions. If AEB and FCW have this impact, their availability may in turn affect crash frequencies and injury types relevant to this ANPRM, such as the incidence of seat back failure in vehicles struck from the rear. AEB and FCW may also reduce the incidence of low-speed rear impacts that cause injuries such as whiplash in occupants of the struck vehicle. However, it is possible that AEB and FCW, by mitigating some high-speed impacts into lower-speed collisions, may increase the number of lower-speed rear impacts. It is not clear what the net impact would be. NHTSA seeks comment on how best to consider the effects of this technology on the issues discussed in the ANPRM. In particular, how might a change in frequency of rear impacts of different velocities impact the benefit-cost considerations for regulatory changes discussed in this ANPRM, such as the seat back strength requirement?

¹⁸⁴ Willis, Claire, Jolyon Carroll, and Adrian Roberts. "An evaluation of a current rear impact dummy against human response corridors in both pure and oblique rear impact." *Proceedings of the 19th International Technical Conference of the Enhanced Safety of Vehicles*, Paper. No. 05-0061. 2005.

¹⁸⁵ Croft, Arthur C., and Mathieu MGM Philippens. "The RID2 biofidelic rear impact dummy: A pilot study using human subjects in low-speed rear impact full scale crash tests." *Accident Analysis & Prevention* 39.2 (2007): 340-346.

¹⁸⁶ Davidsson, Johan, et al. "BioRID I: a new biofidelic rear impact dummy." *Proceedings of the International Research Council on the Biomechanics of Injury conference*. Vol. 26. International Research Council on Biomechanics of Injury, 1998.

¹⁸⁷ McConnell, Whitman E., et al. Analysis of human test subject kinematic responses to low velocity rear end impacts. No. 930889. SAE Technical Paper, 1993.

¹⁸⁸ Ono, Koshiro, and Muneazu Kanno. "Influences of the physical parameters on the risk to neck injuries in low impact speed rear-end collisions." *Accident Analysis & Prevention* 28.4 (1996): 493-499.

¹⁸⁹ Lövsund, Per, and Mats Y. Svensson. "Suitability of the available mechanical neck models in low velocity rear end impacts." *CNR-PFT2 ELASIS International Conference on Active and Passive Automobile Safety in Capri, Italy*. 1996.

¹⁹⁰ Viano, David C., et al. "Neck biomechanical responses with active head restraints: Rear barrier tests with BioRID and sled tests with Hybrid III." *SAE Transactions* (2002): 219-237.

¹⁹¹ Hagedorn A, Stammen J, Ramachandra R, Rhule H, Thomas C, Suntay B, Kang YS, Kwon HJ, Moorhouse K, Bolte IV JH. Biofidelity Evaluation of THOR-50M in Rear-Facing Seating Configurations Using an Updated Biofidelity Ranking System. *SAE Int. J. Trans. Safety* 10(2):2022, <https://doi.org/10.4271/09-10-02-0013>.

¹⁹² 89 FR 39686 (July 8, 2024). This final rule builds on a voluntary commitment, announced by NHTSA in March 2016, by 20 vehicle manufacturers to make AEB a standard feature on nearly all new light vehicles.

VII. NHTSA's Forthcoming Research

NHTSA is pursuing research to build a greater understanding of the issues presented in this document. Based upon the current understanding of these issues, the goals are to better define the scope of the current rear impact safety problem, validate seated ATD measurements in rear impacts, quantify rear impact injury risks, attempt to develop injury risk curves, and analyze rear impact dynamics and testing procedures. Because the understanding of the rear impact problem continues to evolve, the priorities and objectives are subject to change and likely to evolve as research progresses. Currently, the aim is to identify sled test ΔV s, test types (e.g., static versus dynamic), test tools (e.g., loading fixture, ATDs) and performance limits (e.g., strength requirements, displacement limits, injury assessment reference values). It is anticipated that the research outcomes will contribute to the determination of whether to propose an update to FMVSS No. 202a and FMVSS No. 207 and, if the determination is made to do so, provide the basis for such a proposal. The following discussion outlines NHTSA's path forward for research activities related to this ANPRM.

A. Field Data Analysis and Market Research

A study of rear impact field data will investigate the scope of the rear impact safety problem. NHTSA intends to examine the incidence of injuries to the seated front occupant, the types of injuries, the degree to which modern occupied seat backs fail or become deformed (by row), and which parts of the seat incur yielding (i.e., just the seat back, the anchors and seat track, the vehicle floor, etc.). For higher speed rear impacts, this is needed to identify the level of crash severity that may represent a reasonable dynamic testing level. Overall trends will be examined

by analyzing aggregate field data and occupant injury and multiple seat row interaction. An attempt will be made to attribute vehicle occupant injury to seat performance. It is expected that manual reviews of case file material will be necessary to discern seat performance and failure mechanisms. NHTSA also intends to examine how seat designs may have improved across the fleet or how second row seats differ in performance from front row seats.

B. Test Procedure Assessment

NHTSA plans to conduct a sled-based study of rear impact seat back and occupant dynamics to develop a greater knowledge base in the performance of modern seats in both low and high-speed regimes and to investigate the feasibility of a dynamic approach for updating FMVSS No. 207 and rear impact protection in general.

1. High-Speed Test

The agency expects to perform high-speed sled tests across a range of ΔV s including the high-speed rear impact fuel integrity test performed in FMVSS No. 301 and at speeds identified in the field data analysis mention above that result in relatively high risks to vehicle occupants. Through this testing, NHTSA will attempt to determine what physical characteristics govern occupant protection and what severities lead to substantial deformation of seat backs in high-speed rear impacts. This testing will take a variety of configurations and serve a variety of functions. One important question to be answered is what deceleration pulse and/or ΔV will achieve the agency's regulatory goals, particularly with respect to a front seat occupant intruding into the rear seat occupant space. Another important research question is whether the deceleration pulse and/or ΔV should be vehicle specific or generic. It is expected that sled testing will be performed with partial vehicles as well as platform

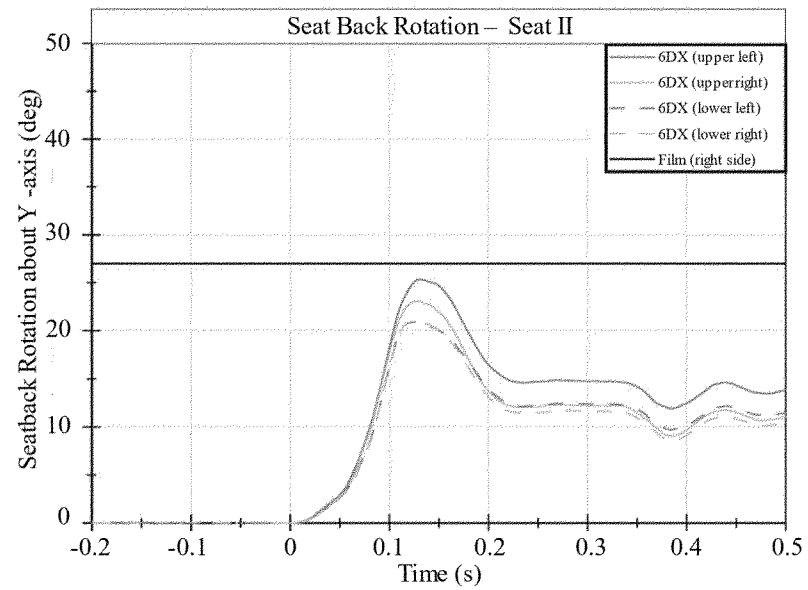
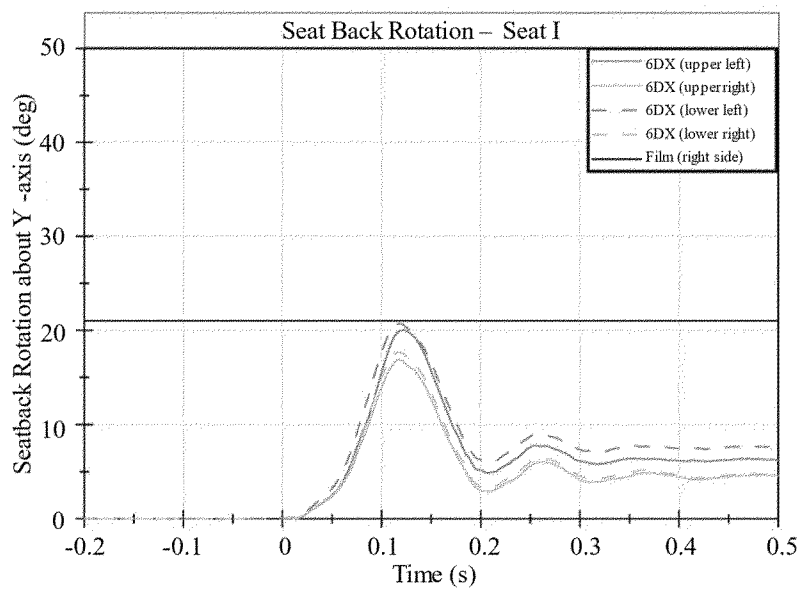
mounted seats to discern the effect of these two configurations of seat performance as well as to assess the challenges related to testing a seat within a vehicle. This testing will also help identify the important seat performance characteristics and the best way to measure them. We expect to use multiple ATDs and PMHS occupants in the seats for a variety of tasks discussed below.

2. Exploratory Testing

NHTSA recently conducted exploratory high-speed rear impact sled testing on a series of production seats to gain insight into instrumentation and measurement needs for such tests. The test closely resembled the 2019 high-speed rear impact tests from the IIHS study,¹⁹³ except that NHTSA used the THOR-50M as a normally positioned occupant. NHTSA's crash pulse achieved a maximum sled acceleration of 15.1 g after approximately 80 ms resulting in a ΔV of 36 km/h (22.4 mph). The test series consisted of 6 total sled tests involving the front driver seat of three different major auto manufacturers in 2013 and 2018 MY used passenger vehicles. The three models were tested with and without seat belt pretensioners. The seats were instrumented with accelerometers, load cells, strain gages and camera target standoffs and fixed to the sled buck with an initial seat back recline angle of 25°. The time-dependent seat back rotation angle was determined by postprocessing film data and 6DX (Diversified Technical Systems) sensor package measurements and are shown in Figure VII.1 in the case of no pretensioners.

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¹⁹³ Edwards, Marcy A., et al. "Seat design characteristics affecting occupant safety in low-and high-severity rear impact collisions." *IRCOBI Conference, Florence, Italy, IRC-19-11*. 2019.



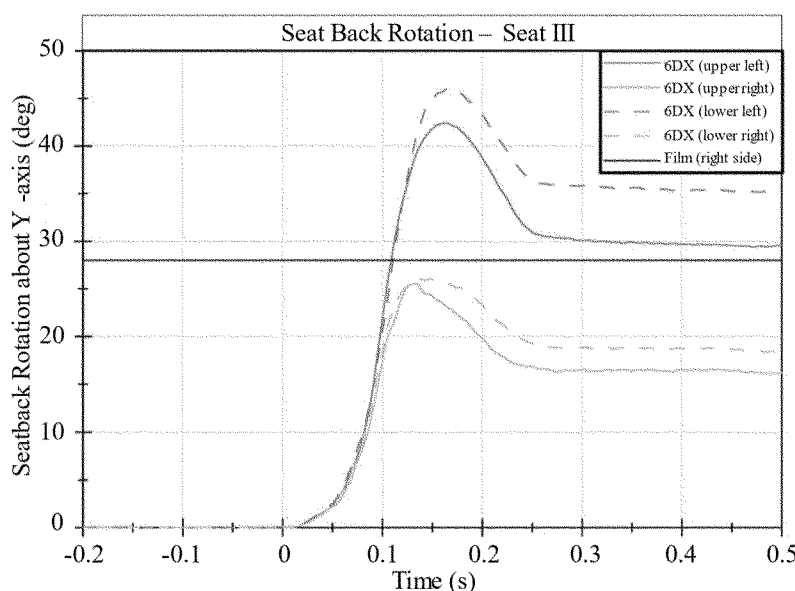


Figure VII.1: Seat back rotation angles measured by NHTSA in the current high-speed rear impact test series, $\Delta V = 36$ km/h, seat I is MY 2018, seat II is MY 2018-2019 and seat III is MY 2013.

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The seat backs reached their maximum rearward rotation at approximately twice the point of peak sled acceleration and then, upon reversing, decayed to a final recline angle that is greater than the initial recline angle. Seat I had the least rearward rotation and its final recline angle was the least among the three models. Seat III had the most rearward rotation and its final recline angle was the greatest among the three models. The difference between the initial and final recline angles are a product of irreversible deformation in the seat frame and an indication of energy absorbed by the seat. In seat I and to a lesser extent seat II, as the rotation angle decayed to the final angle there was oscillation of the seat back about the final angle; this is a characteristic of spring-mass-damper systems. Seat III had significant twisting about the longitudinal axis as seen in the large differences between the left and right seat back rotations. A post-test visual tear down analysis found that in all seats the side bolsters bent inward toward the occupant and deformation was also seen in the lower seat frames and pans. This initial series of tests demonstrates that rearward excursion and rotation are high-speed seat performance metrics that can be reliably obtained in different seat models.

3. Low-Speed Test

To broadly assess the rear impact protection measures of a seat, the performance should be compared in a low- and high-speed test to analyze whether improvements in seat performance at high-speed impacts sacrifice whiplash injury mitigation at low-speeds. Thus, it is expected that seats will be tested in both a low- and a high-speed test, to see how the performance compares in both rear impact conditions. This study may determine if the design requirements for low- and high-speed performance align or contradict one another.

As stated above, one important factor in test procedure development will be exploring the appropriate low- and high-speed deceleration for rear impact tests. A reasonable starting point for the lower speed test is the head restraint optional dynamic test in FMVSS No. 202a. We are aware of other sled pulses used for whiplash assessment by IIHS and EuroNCAP, however, and will explore these as well. We will also explore the need or acceptability of platform mounted seats versus in-vehicle testing. Finally, a key factor for low-speed testing will be the ATD. NHTSA expects to focus on the use of the BioRID for these tests.¹⁹⁴ We also expect to assess various whiplash injury criteria.

¹⁹⁴ See discussion at section IV.4., above, for additional information related to use of the BioRID.

C. Parametric Modeling

A computational model of seat occupant dynamics in a rear impact that is validated against experimental data could provide insight into a range of safety issues. It is expected that both ATDs and human body models will be used as seat occupants and the impact of various occupant characteristics on injury risk can be determined, such as the occupant size and gender. NHTSA may also study the extent to which seat design specifications have a positive influence on injury risk. A computational model can be run over a range of deceleration pulses and seat characteristics to determine at which point significant seat deformation and the onset of serious injuries to seat occupant occurs.

D. ATD and Injury Risk Function Development

Rear impact testing with PMHS seat occupants provides biomechanical data for ATD evaluation as noted in the NHTSA citations above. By comparing equivalent pairs of ATD and PMHS tests, more realistic injury risk functions can be developed for the ATD seat occupant in a rear impact. NHTSA has, for example, performed extensive work on low-speed whiplash injury risk functions for the BioRID. NHTSA expects the BioRID to be the focus of low-speed testing in this research; however, various whiplash injury criteria will be explored.

For high severity research, further PMHS testing will provide the injury information to correlate with ATD measurements in an injury risk function. This information will also be correlated to seat performance parameters to assist in identification of factors that influence injury risk. Additionally, both BioRID and THOR-50M will be evaluated for high-speed testing. The BioRID has a fully articulated spine but was designed specifically for lower speed rear impacts. Thus, durability and biofidelity in higher speed rear impacts will need to be evaluated. The THOR-50M was not designed for rear impacts, but has thoracic measurements not available in BioRID. However, its acceptability for overall rear impact injury risk will need further consideration. Once injury risk functions are developed, the ATD(s) will be used in a broader evaluation of seats on the market against identified performance metrics.

E. Cost Analysis

The purpose of a cost analysis is to determine the financial implications of improving rear impact protection. A broad understanding will be gained by performing a cost analysis in each aspect of NHTSA's research initiative. A tear down analysis of tested seats provides an indication of failure mechanisms and protective design measures. The cost differential between good and poor performing seats could be estimated by quantifying the difference in design measures determined through tear down. The computational study could assess the overall impact and cost of design changes within a seat; for example, if design changes are made to a poorly performing seat for a high-speed test with a specific occupant, would these changes in fact have a detrimental impact in other scenarios? After the cost differential between good and poor performing seats is well defined, then market research and assessment of the fleet will determine the overall costs of improving rear impact protection.

F. Summary

NHTSA is pursuing research to gain a greater understanding of the modern rear impact protection issue that the agency regulates under FMVSS Nos. 207 and 202a. An examination of recent rear impact field data is helpful to define the overall safety issue and determine whether any countermeasure to a problem is cost effective. This document discusses a two-tiered dynamic testing approach. NHTSA is pursuing sled testing of rear impacts to explore this dynamic approach and has conducted

an initial exploratory series of high-speed rear impact tests described above. NHTSA has ongoing research in rear impact sled testing using PMHS occupants that in turn supports an ATD based assessment of rear impact injuries and dynamics. A computational parametric study has also been proposed to broadly investigate rear impact dynamics and various protection measures. If a rulemaking is pursued, NHTSA will also perform research tasks to develop the necessary cost and benefit estimates for upgraded rear impact protection estimates. NHTSA would like this research to make decisive contributions and therefore seeks comment on the research proposed here. Would a greater impact be achieved if the agency's resources were directed in another area of rear impact protection or more focused in a critical area?

VIII. Public Participation

A. How can I inform NHTSA's thinking on this rulemaking?

Your comments will help us improve this rulemaking. NHTSA invites you to provide different views on options NHTSA discusses above, new approaches the agency has not considered, new data, descriptions of how this ANPRM may affect you, or other relevant information.

NHTSA welcomes public review of all aspects of this ANPRM, but requests comments on specific issues throughout this document. NHTSA will consider the comments and information received in developing a potential proposal for how to proceed with updating requirements for motor vehicles. Your comments will be most effective if you follow the suggestions below:

- Explain your views and reasoning as clearly as possible.
- Provide solid technical and cost data to support your views.
- If you estimate potential costs, explain how you arrived at the estimate.
- Tell NHTSA which parts of the ANPRM you support, as well as those with which you disagree.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the ANPRM, such as the units or page numbers of the preamble.

B. How do I prepare and submit comments?

Your comments must be in writing. To ensure that your comments are filed correctly in the Docket, please include the docket number of this document located at the beginning of this notice in your comments.

Your primary comments should not be more than 15 pages long.¹⁹⁵ You may attach additional documents to your primary comments, such as supporting data or research. There is no limit on the length of the attachments.

Please submit one copy of your comments (two if submitting by mail or hand delivery), including the attachments, to the docket via one of the methods identified under the **ADDRESSES** section at the beginning of this document. If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using an Optical Character Recognition (OCR) process, thus allowing NHTSA to search and copy certain portions of your submission.

Please note that pursuant to the Data Quality Act, for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, NHTSA encourages you to consult the guidelines in preparing your comments. DOT's guidelines may be accessed at www.transportation.gov/regulations/dot-information-dissemination-quality-guidelines.

C. How can I be sure that my comments were received?

If you submit comments by hard copy and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail. If you submit comments electronically, your comments should appear automatically in the docket number at the beginning of this notice on <https://www.regulations.gov>. If they do not appear within two weeks of posting, we suggest that you call the Docket Management Facility at 202-366-9826.

D. How do I submit confidential business information?

NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information to the agency under part 512. If you claim that any of the information or documents provided in your response constitutes confidential business information within the meaning of 5 U.S.C. 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. 1905, you may either submit your request via email or request a secure file transfer

¹⁹⁵ 49 CFR 553.21.

link from the Office of the Chief Counsel contact listed below. You must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with part 512, to the Office of the Chief Counsel. Do not send a hardcopy of a request for confidential treatment to NHTSA's headquarters.

Your request must include a request letter that contains supporting information, pursuant to § 512.8. Your request must also include a certificate, pursuant to § 512.4(b) and part 512, appendix A.

You are required to submit one unredacted "confidential version" of the information for which you are seeking confidential treatment. Pursuant to § 512.6, the words "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" or "CONFIDENTIAL BUSINESS INFORMATION CONTAINED WITHIN BRACKETS" (as applicable) must appear at the top of each page containing information claimed to be confidential. In the latter situation, where not all information on the page is claimed to be confidential, identify each item of information for which confidentiality is requested within brackets: "[]."

You are also required to submit one redacted "public version" of the information for which you are seeking confidential treatment. Pursuant to § 512.5(a)(2), the redacted "public version" should include redactions of any information for which you are seeking confidential treatment (*i.e.*, the only information that should be unredacted is information for which you are not seeking confidential treatment). For questions about a request for confidential treatment, please contact Dan Rabinovitz in the Office of the Chief Counsel at Daniel.Rabinovitz@dot.gov.

E. Will the agency consider late comments?

NHTSA will consider all comments received to the docket before the close of business on the comment closing date indicated above under the **DATES** section. NHTSA will consider any late-filed comments to the extent possible.

F. How can I read the comments submitted by other people?

You may read the comments received by Docket Management in hard copy at the address given above under the **ADDRESSES** section. The hours of the Docket Management office are indicated above in the same location. You may also read the comments on the internet by doing the following:

(1) Go to <https://www.regulations.gov>.

(2) *Regulations.gov* provides two basic methods of searching to retrieve dockets and docket materials that are available in the system:

a. The search box on the home page which conducts a simple full-text search of the website, into which you can type the docket number of this notice and

b. "Advanced Search," which is linked on the *regulations.gov* home page, and which displays various indexed fields such as the docket name, docket identification number, phase of the action, initiating office, date of issuance, document title, document identification number, type of document, **Federal Register** reference, CFR citation, etc. Each data field in the advanced search function may be searched independently or in combination with other fields, as desired. Each search yields a simultaneous display of all available information found in *regulations.gov* that is relevant to the requested subject or topic.

(3) Once you locate the docket at <https://www.regulations.gov>, you can download the comments you wish to read. We note that because comments are often imaged documents rather than word processing documents (*e.g.*, PDF rather than Microsoft Word), some comments may not be word searchable.

Please note that, even after the comment closing date, NHTSA will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, NHTSA recommends that you periodically check the Docket for new material.

IX. Regulatory Analyses and Notices

A. Executive Order (E.O.) 12866, E.O. 13563, and E.O. 14094 and DOT Regulatory Policies and Procedures

The agency has considered the impact of this rulemaking action under Executive Order (E.O.) 12866, E.O. 13563, E.O. 14094, and the Department of Transportation's regulatory procedures DOT Order 2100.6A. This ANPRM was determined to be significant under E.O. 12866 and was reviewed by the Office of Management and Budget.

This ANPRM presents possible avenues for updating regulations regarding occupant protection in rear impact and seeks public comment to develop information that may inform a future proposal. NHTSA is using this ANPRM to solicit public feedback before potentially proceeding with a proposed rule.

We have asked commenters to answer a variety of questions to elicit practical

information about alternative approaches and relevant technical data, which will enable analysis of the costs and benefits of a possible future proposal.

B. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This ANPRM would not establish any new information collection requirements.

C. Privacy Act

DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy. Please note that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

D. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the document clearly stated?
- Does the document contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the document easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the document easier to understand?

If you have any responses to these questions, please include them in your comments.

E. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal

Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

X. Conclusion

In accordance with 49 CFR part 552, NHTSA grants in part and denies in part the petitions by Mr. Saczalski and Mr. Cantor and denies the CAS petition.

Issued in Washington DC, under authority delegated in 49 CFR 1.95, 501.5, and 501.8.
Jack Danielson,
Executive Director.
[FR Doc. 2024–15390 Filed 7–15–24; 8:45 am]
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Federal Register

Vol. 89, No. 136

Tuesday, July 16, 2024

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FEDERAL REGISTER PAGES AND DATE, JULY

54329-54718.....	1
54719-55016.....	2
55017-55494.....	3
55495-55882.....	5
55883-56188.....	8
56189-56658.....	9
56659-56820.....	10
56821-57046.....	11
57047-57338.....	12
57339-57716.....	15
57717-58038.....	16

CFR PARTS AFFECTED DURING JULY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

Proposed Rules:

Ch. IV 54372, 55114
602 54369

3 CFR

Proclamations:

10780 54329
10781 55883
10782 57339
10783 57347

Administrative Orders:

Memorandums:

Memorandum of June
7, 2024 57049
Memorandum of June
21, 2024 57051
Memorandum of June
21, 2024 57053
Memorandum of June
28, 2024 55017
Memorandum of July
9, 2024 57337

Notices:

Notice of July 10,
2024 57047

Presidential Determinations:

PD 2024-05 of June
24, 2024 57055
PD 2024-06 of June
28, 2024 57057

7 CFR

926 57059
929 57059
932 57061
966 55021
1416 54331

Proposed Rules:

1000 57580
1001 57580
1005 57580
1006 57580
1007 57580
1030 57580
1032 57580
1033 57580
1051 57580
1124 57580
1126 57580
1131 57580
1210 56234
1222 57368

9 CFR

500 55023

10 CFR

Ch. I 55885
50 57717
52 57717
54 57717

72 57064
612 54336

Proposed Rules:

50 57372
51 54727
52 57372
72 57095
100 57372

12 CFR

360 56620
1002 55024
1092 56028

Proposed Rules:

30 55114

13 CFR

120 57353

14 CFR

25 57070
39 56189, 56191, 56193,
56195, 56198, 56203, 56205,
56659, 57073, 57075, 57721,
57725
71 54339, 55495, 55497,
56207, 57728
91 55500
93 56821
97 54340, 54342
121 57729

Proposed Rules:

21 56824
39 54393, 54737, 55120,
55123, 55126, 55128, 55525,
56674, 57374, 57377, 57795
71 54739, 54741

15 CFR

744 55033, 55036

16 CFR

436 57077

Proposed Rules:

1 56676

17 CFR

Proposed Rules:

40 55528

18 CFR

Proposed Rules:

35 57690
39 55529

19 CFR

Proposed Rules:

351 57286

20 CFR

30 57730

21 CFR

14 56662

180.....55039	Proposed Rules:	40 CFR	45 CFR
22 CFR	850.....55846	52.....54358, 54362, 55888,	171.....54662
96.....57238	1010.....55428	55891, 56222, 56231, 56666,	Proposed Rules:
23 CFR	1020.....55428	57361, 57734, 57736	98.....57835
661.....57078	1021.....55428	60.....55521, 55522	47 CFR
1300.....57355	1022.....55428	63.....55522, 55684, 57738	73.....55078, 57775
24 CFR	1023.....55428	170.....57770	Proposed Rules:
Proposed Rules:	1024.....55428	180.....54721, 56669, 57770,	2.....54402, 55530
203.....57798	1025.....55428	57773	4.....55180
206.....57798	1026.....55428	271.....57364	54.....55542
291.....57798	1027.....55428	Proposed Rules:	73.....55911, 56250
25 CFR	1028.....55428	52.....54396, 54748, 54753,	48 CFR
Proposed Rules:	1029.....55428	55136, 55140, 55896, 55901,	502.....55523
83.....57097	1030.....55428	56237, 56680, 56683, 56693,	512.....55084
1000.....57524	32 CFR	56825, 56827, 57120, 57819,	527.....55084
26 CFR	Proposed Rules:	57823	532.....55084, 55086
1.....56480	238.....57810	55.....57828	536.....55084
31.....56480	33 CFR	180.....54398, 57832	541.....55084
40.....55507	100.....55885, 56207, 56822,	271.....57381	552.....55084, 55086
47.....55507	57085	41 CFR	Proposed Rules:
58.....55044	117.....54719	102–76.....55071, 57775	604.....54369
301.....56480	165.....54348, 54350, 54351,	42 CFR	652.....54369
Proposed Rules:	54353, 54355, 54356, 54720,	414.....54662	49 CFR
1.....57111	55058, 55886, 56663, 56665,	425.....54662	23.....55087
31.....54742	56822, 57088, 57089, 57090,	495.....54662	26.....55087
301.....54746	57091, 57357, 57359, 57732	Proposed Rules:	Proposed Rules:
28 CFR	Proposed Rules:	410.....55760	571.....57381, 57998
15.....55511	100.....55131, 55133, 56677	413.....55760	572.....56251
20.....54344	117.....57379	424.....55312	50 CFR
29 CFR	34 CFR	425.....55168	17.....55090, 57206
1630.....55520	Ch. III.....56211, 56217	483.....55312	229.....55523
29 CFR	36 CFR	484.....55312	300.....54724
4044.....54347	13.....55059	494.....55760	660.....57093
31 CFR	37 CFR	512.....55760	648.....57793, 57794
1010.....55050	210.....56586, 57093	43 CFR	Proposed Rules:
	39 CFR	3830.....54364	17.....54758, 56253, 57838
	Proposed Rules:	44 CFR	217.....55180
	3055.....56679	9.....56929	223.....56847
		Proposed Rules:	
		206.....54966	

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at <https://www.archives.gov/federal-register/laws/current.html>.

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H.R. 1240/P.L. 118–68

Winnebago Land Transfer Act of 2023 (July 12, 2024)

H.R. 4581/P.L. 118–69

Maternal and Child Health Stillbirth Prevention Act of 2024 (July 12, 2024)

S. 138/P.L. 118–70

Promoting a Resolution to the Tibet-China Dispute Act (July 12, 2024)

Last List July 11, 2024

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